H A M P S H I R E
CITIES OF PORTSMOUTH & SOUTHAMPTON
AND
NEW FOREST & SOUTH DOWNS NATIONAL PARKS

The Conservation of Habitats
and Species Regulations 2010

RECORD OF DETERMINATION

Stage 2 Assessment as required
by Regulation 102

September 2013
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Introduction

Hampshire Minerals and Waste Plan – October 2013

Hampshire County Council, Portsmouth City Council, Southampton City Council, the New Forest National Park Authority and the South Downs National Park Authority, as the Minerals and Waste Planning Authorities in Hampshire, have produced a plan for all minerals and waste development in Hampshire.

The Hampshire Minerals and Waste Plan Assessment under the Habitat Regulations has documented the potential effects of the Hampshire Minerals and Waste Plan on sites protected under the ‘Conservation of Habitats and Species Regulation 2010’ (Habitat Regulations).

Full documentation of the assessment, its justifications and conclusions are located within:

- Hampshire Minerals and Waste Plan - Assessment under the Habitats Regulations September 2013

As required by Regulation 102 (2) of the Habitat Regulations, Natural England was consulted throughout Plan preparation, and throughout the progress of the Habitat Regulations Assessment, regard to these representations has been taken. Correspondence with Natural England documenting this process can be found in Section 4.5 of the HRA Record September 2013.

This is a record of the assessment, required by Regulation 102 of the Habitats Regulations, undertaken by Hampshire County Council in respect of the above Plan, in accordance with the Habitats Directive (Council Directive 92/43/EEC).

The assessment has concluded that:

It is considered that the Plan would not be likely to have a significant effect on the integrity of European designated sites within Hampshire, in view of their conservation objectives, and the mitigation embedded within the Plan.

Natural England were finally consulted by the Hampshire Authorities on 26 July 2013 and their final representations, to which this Authority has had regard, are attached in Annex 1. The conclusions of the Hampshire Minerals and Waste Plan: Assessment Under the Habitats Regulations are therefore in accordance with the advice and recommendations of Natural England.

Signed ....

...(Mr Peter Chadwick, Interim Head of County Planning)

Date.........18th September 2013
Dear Stuart

Hampshire Minerals and Waste Plan and Habitats Regulations Assessment

Thank you for your recent letter, dated 26 July, relating to the above. Natural England welcomes the comprehensive detail provided in your letter, which takes into account a meeting held on 19 July 2013 to discuss Natural England’s outstanding concerns with the Draft Minerals and Waste Plan. Your letter is accompanied by an updated Habitats Regulations Assessment (HRA), which has been edited following our meeting.

Our detailed response to your letter and updated HRA is provided below:

1) Plan preparation

Thank you for the useful summary, which sets out the plan preparation to date. Natural England concurs with the detail provided and appreciates that at this stage of the plan making process no additional changes can be made to the Plan, over and above those identified within the Inspectors Report. We are aware that minor errors and/or clarification to existing text can be made within the delegated powers afforded to the Hampshire Authorities. On this basis, Natural England has welcomed the opportunity to discuss the Habitats Regulations Assessment (HRA) of the Plan in terms of clarifying existing detail and discussing minor alterations.

2) Letter dated 15 July 2013 from Natural England

Protection of habitats and species) of the HMWP previously policy 2 in the submission Plan February 2012

At the meeting on 19 July 2013 Officers representing the Hampshire Authorities provided clarity on the evolution of Policy 3, including previous consultations to date. We note that Policy 3 has been subject to extensive consultation and acknowledge that the Policy was examined by the Inspector after the National Planning Policy Framework (NPPF) was published in March 2012. We note that Policy 3 was considered in the first stage of public hearings in June 2012 and the Inspector released his issues and questions in relation to the policy in April 2012. We welcome the clarification that comments made by Natural England on the requirements of the NPPF are contained within the supporting text to Policy 3. Due to the fact the Plan should be read as a whole, the supporting text and policy are both taken into account during the decision making process, and therefore
Natural England agrees that our previous comments have been adequately addressed. 
On this basis and due to the clarification received in your letter dated 26 July 2013, Natural England withdraws our concerns with respect to Policy 3. 

