



Note of Duty to Co-operate Meeting – Horsham District Council, Chichester District Council and Natural England

17 October 2024 – Online (3.30pm - 5pm)

Note of meeting

Attendees:

Representatives from Natural England (NE), Horsham District Council (HDC) and Chichester District Council (CDC)

Matters Discussed:

1. Chichester Local Plan Hearing Update

CDC advised the Hearings had commenced and that there is currently a 4-week break, returning on the 13th of November with a reserve date of the 14th. The Inspectors had noted that the HRA was a matter to be secured at the point of adoption. The expectation is for the Council and Natural England to reach agreement as soon as possible, but ideally prior to the resumption of the Hearing sessions on 13th November.

2. Horsham District Council Local Plan Hearing Update

HDC advised that Horsham is also now at Examination, but a bit behind Chichester. The Matters Issues and Questions (MIQs) have been received and it is likely Horsham's Inspector will seek a similar approach to that of Chichester's Inspectors given his question on HRA and the Mens. The Hearing Programme has also been published, in effect 10-19/20 December 2024 and then 14-22/24 January 2025. Matters relating to the HRA are programmed for 10th December 2024.

3. HRA – Ammonia Mitigation Discussion

Representatives of NE set out their views on the mitigation strategy. This took the form of advice to the authorities as to where they might want to assure themselves whether some of the modelling assumptions were appropriate. It was also noted that they were, on the whole, 'soft measures' which may need greater certainty as to delivery of necessary mitigation. NE qualified that this was advice only as a critical friend because NE is supportive of HDC & CDC plans progressing. NE noted that there may be other mitigation opportunities (such as the covering of farm slurry pits to reduce background ammonia in order to offset the potential impact of the HDC and CDC local plans), however, it was recognised that such schemes were not sufficiently advanced at this stage and would likely be a more appropriate form of mitigation as part of any future Plan, as necessary. HDC & CDC recognised such schemes as potential sources of mitigation, but at this stage did not consider they were required until impact of the Plans was clearer following the implementation of the proposed draft mitigation strategy.

It was noted that since NE had made its representations to the HDC & CDC local plans, a mitigation strategy had now been produced that set out measures to take account of, and deal with, the impact of ammonia on The Mens. NE has already accepted that, based on the housing trajectory used in the mitigation evidence, the 1% breach in the critical level for ammonia threshold is not predicted to occur until late in the plan period (least 2032). On that basis, acknowledging the Local Plans would be subject to a 5-year review, the submission Local Plans would pose no real risk with regard to ammonia impacts on The Mens SAC. This is because NE is committed to working with the authorities to secure robust mitigation prior to the threshold being breached and that there is an intervening (statutorily required) review of the plans, before this would occur.

NE did note, however, that in respect of the Habitats Regulations the whole of each plan has to be compliant over their entire plan period, and there may need to be greater certainty that the critical level would not be breached prior to a further review of the Local Plans, or confirmation through the mitigation strategy that no further mitigation was needed. To that end the potential for a 'fail safe' policy should be secured, as noted within paragraphs 2.18 and 2.21 of the Outline Air Quality Mitigation Strategy.

It was agreed by all parties that this was a suitable approach which would be investigated by HDC and CDC. NE advised that they would be happy to assist with policy wording.

Outcomes and Actions:

The agreed position of all parties is:

Following submission of a draft Mitigation Plan and local plan development trajectory, it is clear that the impact of ammonia generated as a result of development within the plans on The Mens SAC would not occur before 2032, well beyond any 5-year review required of all local plans by national policy. Therefore, it is very unlikely that there would be any actual breach of the critical threshold as a result of the in-combination effect of HDC and CDC Plans before they are reviewed. Horsham District Council and Chichester District Council will undertake joint Automatic Number Plate Recognition (ANPR) monitoring on the A272 to determine the uptake of ultra-low emission vehicles over time. However, to provide sufficient certainty that this would be the case, a further 'fail safe' policy should be proposed to the respective local plan Inspectors that would prevent development coming forward beyond the level where 1% impact occurs.

On this basis of the agreed actions, Natural England consider that the addition of a 'fail safe' policy would ensure that there is no risk of an adverse effect on the integrity of The Mens SAC; but as the Appropriate Authority the council(s) would at the point of plan adoption, need to assure themselves that the plan meets the requirements of the Habitat Regulations across the plan period.