

# Burpham Neighbourhood Plan examination

## Statement from Guildford Borough Council

### 1. Introduction

- 1.1 The Burpham Neighbourhood Plan (the Plan) has been produced by the Burpham Neighbourhood Forum and is the first example of a neighbourhood plan produced in Guildford borough. This document has been produced to accompany the Plan to examination in order to provide relevant background information for the examiner, and to put forward the Council's view on the Plan.
- 1.2 Guildford Borough Council fully supports neighbourhood planning and appreciates the importance of neighbourhood plans being effective and deliverable in order to realise the vision established by the community through the neighbourhood planning process. When adopted, neighbourhood plans become part of the development plan and will be used by decision makers when determining planning applications and appeals.
- 1.3 The National Planning Policy Framework (NPPF) (paragraphs 17 and 196) calls for the planning system to be plan led so it is important that policies are clear and easy to interpret, both for decision makers and the development industry. The introduction of ambiguity is likely to reduce the speed with which planning decisions are determined. Where policies introduce restrictions and requirements, or have not had sufficient regard to the national policies and advice, there is a possibility that there may be an increase in the number of challenges to planning decisions. The net impact is likely to be greater costs for the council-taxpayer.
- 1.4 The issues raised below are those where the Council feels the Plan could be detrimental to the Development Management process for the reasons given above, or because it could impact upon the ability of the Council to meet the strategic needs of the borough. These issues were raised at the regulation 14 consultation stage but remain unresolved.
- 1.5 These issues are raised here for the examiner to consider.

### 2. Background

#### Burpham Neighbourhood Area

- 2.1 The Burpham Neighbourhood Area is designated along the boundaries of Burpham administrative ward.
- 2.2 In order to understand the wider context for the Burpham Neighbourhood Plan, the examiner may wish to use the interactive map which shows the boundary of the Burpham Neighbourhood Area at <http://www.guildford.gov.uk/burpham>.

#### The development plan for Guildford borough

- 2.3 The development plan for Guildford borough consists of:

- the saved Local Plan policies of the Guildford Borough Local Plan 2003,
- the remaining two policies of the revoked South East Plan 2009,
- Surrey Minerals Plan Core Strategy Development Plan Document and Primary Aggregates Development Plan Document
- the Surrey Waste Plan 2008 and
- the Surrey Aggregates Recycling Joint DPD

2.4 Of the two saved South East Plan policies, only policy NRM6 has relevance for Guildford as the other relates to Upper Heyford Air Base in Oxfordshire. Policy NRM6 is reproduced at Appendix 1.

2.5 When considering the Local Plan 2003, the examiner may find it convenient to use the interactive planning map located at <http://www.guildford.gov.uk/planningmap>. Paper copies of the Local Plan 2003 and a Proposals Map covering Burpham have been provided.

### Gosden Hill Farm

2.6 The draft Local Plan Strategy and Sites, consulted on in summer 2014, identified a potential strategic site on the edge of Burpham at Gosden Hill Farm. This site was identified in the South East Plan, and in the Surrey Structure Plan before that. Approximately one third of this site falls within the neighbourhood area (see Figure 1).

