

# Fleet Neighbourhood Plan: Habitat Regulations Assessment

## Review in light of judgement People over Wind<sup>1</sup>

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### 1 Background

1 The Habitats Regulations Assessment (HRA) Screening for Fleet Neighbourhood Plan (FNP) was completed in April 2018<sup>2</sup>. The conclusion of the HRA was:

“..in light of the information available at the time of assessment that the Fleet Neighbourhood Plan **will not** give rise to significant effects on the Thames Basin Heaths SPA or Thursley, Ash, Pirbright and Chobham Common SAC either alone or in-combination with other plans and/or projects Given the findings of the screening assessment it is considered that a full appropriate assessment is not required.”

2 No further assessment was therefore necessary.

3 In April 2018 a notable legal judgement, in an unrelated case<sup>2</sup> centred around the role of mitigation measures when carrying out screening was issued (People Over Wind). People over Wind, Peter Sweetman v Coillte Teorante April 2018 concerns a judgement by the Court of Justice of the European Union (CJEU). The Court held that that Article 6(3) of the Habitats Directive requires that measures which are intended to avoid or reduce the harmful effects of a plan or project on a European Protected Site should not be taken into consideration at the screening stage. Paragraph 1.26 of the Fleet HRA Screening identifies that where significant effects are likely step 2 should consider potential mitigation measures. The judgement means that this is no longer the case.

4 In consideration of the above judgement a review of findings in regard to the HRA screening determination of April 2018 has been undertaken to explore whether the judgement would have any implications for the Neighbourhood Plan. The FNP HRA Screening has therefore been reviewed by Hart District Council in light of the People Over Wind judgement.

### 2 Review

5 As set out above the findings of the initial HRA Screening determination of April 2018 indicated that the Fleet NP was not predicted to have likely significant effects on any European Site, either alone or in combination with other plans and projects. The requirement for the Plan to undertake any further work in response to the requirements of Article 6(3) and (4) of the EU Habitats Directive was therefore screened out.

6 The review in summary:

- Whilst the HRA Screening conclusions acknowledges the presence of additional mitigation, avoidance and mitigation measures within the South East Plan and emerging Local Plan they are not required as mitigation measures for the Fleet Neighbourhood Plan which does not specifically allocate land or sites for additional dwellings;
- Government guidance remains that generally NPs are unlikely to result in significant effects;
- Natural England raised no objections or concerns about the FNP.

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<sup>1</sup> People over Wind and Sweetman v Coillte Teoranta (C-323/17)

<sup>2</sup>

[https://www.hart.gov.uk/sites/default/files/3\\_Visiting\\_Hart/Towns\\_and\\_parishes/Fleet%20Neighbourhood%20Plan%20SEA%20HRA%20Screening.pdf](https://www.hart.gov.uk/sites/default/files/3_Visiting_Hart/Towns_and_parishes/Fleet%20Neighbourhood%20Plan%20SEA%20HRA%20Screening.pdf)

### **3 Conclusion**

7 The Habitats Regulations Assessment Screening dated April 2018 remains appropriate and no changes are considered necessary in light of the People Over Wind judgement.

November 2018  
Hart District Council