



Wycombe District Local Plan Examination

Matter 1: Legal Compliance and the Duty to Cooperate

June 2018

1. What are the relevant strategic matters in relation to the duty to cooperate?

- 1.1 A 'strategic matter' as set out in Section 33A of the Planning and Compulsory Purchase Act 2004¹ includes sustainable development or use of land that has or would have a significant impact on at least two planning areas, in particular in connection with strategic infrastructure.²
- 1.2 During the production of the Wycombe District Local Plan, the following strategic issues were identified:³
- Housing Market Area/Functional Economic Market Area;
 - Objectively Assessed Housing Needs;
 - Housing supply and unmet housing needs;
 - Employment (including retail);
 - Transport;
 - Health;
 - General Infrastructure;
 - Travellers and Travelling Showpeople;
 - Heritage and historic environment;
 - Green Belt;
 - Chilterns Area of Outstanding Natural Beauty (AONB);
 - Green Infrastructure/Biodiversity;
 - Flood Risk/Water Quality.

¹ As amended by the Localism Act 2011

² Planning Practice Guidance (PPG) Duty to Cooperate Paragraph: 013 Reference ID: 9-013-20140306 Revision date: 06 03 2014, Section 33A Planning and Compulsory Purchase Act 2004

³ See WDLP8 Wycombe District Local Plan and the Duty to Cooperate Report

2. In preparing the plan did the Council engage constructively, actively and on an on-going basis with neighbouring authorities and other relevant organisations on relevant strategic matters, in respect of the Duty to Cooperate? What were the outcome of these discussions?

2.1 Yes. The Council has produced a Duty to Cooperate report which sets out how WDC have engaged with the Duty to Cooperate bodies and identified stakeholders, as well as the outcomes of these discussions. These outcomes are set out on a strategic issue by strategic issue basis, as per the issues set out in Question 1.⁴

2.2 Many of the key outcomes and signed agreements arising from the Duty to Cooperate process have been outlined in Questions 3 and 4 respectively. Other outcomes include:

- Close joint-working on key technical evidence with the relevant agencies/organisations to address potential environmental impacts, with a range of agreed outputs that have helped shape the overall strategy of the Plan, proposed site allocations and the detailed policies;
- Agreement with key partners on the approach to assessing whether sites would contribute 'major development' in the AONB;
- Agreement with Natural England on the findings of the Habitats Regulations Screening report;
- Agreement with the Environment Agency on the Plan policies, and extensive engagement on SFRA work including climate change allowances;⁵

⁴ WDLP8 Wycombe District Local Plan and the Duty to Cooperate Report, pp. 14-76

⁵ For more engagement with the Environment Agency, see relevant strategic issues statements and WDLP8.5 Wycombe District Local Plan and the Duty to Cooperate Report Appendix 5 - EA audit trail in relation to climate change allowances and SFRA work

- Agreement with Historic England that the Plan satisfactorily addresses matters with regard to the historic environment;
- Engagement with the Natural Environment Partnership to address concerns over biodiversity, has resulted in proposed schedule of amendments to DM34 (see Appendix 3 of the Duty to Cooperate report).⁶

2.3 Many of the key outcomes are set out in signed Memoranda of Understanding and other written agreements confirming the outcomes of joint working, adequately addressing duty to cooperate concerns and WDC's compliance with the duty to cooperate.⁷

2.4 In addition to these key outcomes, the Council sought clarification from the authorities identified as stakeholders in the Duty to Cooperate report that there were no strategic issues that needed to be addressed in the production of the Wycombe District Local Plan.⁸ None of the statutory Duty to Cooperate authorities and agencies/organisations have indicated that the Council has failed to comply with the Duty to Cooperate.

2.5 More specific outcomes with regards to adjoining authorities and the matters of Housing, Employment, Gypsies and Travellers and Infrastructure are addressed in Question 4.

3. How has that cooperation been undertaken and have any formal agreements or Memorandum of Understandings been produced?

