

Shoreham Harbour Joint Area Action Plan Examination

Matters Statement 6: Natural environment, biodiversity, green infrastructure, recreation and leisure (Policies SH7, SH8, CA2, CA4, CA5, CA6, CA7)

Issue: Whether the policies of the Plan would support the positive management of environmental assets and natural resources, make appropriate provision for green infrastructure and open space, and enable the effective delivery of appropriate recreation and leisure development?

Please see the Matters Statement Explanatory Note (SHJAAP/MS/EX) for clarification of acronyms, abbreviations and other terms used in this statement.

42. Briefly explain how the potential effects of the Plan's policies and proposals on protected species have been assessed.

Councils' response:

- 42.1 The Shoreham Harbour Ecology and Green Infrastructure Study (SED07/01) identifies the potential impacts of development proposed within the Plan. The study finds that, although the site is dominated by hardstanding and buildings, there is of range of semi-natural habitat types. The entire regeneration area is within the Impact Risk Zone for the Adur Estuary Site of Special Scientific Interest. There are no statutory or non-statutory designated nature conservation sites within the allocations in the Plan. However, there is potential for sites to support a range of species. There are known populations of common lizards and slow worms at the North Canal Bank (which is part of the proposed green corridor). There is also potential that bats could be present in some buildings. Invertebrates and seahorses could be present in the marine environment.
- 42.2 The study proposes the following enhancements, which are reflected in the Plan's policies:

- The preparation of a green infrastructure strategy
- A green corridor alongside the A259
- Habitat creation at Portslade and Southwick Beaches
- Linear intertidal habitat creation at the Western Harbour Arm
- Green roofs and walls

- 42.3 The Shoreham Harbour Vegetated Shingle Assessment (SED07/02) forms part of the Ecology and Green Infrastructure Study. This states how the existing vegetated shingle represents the largest example of this internationally important habitat type in Brighton & Hove; that any impact will be regarded as a material consideration; and that retention and protection are expected.
- 42.4 The Sustainability Appraisal Framework (see Section 7 of Scoping Report ECD03/01) includes sustainability objective 4 which regards the conservation, protection and enhancement of biodiversity and habitats. This relates to all biodiversity. Various supporting criteria also support this objective which help to guide the SA assessment, for example “will the plan protect biodiversity and habitats?” (see section 17, page 46 of CSD04/01). The baseline analysis, including information available on site specific constraints, e.g. location of the SSSI, is also considered when assessing potential effects. (As an example, please see appraisal for CA7 Western Harbour Arm (CSD04/01) page 128-132, specifically the narrative under objective 4).
- 42.5 Policy SH7(4) and proposed modification MM7 will ensure that impacts are identified as part of a planning application. Where protected species are present, this will need to be addressed in accordance with national policy.

43. Would the Councils’ proposed modification MM7 enable the Plan to make appropriate reference to compensatory actions, where adverse impacts on biodiversity cannot be avoided or mitigated, including in relation to compensatory habitat? How are the Councils seeking to resolve constraints in identifying appropriate compensatory habitat?

Councils’ response:

- 43.1 Proposed modification MM7 responds to an objection raised by the Environment Agency (REP/JAAP/PS/20) in relation to the Plan. This accords with the principles set out in paragraphs 118, 152 and 176 of the NPPF 2012. Development proposals should avoid significant harm to biodiversity. If it cannot be avoided, harm should be mitigated. If it cannot be mitigated, as a last resort, harm should be compensated for.

- 43.2 The Plan policy should also be read in the context of Policy 31 of the ALP and Policy CP10 of the B&HCP(1) which also address biodiversity. This is also addressed in Principle FRMG5: Intertidal Compensatory Habitat in the Shoreham Harbour Flood Risk Management Guide (LPD04/01).
- 43.3 Proposed modification MM7 makes explicit that the agreement of relevant authorities, such as Natural England and the Environment Agency is required. Therefore, the Councils consider this makes the policy effective.
- 43.4 The Councils have identified a constraint in relation to intertidal habitats, which may be impacted by new development at the Western Harbour Arm. The Shoreham Harbour Ecology and Green Infrastructure Study (SED07/01) finds that the intertidal zone supports the most important habitats at the Western Harbour Arm including c.1.3ha of mudflat and c.0.035ha of saltmarsh. The saltmarsh in this location is relatively species-poor, confined to the concrete block revetment and comprises a vegetation community that is widespread in the south-east. No protected, threatened, nationally rare/scarce, county notable or BAP plant species were present and overall it is not considered to be a good example of its type, but nevertheless qualifies as a 'habitat of principal importance'. Where loss of these habitats of principal importance will occur and it is recommended that flood defences include replacement habitat as an integral part of their design or alternative compensatory habitat is sought off-site within the Adur Estuary.
- 43.5 As an example, the issue of potential habitat loss has arisen in relation to a proposed flood defence at the waterfront in the vicinity of Sussex Yacht Club. ADC has resolved to grant permission for a scheme (AWDM/0709/18) which involves the construction of a flood defence alongside Brighton Road (A259). Whilst this does have a lesser impact than a waterfront flood defence, the Council, applicant and Environment Agency are working to resolve the residual impact prior to the grant of planning permission.
- 43.6 The regeneration partnership has established a working group with the Environment Agency in order to explore this issue in detail and identify appropriate solutions. Given that there has already been an impact on these habitats in the Adur Estuary due to the Adur Tidal Walls scheme and other new developments, it is recognised that there may not be capacity within the River Adur to accommodate this, and so the solution may be elsewhere.

