



Library Ref: MIQ05

Havant Borough Local Plan Examination Statement

Matter 4: Habitat Regulations and Mitigation Strategy



Havant Borough Local Plan Examination Statement

Matter 4: Habitat Regulations and Mitigation Strategy

This statement has been produced as part of the examination of the Havant Borough Local Plan. It answers the Inspectors' questions relating to matter 4.

Any queries about the report should be sent to the programme officer:

Address: Ms Charlotte Glancy
Banks Solutions
80 Lavinia Way
East Preston
West Sussex
BN16 1DD

Email bankssolutions@gmail.com

Telephone 01903 776601

Website: <https://www.havant.gov.uk/local-plan-examination>

Matter 4: Habitat Regulations and Mitigation Strategy

Contents

Habitat regulations assessment and legal compliance	1
4.1 Has the Habitats Regulation Assessment (HRA) been undertaken in accordance with the Regulations and is it robust?	1
Mitigation strategy	3
Policy E15 – Protected Species	3
4.2 Does this policy adequately address potential impacts on Bechstein’s Bat? ...	3
4.3 In order to be effective, should the requirements set out in Paragraph 5.200 be incorporated into the policy wording?	3
4.4 Is this policy otherwise justified, effective, and consistent with national policy?	3
Policy E16 – Recreational impact on the Solent European Sites	5
4.5 In order to be effective, should the requirements set out in Paragraph 5.214 be incorporated into the policy wording?	5
4.6 Is Figure 21 accurate, and if not, does this need to be amended in order to be effective?	5
4.7 Is this policy otherwise justified, effective, and consistent with national policy?	5
Policy EX1 - Water Quality impact on Solent European Sites	7
4.8 How would this policy operate in the event that Thornham Waste Water Treatment Works reaches capacity during the plan period? What effect would this have on the delivery of proposed housing allocations?	7
4.9 How will the effectiveness of this policy be monitored?	7
4.10 Should this policy include a review mechanism in the event that upgrades are secured to existing waste water infrastructure during the plan period?	8
4.11 The Council’s ‘Position Statement and Mitigation Plan for Nutrient Neutral Development’ (August 2020) states that Natural England’s methodology for calculating a nutrient budget shall be used. Is this methodology robust?	8
Policy E17 - Solent Wader and Brent Goose feeding and roosting sites.....	10
4.12 Is the survey methodology by which ‘Core Areas’, ‘Primary Support Areas’, ‘Secondary Support Areas’ have been identified robust?	10
4.13 Is Rook Farm’s (site H27) function as a ‘core area’ for Solent Waders / Brent Geese capable of being adequately mitigated?	10
4.14 Is Land North of Sinah Lane’s (site H29) function as a ‘primary support area’ for Solent Waders / Brent Geese capable of being adequately mitigated?	11

4.15 Is Campdown's (site H40) function as a 'primary support area' and 'secondary support area' for Solent Waders / Brent Geese capable of being adequately mitigated?	11
4.16 Is the approach to other proposals on Core Areas, Primary Support Areas, Secondary Support Areas, Low Use areas, and Candidate Sites justified?	11
Policy EX2 - Warblington Farm	13
4.17 Is the 'Review of the Warblington Farm Mitigation Option for Nutrient Neutral Development in the Havant Borough' by Ricardo Energy and Environment robust?	13
4.18 Would Warblington Farm be capable of mitigating the amount of development envisaged in the Local Plan, both in relation to water quality and replacement habitat? Is there headroom to mitigate further development beyond this?	13
4.19 Would the proposed developer contributions be sufficient to deliver and manage Warblington Farm?	14
4.20 Is Warblington Farm capable of mitigating development draining to Thornham Waste Water Treatment Works?	15
Policy E25 - Broadmarsh Brent Goose and Wader Refuge	16
4.21 Which development sites is it envisaged that Broadmarsh Brent Goose and Wader Refuge would provide mitigation for?	16
4.22 Would developer contributions be sufficient to deliver and manage this site?	