3.1 The Council has demonstrated joint-working through various means which are summarised below. Cooperation was undertaken through engagement with adjoining and other local authorities and

⁶ For more engagement with the NEP, see relevant strategic issues statements and WDLP8.3 Wycombe District Local Plan and the Duty to Cooperate Report Appendix 3 - Buckinghamshire Milton Keynes NEP

⁷ See WDLP8.1 Wycombe District Local Plan and the Duty to Cooperate Report Appendix 1 - Memoranda of Understanding

⁸ Copies of this correspondence can be found in WDLP8.2 Wycombe District Local Plan and the Duty to Cooperate Report Appendix 2 - Key correspondence and position statements

organisations, and primarily focussed on strategic issues such as the scale and distribution of growth, as well as the supporting evidence base. This engagement included:

- Meetings, both at Cabinet Member and Officer level, particularly in relation to local authority engagement;
- Communication, both by email and by phone;
- Joint commissioning of evidence work;
- Agreeing briefs for evidence work;
- Sharing draft reports;
- In some instances, seeking to agree policy wording where strategically important.⁹

3.2 Memoranda of Understanding have been signed with the following neighbouring authorities and relevant organisations:

- Several Housing Market Area wide MOUs covering Aylesbury Vale District Council, Chiltern District Council, South Bucks District Council, Bucks Thames Valley Local Enterprise Partnership, and, for some, Buckinghamshire County Council;
- Cross county agreement involving Aylesbury Vale District Council, South Oxfordshire District Council, Buckinghamshire County Council and Oxfordshire County Council.

3.3 Several bilateral Memoranda of Understanding have been signed with:

- Aylesbury Vale District Council;
- Chiltern and South Bucks District Councils (joint plan area);
- Royal Borough of Windsor and Maidenhead;

⁹ Set out in Strategic Issues Statements, WDLP8 Wycombe District Local Plan and the Duty to Cooperate Report, pp. 14-76

- South Oxfordshire District Council;
- Network Rail;
- Slough Borough Council.¹⁰

3.4 In the absence of a signed Memorandum of Understanding or Statement of Common Ground the Council has obtained agreement that WDC have met the duty with the following organisations:

- Mayor of London;
- Highways England;
- Natural England;
- Buckinghamshire and Milton Keynes Natural Environment Partnership (BMKNEP);
- Environment Agency;
- Historic England.¹¹

3.5 Confirmation was sought with other authorities and organisations identified as strategic partners that there were no strategic issues to address, whether any further clarification on strategic concerns had been addressed, or whether no strategic issues had been identified throughout the process. These are set out in the Duty to Cooperate report and relevant appendices.¹²

¹⁰ Copies of these agreements can be found in WDLP8.1 Wycombe District Local Plan and the Duty to Cooperate Report Appendix 1 - Memoranda of Understanding and also MOU1-12

¹¹ These can be found in WDLP8.2 Wycombe District Local Plan and the Duty to Cooperate Report – Appendix 2: Key Correspondence and Position Statements.

¹² See Strategic Issues Statements WDLP8 Wycombe District Local Plan and the Duty to Cooperate Report pp. 74-75, paragraph 4.2-4.3. Copies of key correspondence and agreements can be found in WDLP8.2 Wycombe District Local Plan and the Duty to Cooperate Report – Appendix 2: Key Correspondence and Position Statements

4. What outcomes have resulted from the cooperation with adjoining authorities in relation to: Housing; Gypsy and Travellers; Employment; and Infrastructure?

4.1 The following outcomes have been achieved between WDC and the other Buckinghamshire authorities through the Duty to Cooperate process:

- Agreement amongst the Bucks authorities on the definition of the Housing Market Area (HMA) and the Functional Economic Market Area (FEMA);
- Agreement with relevant authorities surrounding the HMA that Wycombe District and their authority are in separate but adjoining HMAs;
- Agreement amongst the HMA authorities on the scale of the objectively assessed need for housing across the HMA and joint approaches to determining housing land supply and capacity;
- Agreement on the level of unmet housing need in Wycombe, Chiltern and South Bucks Districts, and agreement on this being accommodated within the Vale of Aylesbury Local Plan i.e. within the Housing Market Area;
- Agreement that some affordable housing provision in Aylesbury Vale linked to the scale of unmet need will be made available to residents of Wycombe District;
- Agreement that Gypsies and Traveller needs will be met within the boundaries of each of the Buckinghamshire authorities;
- Agreement on the need for employment land and approaches to addressing that, including recognition that there will be some redistribution of employment land requirements from Wycombe, Chiltern and South Bucks to Aylesbury Vale;

