



Hart Local Plan:
Strategy and Sites 2016 - 2032
Topic Paper: Statement of Procedural
Compliance

Purpose of this Document

1. This Topic Paper has been prepared to provide support to the Submission of the Hart Local Plan Strategy and Sites 2016-2032. It sets out how procedural and other matters have been addressed in preparing the Local Plan namely:
 - That the plan has been prepared in accordance with the statutory procedures;
 - The requirements for sustainability appraisal;
 - The requirements for appropriate assessment under the Habitat Regulations;
 - That a statement has been provided setting out how the Council has satisfied the duty to co-operate;
 - That the Plan has been prepared in accordance with the Local Development Scheme;
 - That consultation has complied with the Statement of Community Involvement and relevant regulations;
 - Conformity with the South East Plan;
 - Equalities;
 - Climate Change.
2. The Hart Local Plan is to be submitted to the Secretary of State on 18th June. The Plan to be submitted is the same version as the Proposed Submission Local Plan which was subject to consultation and to which the evidence base relates. Therefore reference in this Topic Paper to the 'Proposed Submission Local Plan' is also the same as the 'Submission Plan' that has been submitted, albeit the Council has recommended a number of minor modifications to the Inspector for consideration.

Statutory Procedures

3. The statutory procedures and context for preparing local plans is set out in a range of government legislation and national planning policy. The legislative context for the preparation of the Hart Local Plan is provided primarily by the Planning and Compulsory Purchase Act 2004 (as amended) and the Localism Act 2011. Details of the legal obligations relating to plan preparation are enshrined in the Town and Country Planning (Local Planning)(England) Regulations 2012 (as amended) (the Local Planning Regulations).
4. The Local Planning Regulations outline the form and content of local development documents and prescribe how the local planning authority should progress the preparation of the key stages in the Hart Local Plan.

5. The Council has met the key legal and procedural obligations set out in the Regulations during preparation of the Submission Plan in the following ways:

Regulation 4 – Duty to co-operate: The manner in which the Council has addressed this matter is set out in the ‘Duty to Co-operate Statement, June 2018’ [Submission document CD9] as set out later in this Paper.

Regulation 5 – Local development documents: The Submission Local Plan embraces criteria outlined in 5(1) and 5(2) and has been prepared as a local development document. It is accompanied by a Key Diagram and Policies Map, illustrating changes brought about by the emerging new Local Plan to the existing adopted Proposals Map.

Regulation 8 – Form and content of local plans and supplementary planning documents: The Submission Local Plan meets these requirements for the content of a local plan.

Regulation 9 – Form and content of the adopted policies map: The Submission Local Plan includes details of mapping changes which once adopted will be collated into an adopted Policies map to sit alongside the Local Plan.

Regulation 18 – Preparation of a Local Plan: The way in which the Council has met the requirements of Regulation 18 is set out in the Consultation Statement [Submission document CD6] submitted with the Local Plan. A number of Regulation 18 documents also form part of the documents submitted to the Inspector.

Regulation 19 – Publication of a Local Plan: The way in which Regulation 19 has been met is set out in the Consultation Statement referred to above.

Regulation 20 – Representations relating to a local plan: The way in which Regulation 20 has been met is set out in the Consultation Statement referred to above.

Regulation 22 – Submission of documents and information to the Secretary of State: The Council has submitted each of the documents prescribed in 22 (1) and (2) and also made them available on the Submission webpage. The post-submission consultation arrangements outlined in 22(3) will be met during the week immediately following formal submission of the Hart Local Plan.

Sustainability Appraisal

6. As set out in the Planning and Compulsory Purchase Act 2004 local planning authorities must carry out a process of Sustainability Appraisal alongside plan-making. This also

supports the requirement for local authorities preparing a Local Plan to do so ‘with the objective of contributing to the achievement of sustainable development’¹

7. The Town and Country Planning (Local Planning) (England) Regulations 2012 require that an SA Report is published for consultation alongside the ‘Proposed Submission’ plan document and must be submitted to the Secretary of State alongside the Local Plan. The SA has been an integral element of the local plan preparation process and has included an Interim SA alongside the Regulation 18 Local Plan and an SA [Submission document CD5a] alongside the Proposed Submission Local Plan. In response to representations an SA addendum/interim report [Submission document CD5C] has been prepared as part of the Submission evidence base.
8. In summary, the following has taken place in relation to the development of the Sustainability Appraisal:

Stage	Activity
SEA/SA Scope	In line with the SEA Regulations, consultation on the SA scope with the relevant consultation bodies (Environment Agency, Historic England and Natural England) and other stakeholders took place in 2014.
Housing Development Options paper consultation 2014	Preparation and consultation on the Sustainability Appraisal of Housing Development Options. Also updated some of the information in the SA Scoping Report.
Site Assessments, 2015	Preparation of an SA testing potential housing sites including some changes to the SA Framework following previous consultations. Published alongside Refined Options for Delivering New Homes consultation, 2016.
Draft Hart Local Plan Strategy and Sites, April 2017	Preparation of, and consultation on an Interim Sustainability Report alongside the Regulation 18 draft Local Plan.
Proposed Submission Hart Local Plan Strategy and Sites, February 2018	Preparation of and consultation on Sustainability Appraisal Report.
Submission of the Hart Local Plan: Strategy and Sites June 2018	Submission of the February 2018 SA and an SA addendum prepared in response to representations on the Proposed Submission Local Plan.

