

Recreational Disturbance of Birds in Special Protection Areas (SPAs) – Guidance for planning in the Chichester Local Plan area.

April 2020.

1. Introduction

Policies 50 and 51 of the Chichester Local Plan set out how new residential development in the Local Plan area has an in-combination effect on the protected bird species of Chichester Harbour SPA and/or Pagham Harbour SPA. This is due to recreational disturbance whereby a growing population in the area increases use of the coastline and harbour for recreation – e.g. walking, dog walking, boating and other water sports. This recreational activity in turn leads to increased disturbance of the feeding and breeding birds in the harbours. Birds take flight or stop feeding and may take some time to resume their normal activity, reducing their ability to survive the winter or to breed successfully.

For new development leading to an increase in the visitor numbers and hence an increase in land based recreational activities, permission can only be granted where appropriate avoidance and mitigation measures are put in place in perpetuity that will ensure that the development – in combination with all other developments in the Plan area - does not adversely affect the integrity of the Special Protection Areas (SPAs).

A developer contribution will be required for every net additional dwelling within a zone of influence of a Special Protection Area unless the developer can demonstrate to the satisfaction of Chichester District Council and Natural England that it will provide alternative 'bespoke mitigation' which will fully mitigate the recreational impact of the development.

In this context, 'dwelling' includes net new dwellings created through the sub-division of existing dwellings, second homes, dwellings to be used as holiday accommodation, self-contained student accommodation, and new dwellings created as a result of approval granted under the General Permitted Development Order e.g. change of use from office to residential (including houses and flats). It includes permanent accommodation for gypsies and travellers; temporary/transit pitches will be assessed on a case-by-case basis by Chichester District Council in consultation with Natural England.

As most new residential developments will not be large enough to set up and sustain their own bespoke schemes of mitigation, schemes of Strategic Access Management and Monitoring (SAMMs) have been set up by the relevant planning authorities in order to facilitate the delivery of our local plans.

Chichester and Langstone Harbour SPA forms part of the Solent-wide project called the Bird Aware Solent scheme, delivered by the Solent Recreation Mitigation Partnership. Developments pay a sliding scale contribution based on the number of bedrooms, which is used to fund a package of wardening, education, green infrastructure improvements and monitoring. The contribution amount, as of 1 April 2020, averages £595 per net additional dwelling. The scale of contributions differs according to the number of people expected to live in the property which is calculated per bedroom. The contributions rates for Bird Aware Solent are currently:

£356 for 1 bedroom dwelling
£514 for 2 bedroom dwelling
£671 for 3 bedroom dwelling
£789 for 4 bedroom dwelling
£927 for 5 bedrooms or more

These figures will be increased on 1 April each year in line with the Retail Price Index (RPI) rounded to the nearest whole pound. Where the number of bedrooms is not fixed by the permission (e.g. tent or caravan pitches) the average contribution amount, currently £595, will be used

Pagham Harbour SPA has a similar but smaller SAMM set up by Chichester and Arun Districts. Wardening will be delivered by the RSPB as site managers, with education and monitoring activities bought in from Bird Aware. As of 9 May 2017 a revised scheme was adopted due to increased housing numbers in Arun District. This scheme sets a flat rate contribution of £904 per net additional dwelling (from 1 April 2020).

For both schemes there is a zone of influence within which contributions are required from new developments. Based on visitor survey evidence these are set at 5.6km from the SPA boundary for Chichester and Langstone Harbour SPA and 3.5km from the boundary for Pagham. The Local Plan contains a map showing where polices 50 and/or 51 apply.

This document sets out further guidance on:

- the types of developments where a contribution to a SAMM may be required
- how to determine the level of contribution, particularly for holiday and student accommodation
- how development that falls into both zones of influence will be treated.

2. Holiday Accommodation

Although the Local Plan policies refer to residential development – the Habitats Regulations provision apply to all types of development with the potential to increase visitor numbers within the SPAs. This includes a wide variety of holiday accommodation including, but not limited to; self-catering accommodation, static caravans, touring caravans, holiday lodges, hotel / B&B accommodation and camping pitches.

Whereas a new dwelling is assumed to be occupied all year round, holiday accommodation may be closed for part of the year or have periods where occupancy rates are very low.

Where a site or facility is closed for part of the year and this closure is enforced by planning condition, then there can be no impact from that development on the SPAs during that closure, and the contribution to a SAMM can be reduced accordingly.

Chichester Harbour is at risk of increased disturbance of the over-wintering bird species and so mitigation is required for increases in visitors during the winter period only (1 October – 31 March inclusive). Sites or facilities within the Chichester Harbour 5.6 km zone of influence that are open for

all of this period of 182 days should pay the full contribution per net new unit or net new pitch. Where there is an enforceable closed period this can be reduced pro-rata according to the number of days that the site or facility is closed.