- Agreement between Buckinghamshire authorities that, due to its localised nature, it is not appropriate to 'export' retail needs to other authorities;
- Close joint working on transport modelling and the identification of mitigation measures, with the Buckinghamshire authorities, particularly Buckinghamshire County Council. Also wider cross boundary (Buckinghamshire/Oxfordshire) agreement on future transport working arrangements;
- Agreement with Buckinghamshire County Council that the Infrastructure Delivery Plan forms a sound basis for taking the Plan forward, including the spatial distribution of growth;
- Established with the Clinical Commissioning Groups (CCG) the projects required to meet GP practice needs from the growth proposed in the Local Plan, including allocating CIL funds to assist the CCG in delivering these projects;
- Agreement with Highways England that there are no significant issues with regards to the Wycombe District Local Plan and the Strategic Road Network (SRN) have been identified;
- Agreement with Buckinghamshire County Council and Network Rail regarding infrastructure design and provision at Princes Risborough.

4.2 More details on the outcomes with adjoining authorities is set out in the Duty to Cooperate report and relevant appendices.¹³

¹³ See specific Strategic Issues Statements and summary of key outcomes in WDLP8 Wycombe District Local Plan and the Duty to Cooperate Report pp. 14-87. Copies of key correspondence can be found in WDLP8.2 Wycombe District Local Plan and the Duty to Cooperate Report – Appendix 2: Key Correspondence and Position Statements

5. Has the plan been prepared in accordance with the adopted Local Development Scheme (WDLP 12)?

- 5.1 Yes. The content and timetable of the Local Plan has been prepared in accordance with the current approved Local Development Scheme (LDS).¹⁴ The Council has updated its LDS when required to reflect changes in national policy and guidance, and Council's priorities. The LDS was updated in December 2016¹⁵ to reflect the incorporation of a separate draft area action plan for Princes Risborough into the Local Plan. It should be noted that it has always been intended to retain the Delivery and Site Allocations Plan (2013) and for the Local Plan to sit alongside it.
- 5.2 The scope of the Local Plan is in accordance with the document profile set out on pages 13-14 of the LDS, including the plan period, geographical extent and role and subject matter. The key milestones of publication (October 2017) and submission (March 2018) have been met.

6. Has consultation on the plan been carried out in accordance with the Council's Statement of Community Involvement (WDLP 11) and the requirements of the 2004 Act (as amended) and the 2012 Regulations?

- 6.1 Yes. In preparing the Wycombe District Local Plan (WDLP1) the Council has fully satisfied its legal obligations pertaining to plan-making. The Statement of Consultation¹⁶ sets out in detail how we have complied with the adopted Statement of Community Involvement¹⁷ and the requirements of the 2004 Act (as amended) and the 2012 Regulations.

¹⁴ WDLP12 Wycombe Local Development Scheme

¹⁵ See CAB6 Executive decision – Revised Local Development Scheme (Revise LDS and re-integrate PRTP into the main Local Plan) 13 December 2016 and CAB7 Special Cabinet – Local Plan Update (Merging Princes Risborough expansion into main Local Plan, agree revised LDS, agree revised housing need in District, CPO preparation, assessment of deliverability of Princes Risborough relief road) 12 December 2016

¹⁶ See Table 2 in WDLP10 Wycombe Statement of Consultation, pp. 5-8

¹⁷ WDLP11 Wycombe Revised Statement of Community Involvement

- 6.2 The Council is in the process of reviewing and updating the Statement of Community Involvement to comply with recent legislation changes,¹⁸ but as the proposed update relates solely to neighbourhood planning advice this does not impact on the compliance of the Council with its SCI in terms of preparing a local plan.

7. Is the Sustainability Appraisal (WDLP 2) adequate in terms of its assessment of the likely effects of the Plan's policies and allocations and its consideration of reasonable alternatives and have the requirements for Strategic Environmental assessment been met?

Plan policies

- 7.1 The methodology taken in the SA Report (WDLP2) to assessing the likely effects of the Plan's policies is set out in Chapter 7 and the appraisal findings in Chapter 8.
- 7.2 It is clear from Chapter 7 that in terms of assessing the Plan's policies, the SA Report identifies and evaluates the 'likely significant effects' of the Plan as a whole against the baseline by drawing on the sustainability topics and objectives.¹⁹
- 7.3 Significant effects are predicted taking account of the criteria presented within Schedule 1 of the SEA Regulations. Account is also taken of the probability, duration, frequency and reversibility of effects as far as possible. Cumulative effects are also considered in the SA Report.
- 7.4 The findings of the appraisals of 'the Plan' against the spatial strategy and area specific policies are set out in Chapter 8 of the SA Report (WDLP2) under each of the SA topics. It evaluates the likely significant effects of the policies where relevant and proposes mitigation

¹⁸ The Council is taking a report to its Cabinet on 9 July 2018, with the view to adopt the revised SCI at full Council on 16 July. The Council will make a copy of the report and 2018 SCI available to the Examination.

