

Update to the Thames Basin Heaths Special Protection Area Avoidance Strategy Supplementary Planning Document.

Summary

The document entitled “Thames Basin Heaths Special Protection Area Avoidance Strategy Supplementary Planning Document (2018)” (Regulation 13 Consultation Draft) sets out the approach that Surrey Heath Borough Council will take to avoiding harm to the Special Protection Area as a result of new housing development. Members are asked to approve the document for public consultation purposes.

Portfolio – Planning & People

Date Portfolio Holder signed off report: 26th October 2018

Wards Affected

All

Recommendation

The Executive is asked to RESOLVE that

- (i) the Draft Thames Basin Heaths Special Protection Area Avoidance Strategy Supplementary Planning Document (2018) as set out in **Annex 1** be approved for public consultation in accordance with Regulation 13 of the Town & Country Planning (Local Planning) (England) Regulations 2012;
- (ii) the SANGs Levy footnote on the Community Infrastructure Levy (CIL) Regulation 123 List be updated to accord with the Developer Contributions section of the draft Thames Basin Heaths Special Protection Area Avoidance Strategy Supplementary Planning Document (2018) and
- (iii) if there are no significant changes arising from the consultation, the delegated authority for the Executive Head of Regulatory, in consultation with the Portfolio Holder for Planning & People, will be called upon to adopt the SPD.

1. Resource Implications

- 1.1 Production of the draft Supplementary Planning Document (SPD) has been undertaken in-house and as such there are no resource implications beyond that provided for within the agreed budget for 2017/18.

2. Key Issues

- 2.1 The draft SPD updates the existing Thames Basin Heaths Special Protection Area Avoidance Strategy SPD 2012 and takes into account guidance that has been issued since the 2012 SPD was adopted. The SPD sets out the approach the Council will take to avoiding likely significant impact to the Thames Basin Heaths SPA.

Background

- 2.2 The Thames Basin Heaths are a network of heathland areas spread over eleven local authorities in the counties of Hampshire, Surrey and Berkshire. In total, the Thames Basin Heaths cover an area of 82 sq km. The Thames Basin Heaths Special Protection Area (SPA) was designated in March 2005 and is protected from adverse impact under European and UK law. Research conducted on behalf of Natural England in 2005 indicated that the existing level of recreational pressure is having a detrimental impact on the three species of Annex I birds (nightjar, woodlark and dartford warbler) for which the SPA was designated. The breeding success of these ground-nesting birds is affected by disturbance from people and their pets using the SPA for recreational purposes.
- 2.3 In order to allow housing development while still complying with the Habitats Regulations, the affected local authorities established the Thames Basin Heaths Joint Strategic Partnership Board (JSPB) to agree a strategy for the long-term protection of the SPA. The agreed approach is set out in the Thames Basin Heaths Delivery Framework which was endorsed by the JSPB in 2009.
- 2.4 The South East Plan (SEP) was a regional planning policy document that set out strategic policies for the South East region. The SEP was revoked in March 2013. However, Policy NRM6 (Thames Basin Heaths Special Protection Area) of the SEP was saved, and therefore local planning policy must be consistent with this. Policy NRM6 of the SEP and policies CP14A and B of the adopted Surrey Heath Core Strategy and Development Management Policies Development Plan Document (CSDMP DPD) require the SPA to be protected from new residential development which is likely to have a significant effect on the ecological integrity of the SPA. As a result, the following measures were put in place to provide avoidance and mitigation for impacts on the SPA arising from net new residential development:
- implementation of a 400m exclusion zone around the SPA where no net additional residential development can be permitted, as its impact on the SPA cannot be mitigated;
 - identification of a 5km zone of influence around the SPA where Natural England has advised that mitigation can be provided for the impact of additional residential development, subject to it being outside the 400m exclusion zone.
- 2.5 The whole of Surrey Heath borough is within 5km of the SPA. Together, the provision of Suitable Alternative Natural Greenspace

(SANG) and contributions towards Natural England's Strategic Access Management and Monitoring (SAMM) project provide avoidance measures for net new housing built between 400m and 5km of the SPA.

- 2.6 The 2012 Thames Basin Heaths SPD took forward the agreed approach set out in the JSPB Delivery Framework and Policy CP14A & B of the Surrey Heath CSDMP DPD in relation to the Borough's mitigation strategy. Since its adoption the approach outlined in the SPD has been applied to all applications for net additional residential units within the Borough.

Requirement for Updating the TBH SPA Avoidance Strategy SPD

- 2.7 Aspects of the existing Thames Basin Heaths Special Protection Area Avoidance Strategy are now out of date and therefore the SPD requires updating to ensure it is in accordance with current policy and guidance, and to reflect current mechanisms in place for collecting developer contributions. It will also help to ensure that SANGs are delivered appropriately in the Borough and are managed and maintained in perpetuity, in accordance with Natural England's guidance.

- 2.8 The updated SPD sets out the approach the Council will take to avoiding likely significant impact to the Thames Basin Heaths SPA. The document is included at **Annex 1** to this report and is intended to be released for public comment in November 2018.

