

Date: 30 September 2013
Our ref: Purbeck CIL
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BY EMAIL ONLY

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Dear Sir/Madam

**Examination in Public
Community Infrastructure Levy, Draft Charging Schedule and Priorities for Spending April 2013**

Thank you for your consultation on the above dated 10 September 2013 which was received by Natural England on 10 September 2013.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Natural England have **no comment** on the Draft Charging Schedule which is a matter relating to development viability considerations.

The Conservation of Habitats and Species Regulations 2010 as amended

The draft document above also sets out Priorities for Spending. Natural England advises the Inspector that these are not compliant with the requirements of the Habitats Regulations 2010 as currently worded. I enclose our letter dated 16 October 2012.

In this correspondence Natural England raised two issues of concern:

1. The need to ensure that new residential developments are nutrient (nitrogen) neutral with respect of harmful effects on Poole Harbour SSSI, SPA and Ramsar.
2. The need to ensure that new residential developments avoid increasing recreation related disturbance to the features within the Harbour.

The Purbeck Local Plan Nov 2012 and the Habitats Regulations Assessment of the Purbeck Core Strategy Pre-submission draft Oct 2010 (Final) (Annexe 2) with the Purbeck Core Strategy: Mitigation Issues to Address/Resolve CD 12 (Annexe 3) all refer to the need to deliver avoidance/mitigation measures.

Specifically:

1. Purbeck Local Plan, paragraphs 8.8.7 to 8.8.7.9 and policy PH (pp 83 – 85)
2. Habitats Regulations Assessment of the Purbeck Core Strategy Pre-submission draft, Section 6, Section 9, (pp 2, 61-68, 85-90)
3. Purbeck Core Strategy: Mitigation Issues to Address/Resolve CD 12, Issues 5 and 8.

The adoption of CIL by the authority will reduce the options for the delivery of avoidance/mitigation through S106 agreements and therefore the Reg 123 list needs to be amended to ensure a suitable

mechanism is available to enable development to proceed. CIL is the appropriate mechanism for the majority of small scale proposals coming forward.

Natural England advise that the authority, in the light of its own Plan Policies and HRA assessments, will need to bring forward suitable provision/modification within its CIL Reg 123 list to enable the delivery of avoidance/mitigation measures arising from new development coming forward after the adoption of the CIL Charging Schedule in April 2014. This will ensure that the authority is acting in accordance with its legal obligations under the Habitats Regulations in enabling development to proceed in a manner which is appropriately mitigated.

Background

Nutrient neutrality: The authority has been working closely with the Environment Agency, Natural England and neighbouring authorities Poole and West Dorset to agree a way forward. Following the recent publication of the *Strategy for managing nitrogen in the Poole Harbour catchment (2013)* <http://www.environment-agency.gov.uk/research/library/publications/148450.aspx> , which provides the evidence base for the bodies concerned it has been agreed with the authorities that new developments within the catchment will need to be neutral with respect of nitrogen. Currently the authorities are drawing together an approach to be framed within a Supplementary Planning Document. Recently Natural England have provided advice to the Borough of Poole concerning the mitigation requirements for the redevelopment of the Town Centre through a Habitats regulations Assessment and to Purbeck District in their considerations of a planning application delivering some 153 units. In both cases the advice has enabled the authorities to conclude that the development will be nitrogen neutral.

Recreational Impacts in Poole Harbour: Natural England has been working with the Borough of Poole to agree a programme of avoidance and monitoring measures to enable residential development within the borough. The Poole Harbour Monitoring Strategy Feb 2009 sets out a costed programme of actions which were incorporated into the Borough of Poole Reg 123 schedule. Subsequent discussion have led to a re-prioritisation of actions within the initial costings. Whilst it is clear that the effects arising from developments in Purbeck are of a smaller scale than in Poole there are specific actions set out in the Core Strategy HRA to avoid harm to the SPA and Ramsar. The delivery of these actions will require co-ordination with the Borough of Poole however this will benefit both authorities by reducing costs if delivery is stand alone.

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

For any queries relating to the specific advice in this letter only please contact Nick Squirrell. For any new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

Yours sincerely

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Annexe 1

Correspondence dated 16 October 2012

Date: 16 October 2012
Our ref: 63325
Your ref: CILPDCS/Statutory/ no.



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Dear Mr Dring

**Preliminary Draft Community Infrastructure Levy Charging Schedule
Purbeck Infrastructure Plan & Delivery Schedule Update - September 2012**

Thank you for consulting Natural England on the above Schedule.

Natural England has no comments on the viability assessment used to establish the Draft Community Infrastructure Levy Charging Schedule charging structure.