¹⁹ Identified in Chapter 7 of WDLP2 Sustainability Appraisal of the Publication Wycombe District Local Plan, p. 72

measures where necessary. Cumulative effects are considered in Section 8.10.

- 7.5 The findings of the SA for the 2016 draft Local Plan have influenced the development of the Plan (WDLP1). The recommendations made through the SA and how they have influenced plan making are set out in Table 20 of the SA Report.²⁰

Reasonable Alternatives and allocations

- 7.6 Part 1 of the SA Report explains how work was undertaken to develop and then appraise reasonable alternatives,²¹ and how the Council took into account appraisal findings when finalising the Plan (WDLP1). More specifically, in terms of the reasonable alternatives, Part 1 of the SA Report is comprised of the following:

Chapter 3

- 7.7 Chapter 3 provides an introduction and explains in Section 3.1 that whilst the Plan objectives are numerous and cover a range of issues, it is clear that an overarching objective relates to the identification of land to meet housing and employment needs. It is the matter at the heart of the Plan and hence it was considered reasonable that the appraisal of alternatives should focus on these objectives.
- 7.8 Chapter 3 explains the role of individual site options, from which the site allocations were selected, in the SA process.²² It is clear from this that the sites themselves are not considered to be reasonable alternatives in their own right and their purpose within the SA Report is to inform the development and appraisal of the strategic options/ reasonable alternatives. The method and detailed appraisal of site options is presented in Appendices to the main SA Report.²³

²⁰ WDLP2 Sustainability Appraisal of the Publication Wycombe District Local Plan, pp. 128-131

²¹ See Chapters 3-6 of WDLP2 Sustainability Appraisal of the Publication Wycombe District Local Plan

²² See Section 3.2 in WDLP2 Sustainability Appraisal of the Publication Wycombe District Local Plan

²³ See Appendix III and VI of WDLP2 Sustainability Appraisal of the Publication Wycombe District Local Plan respectively.

- 7.9 It should be noted that a clarification note was produced to more clearly set out how site options were identified for consideration through the SA process.²⁴

Chapter 4

- 7.10 Chapter 4 explains the work undertaken to develop reasonable alternatives, including strategic alternatives for settlements and District-wide spatial strategy options.

Chapter 5

- 7.11 Chapter 5 presents the summary appraisal findings in relation to the reasonable alternatives identified in Chapter 4. The detailed appraisal of alternatives is presented in Appendices IV, V and VI.

Chapter 6

- 7.12 Chapter 6 explains the Council's outline reasons for selecting the preferred approach and rejecting alternatives.
- 7.13 This approach has been tested and found sound by a number of Inspectors, most recently for the Redbridge Plan (adopted January 2018) and Waverley Local Plan (adopted February 2018). It is also well established in case law that planning authorities may apply discretion and planning judgement when determining what should reasonably be the focus of alternatives appraisal, recognising the need to apply a proportionate approach and ensure an SA process/ report that is focused and accessible.

SEA Requirements

- 7.14 Appendix 1 of the SA Report (WDLP2) sets out how and where the SEA regulatory requirements have and will be met.

²⁴ See WDLP10.22 SoC Appendix 22 - Sustainability Appraisal Clarification Note in response to Regulation 19 Representations

- 7.15 In the light of the above, the Council considers that the SA Report (WDLP2) and Non-Technical Summary (WDLP2.1) are in line with extant guidance and best practice and meet regulatory requirements.

8. Is the Habitats Regulations Assessment (WDLP3) robust and does the plan include the measures (including a suitable review mechanism) identified in this document as necessary to ensure compliance with the Habitats Regulations?

Is the HRA robust?