For example if a site is open for 60 days during the winter period defined above then it would pay a contribution based on 60/182 multiplied by the number of net new units of accommodation.

Where there is site-specific data over a number of years that provides evidence of low occupation during winter open periods (1 October - 31 March) then a further discount of 50% can be applied to those periods. However, the strength and validity of such evidence will have to be considered on a case by case basis. The data will have to show strong evidence of occupancy well below 50% in order to allow for a precautionary margin.

The SRMP definitive mitigation strategy also allows for a case-by-case assessment to be undertaken for short-stay holiday accommodation. Mitigation is unlikely to be required for new hotel accommodation in a city centre for example, if the guests will predominantly be business people or those visiting the built heritage rather than the coast. On the other hand, mitigation is more likely to be required for new hotel accommodation close to a SPA where guests will probably spend some time walking or pursuing other recreational activities at the coast.

For the Pagham Harbour zone of influence the situation is different in that the SPA is designated both for over-wintering bird species and for ground nesting birds. Some of the ground nesting birds are in areas accessible to visitors on foot and so are at risk of increased disturbance during the period 1 April -30 September. Thus the potential for new development to increase recreational disturbance exists all year round. Enforceable closed periods are still taken into account, but the calculation is different.

For example, if a site is open for 243 days during the year (60 in winter, 183 in summer), then the contribution would be based on 243/365 multiplied by the number of net new units of accommodation. The same possibility of further reduction of 50% during the winter period as above exists if strong site-specific data is available as above, but during the period 1 April -30 September 100% occupancy will always be assumed.

3. Student accommodation

In the case of self-contained student accommodation, a case by case approach will be taken because it is recognised that due to the characteristics of this kind of residential development, specifically the absence of car parking and the inability of those living in purpose built student accommodation to have pets, the level of disturbance created, and thus the increase in bird disturbance and associated bird mortality, will be less than dwelling houses (use class C3 of the Use Classes Order). The Solent Disturbance and Mitigation Project research showed that 47% of activity which resulted in major flight events was specifically caused by dogs off of a lead. As such, it is considered that level of impact from purpose built student accommodation would be half that of C3 housing and thus the scale of the mitigation package should also be half that of traditional housing.

Whilst these units of accommodation are assessed on a case by case basis, not purely on their numbers of bedrooms, a general model for calculation follows: As the average number of study bedrooms in a unit of purpose built student accommodation is five, for the purposes of providing

SPA mitigation, every five study bedrooms will be considered a unit of residential accommodation and charged accordingly (i.e. 50% of the rate of the 5 bedroom property charge). However, the final figure will be derived in consultation with Natural England and the District Council and developers are urged to hold early discussions on this matter through the Council's preliminary enquiry advice service. It is assumed that student accommodation is occupied all year round.

4. Other types of residential development.

The need for mitigation for the recreational impact of other types of residential accommodation will be assessed on a case-by-case basis by the District Council. The key 'test' is based around the likelihood of the proposed development generating additional recreational visits to the SPA(s). For example, in respect of residential accommodation designed specifically for elderly people, a developer contribution (or bespoke mitigation) will be required for apartments for the active elderly, but not for secure accommodation such as a residential nursing home for people who are unable to independently leave that accommodation and which does not provide residents parking or allow pets (this would also apply to people living with conditions that limit their mobility). However, mitigation will be required for any staff living on-site. Retirement properties designed for independent living with parking provision and which allow pets will be treated the same as C3 residential properties.

5. Development in both Zones of Influence.

Where a development falls into the area where the zones of influence overlap, Natural England advise that some reduction in the contribution is reasonable. This is on the basis that the occupiers of the building cannot be at both Harbours at the same time. However the local planning authority still has to ensure that a robust package of mitigation can be implemented. In order to do this, within the area of overlap only one contribution per net new dwelling unit will be payable. This contribution will be whichever is the higher of the two contributions at the time (currently Pagham for units of 4 bedrooms or fewer, or Bird Aware Solent for 5 bedroom units). Out of this the authority will then transfer half of the contribution to the other SAMM. This should ensure that developments do not pay twice but without undermining the funding of either scheme.

As the schemes develop over time and the contribution amounts change this part of the guidance will be reviewed to ensure that the financial stability of both schemes remains secure.

For further information or to seek guidance on situations not covered in this note please contact Tom Day, Environmental – Coordinator, Chichester District Council, tday@chichester.gov.uk , (01243) 534854. East Pallant House, 1 East Pallant, Chichester, West Sussex, PO19 1TY