Natural England note that the Core Strategy Proposed Changes to Pre-Submission 2011 modifications submitted to the Inspector following the Purbeck Core Strategy EIP include Policy DEV: Development Contributions which indicates :

- *Contributions for Heathland Mitigation in accordance with Policy DH - Dorset Heaths International Designations. Further detail on contributions and projects is set out in the Interim Planning Framework Heathlands SPD until it is superseded by the Joint Heathlands Plan DPD*

This policy provides an appropriate basis on which to set and secure mitigation for residential type developments until the CIL Charging Schedule is introduced for the European and Internationally protected heathlands.

The above document does however not indicate how the authority will ensure that appropriate levels of mitigation are provided following the introduction of the Schedule. There are no policies in place to set the authorities priorities as is the case in Poole. The link between the developments and the mitigation and avoidance measures required which exists in the S106 facility will no longer be present for most developments.

Natural England advise that whilst there are policies (Policy PH) and explanatory text relating to likely significant effects on the nature conservation features of Poole Harbour SPA, Ramsar and SSSI relating to water quality and recreational pressures there is no delivery mechanism identified such as CIL. Natural England advise that such a mechanism and prioritisation is required when the CIL schedule is brought into place for the reasons set out above.

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Natural England advise that in order for the authority's CIL to be compliant with the Habitats Regulations 2010 as amended the authority must bring forward a clearly prioritised Infrastructure Plan accompanied by a high level strategic policy as is the case in Poole. This may be through the Joint Dorset Heathlands DPD however the policy must also apply to Poole Harbour SPA, Ramsar.

Natural England welcome the scope of the Purbeck Infrastructure Plan & Delivery Schedule, in particular the inclusion of Green Infrastructure, Wild Purbeck NIA, and the need for Heathland Impact Mitigation but advise that it is necessary to identify the need to mitigation/avoidance measures for Poole Harbour SPA/Ramsar as set out in Policy PH. Natural England are concerned that a number of the other Infrastructure requirements are desirable but not necessarily critical. Natural England would welcome some further discussion on the prioritisation of the schedule. Critical and not critical categories appears rather too coarse, particularly with regard to the authorities need to make a suitable contribution to the measures in the NIA, a government priority. The time scales for delivery set out in Table 14 do not effectively match up with priorities.

Natural England are concerned that Section 12 dealing with Water and Sewerage and in particular Table 12.1 is not compliant with the requirements of your own Core Strategy policy as well as the requirements of the Habitats Regulations 2010. This section is misleading as it indicates that there is a flow capacity within existing consents without indicating the agreed requirement for additional developments to be nitrogen neutral for which there is at this time no agreed mitigation/avoidance strategy in place.

Natural England advise that the use classes set out in the draft Charging Schedule should be reviewed in the light of the authorities recent adoption of the Dorset Heathlands SPD which sets out a number of classes requiring mitigation/avoidance contributions. The CIL Schedule should be annually reviewed so that where Viability increases appropriate modifications may be made to facilitate the delivery of other Infrastructure. It is unclear from the Schedule if there are use classes which are currently not CIL viable but which could become so in more favourable economic conditions and thus brought into CIL at that time.

For any correspondence or queries relating to this consultation only, please contact Nick Squirrell. For all other correspondence, please contact consultations@naturalengland.org.uk.

We really value your feedback to help us improve the service we offer. We have attached a feedback form to this letter and welcome any comments you might have about our service.

Yours sincerely

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Annexe 2

Habitats Regulations Assessment of the Purbeck Core Strategy Pre-submission draft Oct 2010



Habitat Regulations Assessment of the Purbeck Core Strategy Pre-submission Draft



Durwyn Liley and David Tyldesley (eds.)

Summary

This report is an assessment of Purbeck's Core Strategy (pre-submission draft, dated 13th October 2010), in accordance with the Habitats Regulations.

Purbeck District supports one of the most special and heavily protected environments in the country. Even in the context of SW England it is exceptional. Some 21% of the area of the District is of international importance for nature conservation, including the whole of the Dorset Heaths (Purbeck & Wareham) and Studland Dunes SAC. The largest part by district of the Dorset Heath SAC/Dorset Heathlands SPA and Ramsar site and similarly the largest part of Poole Harbour SPA/Ramsar site, and the majority of the Isle of Portland to Studland Cliffs SAC fall within the District.

