

From: Aude Pantel
Sent: 02 August 2018 10:18
To: 'Read, Helen'
Subject: RE: Wycombe Revised Habitats Regulations Assessment
Attachments: Burnham Beeches source attribution graph.jpg

Dear Helen

Thank you for your email. To respond to your comments:

- Para 6.81: With regard to sources of nitrogen, I have reviewed the source attribution charts on APIS (principle chart attached). This indicates that UK road traffic is responsible for 15% of the nitrogen deposited at the SAC. Note that this is coming from traffic across the whole UK, not just the local road network that the Wycombe Local Plan will be influencing. 85% of nitrogen deposited on the SAC comes from sources other than UK road traffic, including 20% imported from mainland Europe. UK agriculture (fertiliser and livestock) is responsible for 18% of nitrogen deposited to the site. So agriculture does contribute more nitrogen than UK road traffic. This trend is observed for most European sites; agriculture is usually at least as significant, if not more significant, a source of nitrogen than road traffic particularly for those parts of the SAC that lie more than 200m from the road network and are therefore outside the main zone of influence of dry deposition from the vehicle exhausts. So it would be erroneous to only considering local sources; majority of nitrogen deposited on any site will be from non-local sources elsewhere in the UK or further afield (i.e. known in air quality impact assessment parlance as the 'background').
- Woodland sensitivity (para 7.33) – woodland (and indeed most if not all habitats) are undoubtedly much less sensitive to recreational pressure than ground-nesting birds like nightjar and woodlark; which is not to say they are insensitive. The reason for this is simply that for habitats like woodland the biggest impact is related to the mass movements of large numbers of people causing erosion and the like; which requires time. On the other hand for a site like Thames Basin Heaths it only takes one walker with a dog off the lead to wander within a few hundred metres of a nesting woodlark and they could be flushed from the nest, exposing their eggs/chicks to predators and cooling. If a small number of people visit regularly then you can get a sequence of flushing events that can easily result in chick loss and thus effects on population survival from a relatively small amount of human activity. You say many of the effects may take years to show in woodland but that is rather the point: in contrast you can see effects on SPA interest features much more quickly ergo they are more sensitive.
- In relation to Slate Meadow (para 7.38), the site is allocated for circa 150 dwellings (and there is a live application for 150 dwellings). As such it needs to provide 3 ha of alternative SANG to mitigate the impact of 375 people; we say in the HRA that it does because 2.7 ha are the existing village green, but also 4 ha are provided by new areas of green spaces part of the proposals. That area is currently private land so any current use (if there is any) would be trespassing. In total this represents 6.7 ha which is more than double the requirement. More importantly, it is anticipated that these spaces will be of high quality:
 - o We will be securing improvements to the village green to increase its use and enjoyment – at the moment it is not very accessible.
 - o With regards to the new area, this area will be for recreation, ecology and flood management. As you know, it isn't because the whole 4 ha isn't walkable that it wouldn't be capable of providing enjoyment / recreation – indeed at Burnham Beeches you can't walk on every inch but the boardwalks for example allow you to enjoy / experience the boggy areas / wet meadows anyway. The developers and ourselves are very much looking to create something similar at slate meadow, with boardwalks across the wet areas. See the details in the development brief for the site <https://www.wycombe.gov.uk/uploads/public/documents/Planning/Reserve-sites/Slate-Meadow-Development-Brief-Adopted.pdf>

In any case the policy in the plan is flexible enough as it says that the site needs to mitigate impacts on Burnham Beeches; it is only in the supporting text that it refers to onsite delivery is possible but we may prefer contributions to strategic country park improvements – in that sense I feel we are covered, in the

event that the applicant does not mitigate impact on site (although at this stage it is clearly their intention to do so).

I hope this helps.

Kind regards

Aude Pantel
Planning Policy Officer

Wycombe District Council, Queen Victoria Road, High Wycombe HP11 1BB
01494421538 aude.pantel@wycombe.gov.uk

Get involved in the New Local Plan: www.wycombe.gov.uk/wdlpexamination

From: Read, Helen [REDACTED]
Sent: 26 July 2018 14:42
To: Aude Pantel
Subject: RE: Wycombe Revised Habitats Regulations Assessment

Dear Aude

Thanks for that hint – it worked! I know our system is a bit slow and struggles with big files.