Working of Purple Haze

Much of the discussion at our meeting on 19 July 2013 was focussed on the working of Purple Haze. Natural England welcomed the opportunity for an extensive conversation on Purple Haze and to gain clarification on the consultation history surrounding the site:

a) Paragraph 2.33 (new version 2.32)
   Natural England acknowledges that confusion has arisen with respect to paragraph 2.32 and we note that it did form part of the October 2012 HRA. The meeting on the 19 July provided an opportunity for further discussion on the statement that the strategic sites (including Purple Haze) are ‘critical to the delivery’ of the Plan. At the meeting Council officers emphasised that the Plan should be read as a whole and although strategic sites are critical in the delivery of mineral resources, this is on the basis of them meeting all other parameters of the Plan, including the development considerations in Appendix A and the policies and supporting text. Natural England welcomes this clarification.

b) Need for the mineral and scarcity of soft sand
   Natural England welcomed confirmation at the meeting on 19 July 2013 that there is no presumption that an allocated site would be given permission and that it would be judged in relation to the policies set out in the Plan as a whole.

c) Wet working
   Natural England’s primary concern relates to the proposed nature of working at Purple Haze. As previously outlined Natural England was satisfied with the conclusions of the HRA provided the Purple Haze site was to be dry worked only. Therefore we do not agree with the statement in your letter of 26 July 2013 (page 6) that ‘the issue of wet working has never been raised previously by Natural England as part of the development of the HRA.’ The presumption that the site would be dry worked only was based on previous versions of the HRA, which concluded dry working at Purple Haze, for example the 2011 version of the HRA stated (paragraph 86) that ‘all of the extraction sites are to be worked dry and would have limited water take’. The same comment was included in the 2012 version of the HRA, under paragraph 87. In response to the 2012 consultation Natural England stated in our letter (December 2012) that ‘In accordance with the assumption in the current Habitats Regulations Assessment Paragraph 87 and information from the Authority, all our comments are based on the workings at Purple Haze being above and not adversely affecting the groundwater that supports Ebblake Bog, part of the Dorset Heaths SAC, SPA and Ramsar site and the Bramfield site also being worked dry with limited water take’ (our emphasis).

   Therefore from Natural England’s perspective, uncertainty has arisen as a result of the statement that ‘other forms of working cannot be ruled out as technology advances cannot be ruled out’ and the editing error in paragraph 88, which did not state the predicted resource of 4 million tonnes has been calculated on the basis of dry working only. However we appreciate that other sections of the HRA, including Appendix D, make explicit reference to the site being worked ‘dry’ based on 4 million tonnes within the Plan period.

   During the meeting we appreciated the clarification given with respect to the working of Purple Haze, in particularly the following key points:
- Confirmation from the Council that amendments would be to the HRA Record for clarification purposes. As a result changes have been made to the HRA to state that mineral sites are likely to be worked dry, i.e. above the water table. In the case of Purple Haze there is a level of certainty on this fact as the resource (4 million tonnes in the plan period) is calculated on the basis of dry working.

- Appendix A of the Plan sets out the proposed generic restoration for the site. This does not include wet restoration as it is not considered suitable and therefore has been ruled out as an option for restoration. Any variation from this restoration specification would, as discussed, be a departure from the Plan once it is adopted. **Given that a future wet use would be a departure from the Plan Natural England are satisfied that this issue does not have to be included in the HRA.**

**Development considerations in Appendix A of the Plan**

We note that comments made with respect to Appendix A were not within the scope of the consultation made to Natural England in June 2013. As mentioned in our response of 19 July 2013 we do not consider wording in Appendix A to be unsound and therefore have no further comments to make on this issue.

**Local Nature Reserves**

We also appreciate that these comments were outside the scope of the consultation and therefore our comments can be withdrawn following the clarification received at the meeting on 19 July 2013.

**Paragraph 4.11 of the Plan**

Natural England welcomes the clarification to be provided in glossary of the Plan with respect to potential, possible and candidate designations for European and International sites. **On this basis we withdraw our previous concerns outlined in our letter dated 15 July 2013.**

**3) Outcomes and Next Steps**

With respect to the comments made above and the changes made to the HRA, **Natural England is satisfied that our concerns outlined in our letter dated 15 July 2013 have been adequately resolved.** We particularly welcome the clarification provided in relation to the Purple Haze allocation and that the current expected resource of 4 million tonnes is based on dry working of the site.

Thank you for the feedback received on this case and we hope to continue close dialogue with you on the issues contained in the Plan. We also appreciate your commitment that future consultations will summarise the stage of the plan making process, particularly in cases where there is an extensive, complex history.

We trust that the above offers sufficient clarity on Natural England’s position, however should you have any queries please do not hesitate to contact me on 0300 060 4654 zoe.buddle@naturalengland.org.uk.

Yours sincerely

Zoë Buddle Bsc (Hons) MA MRTPI
Senior Adviser
Development Plans Network
This document can be made available in large print, on audio media, in Braille or in some other languages.

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