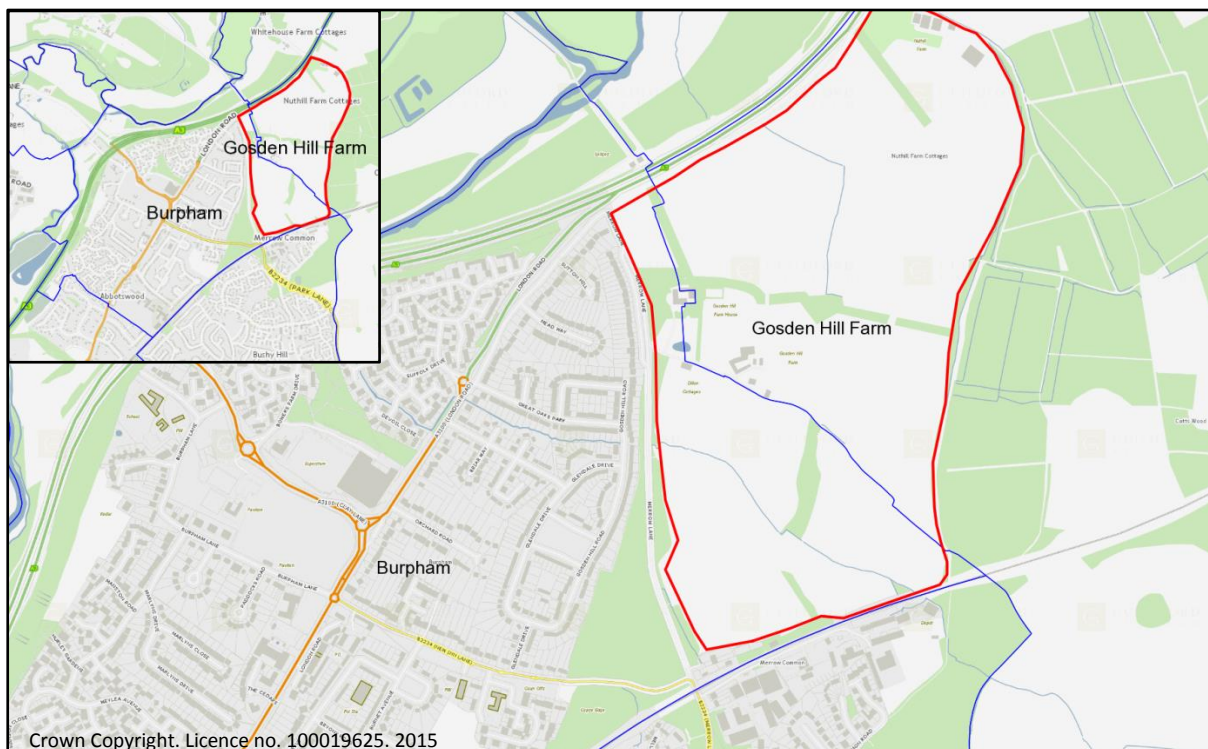


Figure 1: Burpham ward and neighbourhood area (blue outline) and potential development site at Gosden Hill Farm (red outline).

2.7 The draft Local Plan Strategy and Sites identified the site as having the potential to provide up to 2000 homes, a strategic employment site, highway improvements, a two

form entry primary school, a local retail centre, a GPs surgery, community buildings, open space, playing fields and allotments, a new park and ride and part of a new rail station.

- 2.8 The Council is currently working on a further version of the new Local Plan and it is not clear at this stage whether this site will be included.

#### The Regulation 14 consultation

- 2.9 During the six week consultation undertaken by the Forum to meet the requirements of regulation 14 of the Neighbourhood Planning (General) Regulations 2012 (the Regulations), the Council highlighted a series of potential conflicts with the basic conditions. Some of these points were addressed in the regulation 15 submission version of the Plan. Points that were not addressed have been raised again in this document.

### **3. The basic conditions**

- 3.1 The basic conditions that apply to neighbourhood plans and Orders are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990. The basic conditions are:
- a. having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the order (or neighbourhood plan).
  - b. having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses, it is appropriate to make the order. This applies only to Orders.
  - c. having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the order. This applies only to Orders.
  - d. the making of the order (or neighbourhood plan) contributes to the achievement of sustainable development.
  - e. the making of the order (or neighbourhood plan) is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area).
  - f. the making of the order (or neighbourhood plan) does not breach, and is otherwise compatible with, EU obligations.
  - g. prescribed conditions are met in relation to the Order (or plan) and prescribed matters have been complied with in connection with the proposal for the order (or neighbourhood plan).
- 3.2 The Council believes that the neighbourhood plan meets most of the basic conditions. However, there are some concerns that it may conflict with the following two basic conditions in particular.

- a. having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the order (or neighbourhood plan).
- d. the making of the order (or neighbourhood plan) contributes to the achievement of sustainable development.

#### **4. Issues the examiner is requested to consider**

- 4.1 In this section, the Council will set out areas where potential conflicts with the basic conditions have been identified.
- 4.2 Some of these issues relate to sustainable development. The NPPF (paragraph 6) states that *'the policies in paragraphs 18 to 219, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system.'* The Council is of the view that, in order to meet basic condition d, neighbourhood plan policies should not conflict with the principles of sustainable development set out in the NPPF.