Habitat regulations assessment and legal compliance

4.1 Has the Habitats Regulation Assessment (HRA) been undertaken in accordance with the Regulations and is it robust?

1. Yes. The relevant regulations are The Conservation of Habitats and Species Regulations 2017 (as amended) (The Habitats Regulations), specifically Regulation 63.
2. The Council has adopted a robust approach to assessment under the Habitats Regulations throughout the preparation of the Local Plan with the Local Plan Housing Statement (CD29) and the Draft Local Plan (another Regulation 18 consultation) subject to Habitats Regulations Assessment (HRA). This HRA was then updated iteratively and influenced both Regulation 19 Local Plans (CD08 and CD09). Finally, it has been subject to more minor updates for submission (CD13) and following that (CD13a), reflecting updated evidence base.
3. The methodology for the HRA follows the Habitats Regulations in that it starts with a screening of whether there will be any likely significant effects, followed by appropriate assessment and consideration of avoidance and mitigation measures. This uses guidance from Government as well as detailed technical advice on applied HRA (please see paragraph 2.1 of CD13a). Table 4 of the HRA (CD13a) sets out the more detailed stages of the HRA process and the information required under each one.
4. The international sites considered are set out in table 5 of the HRA (CD13a) and are generally those within 10km of the Borough, as is best practice. However, in line with the precautionary principle, some international sites beyond this distance are considered. This includes Singleton and Cocking Tunnels SAC, approximately 13km to the north-east following discussion with Natural England and updated information which has become apparent through a recent planning application¹.
5. The report (section 4) then explores the various potential impact pathways whereby development could lead to a likely significant effect on conservation objectives of the relevant international sites.
6. Section 5 then undertakes a formal screening of each of the policies in the Local Plan on each identified international site according to screening categories from the established guidance on undertaking HRAs (table 8 then summarised in table 9). Commentary on the likely significant effects is explored more fully in Section 6. This ultimately concludes that a total of 56 policies and proposals have the potential to result in a likely significant effect on an international sites, either alone or in combination with other plans and projects. This is summarised by topic in Table 12.

¹ Application APP/20/00990 for Havant Thicket Reservoir

7. This necessitates a variety of avoidance and mitigation measures to be considered. This is done through Section 7 of the HRA (CD13a). This reflects the various measures which are integrated into the Local Plan in order to avoid and mitigate the likely significant effects that otherwise would have occurred. These measures include specific references in the 'opportunities and constraints' of allocations and references to the need for mitigation in allocation policies. Most importantly though, it includes dedicated policies which relate to Habitats Regulations mitigation. For example, a policy is included which requires that a mitigation package is provided in relation to recreational disturbance (E16). This is explored in paragraphs 7.33-7.42 of the HRA (CD13a). This policy makes sure that a mitigation package is provided. Inevitably this follows the approach in the Solent Recreation Mitigation Strategy (EB17). The policy essentially replicates a similar one which is already in the adopted development plan, ensuring continuation of how the Council (and others in the Solent area) address this strategic matter.
8. Finally, section 8 represents a record of the HRA with paragraph 8.4 setting out "It is concluded that, through the application of plan-led strategic and proposal-specific mitigation measures, the Local Plan would not result in likely significant effects on the International sites within the Plan's zone of influence and that International site integrity would not be impacted as a result of the Plan."
9. Overall, the HRA (CD13a) represents a robust assessment of the likely significant effects of the Local Plan on international sites.

Mitigation strategy

Policy E15 – Protected Species

4.2 Does this policy adequately address potential impacts on Bechstein's Bat?

10. Yes. It raises awareness of Bechstein's bat, provides guidance on the expected level of survey effort, and sets out how development is expected to apply the mitigation hierarchy of 'avoid-mitigate-compensate'. It highlights the importance of assessing impacts at the population level, and avoiding impacts to roosting/breeding habitat in particular. As the extent and status of Bechstein's bat within Havant Borough has become clearer over recent years, The Council has responded proactively, with support for surveys and the development of Bechstein's-specific policy wording.
11. The Bechstein's bat population within the Borough is part of a wider sub-regional population occurring in parts of Winchester and East Hampshire districts as well as in West Sussex. In order to be effective, measures to address impacts on Bechstein's bats require a landscape-scale approach. A Bechstein's Bat Planning Protocol is being developed and is supported by The Council, adjacent local planning authorities and Natural England. This will provide guidance to developers, LPAs and consultants on the expectations for survey and mitigation in relation to this species. It will provide examples of practical mitigation measures, focussed on the protection and enhancement of landscape-scale habitat connections and provision of roosting opportunities. In the meantime, the emerging protocol has informed Policy E15 and its supporting text.