The document looks considerably improved since I last saw it and I have more confidence in it. I haven't really had the time to give it as full a consideration as I should but have tried to look at the key points. I have just have a couple of comments

Paragraph 6.81 states that it is likely that the source of the high nitrogen levels around Burnham Beeches is agricultural rather than due to traffic. I think agriculture is highly unlikely to be a major source. We have a tiny bit of pasture that abuts the Beeches on one corner and beyond that some arable fields but the Beeches is in much more of a suburban area than rural farmland with high densities of livestock. If it is not pasture or houses that surrounds it then it is woodland which will not be a major contributing factor to the high nitrogen levels.

7.33 states that beech woodland is less sensitive to recreation issues than ground nesting birds. I don't think we know this. Birds are much easier to study in terms of impact of recreation and development. For habitats and especially trees it is far harder to prove cause and effect. Plus many of the impacts may take many years to show.

7.38 regarding the accessible open space at Slate Meadow. I'm still not quite clear how the amount of land that is being proposed is any increase on that which is already accessible to local people.

Many thanks for letting me know about the consultation on this document, much appreciated.

Best wishes

Helen

From: Aude Pantel <Aude.Pantel@wycombe.gov.uk>
Sent: 26 July 2018 11:02
To: Read, Helen <[REDACTED]>
Subject: RE: Wycombe Revised Habitats Regulations Assessment

Dear Helen

Try to right click and save as?

Let me know if that works.

Kind regards

Aude Pantel
Planning Policy Officer

Wycombe District Council, Queen Victoria Road, High Wycombe HP11 1BB
01494421538 aude.pantel@wycombe.gov.uk

Get involved in the New Local Plan: www.wycombe.gov.uk/wdlpexamination

From: Read, Helen [REDACTED]
Sent: 26 July 2018 11:01
To: Aude Pantel <Aude.Pantel@wycombe.gov.uk>
Subject: RE: Wycombe Revised Habitats Regulations Assessment

Dear Aude

I've just tried to download the document but I think it might be too big for our system to manage as I can't seem to get past the 2MB stage. Any chance you try a different route?

Many thanks

Helen

From: Aude Pantel <Aude.Pantel@wycombe.gov.uk>
Sent: 17 July 2018 09:33
To: Read, Helen <[REDACTED]>
Subject: RE: Wycombe Revised Habitats Regulations Assessment

Dear Helen,

The Council has had to revise the Wycombe Habitats Regulations Assessment in light of the Sweetman court ruling on mitigation measures; this was sent for consultation to Natural England on Friday.

Yesterday, the Inspector on the Local Plan asked at the hearing that the revised document be shared with you to give you an opportunity to comment, as you commented on the HRA at Regulation 19.

The document is now on our website here:

<https://www.wycombe.gov.uk/uploads/public/documents/Planning/New-local-plan/WDLP-core-documents-2018/WDLP3A-Revised-Habitats-Regulations-Assessment-Screening-Report-July-2018.pdf>

Please let me know if you have any difficulty accessing it.

The deadline for comments is 3 August close of business.

Kind regards
Aude Pantel
Planning Policy Officer

Wycombe District Council, Queen Victoria Road, High Wycombe HP11 1BB
01494421538 aude.pantel@wycombe.gov.uk

Get involved in the New Local Plan: www.wycombe.gov.uk/wdlpexamination

THIS E-MAIL AND ANY ATTACHED FILES ARE CONFIDENTIAL AND MAY BE LEGALLY PRIVILEGED. If you are not the addressee, any disclosure, reproduction, copying, distribution or other dissemination or use of this communication is strictly prohibited. If you have received this transmission in error please notify the sender immediately and then delete this e-mail. Opinions, advice or facts included in this message are given without any warranties or intention to enter into a contractual relationship with the City of London unless specifically indicated otherwise by agreement, letter or facsimile signed by a City of London authorised signatory. Any part of this e-

