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Dear Martin

### **Thames Basin Heaths – Consultation on Interim Strategic Delivery Plan**

Thank you for giving Hart District Council the opportunity to comment on the draft ISDP.

The ISDP was considered by the Council's Cabinet at its meeting on 5 February 2008. Members agreed the attached response. This takes the form of a general overview, followed by answers to the specific questions asked in the consultation and finally some detailed points on some of the wording in the document.

Yours sincerely

**Matthew Evans**  
**Head of Planning and Environmental Regulation**

## Overview

1. The draft ISDP expands on the principles of mitigation, originally set out in English Nature's Delivery Plan, and endorsed through the South East Plan process. There is no doubt that the solution to unlocking housing delivery in the Thames Basin Heaths will be complicated, and elements of that solution must be strategic in nature. However, the ISDP is complex and has the potential to create significant delays and divert resources from key actions. Additionally, there are inherent difficulties in compelling Local Authorities to sign up to a "one size fits all approach". The recommendations set out in the ISDP do not necessarily reflect the consensus view amongst constituent Local Authorities, especially those who already have agreed mitigation strategies in place. The ISDP could be better focussed on setting the context for local delivery.

2. The experience of Bracknell Forest Borough Council, indicates that using local evidence to ensure confidence in avoiding effect is a key part of securing a solution. Bracknell Forest's Thames Basin Heaths Avoidance and Mitigation Strategy was examined as part of the evidence base for the LDF Core Strategy, which was found sound by the Inspector. This conclusion was reached despite some deviation from Natural England's guidelines and the Assessor's recommendations. It seems likely that there will be other, similar, instances where local circumstances will require a subtly different approach. In this respect, the ISDP would have more significance if it referenced and supported other strategies, for example, Bracknell Forest's Avoidance and Mitigation Strategy or those in Guildford and Woking. In respect of Hart its Core Strategy will need to be underpinned by an SPA Avoidance and Mitigation Strategy which reflects a local solution.

3. Nevertheless, it is clear that there is a strong case for partnership working to deliver some measures on a strategic level in order to be certain of avoiding effect on the SPA. These are likely to include provision of strategic SANGs in areas with a shortfall, as well as a co-ordinated, independent and consistent approach to education and monitoring across the affected area. In these subjects, the draft ISDP would benefit by including a more detailed, comprehensive assessment of the strategic measures which are necessary.

**Q1: Do you agree or disagree that a consistent approach to the protection of the Thames Basin Heaths across the authorities is needed?**

4. It is generally accepted that residential development within 5km of the Thames Basin Heaths SPA is likely to have an adverse impact on the integrity of the site. It is generally agreed that avoidance and mitigation measures are needed before a competent authority can grant planning permission and that those measures should be consistent with the 3-pronged approach detailed in

the draft Delivery Plan, and now, in the ISDP. However, it is right that local circumstances influence the local solution, and each Local Authority must be satisfied that a development will avoid harm to the SPA before granting permission. So, whilst a consistent approach to both the threats and methods of alleviating those threats is necessary, flexibility, allowing local evidence to inform a tailored solution, will be critical if a strategic solution is to be secured swiftly. This flexibility needs to be built into the ISDP.

**Q2. Do you think that the timescale for the Interim Strategic Delivery Plan to 2016 – is too short, too long or about right?**

5. The ISDP is a product of the Assessor's recommendations. It is clear that the ISDP was meant to facilitate development in the short-term. In that respect, a timescale to 2016 could be considered too long.

6. However, given that there is as yet, limited empirical evidence to support the effectiveness of the main avoidance measures (SANGs), monitoring of the effect of implementing the plan is of fundamental importance. It may well be necessary to amend the avoidance and mitigation standards when evidence obtained from monitoring is reviewed. In this respect, the ISDP timescale could be considered about right to allow for monitoring, review and adjustment before a final solution is agreed.