4.3 In order to be effective, should the requirements set out in Paragraph 5.200 be incorporated into the policy wording?

12. No. Point c) of the policy explicitly relates to the avoidance of impacts to breeding habitat such as trees and woodland. 5.200 provides further explanation and justification for this approach.

4.4 Is this policy otherwise justified, effective, and consistent with national policy?

13. Yes. The Bechstein's bat population within the Borough is of at least national significance and bespoke policy measures are required to safeguard this population. Without the statutory protection afforded to other Bechstein's bat populations e.g. the Sussex bat Special Protection Areas (SACs), robust policy is a suitable mechanism for raising awareness and ensuring that expectations for survey, impact assessment and mitigation are publicised clearly. Whilst there is no direct evidence of a functional link between the Havant Borough population and the two Sussex SACs, it is the view of both the Council and Natural England that habitat within the Borough is highly likely to be functionally linked and therefore a robust approach to Bechstein's bat conservation is justified.
14. The approach to Bechstein's bat conservation is consistent with NPPF paragraphs 174 and 175, as well as survey guidance issued by the Bat Conservation Trust (Bat Surveys

for Professional Ecologists: Good Practice Guidelines 3rd edition²). The approach has the support of Natural England and they have provided detailed input/comments to the forthcoming Bechstein's Bat Planning Protocol.

15. In terms of effectiveness, the overall approach towards Bechstein's bats that is reflected in the policy has shaped planning responses for several years. For example, prior to 2015/16 consideration of this specific species in planning was very limited except where desk-based studies highlighted its presence within/adjacent to a site. A concerted effort was made, through consultation responses, to highlight the likely presence of this species across a wide area of the Borough and request appropriate survey and assessment.
16. The raising of awareness led to detailed bespoke survey efforts for Bechstein's bat for several planning applications and pre-application enquiries within both Havant Borough and East Hampshire. Examples are: Land East of Horndean (East Hampshire, reference 55562); Land North of Long Copse Lane (Policy H8); Land Rear of, 191-211 Lovedean Lane, Horndean (East Hampshire, reference 55406); Land East of Church Centre, Blendworth Lane, Horndean (East Hampshire, reference 52585); Southleigh Park House (Policy H23, application APP/17/00863). The proposals for Havant Thicket Reservoir have also included a large survey effort (Policy KP9, application APP/20/00990 (Havant) & 51680/001 (East Hampshire)). Detailed surveys resulted in a better understanding of Bechstein's bat distribution and population structure as well as deliverable mitigation measures.

² <https://www.bats.org.uk/resources/guidance-for-professionals/bat-surveys-for-professional-ecologists-good-practice-guidelines-3rd-edition>

Policy E16 – Recreational impact on the Solent European Sites

4.5 In order to be effective, should the requirements set out in Paragraph 5.214 be incorporated into the policy wording?

17. No. Paragraph 5.214 provides further explanation as to the type of planning applications the policy would apply to.
18. The list of uses mentioned in paragraph 5.214 are assessed on a case by case basis which is why specific uses are not incorporated within the policy wording to ensure that all applications for new dwellings and overnight accommodation are assessed against this policy.

4.6 Is Figure 21 accurate, and if not, does this need to be amended in order to be effective?

19. Yes figure 21 needs to be amended. The Council has proposed a change through CD27a to address the inaccuracy of the submitted map.