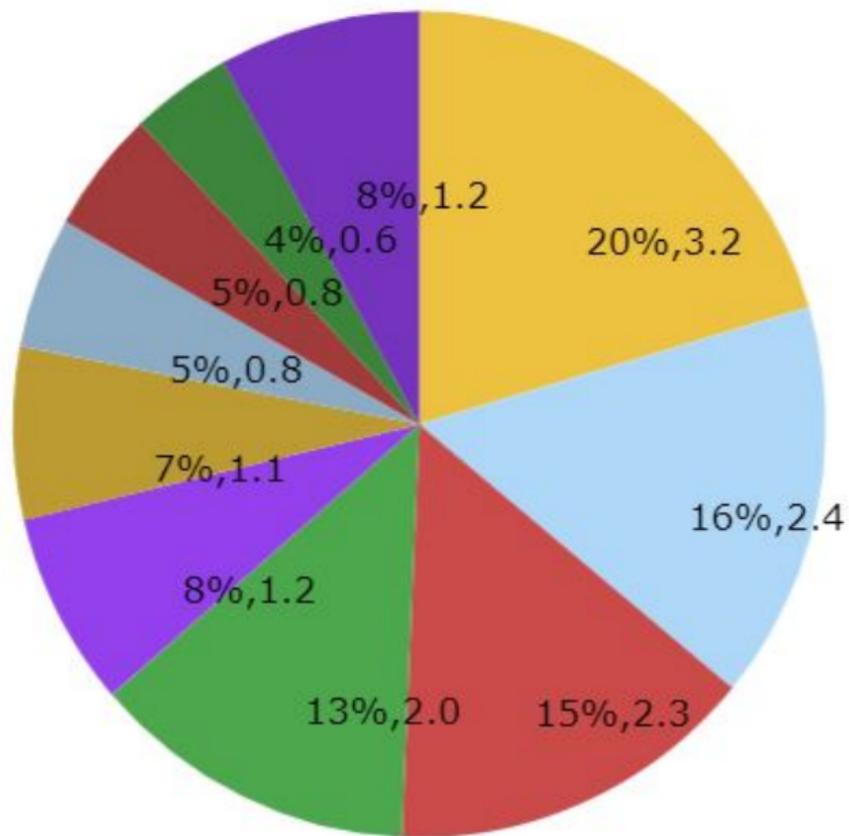
mail which is purely personal in nature is not authorised by the City of London. All e-mail through the City of London's gateway is potentially the subject of monitoring. All liability for errors and viruses is excluded. Please note that in so far as the City of London falls within the scope of the Freedom of Information Act 2000 or the Environmental Information Regulations 2004, it may need to disclose this e-mail. Website:

<http://www.cityoflondon.gov.uk>

Click [here](#) to report this email as spam.

THIS E-MAIL AND ANY ATTACHED FILES ARE CONFIDENTIAL AND MAY BE LEGALLY PRIVILEGED. If you are not the addressee, any disclosure, reproduction, copying, distribution or other dissemination or use of this communication is strictly prohibited. If you have received this transmission in error please notify the sender immediately and then delete this e-mail. Opinions, advice or facts included in this message are given without any warranties or intention to enter into a contractual relationship with the City of London unless specifically indicated otherwise by agreement, letter or facsimile signed by a City of London authorised signatory. Any part of this e-mail which is purely personal in nature is not authorised by the City of London. All e-mail through the City of London's gateway is potentially the subject of monitoring. All liability for errors and viruses is excluded. Please note that in so far as the City of London falls within the scope of the Freedom of Information Act 2000 or the Environmental Information Regulations 2004, it may need to disclose this e-mail. Website:

<http://www.cityoflondon.gov.uk>



- Europe import (Europe)
- Other transport (UK)
- Road transport (UK)
- Livestock (UK)
- International Shipping (International)
- Non-agricultural non-abatable (UK)
- Non-agricultural waste (UK)
- Fertiliser (UK)
- Non-agricultural abatable (UK)

Turley on behalf of SEGRO Plc Comments on WDLP3A Revised Habitats Regulations Assessment

From: Hannah Bowler
Sent: 02 August 2018 09:55
To: Ian Kemp; Rosie Morton
Cc: Ian Manktelow; Aude Pantel; [REDACTED]
Subject: WDC Local Plan Examination - Comments on behalf of SEGRO Plc on the Revised HRA (2018)
Attachments: EiP Rep. HRA Matters August 2018.dv1.pdf
Follow Up Flag: Follow up
Flag Status: Flagged

Dear Ian

Following the publication of the Revised HRA (July 2018) at the Examination, we have now had an opportunity to review and we enclose our comments for the Inspector's consideration.

If you could kindly confirm receipt that would be greatly appreciated and advise how the Inspector wishes to deal with our representations through the Examination process.