44. To be effective, having regard to the Councils' proposed modifications MIN61 and MIN68, is it necessary for Policy CA4(2) to refer to the delivery of proposed enhancements to vegetated shingle and further habitat creation at Portslade and Southwick beaches, and for Policy SH7(4) to specify an approach for the assessment of the biodiversity impacts of development proposals?

Councils' response:

- 44.1 Policy SH7(4) requires development to ensure no net loss, and seek to provide net gains to biodiversity. In order for the Councils to determine whether this policy requirement has been met, development proposals will need to be accompanied by up to date ecological information. Modification MIN61 clarifies the need for this information, and is therefore required for the policy to be effective.
- 44.2 Policy CA4(2) concerns the enhancement and creation of vegetated shingle habitats at Portslade and Southwick Beaches. This is a proposal arising from the Shoreham Harbour Ecology and Green Infrastructure Study (SED07/01). The beaches are owned by SPA and ADC and are not directly associated with a particular development allocation. As part of the Brighton Marina to Adur Coastal Strategy, additional shingle will be added to these beaches in order to enhance their flood defence and erosion management functions. This provides an opportunity for the regeneration project partners increase the extent of the rare coastal vegetated shingle habitats. Proposed Modification MIN68 clarifies that the delivery of these enhancements will be the responsibility of the regeneration partnership. It is therefore required for the policy to be effective.
- 44.3 The Inspector notes that modifications MIN61 and MIN68 go beyond what would be considered as 'Additional Modifications'. Therefore, the Councils suggest that these are considered as Main Modifications that are necessary for the effectiveness of the Plan.

45. Policy SH8(1) requires development proposals to provide high quality multifunctional public open space or green infrastructure on site. Would the delivery of this requirement for all development proposals be reasonably achievable?

Councils' response:

- 45.1 Policy SH8(1) seeks to achieve provision of multifunctional public open space and green infrastructure. Wherever possible this should be provided on site. In light of the Inspector's question, the Councils consider that there is a potential conflict between this policy, and Policies CA2(10), CA3(12), and CA7(15). These clauses identify locations where development could contribute to improvements to existing open spaces, and the creation of green corridors, if open space needs cannot be met on site. In order to make the policy effective and deliverable, the Councils suggest a main modification to the Plan:

New development will be required to **contribute to the provision of** provide high quality, multifunctional public open space / green infrastructure **to meet the needs it generates** onsite. The type and quantity of open space will be determined by the scale and type of development, **having regard to** the identified needs local standards and the *Shoreham Harbour Green Infrastructure Strategy*. **Development will be expected to optimise the amount of onsite provision. Where it is not possible to meet all or part of the open space requirements on site, subject to agreement of the council(s), an appropriate alternative provision, such as enhanced public realm, and/or contribution towards off site provision will be required.**

46. Would Policy CA6(4) adequately address the potential opportunities for redevelopment of existing leisure and recreation uses within the Plan area? Would Councils' proposed modifications MIN30 and MIN78 ensure consistency with national policy, in relation to the provision of recreational and leisure facilities and services to meet the identified needs of both new and existing communities?

Councils' response:

- 46.1 Policy CA6(4) relates specifically to Kingston Beach, rather than to the Plan area as a whole. Kingston Beach is a designated village green, and therefore has a high level of protection from new development. The policy identifies a number of opportunities for improvement in this area.
- 46.2 Kingston Beach is in a prominent location at the mouth of the River Adur. It serves as a gateway to Shoreham-by-Sea to the west and to the operational area of Shoreham Port to the east. The beach has the potential to be an important local destination on the route of the England Coast Path. It will be at the eastern end of the proposed riverside pedestrian and cycle route, and will form part of the network of green spaces and corridors in the emerging Shoreham Harbour Green Infrastructure Strategy.

- 46.3 The Councils recognise that there is a significant opportunity to deliver improvements to this open space. Identified opportunities are included in Policy CA6(4). However, this is not an exhaustive list. Therefore, the Councils consider that the policy adequately addresses the current opportunities in that area.
- 46.4 Modification MIN30 seeks to clarify that the Councils should plan to meet the recreation and leisure needs of both new development and existing communities. This is considered consistent with paragraph 73 of the NPPF 2012. However the Councils would like to make clear that this does not place an expectation on new development to meet needs, other than those arising from the development itself.
- 46.5 Modification MIN78 seeks to clarify that existing residents would not be excluded from using any new berths provided for boat users. Such a restriction would not be practicable or necessary. The modification therefore makes the policy effective.
- 46.6 The Inspector notes that modifications MIN30 and MIN78 go beyond what would be considered as 'Additional Modifications'. Therefore, the Councils suggest that these are considered as Main Modifications that are necessary for the effectiveness of the Plan and consistency with national policy.

47. Policy CA5(3) refers to complimentary waterside facilities. Does the Plan provide a clear explanation of what type of facilities these are expected to be?

Councils' response:

- 47.1 SPA is the owner and operator of the Lady Bee Marina. The complementary waterside facilities are not included in the policy itself. However, paragraph 4.5.31 notes that the Shoreham Port Masterplan identifies the scope for a canal-side walkway, service road, dry boat store, and new base for local youth groups. It is likely that SPA will deliver the reconfiguration of the marina itself, in consultation with users and other stakeholders. The Councils do not consider it necessary to be more prescriptive in this policy.