4.7 Is this policy otherwise justified, effective, and consistent with national policy?

20. Yes. Policy E16 requires development for new dwellings and/or overnight accommodation to mitigate the likely significant effect on the Solent European Sites in line with Paragraph 174a of the NPPF. The issue has been well researched in the past, leading to the production of the Solent Recreation Mitigation Strategy (SRMS) (EB17)³. Mitigation can be in the form of a financial contribution to the SRMS and/or a package of mitigation measures for the proposed development with evidence which would avoid or mitigate the significant effect. This is secured through S106 agreements.
21. The policy builds on a similar one in the Havant Borough Local Plan (Allocations Plan) (DM24) which has been successfully implemented since the plan's adoption. In mitigating the significant effect, development schemes invariably use the SRMS (EB17) which has been in place since 1 April 2018⁴. Providing mitigation in line with the SRMS is widely accepted and is essentially part of the development process at the Solent, already demonstrating effectiveness.
22. Mitigation measures within the SRMS comprise of: a ranger team; communications, marketing, and education initiatives; initiatives to encourage responsible dog walking; codes of conduct; new/enhanced strategic greenspaces; site-specific visitor management and bird refuge projects. The strategy provides mitigation for the duration of the impact in perpetuity in line with the Habitats Regulations.

³ Original research reports are available at http://www.solentems.org.uk/natural_environment_group/SRMP/SDMP/.

⁴ An interim mitigation strategy was in place from 2014 to 2018

23. The strategy is formed on the best available scientific evidence and therefore is a justified mechanism for mitigating recreational disturbance to the Solent European Sites created by new residential development and overnight accommodation. The strategy is fully supported by Natural England. Further information is available in the Local Plan Habitats Regulation Assessment (EB13a).

Policy EX1 - Water Quality impact on Solent European Sites

4.8 How would this policy operate in the event that Thornham Water Treatment Works reaches capacity during the plan period? What effect would this have on the delivery of proposed housing allocations?

24. We understand capacity to mean the ability of Wastewater Treatment Works (WwTW) to operate within their statutory licenses and accept new connections. In the event that Thornham Wastewater Treatment Works (WwTW) reaches capacity, there are several options available to Southern Water. This includes redirecting wastewater to a WwTW with capacity, freeing up Thornham to accept new connections. The Local Plan Habitat Regulations Assessment (CD13a) on paragraph 7.61 explains Southern Water's role and the possible options they could use to address any capacity issues.
25. This matter was specifically addressed in the Chichester District Council Water Quality Assessment⁵, which also took into account development in the Havant Borough Local Plan in Emsworth, which will drain to Thornham. Section 4 of the study from paragraph 4.2.20 onwards states the mitigation options available should the WwTW reach capacity. The Havant Borough Local Plan (CD01) includes a requirement for the optional water efficiency standard in Policy E12 which will also reduce the pressure on WwTW capacity. These measures ensure that there would be no impact on housing delivery.
26. As any mitigation package in this situation would still result in the development itself draining to Thornham WwTW, Policy EX1 would operate in exactly the same manner and there would be no impact on the nutrient mitigation package required of any development schemes.
27. For absolute clarity Policy EX1 addresses the excess nutrients caused by new development regardless of which wastewater treatment works new development drains to, it does not address the capacity of wastewater treatment works to operate within their statutory licenses.

4.9 How will the effectiveness of this policy be monitored?

28. As the Local Planning Authority and competent authority for planning applications the Council monitors the mitigation packages which development wishes to use to make sure mitigation is legally secured. Any mitigation package is secured through a legal agreement. This process of securing mitigation is the same as any financial mitigation package and builds on the methods used to secure SRMS mitigation. Monitoring of secured legal agreements takes place through a logging system to monitor remaining capacity of the mitigation scheme.

⁵ <http://www.chichester.gov.uk/CHttpHandler.ashx?id=30900>

29. We will continue to work positively with partner authorities through PfSH, together with DEFRA, Natural England, Environment Agency, Southern Water, and any other stakeholder in order to address the issue appropriately.
30. There are a number of wider projects emerging to address this issue with third party mitigation schemes now well advanced⁶ and DEFRA developing an online nitrate trading platform⁷.

4.10 Should this policy include a review mechanism in the event that upgrades are secured to existing waste water infrastructure during the plan period?