#### General support for development in neighbourhood plan policies

- 4.3 Regarding basic condition a, the NPPF states that neighbourhood plans must plan positively to support local development (paragraph 10) and align their ambitions with the strategic needs and priorities of the wider local area (paragraph 184). Paragraph 47 of the NPPF requires local planning authorities to boost significantly the supply of housing within the housing market area and specifically within the borough. The emerging evidence base for the new Local Plan identifies a significant strategic need for housing, especially affordable housing<sup>1</sup>. The Plan therefore needs to have regard to the strategic priority of boosting the supply of housing and especially affordable housing.
- 4.4 The National Planning Practice Guidance (NPPG) (neighbourhood planning, paragraph 005) states that neighbourhood plans need to be deliverable and that *'the sites and the scale of development identified in a plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened'*.

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<sup>1</sup> There were 3,389 households on the housing register on 1 April 2014, of which 2,461 were in Bands A-C, which might equate to having a housing need based on the 1996 Housing Act (as amended by the Homelessness Act 2002).

The draft West Surrey SHMA (December 2014) indicates that the objectively assessed housing need for Guildford borough falls between 620 – 816 homes per year (2011 – 2031). The baseline figure of 620 equates to the minimum level of need required to meet the demographic projection, with an adjustment for improving affordability. The additional uplift from 620 to 816 homes per annum would be sufficient to support economic growth, improvements in affordability and student growth as well as meeting the baseline demographic growth in the borough. This figure does not take account of land supply or development constraints within the borough.  
<http://www.guildford.gov.uk/shma>

- 4.5 Regarding basic condition d, the NPPF (paragraph 7) states that meeting the social dimension of sustainable development includes providing the supply of housing required to meet the needs of present and future generations.
- 4.6 Therefore, to meet basic conditions a and d it is clear that neighbourhood plans should support the provision of housing.
- 4.7 The Council's view is that the submitted Burpham Neighbourhood Plan, taken as a whole, would restrict rather than support the provision of homes and it is therefore not clear whether this meets basic conditions a and d for the reasons presented above. The Council would like the examiner to consider any amendments which would enable the Plan to better support the aim of increasing the housing supply and to better meet the social dimension of sustainable development described in the NPPF.

#### The use of evidence and justification to support policies

- 4.8 The NPPG (neighbourhood planning, paragraph 40) states that '*Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan*'. It also states that policies '*should be concise, precise and supported by appropriate evidence*' (neighbourhood planning, paragraph 41).
- 4.9 Policies in the neighbourhood plan are generally not accompanied by supporting text that sets out the relevant evidence and a reasoned justification, or explains the policy succinctly. There is an exhaustive list of reference documents and sources at Appendix 4, but relevant evidence is largely not signposted or reproduced throughout the main document (BNF1). The result of this format is that there is no clear link between evidence and policy.
- 4.10 There is concern that decision makers will have to read through a large number of supporting documents in order to find the information necessary to apply policies correctly, with delays to the planning process as a result. Therefore the examiner is asked to consider whether sufficient regard has been given to the NPPG and therefore whether basic condition a has been met, or whether the Plan should be amended in this regard.

#### Policy B-EN 1

- 4.11 This policy restates national policy. The Council would like the examiner to consider whether it would be effective and necessary.

#### Policy B-EN 2

- 4.12 There is concern that Policy B-EN 2 is not sufficiently clear in what developers are expected to achieve. The policy is written in a way that is difficult to follow (particularly the definition of 'inappropriate') and the term 'back garden development' is not defined. There is some concern that this could cause problems at the development management stage as the requirements may be open to interpretation.

- 4.13 The NPPG states ‘*A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications.*’ (neighbourhood planning, paragraph 41). The Council requests that the examiner consider whether the policy as written has had sufficient regard to basic condition a, or whether it needs to be amended to improve clarity.
- 4.14 When applied in practice, this policy may well have the effect of applying a maximum density across an area. This may not have sufficient regard to NPPF paragraph 58 which requires neighbourhood plans to ‘*optimise the potential of a site to accommodate development...*’. The supporting text does not establish why the density is appropriate. The examiner is invited to consider whether this policy therefore meets basic condition a.
- 4.15 The policy requires new buildings to be situated ‘*equidistant from all surrounding properties*’. There is concern that this may not be achievable in most circumstances and the examiner is asked to consider whether has had regard to advice regarding deliverability and therefore whether it meets basic condition a.
- 4.16 The policy is highly prescriptive and it has not been established that the requirements are viable. The examiner is asked to consider whether this policy has regard to advice on viability described in the NPPF and NPPG and therefore whether it meets basic condition a.