7. There is an additional consideration relating to the timescale of the Interim Strategic Delivery Plan. The South East Plan, in its final version, must undergo Appropriate Assessment. If avoidance and mitigation measures have been neither detailed, nor secured, for the period 2016-2026, how can the Appropriate Assessment conclude no likely significant effect? If it cannot be demonstrated that the housing allocation, in its entirety can be delivered, there must be a commitment to review the housing numbers. In order to address this issue, one could argue the whole plan period must be tackled by any strategic delivery plan and that the ISDP timescale is too short.

**Q3. Do you think that the ISDP should apply to – flats and houses, all types and sizes of development, flats and houses only in larger developments (i.e. 10 or more units), or other?**

8. The ISDP should apply to all residential development within 5km of the SPA. Larger developments outside of this area and other types of development likely to have significant effect must be assessed on a case-by-case basis. An approach which excludes smaller developments (less than 10 units) must be considered illegal as it ignores the requirement to assess development in-combination with other plans or projects. Certain classes of residential development, i.e. care homes, will need to have their likely impacts evaluated individually.

**Q4. Should the ISDP set a zone of 400m-5km, measured as the crow flies, where residential development is only allowed if measures to avoid impact on the SPA are provided?**

9. Yes, it is generally accepted by the Local Authorities and Natural England that this represents the zone of influence within which any net increase in residential development is likely to give rise to adverse impact on the SPA. However, as mentioned above, this does not preclude the need to assess other projects, both within, and outside of this zone, on their own merits.

**Q5. Do you support the principle that a network of suitable alternative natural greenspace (SANG) should be developed across the affected local authorities to provide alternative open space for people to use instead of the SPA?**

10. Yes. In many cases it will be possible to develop these networks within the affected Local Authorities; however there will be cases where working across Local Authorities will be necessary to ensure that SANGs provision is sufficient to avoid impact. It may be very important, for example, to identify smaller zones, where networks already in place can be further developed. This would allow management plans to be easily put in place and guided by a small subset of the affected authorities (e.g. Blackwater Valley Network of open spaces).

**Q6. The ISDP proposes that developments of fewer than 10 dwellings do not need to be located close to SANG land, because their residents impact on the SPA – when considered alone – is not significant; but that developments of 10 dwellings or more should be located within 2km of a SANG because they – alone – could have a significant impact on the SPA. Do you agree or disagree?**

11. Whilst the thinking underlying this argument is apparent, it is a confusing and potentially contentious distinction to draw. Developments of fewer than 10 dwellings, whether or not they are close to SANGs, will still need to show a direct link between their contributions and mitigation work carried out at a SANG. Removing the location link might unlock small development in town centres but it is likely to cause legal and logistical problems for implementation and monitoring. It would be far more pragmatic to identify those town centres where there is a problem with SANG provision (probably including Fleet) and set about identifying and funding solutions for those spaces rather than watering down established criteria with false thresholds.

12. It is difficult to see how an in-combination effect resulting from the accumulative impact of smaller sites would not also require them to be within 2km of SANG land.

13. Experience with affordable housing thresholds has shown that developers may sometimes sub-divide sites to avoid having to adhere to the requirements that would otherwise need to be met if they applied for the full potential of a site in one application.

14. Natural England's guidance on the subject, indicates that larger SANGs have larger catchment areas. Therefore each SANG should be evaluated in terms of its own merits. If it can be demonstrated that a SANG would be effective in drawing people away from the SPA then developments within its zone of influence, which would otherwise fall outside of the 2km range, might be adequately served by this larger SANG.

**Q7. The ISDP proposes that large areas of SANG land (40ha) should be provided near to the most pressured parts of the SPA to divert visitors away from the SPA. Do you agree or disagree?**

15. There is no doubt that providing large areas of SANG land near to the most pressured parts of the SPA will increase the effectiveness of mitigating an adverse impact upon the SPA. However, there will be numerous practical difficulties in achieving this. If this is to be achieved, it will need to be facilitated, and funded, at a strategic level. Providing this amount of SANG land in one location within a Local Authority, will have practical knock-on benefits for ensuring SANGs provision which allows for residential development across the district.