31. No. This policy is a result of established case law which is referred to as The Dutch Case⁸ and published advice from Natural England.
32. A review of the wastewater treatment works in relation to nitrogen permit limits is currently being scoped. However, this is not a quick process. Any actions arising would form part of Southern Water's investment programme which is formed every five years which would also have to be agreed with the Environment Agency and OFWAT. Given these timescales, any review would be beyond the five years within which local plan policies need to be reviewed in any case.

4.11 The Council's 'Position Statement and Mitigation Plan for Nutrient Neutral Development' (August 2020) states that Natural England's methodology for calculating a nutrient budget shall be used. Is this methodology robust?

33. Yes. The methodology is based on extensive research and is provided by the Government's statutory advisor regarding nature conservation, Natural England. As such, it represents the best available scientific information as required by the Habitats Regulations. It is also precautionary with a 20% buffer applied to the amount of mitigation needed.
34. By providing mitigation in line with this methodology, new development identified through this Local Plan (CD01) in combination with other plans and projects will avoid significant increases of nitrogen load enter international designated sites.
35. Further analysis of this takes place through the HRA (CD13a), particularly paragraphs 7.59 to 7.77.

⁶ Details of third party mitigation schemes are available on the PfSH website at <https://www.push.gov.uk/work/mitigation-schemes-available-to-developers/>

⁷ The development of the nitrate trading platform was launched by Environment Minister Rebecca Pow on a visit to Warblington Farm on 10 September 2020 (<https://deframedia.blog.gov.uk/2020/09/11/environment-minister-and-natural-england-chair-launch-wildlife-protection-plan-to-unlock-hampshire-housebuilding/>)

⁸ Full reference is Cooperatie Mobilisation for the Environment UA and College van gedeputeerde staten van Noord-Brabant (Case C-293/17 and C294/17) available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62017CA0293>

36. Judgement was recently handed down for a judicial review referenced R (oao Wyatt) v Fareham BC [2021] EWHC 1434 (Admin). This judgement was regarding a planning permission issued by Fareham Borough Council using Natural England's methodology. Natural England's methodology met the standard of certainty required under regulation 63 of the 2017 Regulations by requiring the possibility of relevant harm to effectively be ruled out to a very high standard. The Council draws comfort from that judgment in concluding that the methodology the Council and Natural England have adopted in this case is similarly robust.

Policy E17 - Solent Wader and Brent Goose feeding and roosting sites

4.12 Is the survey methodology by which ‘Core Areas’, ‘Primary Support Areas’, ‘Secondary Support Areas’ have been identified robust?

37. Yes. Between 2016 and 2021 robust field surveys were used to update the Solent Waders & Brent Goose Strategy (SWBGS), in order to address uncertainties relating to the use of SWBGS sites by bird species. These surveys explicitly addressed inadequacies in the knowledge of how birds used SWBGS sites. All sites within the Strategy were visited three times per month and bird numbers and precise locations noted. In addition, bird movements were recorded for the first time, allowing the importance of connections between sites to be assessed. A new metric was developed by the Hampshire & Isle of Wight Wildlife Trust and agreed by the SWBGS Steering Group. The metric provides a standardised, measurable process for assessing the importance of each site to the overall SWBGS network.
38. The latest Strategy (EB16a) is therefore based on a robust survey baseline and each site is classified according to standardised attributes. The SWBGS Steering Group consists of members from Natural England, the RSPB, Hampshire & Isle of Wight Wildlife Trust, and Solent local planning authorities.

4.13 Is Rook Farm’s (site H27) function as a ‘core area’ for Solent Waders / Brent Geese capable of being adequately mitigated?

39. Yes. A key principle of the updated SWBGS is that all sites are capable of being mitigated, provided that any refuge site fulfils at least the same function to the overall network: it would be of a similar (ideally larger) size, in a similar location and ideally provides a function to the same sub-population of birds. A suitable refuge area for the loss of Rook Farm would have to demonstrate that these factors can be met before being acceptable.
40. The Biodiversity Strategy (EB15) details the requirements for replacement habitat for overwintering bird species. These requirements are justified on the basis of a detailed literature review, providing evidenced recommendations for effective replacement habitat. The Biodiversity Strategy also provides recommendations for potential permanent refuge locations, each of which is capable of providing appropriate replacement habitat for the loss of/impacts to existing sites. This, alongside the published SWBGS Mitigation Guidelines (EB16a), provides applicants with a clear steer on the expectations for refuges in terms of location, size, habitat, management and security. The requirements of the Local Plan (E17 and applicable allocation policies) are in line with this evidence base.
41. Any planning application will only be granted permission if a suitable mitigation package is brought forward and a Habitats Regulation Assessment is undertaken which concludes that there is no likely significant effect on any internationally designated nature conservation sites and is agreed in consultation with Natural England as set out in the TP03 paragraph 27.