#### Policy B-EN 3 and B-EN 4

- 4.17 The final paragraph of B-EN 3 states that ‘*Proposals for built development... will not be permitted unless the proposal is of a limited nature...*’ and the final paragraph of B-EN 4 states that ‘*Development will not be permitted within any wildlife corridors, except where it provides drainage or minor improvement...*’. Paragraph 78 of the NPPF states ‘*Local Policy for managing developments within Local Green Space should be consistent with policy for Green Belts*’. As the two neighbourhood plan policies are significantly more restrictive than Green Belt policy, the examiner is asked to consider whether these policies meet basic condition a.
- 4.18 Policy B-EN 3 (Merrow Common) states that ‘*any attempt to modify this area in any way is strongly opposed by this Plan*’. The NPPF (paragraph 7) states that improving biodiversity is a factor in achieving sustainable development. The examiner is therefore asked to consider whether an amendment to this wording to allow for beneficial activities like conservation measures or habitat management would enable the policy to better meet basic condition a by having greater regard to the NPPF. This will help the Plan achieve sustainable development as defined by the NPPF and therefore better meet basic condition d.
- 4.19 The policies make reference to Appendix 3. The descriptive text for sites 2, 3, 4 and 5 in Appendix 3 could imply that the Local Green Space designation is intended to preserve a “cathedral tree arch” across Merrow Lane. There is concern that this policy would be impossible to implement whilst maintaining tree safety on Merrow Lane and could be detrimental to future woodland management. The Council requests that the examiner consider whether the wording in Appendix 3 needs to be altered to ensure

that it supports the tree arch effect that makes the space special whilst allowing for essential works to trees.

- 4.20 The NPPG states '*Local Green Space designation is a way to provide special protection against development for green areas of particular importance to local communities.*' (Open space..., paragraph 5) and '[local and neighbourhood] *plans must identify sufficient land in suitable locations to meet identified development needs and the Local Green Space designation should not be used in a way that undermines this aim of plan making*' (Open space..., paragraph 7). The Plan appears to apply the designation to almost all the green space in the neighbourhood area, rather than just those green areas of particular importance to the local community. The examiner is asked to consider whether this has regard to the guidance in the NPPG and therefore whether it meets basic condition a.
- 4.21 The NPPG (Open space..., paragraph 19) states that the qualifying body '*should contact landowners at an early stage about proposals to designate any part of their land as Local Green Space*', but no details of this contact are given. Some of the owners of proposed Local Green Spaces were contacted by the forum during the regulation 14 consultation and the Council confirms that all the owners were contacted during the regulation 16 consultation.

#### Policy B-FD 1

- 4.22 The policy does not set a figure for density, but does place a limit on buildings at three habitable stories. The examiner is asked to consider whether this has regard to NPPF paragraph 58 which requires neighbourhood plans to '*optimise the potential of a site to accommodate development...*' and therefore whether this meets basic condition a.
- 4.23 There is some concern that applying this policy in a blanket manner across the neighbourhood area could impact upon the delivery of sustainable development. As an example, part of the potential strategic site at Gosden Hill Farm falls within the neighbourhood area (see figure 1). There are emerging proposals in the Surrey Rail Strategy (2013) for a new rail station at Merrow, which would be located in or near the part of the site that falls within the Burpham Neighbourhood Area.
- 4.24 Under the principle of sustainable development, the most dense development should be located near the railway station to maximise opportunities to reduce travel to the station, and it is not clear at this stage whether this would need to exceed three storeys. If development above three storeys is needed, this policy could have the effect of pushing it away from the station to the northern part of the site that falls outside the Burpham Neighbourhood Area. The examiner is therefore asked to consider whether this part of the policy meets basic condition d.
- 4.25 There are also concerns about the impact on the delivery of a school on the site if all buildings are limited to three stories. Again, it may be considered more sustainable to locate a school near the railway station if the site is developed.