**Q8. How should pressured parts of the SPA be defined?**

16. Pressured parts of the SPA should be defined through an effective Risk Assessment to identify and determine vulnerability – factoring issues such as visitor numbers, species, fire risk, scrub encroachment, inappropriate land usage, etc.

**Q9. Do you think that the minimum sizes proposed for SANG land (2ha SANG, 15ha 'parent site' – policy ISDP7, page 29) are- too high, about right or too low?**

17. The minimum sizes proposed in ISDP7 introduce an extra obligation, which will be difficult to meet. Encouraging Local Authorities and developers to consider and advance sites larger than 15ha is a positive measure which would increase the effectiveness of SANGs in avoiding impact on the SPA. However, requiring sites to be 15ha minimum will cause considerable difficulties in facilitating development. This is likely to be the case in many of the affected authorities.

**Q10. Do you agree or disagree that people will travel up to 2km to access SANG land?**

18. Natural England's advice is that if the site is of suitable size, people will readily travel further than 2km. However there is no conclusive evidence to support this contention and it may be better to confirm on a case - by - case basis if a proposed SANG is capable of drawing in people from a range greater than 2 km.. Monitoring measures will need to collect evidence on this point, in order that catchment areas of SANGs can be better understood on review of the ISDP. It must be remembered that we are early in this process,

and evidence, collected over time, is needed to test whether assumptions about travelling to SANGs are correct.

19. Natural England have failed to address the issue of the setting of non-accidental fires on the SPA. Such fires are widely agreed to be mostly started by young people. Young people access the SPA by foot or by bike and therefore visit the SPA from only a narrow catchment area (ie. from within a 2km zone). It may be advisable to consider developments in such areas with more care.

**Q11. Do you think that policy ISDP8 (page 30) sets out a comprehensive framework for assessing SANG quality?**

20. Policy ISDP8 sets out a number of points, against which SANGs quality should be assessed. It introduces requirements over and above those of Natural England (July 2007) standards. This may be appropriate but evidence will be needed to justify this point.

21. That having been said, it may be possible and is certainly desirable to accommodate many of these requirements on SANGs wherever possible. .

**Q12. Is having a jointly funded cross-SPA access management Project Team important to help and manage and reduce the impact of recreation?**

22. It is important that access management measures are co-ordinated and implemented on an SPA-wide basis. Considerable benefits could be achieved by appointing a small team to co-ordinate activity – utilising existing expertise within relevant organisations. Rather than centralising and externalising responsibilities, collaborative working will be more feasible to implement – building on existing good practice, with the potential for funding support to facilitate co-ordination. Where ranger capacity exists locally, this should be expanded, rather than creating a new ranger service to replace existing services. All access management staff need not be employed as part of the Project Team; however the Project Team should initiate and monitor strategic action and support existing services to deliver the measures. A wider project team could be considered as a future option, but the presumption should be to optimise and supplement the existing skills base.

**Q13. Should the focus of shared, cross-SPA access management be on:**

- **On-site education**
- **Off-site education**
- **Providing more rangers/wardens**
- **Restricting physical access to the SPA**

23. The focus should be on on-site and off-site education, as well as ensuring ranger services cover the whole SPA area. Restricting physical access to the SPA would generally be an unacceptable loss of public amenity and should only ever be considered in exceptional circumstances, related to

the imperative to protect the SPA (not to facilitate an otherwise unacceptable development). Such measures are unlikely to be acceptable to current users of the SPA..