42. As has been set out in TP03 and CR10, the Council has commissioned legal advice regarding the level of certainty required at the plan-making level regarding mitigation for Solent Waders and Brent Geese. The Council considers that the plan provides a robust and legally compliant mitigation framework to address this issue through the planning system.

4.14 Is Land North of Sinah Lane's (site H29) function as a 'primary support area' for Solent Waders / Brent Geese capable of being adequately mitigated?

43. Yes. The status of the site has been upgraded from a Primary Support Area to a Core Area based on a revised SWBGS metric. It is important to note that the change in status is based on a single count of 1000 brent geese (thereby passing the metric threshold with respect to numbers) as well as scoring highly on the 'SPA Value' metric. It is also worth noting that the metric necessarily creates a definitive cut-off between categories which may not always be fully reflective of the variable use of sites by birds over time. It is accurate to state that whilst H34C is clearly an important site, it sits at the lower end of the Core Area category, having just one count of 1000 birds.
44. An acceptable mitigation package has been agreed through planning application APP/20/01093. This entails the use of the northern half of the SWBGS Site H34A as a permanent bird refuge. Whilst there is a reduction in size, it is The Council and Natural England's view that this is addressed through the uplift in function provided by the permanence of the refuge, boundary security, the addition of freshwater scrapes and the security of long-term management by the RSPB. This is confirmed through the HRA of the planning application which took place, in consultation with Natural England.

4.15 Is Campdown's (site H40) function as a 'primary support area' and 'secondary support area' for Solent Waders / Brent Geese capable of being adequately mitigated?

45. Yes. The site is however unusual in supporting a large number of Curlew and so requires a bespoke mitigation approach.
46. Any proposed refuge has to demonstrate that it can provide at least the same function to SPA bird species before being acceptable. This is explained in more detail in the response to question 4.13 and equally applies to Campdown.

4.16 Is the approach to other proposals on Core Areas, Primary Support Areas, Secondary Support Areas, Low Use areas, and Candidate Sites justified?

47. As stated in the Habitats Regulations Assessment (CD13a) paragraph 7.17 "The SWBGS is the most up-to-date mechanism for assessing the potential impacts on supporting habitat and now includes detailed information on mitigation measures required to avoid, reduce or compensate any impacts arising from development activities". It represents the best available scientific information available to assess the impact of new development on sites used by these species.

Core Areas and Primary Support Areas

48. As part of the SWBGS (EB16 & EB16a) a key principle is that losses of some supporting habitat sites will be accepted provided that mitigation is provided that protects/enhances other sites within the overall network. This is an updated position and should be reflected in the Local Plan.
49. Therefore, in order for the policy to be justified and effective the Council proposes a change. This is set out in the Schedule of Proposed Changes (CD17b). This would ensure that the policy is in line with the most up to date Solent Wader and Brent Goose Strategy (EB16a).

Secondary Support Areas, low use sites and candidate sites

50. The approach for development proposals on secondary support areas, low use, and candidate sites is justified and is fully in line with the Solent Wader and Brent Goose Strategy which provides an up to date and robust scientific evidence base to ensure mitigation is effective (see response to question 4.12).
51. The Council has allocated two refuges within the plan EX2 Warblington Farm and E25 Broadmarsh Brent Goose and Wader Refuge to provide mitigation for development which is located on a secondary or low use site when replacement habitat cannot be provided on site. A financial contribution would be sort in such cases and this approach is consistent with the SWBG Strategy and will mitigate the significant effect from development under the Habitats Regulations Assessment for an application.
52. The Council will not grant planning permission on sites unless suitable mitigation measures are brought forward on sites which have a likely significant effect and a Habitats Regulation Assessment is undertaken for the planning application which concludes that there is no likely significant effect on any internationally designated nature conservation sites and is agreed in consultation with Natural England.