Proposed Amendments to the Existing SPD

- 2.9 The main changes or additions to the 2012 SPD include the following:
- The addition of the requirement for considering step-in rights where a SANG is not owned by the Council. In all cases where a third party management company is proposed to own and/or manage a SANG, step-in rights will be required. The addition of step-in rights will help the Council ensure that mitigation is secure. The use of step-in rights will be triggered where a SANG's Management Plan is not being fulfilled to an acceptable standard;
 - In accordance with legislation that defines the 'in perpetuity period' (Perpetuities and Accumulations Act 2009), SANGs are expected to be provided and funded in perpetuity, which is considered to be at least 125 years;
 - Subject to the availability of SANG capacity, the SPD is updated to enable the allocation of strategic or shared SANG (local authority owned) for development sites located in Camberley Town Centre, which are over the size threshold for triggering the requirement for bespoke SANGs, but unable to provide SANG land on-site. Moreover, capacity will generally be reserved for developments of

up to 136 net additional units, although it is strongly recommended that developments of over 100 units consider the feasibility of bespoke (on-site) SANG solutions. This updates the 100 units capacity figure in the 2012 SPA SPD. The justification for the figure of 136 units is that it is the minimum number of dwellings necessary to generate a requirement for a minimum 2ha SANG (based on the average occupancy rates for existing allocations for strategic SANG capacity in Surrey Heath at a SANG standard of 8ha per 1,000 new population);

- The SPD is updated to consolidate how developer contributions are currently collected for SANG and SAMM payments. It is necessary to ensure funding mechanisms for SANG are able to provide for the management and maintenance of SANGs in perpetuity. This SPD update includes information setting out how SANG contributions are now collected: through the Community Infrastructure Levy (CIL) where development is not exempt from CIL, and through unilateral undertakings where SANG liable developments are exempt from CIL;
- Information about strategic SANGs the Council allocates to is updated. More detailed information is provided regarding the allocation of capacity to strategic SANGs and the requirements for provision of bespoke SANGS.

3. Options

3.1 The options for the Executive to consider are to:

- (i) **AGREE** to the public consultation of the draft TBH SPA SPD (2018) as included at **Annex 1** to this report and a corresponding update to the SANGs Levy footnote of the CIL Regulation 123 List.
- (ii) **AGREE** to the public consultation of the draft TBH SPA SPD (2018) and a corresponding update to the SANGs Levy footnote of the CIL Regulation 123 List subject to specified amendments.
- (iii) **NOT AGREE** to the public consultation of the draft TBH SPA SPD (2018) and a corresponding update to the SANGs Levy footnote of the CIL Regulation 123 List.

4. Proposals

- 4.1 It is proposed that the draft SPD is publically consulted on from the 27th November for six weeks, ending on the 8th January. It is proposed that an additional two weeks is added to the statutory four week consultation period to account for it taking place partially over the Christmas break.
- 4.2 Following consultation the draft SPD will be amended as appropriate. If significant changes are required, the draft SPD will be taken back to

Executive for adoption. However, if there are no significant changes to the SPD, the delegated authority for the Executive Head of Regulatory, in consultation with the portfolio holder for Planning and People will be called upon to agree its adoption.

5. Supporting Information

- 5.1 A draft SEA/HRA screening assessment has been undertaken to support the draft SPD. This will determine whether a Strategic Environmental Assessment and Habitats Regulation Assessment are necessary. It is anticipated these will not be required. Surrey Heath's Screening Statement will be published alongside the draft SPD during the consultation period, once it has been received.
- 5.2 A copy of the existing adopted Thames Basin Heaths Special Protection Area Avoidance Strategy SPD (2012) is included at **Annex 2** to this report.

6. Corporate Objectives And Key Priorities

- 6.1 The draft SPD underpins the theme of *Place* set out in the Council's Five Year Strategy by helping to ensure the protection, management, maintenance and enhancement of public green spaces and supporting sustainable living.
- 6.2 The draft SPD also supports the theme of *People* by facilitating the formation of communities where people can live happily and healthily.

7. Policy Framework

- 7.1 Once adopted, the updated SPD will form part of Surrey Heath's planning policy documents and be a material consideration in all planning decisions.
- 7.2 The updated SPD will support saved Policy NRM6 of the SEP, Policy CP14A and B of the CSDMP DPD and successive local development plan policies.

8. Legal issues

- 8.1 A consultation has been undertaken under Regulation 9 of the Environmental Assessment of Plans and Programmes Regulations 2004 to ascertain whether the statutory consultees (Natural England, Environment Agency and Historic England) consider a Strategic Environmental Assessment (SEA) is required. The determination period for this ends on 13th November 2018 and therefore the required responses should be received by this date. It is anticipated that this will conclude that a SEA is not required.

9. Consultation

9.1 The draft SPD will be subject to public consultation following agreement by the Executive. This will ensure that interested parties can be involved in the preparation of the document. The draft SPD will be subject to a six week consultation period and will be advertised through letters, emails, the Council's web site and social networking sites.

Annexes	Annex 1: Draft Thames Basin Heaths Special Protection Area Avoidance Strategy Supplementary Planning Document (2018), Regulation 13 Consultation Draft Annex 2: Adopted Thames Basin Heaths Special Protection Area Avoidance Strategy Supplementary Planning Document (2012)
Background Papers	
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Consultations, Implications and Issues Addressed

Resources	Required	Consulted
Revenue	✓	✓
Capital		
Human Resources		
Asset Management		
IT		
Other Issues	Required	Consulted
Corporate Objectives & Key Priorities	✓	✓
Policy Framework		
Legal	✓	✓
Governance		
Sustainability		
Risk Management		
Equalities Impact Assessment		
Community Safety		
Human Rights		
Consultation	✓	✓
P R & Marketing	✓	✓

Review Date:

Version: 1