**Q14. Do you think a standard tariff – applied across all the local authority areas affected by the SPA – is a fair and practical way of allowing developers to pay for measures to avoid the impact on the SPA?**

24. A standard tariff has significant practical issues. Implementation measures to allow collection and spending of a standard tariff do not exist. Furthermore, expecting the JSB to agree and fairly apportion the monies collected seems naïve and quite possibly fetters each authority's role as Local Planning Authority (i.e. it will be at a third party organisation's discretion to fund, pass on and deliver mitigation for which the relevant authority is giving permission). Given that there are likely to be delays in applying the monies, particularly if they are to be spent on cross-boundary solutions, the most likely scenario is either that occupancy of new development will be held up until the monies are eventually applied (causing unacceptable delays), or that occupancy will proceed regardless of whether the monies have been applied. This approach would result in further difficulties in linking individual developments with specific mitigation measures implemented to avoid effect. Additionally discrepancies in land values and differing costs required to prepare and maintain individual SANGs would make a flat tariff unworkable.

25. Pragmatically, even reaching agreement on systems to implement a standard tariff will result in considerable delays to the ISDP progress. However it is recognised that there are benefits to collecting monies which could be spent at a strategic level to fund gaps in provision. .

**Q15. Do you think that the tariff should be:**

- **Collected locally and spent on local solutions**
- **Collected locally and spent on cross-boundary solutions**
- **Collected jointly and spent on local solutions**
- **Collected jointly and spent on cross-boundary solutions**

26. A proportion of a locally-collected tariff could be spent on cross-boundary solutions; however the funds should be collected locally.

**Q16. Do you think that contributions should be larger for houses than flats, or vary depending on the number of bedrooms?**

27. A standard, single tariff for any unit appears sensible on the basis that there is no evidence justifying a different contribution for houses and flats, and that a bedroom approach involves complications which could affect the certainty of avoiding effect. It is not possible to accurately predict the number of bedrooms which will be provided as a result of delivering the South East Plan housing allocation. The consequence of this is that developers will be asked to pay more or less money than is necessary to avoid and mitigate the effect of development.

28. However, a flat tariff would proportionally burden smaller starter homes more than larger family homes. Consequently the ISDP may want to consider a scaling tariff scheme. If such a scheme is to be introduced it should **not** be based upon the number of bedrooms (a mechanism around which some less scrupulous developers would be able to creatively circumnavigate). A tariff based upon the number of habitable rooms or the habitable square area would make a more robust metric.

29. It can not be justified that affordable housing schemes have a lower impact on the SPA. Therefore it can not be argued that they should be exempted from the tariff, but this additional cost does need to be recognised, The level of Regional Housing Grant should reflect this extra burden..

**Q17. Do you think that a standard tariff should be calculated on the basis of:**

- **SANG maintenance costs for 80 years**
- **PR and education costs over 80 years**
- **Access management staff costs over 80 years**
- **Land acquisition costs**
- **Capital cost for improvement works**
- **Monitoring and survey costs**

30. As detailed above it is not considered that a standard tariff as currently proposed is an appropriate way to progress a strategic solution. However, if this does proceed it should be calculated on the basis of all the above. 80 years should be considered as the minimum duration of 'in perpetuity' as no development should be expected to have a lifetime shorter than this. Longer timescales may be more appropriate but will prove difficult to make financially viable.

**Q18. Do you think that policy ISDP12 (page 40) sets out a comprehensive framework for monitoring?**

31. There can be no doubt that ISDP 12, as currently worded, does not constitute a comprehensive framework for monitoring. In order to be considered comprehensive, the specific and relative timings of each proposed measure must be stipulated along with triggers for review and reference points beyond which damage to the SPA would occur and alterations to the strategy **must** be employed. However, monitoring is one aspect where a strategic plan must be identified in order to accurately, and impartially, evaluate and review the ISDP.

**Q19. Do you agree or disagree that all the local authorities affected by the SPA should work towards a joint plan (either a Supplementary Planning Document or Development Plan Document) addressing the Thames Basin Heaths issue?**

32. It is probably not appropriate or feasible that all the affected local authorities should work together towards a joint plan. The individual local

circumstances, and indeed politics, will necessitate a flexible approach. However it is also recognised that flexibility carries risks that the effectiveness of the ISDP could be impacted.