- 8.1 The Council considers that, at the time it was produced, the Habitats Regulations Assessment screening report²⁵ provided a robust assessment of the likely significant effects of the Plan alone and in combination with other plans and projects onto the integrity of designated SACs in or near the District. The robustness of the assessment has changed in relation to compliance with the Sweetman judgment – this point is addressed in response to question 9.
- 8.2 There is no set national methodology for preparing HRAs. The Council has considered the specific issues potentially relevant to the SACs in relation to water quality, air pollution and recreational pressure, and whether the Plan might give rise to likely significant effects, alone or in combination. This ‘in combination’ assessment included detailed modelling of traffic and air quality impacts.
- 8.3 The initial approach and scope of the HRA, as well as the screening report itself, were developed in extensive dialogue with Natural England,²⁶ who signed off the report in August 2017.²⁷

²⁵ WDLP3 Habitats Regulations Assessment of the Wycombe District Local Plan - Screening Report

²⁶ See first and second bullet point of Strategic Planning Issues Statement 11 – Green Infrastructure and Biodiversity, in WDLP8 Wycombe District Local Plan and the Duty to Cooperate, p. 63, and first bullet point in Outcomes of the same document, p. 64

²⁷ See first and second bullet point in Outcomes of 11 Strategic Planning Issues Statement – Green Infrastructure and Biodiversity in WDLP8 Wycombe District Local Plan and the Duty to Cooperate, p. 64

Air pollution further work

8.4 Following the WDLP's publication stage, the Council has been in further dialogue with Natural England and neighbouring authorities in relation to air pollution effects at SACs which either straddle the District boundary or lie outside it (but close enough to have a potential effect). Relevant SACs are Burnham Beeches SAC, the Bisham Woods component of Chilterns Beechwoods SAC²⁸ and Aston Rowant SAC, as South Bucks District Council, Royal Borough of Windsor and Maidenhead and South Oxfordshire District Council have been undertaking their own HRA work in relation to their respective plans. As a result, the Council has commissioned further work to confirm its position with regards to, ultimately, compliance with the Habitats Regulations.

8.5 Emerging findings have now confirmed that all forecast "in combination growth" show that:

- The "in combination" NOx emissions and nitrogen deposition due to all housing/employment growth and Local Plan-related congestion improvement schemes is forecast to decrease compared to the future situation without housing/ employment growth due to an expected reduction in the percentage of heavy duty vehicles on the network; and/or
- The contribution of Wycombe Local Plan and its related congestion improvement schemes²⁹ is either neutral or slightly positive.
- Furthermore the modelling in all cases forecasts that air quality in 2033 is expected to be materially better than is the case in the base year, notwithstanding the increased traffic on the road network. This is a continuation of trends that have already been

²⁸ See 11 Strategic Planning Issues Statement – Green Infrastructure and Biodiversity in WDLP8 Wycombe District Local Plan and the Duty to Cooperate, p. 64 and WDLP8.4 Wycombe District Local Plan and the Duty to Cooperate – Appendix 4: Habitats work

²⁹ See paragraph 9.9 of response to Q9.

recorded at all three sites according to the UK Air Pollution Information System and is attributable to expected continued improvements in vehicle emissions factored over the plan period.

- 8.6 It is the Council's view that the HRA as prepared was robust, but further work needs to be undertaken on a precautionary basis to ensure the final version is robust in terms of technical assessment and compliance with Sweetman.

Measures and review

- 8.7 The 2017 HRA screening report concluded that there were no likely significant effects arising from the Plan, alone or in combination with other plans and projects. In relation to recreational impacts, the HRA discussed how proposals in the Plan would mitigate any adverse effects that could arise. The Council proposed to proactively monitor³⁰ developments coming forward within a 5km buffer of the Burnham Beeches SAC.
- 8.8 As a result of the HRA screening report, where mitigation measures are relied on to ensure compliance with the Habitats Regulations, for example in relation to recreational impacts, these are included within the Plan. The Council is re-considering the screening and mitigation measures through the update work referred to in response to question 9.

9. In light of the '*People over Wind, Peter Sweetman v Coillte Teoranta*' judgement is the Council content that the Habitat Regulations Assessment is legally compliant?

- 9.1 Article 6(3) of the Habitats Directive requires that any plan likely to have significant effects, either individually or in combination with other plans or projects, on a European site is subject to an 'Appropriate Assessment' of its implication of the site in view of the site's conservation objectives. The assessment requires first a screening exercise, then, if required, a full Appropriate Assessment considering

³⁰ See WDLP1 Wycombe District Local Plan, p. 436

alternatives, mitigation measures and if needed reasons for overriding public interest before the plan or project can be agreed.