Kind regards

Hannah

Hannah Bowler
Senior Planner

Turley
The Pinnacle
20 Tudor Road
Reading RG1 1NH



turley.co.uk

[Twitter](#)

[Linkedin](#)

Think of the environment, please do not print unnecessarily

This e-mail is intended for the above named only, is strictly confidential and may also be legally privileged. If you are not the intended recipient please do not read, print, re-transmit, store or act in reliance on it or any attachments. Instead, please notify the sender and then immediately and permanently delete it. Turley is a trading name of Turley Associates Ltd, registered in England and Wales Registered No 2235387 Registered Office 1 New York Street, Manchester, M1 4HD. Terms and Conditions

Click [here](#) to report this email as spam.

Farncombe House
Farncombe Estate
Broadway
Worcestershire
WR12 7LJ

Tel: [REDACTED]
Email: info@ecologysolutions.co.uk
Web: www.ecologysolutions.co.uk



Response in relation to the Wycombe District Local Plan – Revised Habitats Regulations Assessment Report

Consideration of matters Relevant to the creation of Little Marlow Lakes Country Park, Pursuant to Land at Westhorpe Farm

1st August 2018

In November 2017 Ecology Solutions was commissioned by SEGRO Plc to undertake a review of Wycombe District Council's (WDC) proposal to deliver the Little Marlow Lakes Country Park. Specifically, Ecology Solutions was asked to consider the extent to which the delivery of a 329ha Country Park can be justified in the context of planned housing growth and potential impacts on the Burnham Beeches Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC). That review was reported within the document titled "Wycombe District Local Plan Examination in Public - Consideration of matters Relevant to the creation of Little Marlow Lakes Country Park, Pursuant to Land at Westhorpe Farm" (dated November 2017).

Subsequently Ecology Solutions was commissioned by SEGRO Plc to undertake a review of the document titled "Wycombe District Local Plan – Revised Habitats Regulations Assessment Report" (dated July 2018) (hereinafter referred to as the "Revised HRA"). The focus of the review is on matters concerning recreational pressure at the Burnham Beeches SAC, the extent to which mitigation is required and more specifically, whether the creation of Little Marlow Lakes Country Park (at the scale proposed) can be justified as required mitigation for perceived effects on the Burnham Beeches SAC.

This note details Ecology Solutions' conclusions in relation to that review.

Burnham Beeches SAC baseline condition

The baseline conditions associated with the SAC are described at paragraphs 3.18 to 3.26 of the Revised HRA. Ecology Solutions concurs with the reporting of the relevant features of interest, the Conservation Objectives and information relating to management regimes, ownership and current pressures. This information accords with that cited in Ecology Solutions' submission of November 2017.

Ecology Solutions draws attention, in particular, to the information contained at paragraph 3.24 of the Revised HRA dealing with the SAC Site Improvement Plan, specifically bullet point 2 which states:

"Public access / Disturbance: This issue needs to be addressed by continuing the access management strategy of the National Nature Reserve. The delivery

bodies for this are the City of London Corporation, Natural England, and South Bucks District Council.”

From the available information¹ Ecology Solutions consider that it can be concluded that existing threats to the favourable condition of qualifying interest features of the SAC / SSSI habitats are related to a lack of habitat management as opposed to impacts from recreational pressures, with agreed measures are already in place to mitigate existing recreational pressure and Natural England’s advice has been that these measures are continued.

Likely Significant Effects

Paragraph 6.2 of the Revised HRA, references the application of the Precautionary Principle. Ecology Solutions agrees with the second limb of this paragraph where in essence relevant jurisprudence is summarised. However a footnote provides a link to the document titled “Communication from the Commission on the precautionary principle” (dated 2000). The citing of that document is considered important, but crucially the content and guidance provided within the Communication from the Commission is not discussed. Key points are discussed below.

The Communication from the Commission provides useful guidance in relation to the application of the Precautionary Principle in relation to European sites issues. Paragraph 6, sets out the six key matters for consideration when applying the Precautionary Principle. Paragraph 6 states:

“Where action is deemed necessary [emphasis added], measures based on the precautionary principle should be, inter alia:

- *proportional to the chosen level of protection,*
- *non-discriminatory in their application,*
- *consistent with similar measures already taken,*
- *based on an examination of the potential benefits and costs of action or lack of action (including, where appropriate and feasible, an economic cost/benefit analysis),*
- *subject to review, in the light of new scientific data, and*
- *capable of assigning responsibility for producing the scientific evidence necessary for a more comprehensive risk assessment.”*

In accordance with the Communication from the Commission it is clear that when they are deemed necessary, risk reduction measures should be proportionate and must not aim at zero risk. It is stated at section 6.3.1 of the Communication from the Commission that:

*“The measures envisaged must make it possible to achieve the appropriate level of protection. Measures based on the precautionary principle **must not be disproportionate** to the desired level of protection and **must not aim at zero risk**, something which rarely exists. However, in certain cases, an incomplete assessment of the risk may considerably limit the number of options available to the risk managers.”*

[Emphasis added]

With reference to not aiming “at zero risk” the judgement of the Appeal Court in the case of *Morge vs Hampshire County Council* [2010] EWCA Civ 608 is relevant. Lord Justice Ward

¹ Revised HRA (July 2018) and Ecology Solutions submission dated November 2017
Revised HRA Response

considered what the level of disturbance was required in the Article 12(1)(b) and at paragraph 35 he described the level or risk of threatened habitat and species stating that²:

“... It must be certain, that is to say, identifiable. It must be real, not fanciful.”

Ecology Solutions takes this to mean that for the level of risk to be real and identifiable, it must be based upon objective evidence to substantiate the risk.

Turning back to the Revised HRA and the identified likely significant effects on the Burnham Beeches SAC, arising from increased recreational pressure, it can be seen that evidence does not point to (potential) harm.

Recreational pressure is discussed at paragraphs 6.89 to 6.103. Paragraph 6.91 states:

“However, overall the increasing population should not result in a significant increase in indirect pressures (e.g. from informal recreation) on the SACs in most cases, as the majority of the population of Wycombe District is concentrated in urban areas, away from Wycombe’s SACs, and alternative outdoor recreation already exists and will be expanded with future developments (see also Chapter 7).”

Paragraph 6.92 states:

“As explored in the previous chapter it is unlikely that the SACs will see a significant increase in footfall (e.g. from dog walkers), even if there will be an increase in house building to accommodate extra households. Dog walkers tend to mostly walk their pet within their immediate neighbourhood. For example, a survey conducted in May 2014 at Burnham Beeches shows that although around 56% of the visitors are dog walkers, these are mostly people living in the South Bucks and Slough area.”

Paragraphs 6.94 to 6.98 discuss the policy requirements in relation to open space and green infrastructure delivery within new developments, confirming requirements in relation to both on-site and (off-site) strategic provision. In addition, paragraphs 6.101 and 6.102 discuss existing green spaces and the expectation that continued use will disperse recreational impacts. In particular, paragraph 6.101 states

“The District as a whole is a very green area and many green spaces are available for the public to enjoy. The access to existing Green Spaces and to the wider Chilterns AONB all around High Wycombe urban area, Princes Risborough and near Bourne End/Wooburn area in particular means that any increased pressure for recreation (walks etc.) would be dispersed.”

In the light of the evidence presented, it is hard to reach a conclusion that specific mitigation is required in relation to increased recreational pressure effecting Burnham Beeches SAC. Indeed, it is noted that paragraph 6.104 confirms that:

“We are taking a cautious approach in doing an Appropriate Assessment of these.”

Appropriate Assessment

² It is acknowledged that this case went before the Supreme Court [2011] UKSC 2 where Lord Brown was not in agreement with all parts of Lord Justice Wards’ judgement, but nevertheless did not expressly disagree with paragraph 35.

Paragraph 7.29 of the Revised HRA confirms that:

“Through ongoing discussion, Natural England has identified that the developments planned around Bourne End and Wooburn, in particular Slate Meadow and Hollands Farm, could potentially lead to likely significant effects if they do not mitigate the increase in recreational need.”

It remains therefore, far from certain that a likely significant effect will arise, but in taking a precautionary approach, as is required under relevant jurisprudence, Natural England has stated that mitigation is required. Paragraph 7.29 of the Revised HRA goes on to confirm that Natural England has advised that high quality open space should ideally be provided at a level of 8ha/1000 people for sites within 5km of the SAC. Such provision should be at a closer and more convenient location than the SAC.

Paragraphs 7.35 and 7.36 of the Revised HRA (when read together) confirm that all but proposed allocations at Slate Meadow and Hollands Farm have been screened out of the assessment process.

Paragraphs 7.37 to 7.41 of the Revised HRA discuss the green space provision associated with each development. It is confirmed that for Slate Meadow there is an over provision in terms of open space requirements, when viewed against Natural England’s advice that 8ha/1000 new population would be sufficient to mitigate any adverse effect on the Integrity of the SAC. For Hollands Farm, paragraph 7.41 of the Revised HRA confirms that the recommended amount of mitigation land is not delivered and Ecology Solutions has calculated the shortfall to be 4.15ha.