33. There is in place a strong policy basis in the emerging Regional Spatial Strategy to which all affected authorities (as this does form part of the Development Plan) can then act, according to their circumstances, to implement that policy. It may be better for clusters of adjacent authorities to work together to produce joint strategies in order to ensure that SANGs availability is secured over the entire affected area. This would be possible to agree and implement in a much shorter space of time. The ISDP could usefully focus on a suite of principles for local authorities to use as a template.

**Q20. Do you have any other comments about the proposals in the draft ISDP?**

34. It is difficult to envisage the draft ISDP being endorsed by the affected local authorities. Further work is needed to develop a more strategic approach which builds on areas of consensus and sets the context to enable flexible approach to local delivery of avoidance and mitigation measures where possible. Adoption of the ISDP by the local authorities would make it difficult for Hart to achieve a short term solution to the SPA to kick start the delivery of housing in the District.

35. Additional the status of the Plan within the framework of Development Plans which exist is not clear. This could be resolved by setting out specific aims and objectives.

36. The document is based on a shorthand for how the legislation is interpreted and the way that the legislation is practically followed. It does not mean that it is legally 100% correct. In one sense it is always possible to undertake an Appropriate Assessment (AA) - regardless of the amount of information that you have or the nature of the development being proposed. The question is the result you will obtain. What normally has happened, for residential proposals, is that you come to the position that you haven't the information to allow you conclude no significant adverse effect, but you don't formally undertake an AA with this as a conclusion - it just hangs in mid-air as permission is refused. "Undertake an AA" normally is a shorthand for "undertake an AA which concludes no significant adverse effect". It might be better to shorthand this as "undertake a satisfactory AA".

37. Equally, Reg 48(1) only refers to "significant effects", it doesn't qualify those effects as positive or negative. If there is a significant positive effect an AA is still needed. This may be the case in some developments where SANG(s) is provided significantly in excess of standard - it still needs an AA, but you are able to grant planning permission because Reg 48(5) only prevents development that has a significant adverse effect.

38. The ISDP perpetuates the difficulty over terminology between avoidance and mitigation with the two being used through the document

seemingly interchangeably. If an effect does not happen then it is avoided (and this is how SANG is supposed to work), but if an effect happens but something else then deals with that effect then it is mitigated.

39. Some of the wording is a little too definite – “will conclude” for example. This might be seen as fettering the discretion of the Local Planning Authority in any particular circumstance. Better wording might be “is likely to conclude”. Note could be taken of the wording of the Inspector’s report on the Bracknell Forest Core Strategy which provides appropriate caveats.

40. The eventual ISDP may prove to be the basis of a robust and workable mechanism to allow development within the zone of influence on the SPA. However, given the obvious intent of HR94 section 48 it is unlikely that SANGs can be arbitrarily created and assumed to work. More realistically the effectiveness, capacity and catchment area of each SANG is going to have to be assessed independently. The ISDP will still have a benefit by effectively allowing the moving of the burden of an Appropriate Assessment from each development site to each SANG.

41. In the clamour to protect the SPA it must be recognised that the provisions of the ISDP are additional environmental & habitat conservation measures. The existing obligations to protect other SSSI & SINC sites still remain. The need for developments to make provision to protect other valuable nature sites through section 106 contributions has not been abdicated.

42. The value of SSSI & SINC sites must be considered if such sites are to be brought forward as SANGs. This must be reflected in terms of both the scale and proportion of maintenance funding and the discounting of the overall capacity of such SANGs to account for the adverse effect of deliberately increasing visitor pressure upon them.

43. In addition to the above the Council has the following detailed points to make on the ISDP which would help improve the ISDP were it to progress further.