Policy EX2 - Warblington Farm

4.17 Is the 'Review of the Warblington Farm Mitigation Option for Nutrient Neutral Development in the Havant Borough' by Ricardo Energy and Environment robust?

- 53. Yes. The study is based on the best scientific evidence available. Ricardo Energy and Environment are nationally, and internationally recognised for their expertise in planning and overseeing complex and sensitive water and environmental projects.
- 54. The report outlines the pathways of impact from new housing development and establishes whether Warblington Farm would provide effective and reliable mitigation for new development to the whole of Havant Borough.
- 55. The report follows Natural England's advice on mitigation measures⁹ and the report concludes that Warblington Farm would mitigate the direct and in-combination effects of continued nutrient loading from new housing development in Havant which drains to both Budds Farm WwTWs and Thornham WwTWs due to the exchange of water within the East Solent as confirmed in Natural England's advice. This is set out in EB12, Chapter 7, pages 29 and 30.
- 56. Natural England have concurred with the conclusions. This response can be seen from individual Habitats Regulations Assessments which are undertaken for planning applications which wish to use the Council's mitigation scheme. Natural England's response to planning application using the Council's mitigation scheme can be seen in, for example, APP/18/01033 Land East of Castle Avenue.
- 57. Natural England are supportive of the policy as set out in the Statement of Common Ground (SCG15).

4.18 Would Warblington Farm be capable of mitigating the amount of development envisaged in the Local Plan, both in relation to water quality and replacement habitat? Is there headroom to mitigate further development beyond this?

- 58. In relation to water quality Warblington Farm is not able to mitigate all of the development within the plan. The Local Plan has been subject to nutrient budget calculations in line with Natural England's methodology as set out in the Habitats Regulation Assessment (CD13a). Warblington Farm provides mitigation for the immediate future.
- 59. In order to ensure mitigation is available in the medium to long term, the Council will continue to work positively with partner authorities through PfSH, together with DEFRA,

⁹ Natural England's advice to Solent local authorities is on the PfSH website at <https://www.push.gov.uk/2020/06/11/natural-england-published-nutrient-calculator-and-updated-guidance-on-achieving-nutrient-neutral-housing-development/>

Natural England, Environment Agency, Southern Water and any other stakeholder in order to address the issue appropriately.

60. There are a number of alternative emerging mitigation options. This is outlined in more detail in the statement in respect of 4.9.
61. These projects provide confidence that longer term, strategic solutions, to this matter offering multiple choices of mitigation for applicants, are both possible and achievable.
62. The Council would foresee an established and effective partnership similar to the Solent Recreation Mitigation Partnership (Bird Aware Solent) to identify, implement and monitor mitigation measures which are advised and to further facilitate joint working by all local authorities in the Solent affected.
63. In relation to replacement habitat Warblington Farm has the potential to provide a permanent refuge for Solent Waders and Brent Geese - a number of emerging allocations in Havant Borough Local Plan will need to provide mitigation by means of a financial contribution towards the enhancement of habitats, particularly those on secondary support areas or low use sites.
64. Natural England are very supportive of the provision of a permanent refuge at Warblington Farm and Natural England and the Council have worked collectively on the project for some time, as set out in the Statement of Common Ground (SCG15)
65. With both the allocation of Warblington Farm (EX2) and Broadmarsh (E25) the local plan provides mitigation for all development over the plan period.