#### Policy B-FD 2

- 4.26 This policy contains some ambiguity which may make it difficult for planning officers to apply effectively:
- The first sentence states that dwelling density will be based on plot size – it is not clear what this means as density is a function of quantum of floorspace and net plot size
  - The second bullet point states '*In addition, each flat must have access to the equivalent of half its internal floor area as communal external amenity space (this applies to each flat individually)*' – it is not clear what the part in brackets means and this wording may not be needed.
- 4.27 The examiner is invited to consider whether this wording should be amended so that it has regard to the NPPG requirement for clear and unambiguous policies and therefore to meet basic condition a.
- 4.28 There is some concern that the policy does not present evidence to support the requirement for dwellings and flatted development to avoid exceeding 33% of a plot size. The examiner is requested to consider whether this has regard to the NPPG advice regarding the use of evidence (neighbourhood planning, paragraphs 40 and 41) and therefore whether meets basic condition a.
- 4.29 The examiner is also asked to consider whether this has had regard to NPPF paragraph 58 which requires neighbourhood plans to '*optimise the potential of a site to accommodate development...*' and therefore meets basic conditions a and d.
- 4.30 The policy is seeking to apply minimum garden sizes for flats without providing evidence that the standard is viable, and therefore whether the Plan is deliverable. The examiner is asked to consider whether this conflicts with guidance on viability and therefore meets basic condition a.

### Policy B-FD 3

- 4.31 The Council has produced a draft SHMA (2014) which includes a breakdown of future need (see footnote 1). In terms of housing mix, the SHMA (page 159) identifies a projected need for provision of different sized dwellings as follows:
- market homes; 1-bed dwellings at 10 per cent, 2-bed dwellings at 30 per cent
  - affordable homes; 1-bed dwellings at 40 per cent and 2-bed dwellings at 30 per cent.
- 4.32 The Council acknowledges that this mix has been developed to meet the needs of a housing market area covering Guildford, Waverley and Woking and that local needs may justify deviation from this mix. However, the draft SHMA mix does not seem to have been considered and there is no explanation as to why a figure of 10 per cent is more appropriate for one and two bed market and affordable homes in Burpham. The supporting text presents data from the Council's housing list as justification, but no analysis is provided and it is not clear how this evidence supports the 10 per cent ratios in the policy.
- 4.33 it is not clear that the Plan has had regard to NPPF paragraph 184 which states that the ambition of the neighbourhood should be '*aligned with the strategic needs and*



*priorities of the wider local area*’ or the NPPG requirement for the use of evidence. The examiner is asked to consider whether this meets basic condition a.

#### Policy B-FD 4

- 4.34 Bullet point three asks for essential utilities and infrastructure to be completed prior to occupation of the development and bullet point four asks for services and infrastructure to come online *‘before or in parallel to completion but before occupation of new homes’*.
- 4.35 The NPPF (paragraph 177) states that there should be *‘a reasonable prospect that planned infrastructure is deliverable in a timely fashion’*. The Council understands the concerns that policy B-FD 4 is trying to address and asks the examiner to consider whether it would be more appropriate but equally effective for the policy to require infrastructure and services to come online *‘ready for when it is first needed’* in order to meet basic condition a.

#### Policy B-FD 6

- 4.36 It is not clear what future developers on the site need to achieve or avoid. The examiner is asked to consider whether this provides enough clarity to meet basic condition a.

#### Policy B-T 1

- 4.37 The policy requires all new development within the neighbourhood area to provide off road parking and sets out minimum standards. The justification given is the *‘high car usage identified in the 2011 census within Guildford Borough and surroundings’* and *‘the narrow lanes and roads’* which make on-street parking unsustainable. It is not clear whether this has had regard to the need for proportionate and robust evidence and therefore whether it meets basic condition a.
- 4.38 The examiner is asked to consider what the impact of the written ministerial statement from Eric Pickles (then Secretary of State for Communities and Local Government) dated 25 March 2015 which adds the following text to the NPPF: *‘Local planning authorities should only impose local parking standards for residential and non-residential development where there is clear and compelling justification that it is necessary to manage their local road network,’* and therefore whether the policy meets basic condition a.