¹ Section 39 of the Planning and Compulsory Purchase Act 2004
<http://www.legislation.gov.uk/ukpga/2004/5/section/39>

Habitat Regulation Assessment

9. The need for Habitat Regulation Assessment (HRA) is set out within Article 6 of the EC Habitats Directive 1992, and interpreted into British law by the Conservation of Habitats and Species Regulations 2017.
10. The Habitats Directive applies the 'precautionary principle' to European sites. Plans and projects can only be permitted having ascertained that there will be no adverse effect on the integrity of the site(s) in question. Plans and projects with predicted adverse impacts on European sites may still be permitted if there are no alternatives to them and there are Imperative Reasons of Overriding Public Interest (IROPI) as to why they should go ahead. In such cases, compensation would be necessary to ensure the overall integrity of the site network. In order to ascertain whether or not site integrity will be affected, an appropriate assessment should be undertaken of the plan or project in question.
11. There is one internationally designated site located partially within Hart District; this is the Thames Basin Heaths Special Protection Area (TBHSPA). This is made up of many components spread across other Hampshire, Berkshire and Surrey Authorities. The TBHSPA is a strategic cross boundary issue and the way in which this has been considered through the duty to co-operate is set out in submission document CD9 'Duty to Co-Operate Statement'.
12. A Habitats Regulations Assessment was published in February 2018 alongside the Proposed Submission Local Plan. This was prepared in consultation with Natural England.
13. Following consultation on the Proposed Submission Local Plan and following the *People Over Wind and Sweetman v Coillte Teoranta* ECJ judgement (the Sweetman judgement)², a revised HRA report has been produced to reflect this judgement [Submission document ENV17]. The impact of this judgement appears to conclude that measures intended to avoid or reduce the harmful effects of a proposed project on a European site, but which are not an integral part of the project or plan, may no longer be taken into account by competent authorities at the Likely Significant Effects or 'screening' stage of HRA. The amendments to the HRA were undertaken in conjunction with Natural England.
14. The HRA concludes that subject to a number of recommendations that the Plan contains a framework of protection for the Thames Basin Heaths SPA to ensure that the integrity of the SPA is not adversely affected by development provided within Hart District.

² *People Over Wind and Sweetman v Coillte Teoranta* (C-323/17)

Duty to Co-operate

15. In preparing local plans, local authorities must address strategic planning matters that cross administrative boundaries. The duty to cooperate places a legal duty³ on local planning authorities, county councils in England and public bodies⁴ to engage constructively, actively and on an ongoing basis to maximise the effectiveness of Local Plan preparation in the context of strategic cross boundary matters.
16. The Council has set out how the duty to co-operate has been met in a 'Duty to Co-operate Statement' June 2018 [Submission Document CD9].
17. This identifies how the Council has engaged in a constructive and on-going manner on strategic cross boundary issues relevant to the local plan with relevant duty to co-operate bodies. This includes joint working in relation to the evidence base (for example the Strategic Housing Market Assessment, the Employment Land Review and the Infrastructure Delivery Plan), and on-going engagement in policy development.

Local Development Scheme

18. Section 19(1) of the Planning and Compulsory Purchase Act 2004 states that Local Development Documents must be prepared in accordance with the Local Development Scheme (LDS). Since commencement of the Hart Local Plan: Strategy and Sites there has been a number of iterations of the Local Development Scheme. Amendments to the timetable have been due to issues including staff resources, changes in government policy and joint working on the evidence base.
19. The current Local Development Scheme was prepared in February 2018. This was updated to reflect the commitment to preparing a New Settlement DPD. The LDS identifies that Submission would take place in Spring 2018 'to be determined by publication of revised national planning policy relating to the assessment of local housing need as agreed by the Council's Cabinet in January 2018'. However, on 5 April 2018 the Council's Cabinet agreed that the Plan would be submitted prior to the publication of the final revised National Planning Policy Framework⁵.

³ The legal duty is set out in <http://www.legislation.gov.uk/ukpga/2011/20/section/110/enacted>

⁴ The Duty to Cooperate Bodies are prescribed in the Town and Country Planning (Local Planning) (England) Regulations 2012 as amended by The National Treatment Agency (Abolition) and the Health and Social Care Act 2012 (Consequential, Transitional and Saving Provisions) Order 2013. Local planning authorities must also cooperate with Local Enterprise Partnerships and Local Nature Partnerships and have regard to their activities when they are preparing their Local Plans, so long as those activities are relevant to local plan making.

