

Guildford Local Plan Habitats Regulations Assessment update May 2018

Explanation of changes

30 May 2018

Background

European legislation requires member states to protect important habitats and species. This protection is codified into UK law through domestic legislation including The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations). The Habitats Regulations Assessment (HRA) November 2017 was a core document submitted for examination with the Local Plan: Strategy and Sites 2017 (the plan) in order to demonstrate that the plan would not lead to adverse effects on the integrity of European protected sites.

The process for assessing the potential effects on European protected sites included a screening stage, where an assessment of whether likely significant effects exist. Following that, an appropriate assessment is undertaken to establish whether adverse effects on the integrity of protected sites would occur.

Following submission of the plan, a European Court of Justice ruling¹ clarified that avoidance and mitigation measures should not be taken into account at the screening stage, but that these should be reserved for the appropriate assessment stage.

The submitted HRA was compliant with the approach as now clarified because avoidance and mitigation measures have been taken into account in the appropriate assessment stage and not used to “screen out” impacts. However, an opportunity was taken to tighten up the wording in the document to make sure this is absolutely clear and to make other minor updates to the wording, resulting in the HRA May 2018.

Schedule of changes to the HRA

The changes that have been made to the HRA are set out in the following table.

Page/paragraph	Change made
Throughout	Date of HRA changed from November 2017 to May 2018 Address of consultant updated
1.1.2	Final sentence changed as follows: “[the final chapter] also takes the opportunity to consider the implications of a recent Judicial Review, regarding the use of transport flow thresholds in Local Plan HRAs.”
1.1.3-1.1.4	New paragraphs added explaining the impact of the EU judgement and the reasons for updating the HRA
Chapter 4 heading, page 21	“HRA screening” changed to “Likely significant effects”
Table 7 (pages 21-26) throughout	“Potential HRA Implications” changed to “Likely Significant Effects”

¹ People Over Wind and Sweetman v Coillte Teoranta (C-323/17)

Table 8 heading, page 27	“HRA screening for” changed to “Likely Significant”
4.1.2	Changed as follows: “All employment sites, and Local and District Centres listed within the following policy have potential to result...”
Table 8, second column heading	“Screening” changed to “Likely Significant Effects”
Chapter 5 heading, page 33	“HRA screening” changed to “Likely significant effects”
5.1.1	“screening” changed to “Likely Significant Effects” Third sentence changed as follows: “Orange shading indicates that further discussion is required later in the document since a pathway of impact exists that cannot be immediately screened out at this stage as being unlikely to lead to significant effects. ”
Table 9 heading, page 33	Changed as follows: “ HRA Screening <u>Likely Significant Effects</u> of the Site Allocations within Guildford Local Plan Strategy and Sites Submission Version for Effects on Thames Basin Heaths SPA”
7.3.4	Paragraph changed as follows: “The inclusion of this text will enable this impact pathway to be screened out a <u>conclusion of no adverse effects on integrity to be drawn.</u> ”
7.3.8, 7.3.9, 7.3.10	End of paragraphs changed as follows: “...conclude no adverse effect <u>on integrity.</u> ”
8.3.2	Changed as follows: “... the impact it can be concluded there would be no adverse effect on integrity of the new recreational activities resulting from new residential development can be screened out. ”
8.3.6	“likely significant effect” changed to “adverse effect on integrity”
Table 11, page 52, box A29	likely significant effect” changed to “adverse effect on integrity”
11.1.2	Final two sentences amended as follows: “...thus ensuring that impacts from recreational pressure alone or in combination do not impact result in an adverse effect upon the <u>integrity of the</u> Thames Basin Heaths SPA. Where required, recommendations are included to ensure no likely significant effect <u>adverse effect on integrity</u> results upon the Thames Basin Heaths SPA as a result of the Plan.”
11.2 and 11.3 headings, page 60	“Likely significant effects” changed to “adverse effects on integrity”
Table 15, box A29, page 61	“Likely significant effects” changed to “adverse effects”
11.4.1	Changed as follows: “Provided these recommendations are considered, then impact pathways assessed that link the Guildford Borough Proposed Submission Local Plan: Strategy and Sites to the Thames Basin Heaths SPA can be screened out from resulting in likely significant effects <u>concluded to result in no adverse effect on integrity.</u> ”
12.1 heading, page 62	“Screening of” changed to “Appropriate assessment of”

12.1.1	Changed as follows: "...Following the provision of the HRA for the Proposed Submission Local Plan Strategy and Sites (June 2016), the Council made modifications to the Local Plan. The substantive modifications (essentially changes to sites) are the focus of this analysis. These modifications are identified in <u>Table 17: HRA of Modifications (April 2017) to the Guildford Borough Proposed Submission Local Plan Strategy and Sites for Effects on Thames Basin Heaths SPA</u> . Table 17: HRA Screening of Modifications (April 2017) to the Guildford Borough Proposed Submission Local Plan Strategy and Sites for Effects on Thames Basin Heaths SPA . Table 17 also provides the HRA screening assessment of these modifications... It is not considered that this change in name would alter the HRA <u>Screening</u> outcome and as such these have not be assessed or referred to."
12.1.2	Changed as follows: "... the original impact pathways are identified in the ' <u>Screening</u> HRA outcome' column, but the amendment itself is screened out deemed not to result in adverse effects on integrity."
Table 17 title, page 62	Changed as follows: "Table 17: HRA <u>Screening</u> of Modifications (April 2017) to the Guildford Borough Proposed Submission Local Plan Strategy and Sites for <u>Adverse</u> Effects on <u>the integrity of</u> Thames Basin Heaths SPA.
Table 17 title, page 62	Heading of third column changed from "Screening outcome" to "HRA outcome"
12.3.1, second bullet	"Likely significant effects" changed to "adverse effects"

Modifications to the Submission Local Plan: Strategy and Sites

As a result of the change in approach to the assessment of impacts under the Habitats Regulations, it is necessary to propose draft modifications to Policy P5: Thames Basin Heaths Special Protection Area of the submission plan. The proposed draft modifications can be seen in the table below.

Paragraph	Proposed draft modification
4.3.50c (supporting text)	4.3.50c 'Adverse effects on integrity' refers to the definition under the Habitats Regulations. In line with the Habitats Regulations, development proposals should be screened to establish whether they are likely to have significant effects on the SPA. All net new residential development up to five km from the SPA, and developments of over 50 net new residential units five to seven km from the SPA are considered likely to have a significant effect. Where significant effects are likely, proposals and must undergo Appropriate Assessment to identify measures that avoid, as a first step, and mitigate any adverse effects. However, if these residential developments provide or contribute to appropriate SANG and SAMM measures <u>in accordance with the Thames Basin Heaths Special Protection Area Avoidance Strategy (the strategy)</u> , they will not be required to undergo Appropriate Assessment <u>it is likely that it can be concluded that no adverse effects on the integrity of the SPA will occur as a result of increased recreational pressure.</u>

4.3.56 (supporting text)

Developments covered by prior approval and permitted development benefit from a blanket planning permission granted by central government and do not need to receive planning permission from the Local Planning Authority. These developments must be compliant with the Habitats Regulations as a matter of law and must adhere to the principles set out in policy P5. Where avoidance and/or mitigation measures are required, these should be provided in line with the approach set out in this policy and ~~the Thames Basin Heaths Special Protection Area Avoidance Strategy~~ (the strategy). The Council will enter into an agreement with anyone undertaking such developments to provide avoidance and mitigation measures where appropriate.