- 9.2 On 12 April 2018, a key judgement was pronounced in relation to the Habitats Directive. The issue considered was whether protective measures to deal with a likely significant effect on a European site can be used to screen out the need for an Appropriate Assessment at Screening Stage. The Court found that “it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site.”
- 9.3 The question that therefore arises is whether the Council is still content with the legality of its HRA in light of the judgement, that judgement having been made public post-submission of the WDLP and post completion of the screening report. Clearly it cannot be concluded that the Council erred in undertaking its HRA on that basis. What needs to be considered is whether the HRA needs any further work before the adoption of the Plan.
- 9.4 The crux of the issue is to consider whether the HRA relies on mitigation measures at the screening stage, and if so, whether on the basis of Sweetman an Appropriate Assessment is required. The Council interprets mitigation in line with the Sweetman judgement as being “measures intended to avoid or reduce the harmful effects of the plan or project”.
- 9.5 In reconsidering its HRA in line with Sweetman the Council will omit at the screening stage measures intended to reduce the impacts on the European sites. Where there is an integral part of the plan which has a coincident benefit in relation to the European site but it is proposed for reasons independent from HRA considerations, this is not viewed as a mitigation measure, for example the Princes Risborough relief road.
- 9.6 Looking at the HRA screening there are several areas where a plan proposal has a consequential benefit. These are considered below

along with the implications of the Sweetman case on the assessment of air pollution and recreation impacts:

In relation to air pollution:

- 9.7 The relief road proposed at Princes Risborough is fundamental to the delivery of the expansion area; without the road there would be no expansion. Thus, the expansion cannot be assessed in the HRA without the road. When scrutinising the transport modelling,³¹ it was observed that, as a result of the road, the traffic on the A4010 is drastically reduced by the end of the plan period, which means that there will be no likely significant effect on the Chilterns Beechwood SAC at Ellesborough and Kimble Warren SSSI.³² The rationale for the road however is clearly to enable the proposed expansion of Princes Risborough and not proposed as a mitigation in relation to any likely significant effects on the nearby SAC.
- 9.8 When looking at other roads near the SACs, the countywide transport modelling has taken into consideration future scenarios to 2033, which take account of the planned growth, including new transport infrastructure (Do something mitigated). These mitigations are there to mitigate the general transport impacts of the Plan on human receptors, and are part and parcel of the Plan; they have not been designed for the purpose of mitigating likely significant effects on the SACs, although their effects on the SACs is overall positive or neutral.

In relation to recreational impacts:

- 9.9 At the beginning of the section on recreational pressure, the HRA sets out how existing policy DM16 requires strategic development sites to meet local and strategic open space requirements on site as a minimum.³³

³¹ Both the Risborough specific transport modelling and the Bucks wide transport modelling

³² In relation to countywide modelling see paragraph 4.95 in WDLP3 Habitats Regulations Assessment of the Wycombe District Local Plan - Screening Report, p. 95, in relation to Princes Risborough specific modelling, see paragraph 4.67 of the same report, p. 96.

³³ WDLP3 Habitats Regulations Assessment of the Wycombe District Local Plan - Screening Report, p. 102

- 9.10 The screening report then goes on to Princes Risborough, and starts by recognising that it is reasonable to assume that the major growth at Princes Risborough through the strategic site referred to as Princes Risborough Expansion Area could potentially result in some pressure in relation to dog walking / recreational walking due to the scale of growth proposed.³⁴ However, this effect is reduced by the substantial provisions for recreational spaces and connections opportunities described in paragraphs 4.87 to 4.90 and synthesized on the Concept Plan. This, and the existing wider policies and strategy framework as well as physical green infrastructure (notably access to the wider AONB), forms part of the conclusion of the existing HRA that there is not likely to be significant effects.
- 9.11 At Bourne End, the Council's approach to recreational impacts in the HRA in relation to Burnham Beeches has been based on extensive dialogue with Natural England and their advice on mitigation measures through alternative green space provision as set out at paragraph 4.99 of the Habitats Regulations Assessment screening report (WDLP3): "a level of high quality open space provision equivalent to 8 ha/1000 people should ideally be provided on sites within 5 km of the site [Burnham Beeches SAC] and at a closer or more convenient location than the protected site".