Noting this shortfall, the Revised HRA goes on to state (Paragraph 7.41) that the proximity of the proposed Little Marlow Lakes Country Park is of relevance. The Revised HRA reports that the Country Park will deliver recreational opportunities for new residents associated with the Hollands Farm development, being approximately 2km away. Ecology Solutions concur that should the Country Park be delivered, there is a good chance that new residents associated with the Hollands Farm development would use it. This would serve to dilute any additional pressure on the SAC, however the extent to which any adverse effect on the Integrity of the SAC would arise in the absence of delivering the Country Park is far from clear in light of the evidence base.

Specific consideration of Little Marlow Lakes Country Park

The Little Marlow Lakes Country Park as currently proposed (allocated under policy RUR4 in the Wycombe District Local Plan) is 329ha in size.

As already discussed, there is a purported need to secure an additional 4.15ha of good quality open space, at an appropriate location in order to mitigate increased recreational effects on the SAC, arising from the future development at Hollands Farm. It would also be expected that an element of mitigation land would be required in order to mitigate potential adverse effects from windfall development during the plan period. No other SAC mitigation land requirement has been justified in the Revised HRA and even where mitigation has been described, it has been made clear that the assessment process has been based on a highly precautionary approach. To be clear, provision of open space on the scale as proposed for the Country Park would be sufficient to deliver SAC / SSSI mitigation (open space) well in excess of that required for the whole of the Local Plan housing allocation, even in the fanciful situation where all new residential development was delivered within 5km of the SAC.

No case can be made for the required delivery of 329ha of open space for use as mitigation land in respect of effects arising from the Local Plan on the Burnham Beeches SAC. It follows that 329ha is a very significant overprovision and that if the size of the Little Marlow Lakes Country Park were to be reduced, this would have absolutely no bearing on the Local Plan being able to demonstrate compliance with the tests of the Habitats Regulations. It was previously confirmed to Ecology Solutions by Natural England (Marc Turner *pers comm* 28th November 2017) that the required size of the Country Park was not set by Natural England and that it would have no concerns regarding a reduction in size as long as the remaining land still provided sufficient mitigation.

Under SEGRO Plc's proposals for land at Westhorpe Farm, just under 19ha would be removed from the proposed Little Marlow Lakes Country Park, with the removed land forming one contiguous block in the northwest of the proposed Country Park (i.e. there will be no fragmentation impacts). This loss is a negligible area in the context of a proposed 329ha site. A reduction on this scale would therefore leave 310ha of land potentially available for the creation of the Country Park. Importantly, three parcels of land under SEGRO's control could be made available for enhancement in line with the Council's aspirations to create Little Marlow Lakes Country Park.

At a reduced 310ha, the proposed Little Marlow Lakes Country Park would not only clearly meet any requirements in relation to mitigating potential significant effects on the Burnham Beeches SAC arising from the Local Plan allocations, but it would also retain significant headroom capacity. This headroom capacity could (where appropriate) be relied upon by windfall developments and moreover, developments where contributions towards off-site open space are deemed necessary in line with the development plan.

As is stated at paragraph 7.48 of the Revised HRA, in combination effect are not likely on the basis that other (e.g. neighbouring) planning authorities will be assessing their own potential effects on the SAC through their plan making process (as they are required to do by law) and provision would need to be made for any required mitigation within those development plans.

Summary conclusions

Ecology Solutions concur that the Wycombe District Local Plan would not be likely to give rise to an adverse effect on the integrity of the Burnham Beeches SAC in light of increased recreational pressure, when the plan is considered both alone and in combination.

Moreover, given the level of green space mitigation which will be delivered through policy DM16, coupled with a reliance on existing recreation resources and the proposed delivery of the Little Marlow Lakes Country Park, it is not surprising that Natural England have not raised any further concerns regarding implications for Burnham Beeches SAC as a result of the Local Plan. That is however, a very different scenario to the delivery of the Little Marlow Lakes Country Park being a required part of any mitigation package for the SAC.

A country park of reduced size, in line with that proposed by SEGRO Plc, would still be more than appropriate (very significantly so) to mitigate any perceived effects on the Burnham Beeches SAC.

It is considered that any attempt to justify delivery of the Little Marlow Country Park at anything like the scale proposed (329ha) on the basis of potential implications for the Burnham Beeches SAC, is wholly disproportionate, aims at zero risk and ignores the very

clear advice from the European Commission in relation to the application of the precautionary principle.