⁵

https://www.hart.gov.uk/sites/default/files/4_The_Council/Council_meetings/D_April/18%2004%2005%20Draft%20Cabinet%20mins.pdf

Statement of Community Involvement

20. Section 19(3) of the Planning and Compulsory Purchase Act 2004 states that, in preparing a Local Development Document, a local authority should comply with their Statement of Community Involvement (SCI). The Council's first Statement of Community Involvement (SCI) was prepared in 2006 and subsequently updated in 2011 and 2014 to reflect changes to Government legislation and policy. The 2014 SCI has therefore formed the basis for setting out the standards for engagement in preparing the local plan. Appendix D to the SCI was updated in 2017 to reflect changes to the consultation procedures for planning applications.
21. There has been on-going consultation and engagement with residents and other stakeholders throughout the plan preparation process. In line with the Regulations the Council has submitted a statement outlining who has been invited to make comments and how those comments have been addressed in line with regulation 22 (1)(c) of the Town and Country Planning (Local Planning)(England) Regulations 2012. The Consultation Statement [Submission document CD7] sets out how the Council has met the requirements of paragraph 155 of the National Planning Policy Framework (NPPF), relevant regulations, and the requirements of the SCI.

Conformity with the South East Plan

22. The Regional Spatial Strategy for the area, the South East Plan, was approved in May 2010, and included a number of policies which set the framework for Hart's local plan, including housing figures. The Plan was partially revoked on 25th March 2013, meaning that the vast majority of it is no longer of relevance. The exception is policy NRM6, which deals with the Thames Basin Heaths Special Protection Area.
23. NRM6 deals with mitigation measures for development which is likely to have an effect on the SPA. It sets a zone of influence of 5 km from the SPA boundaries, within which specified mitigation, including access management and the provision of Suitable Alternative Natural Greenspace (SANG) must be put in place.
24. As set out in the Duty to Co-operate Statement, the Council works collaboratively with other local authorities affected by the Thames Basin Heaths SPA and agreed avoidance and mitigation measures are in place. Policy NBE4 of the Submission Hart Local Plan sets out the policy requirements in relation to the Thames Basin Heaths SPA and are considered to be consistent with those set out in Policy NRM6 of the South East Plan.

Equality Impact Assessment

25. An Equality Impact Assessment stems from the Equality Act 2010, and looks at how a policy or function will affect people from different groups and in turn whether it has a negative impact on groups or individuals in particular with regard to race, gender, disability, sexual orientation, age or religious belief.
26. An Equality Impact Assessment [Submission document OTH16] has been undertaken in relation to the Proposed Submission Local Plan and no impacts have been identified which would have a negative impact on the protected groups.

Climate Change

27. Local Planning Authorities are bound by a legal duty in Section 19 of the Planning and Compulsory Purchase Act 2004, as amended by Section 182 of the Planning Act 2008, to ensure that, taken as a whole, plan policy contributes to the mitigation of, and adaptation to, climate change. The Proposed Submission Hart Local Plan has had regard to this duty through the following:
 - the Sustainability Appraisal process including assessment of options against climate change mitigation including SA Objective 12: Reduce the emissions of greenhouse gases and manage the impacts of climate change;
 - the Evidence base for example the preparation of a Strategic Flood Risk Assessment, Water Cycle Study, North Hampshire Renewable Energy and Low Carbon Development Study and the Green Infrastructure Strategy;
 - the Viability Assessment including assessment of higher levels of adaptation through for example the introduction of the higher water efficiency standard;
 - identification in the Local Plan vision that *'new development will have been built to high environmental and design standards including measures to meet the challenges of climate change'*;
 - inclusion of Objective 12 relating to the provision of measures for adapting to the impacts of climate change and minimising the contribution of new development to the causes of climate change, and appropriate monitoring measures within the Plan's Monitoring Framework;
 - inclusion of a range of policy requirements within:
 - Policy SS2 Hartland Village
 - Policy SS3 New Settlement

- Policy ED2 Safeguarding Employment Land and Premises (B-Use Classes)
- Policy ED4 Town, District and Local Centres
- Policy NBE5 Biodiversity
- Policy NBE6 Managing Flood Risk
- Policy NBE8 Sustainable Water Use
- Policy NBE10 Design
- Policy NBE11 Renewable and Low Carbon Energy
- Policy I1 Infrastructure
- Policy I2 Green Infrastructure
- Policy I3 Transport
- Policy I7 Phoenix Green Flood Alleviation

Conclusion

28. The Council considers that the preparation of the Hart Local Plan: Strategy and Sites 2016 – 2032 complies with relevant legal and procedural requirements as set out in this Topic Paper.