



19 June 2017

Dear Ms. Smith,

Freshwater Neighbourhood Plan Examination

I am making good progress with the examination which I am undertaking via NPIERS. However, two matters have emerged in relation to strategic environmental assessment (SEA) and habitats regulations assessment (HRA).

As you are aware there is no legal requirement for a sustainability appraisal, but a SEA may be needed where a neighbourhood plan is likely to have significant environmental effects. In order to make this assessment neighbourhood plans should be screened in accordance with Regulation 9 of the Environmental Assessment of Plans and Programmes Regulations 2004 (EAPPR). This includes consultation with the statutory consultees namely the Environment Agency, Historic England and Natural England. If likely significant effects are identified, an environmental report must be prepared in accordance with Regulation 12 of the EAPPR. As part of that process a scoping stage is carried out which is again subject to consultation with the three statutory consultees.

I am aware that it is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of the plan proposal submitted to it have been met in order for the plan to progress and ultimately must decide whether the plan is compatible with EU obligations.

Part of my role is to see whether the making of the plan would be compatible with European Union obligations including under the SEA and Habitats Directives. From 9 February 2015 it is a requirement that either an environmental report that accords with the EAPPR is submitted or a statement of reasons for the determination that a plan is unlikely to have significant environmental effects must be submitted to the examiner.

In this case, a Sustainability Appraisal Report dated October 2016 has been submitted. I am satisfied that it meets the relevant regulations in respect of the environmental report with the exception of the inclusion of a non-technical summary.

It seems that a draft sustainability appraisal report has been consulted upon alongside the pre-submission version of the neighbourhood plan and that whilst the three statutory consultees responded to that consultation, none expressly mentioned SEA or the report that had been submitted.

A revised draft sustainability appraisal report has been consulted upon at submission stage alongside the version of the neighbourhood plan I am examining. Whilst again all three statutory consultees responded at submission stage, none expressly referred to SEA or the report.



Whilst it seems that neither a screening nor scoping stage was carried out, an environmental report has been submitted. This to my mind overcomes the lack of a screening exercise being undertaken.

However, given the lack of a scoping stage and the lack of the non-technical summary and the multitude of European sites in or in close proximity to this particular neighbourhood plan area, I consider that it would be prudent for me to ask that a) a non-technical summary is prepared and b) once that non-technical summary has been prepared, the three statutory consultees are consulted on the environmental report and its accompanying non-technical summary including being specifically asked to consider its scope. I suggest that a period of five weeks is given although should all three consultees be able to respond in a quicker timescale this would be welcomed.

In addition, a Habitats Regulations Assessment Report has also been submitted. This screens out the need for further work in relation to Habitats. Again it is not clear to me that the statutory consultees have specifically been consulted on this. I therefore suggest that the Habitats Regulations Assessment Report is also sent to them alongside the environmental report to enable them to consider this on the same basis as outlined above.

If you are agreeable to this course of action, I suggest that I suspend the examination to allow this to be carried out.

However there is also another matter relating to SEA and HRA to consider before any action is agreed or taken. That is the HRA refers to the proposed Solent and Dorset Coast pSpecial Protection Area (SPA). The local planning authority point out that the sustainability appraisal report does not refer to this pSPA. If the pSPA has now been confirmed, consideration should be given to whether the SEA and the HRA need to be reviewed in the light of this. If it was determined that further work did need to be carried out, a period of consultation would in any case be required. This then is the first matter to consider.

In addition a number of points of clarification have arisen. These are contained in a separate attachment and can be worked on during this period of suspension.

I appreciate that this and the ensuing delay will come as a disappointment to everyone concerned in the development of this Plan.

I am therefore writing to you to ascertain your further instructions as to whether you and the Parish Council agree with the suggested course of action above or wish to suggest an alternative way forward which I am, of course, happy to discuss.

The comments made in this letter are without prejudice to my conclusions on any other issue.