#### Appendix 5 – Survey Summary April - May 2013 and BNF15 (sample of Burpham Neighbourhood Survey)

- 4.39 The NPPG states *‘Proportionate, robust evidence should support the choices made and the approach taken’* (neighbourhood planning, paragraph 40). There are concerns over the phrasing of some of the questions in the survey, notably question E4 which asked:

*“If new homes are to be built, how many should be assigned by 2026 within the Burpham Ward?”* and offers the following options:

- *“Over 1000 on Green Belt. The implication over 20 years of ‘going into green belt’ with development”*
- *“None; Burpham ward is full up”*
- *“Under 100 in Back Gardens and on our village green spaces”*

4.40 The options of ‘over 1000’ and ‘under 100’ do not relate to any recent development proposals put forward for Burpham, either by developers or through the Local Plan process. The Council considers that a range of alternative options should have been offered, and regards the inclusion of the phrase ‘*Burpham ward is full up*’ as an error that could be considered a leading statement. The examiner is asked to consider the robustness of this evidence and any impact it may have had on the resulting policies.



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## Appendix 1

### POLICY NRM6: THAMES BASIN HEATHS SPECIAL PROTECTION AREA

New residential development which is likely to have a significant effect on the ecological integrity of Thames Basin Heaths Special Protection Area (SPA) will be required to demonstrate that adequate measures are put in place to avoid or mitigate any potential adverse effects. Such measures must be agreed with Natural England.

Priority should be given to directing development to those areas where potential adverse effects can be avoided without the need for mitigation measures. Where mitigation measures are required, local planning authorities, as Competent Authorities, should work in partnership to set out clearly and deliver a consistent approach to mitigation, based on the following principles:

- i. a zone of influence set at 5km linear distance from the SPA boundary will be established where measures must be taken to ensure that the integrity of the SPA is protected
- ii. within this zone of influence, there will be a 400m "exclusion zone" where mitigation measures are unlikely to be capable of protecting the integrity of the SPA. In exceptional circumstances, this may vary with the provision of evidence that demonstrates the extent of the area within which it is considered that mitigation measures will be capable of protecting the integrity of the SPA. These small locally determined zones will be set out in local development frameworks (LDFs) and SPA avoidance strategies and agreed with Natural England
- iii. where development is proposed outside the exclusion zone but within the zone of influence, mitigation measures will be delivered prior to occupation and in perpetuity. Measures will be based on a combination of access management, and the provision of Suitable Accessible Natural Greenspace (SANG).

Where mitigation takes the form of provision of SANG the following standards and arrangements will apply:

- iv. a minimum of 8 hectares of SANG land (after discounting to account for current access and capacity) should be provided per 1,000 new occupants
- v. developments of fewer than 10 dwellings should not be required to be within a specified distance of SANG land provided it is ensured that a sufficient quantity of SANG land is in place to cater for the consequent increase in residents prior to occupation of the dwellings
- vi. access management measures will be provided strategically to ensure that adverse impacts on the SPA are avoided and that SANG functions effectively
- vii. authorities should co-operate and work jointly to implement mitigation measures. These may include, inter alia, assistance to those authorities with insufficient SANG land within their own boundaries, co-operation on access management and joint development plan documents
- viii. relevant parties will co-operate with Natural England and landowners and stakeholders in monitoring the effectiveness of avoidance and mitigation measures and monitoring visitor pressure on the SPA and review/amend the approach set out in this policy, as necessary

- ix. local authorities will collect developer contributions towards mitigation measures, including the provision of SANG land and joint contributions to the funding of access management and monitoring the effects of mitigation measures across the SPA
- x. large developments may be expected to provide bespoke mitigation that provides a combination of benefits including SANG, biodiversity enhancement, green infrastructure and, potentially, new recreational facilities.

Where further evidence demonstrates that the integrity of the SPA can be protected using different linear thresholds or with alternative mitigation measures (including standards of SANG provision different to those set out in this policy) these must be agreed with Natural England.

The mechanism for this policy is set out in the TBH Delivery Framework by the TBH Joint Strategic Partnership and partners and stakeholders, the principles of which should be incorporated into local authorities' LDFs.