Para no.	Comment (including suggested changes in wording)
4.3	Hostels do not fall within Class C3 – they are sui generis – see Article 3(6)(i) of the Use Classes Order (but as people live in them they should be caught)
4.5ff	Need a comment on Class C2A – secure residential institutions
ISDP1	<p>Following this through ISDP1 needs to be reworded as follows:</p> <p style="text-align: center;"><del>Where appropriate measures of avoidance or mitigation or contributions to such measures</del> in accordance with this draft ISDP are associated with such developments, their likely significant adverse effects on the SPA will be deemed to be avoided and there shall be no requirement for an Appropriate Assessment.</p> <p>Typo in third paragraph “Use Class 3” should be “Use Class C3”</p>

Para no.	Comment (including suggested changes in wording)
2.7 & ISDP2	<p>The way that this is set up is predicated that by avoiding the effects you then don't need an AA. It is considered that this is not the correct approach.</p> <p>The correct approach is partially explained in the opening of ISDP2 where it is stated that "All new relevant ... residential development ... will be considered, prior to the screening stage, to have a significant adverse effect." (The word adverse isn't in the legislation – see above.) Therefore a priori an AA is needed.</p> <p>The second part is therefore not correct. The approach should be that provided the relevant impact avoidance measures are secured then the AA is likely to conclude "no adverse effects". ISDP2 should therefore state:</p> <p style="padding-left: 40px;">All new relevant net residential development in Use Class C3 (and staff accommodation in Use Classes C1 and C2) of one dwelling unit or more <b>together with hostels</b> will be considered, <del>prior to the screening stage,</del> to have a likely significant <del>adverse</del> effect, either alone or in combination, on the SPA. Such development proposals <b>are likely to</b> <del>will</del> be considered to <del>avoid such adverse effects at the screening stage,</del> <b>through an Appropriate Assessment, not to have a significant adverse impact on the integrity of the SPA,</b> subject to their incorporation of appropriate impact avoidance <del>and mitigation</del> measures, or contributions to the delivery of these, which are in conformity with the requirements of this draft ISDP or as otherwise agreed as acceptable to the Competent Authority. <del>In such cases, no Appropriate Assessment will be required.</del></p> <p style="padding-left: 40px;">All development proposals that do not meet these requirements and which are considered at screening stage as likely to have a significant <del>adverse</del> effect on the SPA, either alone or in combination, shall be subject to an <b>individual</b> Appropriate Assessment.</p> <p>This is then consistent with the approach in paragraph 6.9. A "pro-forma" AA can be prepared which can have the blanks filled in for the specific case.</p>
ISDP3	<p>The last phrase of the second paragraph should be reworded:</p> <p style="padding-left: 40px;">Other classes of development within this zone and applications for reserved matters, discharge of conditions or amendments relating to existing planning consents will be considered on an individual basis with regard to their likelihood of having a significant <del>adverse</del> effect on the SPA, alone or in combination, and <del>may</del> <b>will</b> be subject to <b>satisfactory</b> Appropriate Assessment <b>before planning permission is granted.</b></p>
6.11.1	<p>The unqualified use of the word "majority" gives concern. On this basis 49.9% of visitors could still not be caught but it would be difficult to conclude that these visitors' effects were not significant. Perhaps it should be "significant majority".</p>
ISDP4	<p>Second and third paragraphs should read:</p> <p style="padding-left: 40px;">All development proposals within this 400m to 5km zone that do not meet these requirements and which are considered at screening stage as likely to have a significant <del>adverse</del> effect on the SPA, either alone or in combination, shall be subject to <del>an</del> <b>a satisfactory</b> Appropriate Assessment <b>before planning permission is granted.</b></p> <p style="padding-left: 40px;">Other development proposals beyond the 5km linear zone that are considered as being likely to have a significant <del>adverse</del> effect on the SPA, by reason of their scale or proposed use, shall be considered on</p>

Para no.	Comment (including suggested changes in wording)
	<p>an individual basis in consultation with Natural England and <del>may</del> <b>will</b> be required to undergo <b>a satisfactory</b> Appropriate Assessment <b>before</b> <b>planning permission is granted</b>.</p>
8.2.19	<p>The boundaries aren't "political" rather they are "administrative".</p>