4.19 Would the proposed developer contributions be sufficient to deliver and manage Warblington Farm?

66. Yes. The Council considered this extensively when preparing the mitigation plan. In the runup to the launch of Warblington Farm Mitigation Scheme, the Council's Cabinet approved a land transaction related to the scheme on 3 June 2020. The Minutes of the meeting¹⁰ and the officer report which was considered by the Cabinet¹¹ are available on the Council's website.
67. At section 4 of the report there is extensive commentary on the financial implications of the proposed approach. Most of the detail has had to be redacted as it deals with detailed financial matters related to not only the Council's financial position but also a third party. Nonetheless, it explicitly states in 4.4 "The key consideration in the proposed mitigation scheme is to ensure that there would be no net cost for the council. The scheme is funded from developer contributions which are received in the early years and these funds cover the cost of the land transaction and the future years costs of the scheme. A cash flow

¹⁰ <https://havant.moderngov.co.uk/documents/g11072/Public%20minutes%2003rd-Jun-2020%2014.00%20Cabinet.pdf?T=11>

¹¹

https://havant.moderngov.co.uk/documents/s32758/HBC%20Cabinet%20Report_Land%20Transaction%20for%20Nutrient%20Neutral%20Devt_updated%20FINAL%20VERSION%20REDACTED1.pdf

model of all the income and expenditure discounted at the treasury rate and adjusted further for risk shows that there is a positive net present value” (emphasis added).

68. This summary confirms that financial matters were clearly considered in setting up the scheme, that the future management of the site was considered as part of that the financial matters, and that the income which will be provided will cover the cost.

4.20 Is Warblington Farm capable of mitigating development draining to Thornham Waste Water Treatment Works?

69. Yes. The Council commissioned Ricardo Energy and Environment to assess whether Warblington Farm could mitigate for development in Havant Borough which drains to both Budds Farm and Thornham Wastewater Treatment Works (WwTWs) (EB12).
70. The report concludes in Chapter 7, page 29 that Warblington Farm drains to Chichester Harbour but there is an exchange of water within the East Solent as a hydrological unit. This means that Warblington Farm can mitigate both development which drains to Budds Farm and Thornham WwTWs.

Policy E25 - Broadmarsh Brent Goose and Wader Refuge

4.21 Which development sites is it envisaged that Broadmarsh Brent Goose and Wader Refuge would provide mitigation for?

- 71. The Broadmarsh Brent Goose and Wader Refuge was included in the 2019 Pre-Submission Local Plan (CD09) and at that point was the only mainland refuge allocated. In the submission Local Plan (CD01) Warblington Farm (Policy EX2) is also included.
- 72. There are no specific developments which are earmarked to use the Broadmarsh Brent Goose and Wader refuge. It is the Council's priority to ensure that the Warblington Farm Brent Goose and Wader refuge allocated through Policy EX2 is established as quickly as possible.
- 73. Whilst no specific sites are identified to use Broadmarsh, both Land South of Lower Road (H20) and Brockhampton West (C10) are both close to the site and would require a mitigation package, which could be off-site.

4.22 Would developer contributions be sufficient to deliver and manage this site?

- 74. Yes, the Council is relying on an established methodology to calculate.
- 75. The Council owns the site and so no land transaction is required in order to bring it forward. Nonetheless, developer contributions would be required in order to maintain it in perpetuity in a suitable condition for the relevant species.
- 76. The Solent Wader and Brent Goose Strategy's Guidance on Mitigation and Off-Setting Requirements sets out how development should be mitigated. Page 9 specifically includes a methodology for calculating the costs of a replacement site. Paragraph 31 also sets out "The Biodiversity Compensation Framework approach calculates the equivalent cost of managing an equivalent area of land elsewhere in a suitable condition for the target species under a suitable stewardship scheme in perpetuity. In addition, the DEFRA offsetting multipliers are applied to take account of the additional risks associated with replacing established habitats with compensation funding."
- 77. This methodology has been used in practice for the two planning applications that were submitted on 'Land South of Lower Road', where the applicant proposed mitigation packages to offset the impact on the Brent Goose and Wader site. The approach was reflected in the Council's HRA of the scheme. Natural England comments concluded in relation to Loss of Supporting SPA Habitat "The loss of a Secondary Support Area will be offset by a contribution to enhance, manage and monitor the wider Solent Wader and Brent Goose ecological network and secured by legal agreement. Natural England is satisfied with this approach which is in line with agreed offsetting and mitigation guidance."

78. Overall, the Council is satisfied that this methodology provides a suitable and robust method of calculating the cost of maintaining land such as Broadmarsh in a way suitable for it to act as mitigation for development.