Yours sincerely



Ann Skippers
Director

via email to Dawn Smith, Senior Policy Officer, Isle of Wight Council



FAO
Jon Maskell - Environment Agency
Jack Potter - Natural England
Martin Small - Historic England

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Your Ref
IWC Ref

Contact Dawn Smith
Date 10th July 2017

Dear statutory consultee

Re: Freshwater Neighbourhood Plan – Re-consultation on amended environmental assessments

The council is in receipt of correspondence from the examiner appointed to the examination of the Freshwater Neighbourhood Plan. In it the examiner makes a number of observations that are summarised below;

- The examiner is satisfied that the Sustainability Appraisal Report dated October 2016 meets the relevant regulations in respect of the environmental report, with the exception of the inclusion of a non-technical summary;
- Whilst it seems that neither a screening nor scoping stage was carried out, an environmental report has been submitted, which in the examiner's opinion overcomes the lack of a screening exercise being undertaken;
- Given the lack of a scoping stage and the lack of the non-technical summary and the multitude of European sites in or in close proximity to this particular neighbourhood plan area the examiner considers that it would be prudent to ask that;
 - A non-technical summary is prepared; and,
 - Once that non-technical summary has been prepared, the three statutory consultees are consulted on the environmental report and its accompanying non-technical summary including being specifically asked to consider it's scope.
- It is not clear to the examiner that the statutory consultees have specifically been consulted on the Habitats Regulations Assessment Report and therefore suggests that this report is also sent to the statutory consultees alongside the environmental report to enable them to consider this on the same basis (i.e. proper due process in terms of screening and if relevant scoping).
- The HRA refers to the proposed Solent and Dorset Coast pSpecial Protection Area. The local planning authority point out that the sustainability appraisal report does not refer to this pSPA. If the pSPA has now been confirmed, consideration should be given to whether the SEA and the HRA need to be reviewed in light of this.

Taking the above into account the council has prepared a non-technical summary to accompany the SA Report.

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In addition, given Paragraph 118 of the National Planning Policy Framework states that when determining planning applications potential Special Protection Areas (pSPAs) should be given the same protection as European sites, all the environmental assessments have been updated to take account of the Solent and Dorset Coast pSPA.

The existing section in the HRA (under Methodology) is now complimented by a section in the SA/SEA on the pSPA, under 'Sustainability Context – International Designations'. To summarise the outcomes of the consideration of the pSPA within the neighbourhood plan SA/SEA, no additional significant negative effects have been identified.

You should also be aware that the examiner made the following observations with regards to previous engagement with the statutory consultees;

"It seems that a draft sustainability appraisal report has been consulted upon alongside the pre-submission version of the neighbourhood plan and that whilst the three statutory consultees responded to that consultation, none expressly mentioned SEA or the report that had been submitted"; and,

"A revised draft sustainability appraisal report has been consulted upon at submission stage alongside the version of the neighbourhood plan I am examining. Whilst again all three statutory consultees responded at submission stage, none expressly referred to SEA or the report."

As a result of the work detailed above please find the following attachments for your further considerations. Please note that the period of consultation is 5 weeks and we ask that you consider this consultation in the context of meeting the SEA Regulations requirements for scoping consultation and the screening determination made in the HRA.

- Freshwater Neighbourhood Plan Sustainability Appraisal Non-Technical Summary
- Freshwater Neighbourhood Plan Sustainability Appraisal (Amended)
- Freshwater Neighbourhood Plan Habitats Regulations Screening Report October 2016

The closing date for comments on this consultation is **15th August 2017**. However should you be in a position to respond sooner this would be appreciated.

Should you have any queries concerning the nature of this correspondence or the attachments then please do not hesitate to contact me. We look forward to receiving your comments and would like to thank you in advance for consideration of this matter.

Yours sincerely,



Dawn Smith
Senior Planning Officer MRTPI

This information is available in Braille, large print, tape and community languages from the above offices and Typetalk calls are welcome.