The aim of this assessment is to identify any areas where there are likely significant effects to the Natura 2000 sites and assess these in detail. A full check for likely significant effects at pre-submission draft stage is set out and we consider the following issues in detail within the appropriate assessment part of this report:

- Impacts of new housing and recreational pressure on the Dorset Heaths (the Dorset Heaths SAC, Dorset Heaths (Purbeck & Wareham) and Studland Dunes SAC, Dorset Heathlands SPA, Dorset Heathlands Ramsar).
- Increased recreational pressure on Poole Harbour SPA/Ramsar from shore-based and water based activities likely to increase as a result of new housing.
- Increased recreational pressure to coastal sites as a result of enhanced transport links and housing (Isle of Portland to Studland Cliffs SAC, St Alban's to Durlston Head SAC).
- Increased recreational pressure to the New Forest (New Forest SPA/SAC/Ramsar) as a result of increased population and enhanced transport links within Purbeck.
- Water issues, including abstraction and water quality, affecting Poole Harbour SPA/Ramsar and Dorset Heaths SAC, Dorset Heaths (Purbeck & Wareham) and Studland Dunes SAC, Dorset Heathlands SPA, Dorset Heathlands Ramsar).
- Fragmentation and pressure on heathland sites (Dorset Heaths SAC, Dorset Heathlands SPA/Ramsar) as a result of employment allocation (Holton Heath).
- Air quality issues as a result of increased traffic (Dorset Heaths SAC, Dorset Heaths (Purbeck & Wareham) and Studland Dunes SAC, Dorset Heathlands SPA/Ramsar and Poole Harbour SPA/Ramsar).

Our assessment of the development proposals has shown that, without mitigation measures, adverse effects would be likely as a result of the Core Strategy alone, either as single elements or as a combination of elements within the plan for each of these issues (see Table 1). However, mitigation measures, which would eliminate these effects, are largely feasible (in some cases some further work is required to check that the mitigation can be implemented and in such cases a precautionary approach with regard to policies and allocations is recommended). If included in the submitted Core Strategy, as recommended, these avoidance measures would eliminate the likelihood of significant effects. However, uncertainties still remain as some significant elements of the measures proposed are complex and may be difficult to achieve, yet the conclusions of this assessment rely on the timely delivery of those measures.

It is therefore concluded that the HRA is not finally completed until a final check of the progression of those measures is undertaken, in order to gain greater certainty regarding their effective implementation. This precautionary approach remains compliant with the Habitats Regulations, and

Habitat Regulations Assessment of Purbeck's Core Strategy:
Pre-submission October 2010

ensures that the plan is not given effect until it has been ascertained with the required level of certainty that mitigation will be delivered.

The final check of the Core Strategy and completion of the HRA should be undertaken to support the submission of the Core Strategy for Examination. This final part of the assessment should gain greater certainty with regard to the implementation of the proposed mitigation measures summarised below.

There are obligations on Member States to avoid deterioration of habitats and significant disturbance of species on European sites. It seems clear that some measures under the European Directives that place this duty on Member States will be needed to tackle existing pressures and problems, including deterioration of water quality and habitat deterioration and disturbance on the designated sites.

Annexe 3

Purbeck Core Strategy: Mitigation Issues to Address/Resolve

The following is a summary of issues identified in the HRA. Paragraph numbers refer to the HRA.

1. Visitor survey work and recreation strategy at Arne / Hartland / Stoborough (inc Sunnyside) to identify on-site management measures and consider visitor flows within area in relation to long-term management (across NT/RSPB/NE sites). Heathland DPD could potentially include the survey work / strategy and the management measures identified (See paras 5.42-5.44 and 12.6)
2. Discuss with National Trust options for on-site management around Ferry Road, especially addressing impacts of access onto Poole Harbour side of road – both to heath and Harbour. Measures then need to be included within heathland DPD. (See paras 5.45-5.46. Also Para 6.17 and 12.6)
3. Discuss options for on-site management at Winfrith Heath and include management measures in heathland DPD. (see para 5.47 and 12.6.
4. SANGs provision required near Wareham, in the north of the District and to the north of Swanage. Wording needed in heathland DPD (paras 5.48-5.52). Swanage provision also important re coastal habitats (see paras 7.24-7.28 and 12.6).
5. Discussion with Poole BC and other parties re mitigation relating to Poole Harbour. Issues to revolve include (see paras 6.16-6.20 and 12.7):
 - Management of access along Harbour shoreline at Studland and on-site measures to reduce disturbance (dialogue with NT required)
 - Measures to minimise disturbance impacts to wader roost site and Lytchett Bay shore line (dialogue with RSPB required)
 - Measures to minimise further disturbance at Swineham. Upton CP, Holes Bay, Ham Common and Poole Park.
 - Monitoring of access and effectiveness of measures
6. Monitoring of access impacts on coastal sites to ensure an early warning system in place (paras 7.22-7.23 and 12.8-12.9).
7. Discussion with other local authorities and NE regarding mitigation measures for New Forest (paras 8.8-8.13 and 12.10)
8. Discussion with EA and WW relating to water issues, in particular water quality and Poole Harbour (see para 9.57 and 12.11)