³⁴ Paragraph 4.86 WDLP3 Habitats Regulations Assessment of the Wycombe District Local Plan - Screening Report

9.12 As a result of this advice, the Council has sought to demonstrate in the HRA and in the Plan that such alternative green space provision was de facto provided through:

- Reference to open space policy requirements (DM16) and further recreational space being provided on site at Slate Meadow which fully meet the 8h/1000 standard.³⁵
- Reference to open space policy requirements on site at Hollands Farm (DSA DPD policy DM16) which partially meet the 8h/1000 standard.³⁶
- Reference to the existing nearby Country Park and the proposed access improvements set out in the Plan.³⁷ Indeed, Policy RUR4 Little Marlow Lakes Country Park continues and strengthen the protection afforded to this area by the current local plan³⁸ (itself recently reinforced by the official designation as a Country Park³⁹) and strives to set a framework for the delivery of the country park proposals. It has the added benefit of presenting an opportunity to deliver an alternative destination to Burnham Beeches SAC, thus addressing paragraph 81 of the NPPF.
- To ensure that the development pressures in Bourne End area do not amount to adverse effects in the longer term in combination with other plans and projects, the HRA recommends to monitor planning permissions in the District

³⁵ Paragraph 4.101, WDLP3 Habitats Regulations Assessment of the Wycombe District Local Plan - Screening Report, pp. 109-110

³⁶ Paragraph 4.104, WDLP3 Habitats Regulations Assessment of the Wycombe District Local Plan - Screening Report, p.113

³⁷ Paragraph 4.105, WDLP3 Habitats Regulations Assessment of the Wycombe District Local Plan - Screening Report, p. 113

³⁸ Policy RT19 Little Marlow Gravel Pits in DPD6 Local Plan (as saved and extended (2007) and replaced by the Core Strategy July 2008 and Delivery and Site Allocations Plan July 2013), pp. 121-123

³⁹ The Council formally designated the Little Marlow Lakes area as a Country Park in September 2017 under s.7(1) of the 1968 Countryside Act. See cabinet report Item 24 of CAB3 Cabinet – New Wycombe District Local Plan, Little Marlow Country Park and Community Infrastructure Levy Receipts (Recommendation to publish and submit Publication version local plan)

within a 5km radius of the SAC.⁴⁰ This is introduced in the Plan as a monitor indicator to CP10 to address this issue.⁴¹ This has been agreed with Natural England.

- 9.13 The HRA screening report concludes in relation to Slate Meadow and Hollands Farm at Bourne End that both sites will include substantial on-site strategic open space, in accordance with policy DM16 of the adopted Delivery and Site Allocations Plan⁴² and that, along with the provision of the country park, this will ensure de facto that this meets Natural England's standard and that there will be no substantial additional further pressure on Burnham Beeches SAC in nearby South Bucks District.

Conclusion:

- 9.14 As a result of the above the Council considers that, contrary to Sweetman, the current HRA as drafted does take into account some mitigation measures at the screening stage in relation to recreational impacts. For this reason, an update to the HRA must be produced to secure compliance with the Habitats Regulations and Directive in light of most recent case law. The Council considers that the evidential basis for the HRA is sound, and that the proposed mitigation measures are robust and effective. Nevertheless, the Council recognises that the HRA must be revisited at the screening stage and if necessary that an appropriate assessment is undertaken.
- 9.15 The updated HRA will also address the most recent available evidence on air quality impact arising in part as a result of the progress made by other local plans in the area.
- 9.16 The Council aims to share the updated HRA with Natural England as soon as possible. The Council has already made Natural England aware of this. At this stage, for the reasons given above, the Council

⁴⁰ See paragraph 4.106 in WDLP3 Habitats Regulations Assessment of the Wycombe District Local Plan - Screening Report

⁴¹ See WDLP1 Wycombe District Local Plan, p. 436

⁴² See policy DM16 Open Space in New Development in DPD1 Delivery and Site Allocations Plan for Town Centres and Managing Development, pp. 76-78.

anticipates that the mitigation measures already contained in the plan are robust to ensure there will be no adverse effect on the integrity of the European sites. The Council will, however, reach a conclusion on this ultimately in the context of the updated HRA.

10. Does the Plan include policies designed to ensure that the development and use of land in Wycombe contribute to the mitigation of, and adaptation to, climate change?

- 10.1 Yes. Climate change mitigation and adaptation is recognised as one of the 8 strategic objectives of the Plan. The Plan as a result contains several policies to ensure that the development and use of land contribute to the mitigation of, and adaptation to, climate change.
- 10.2 Core Policy CP12 Climate Change sets out the overall plan approach set around an appropriate development strategy that minimises the need to travel, takes account of future flood risk from all sources, integrate blue and green infrastructure into design, the introduction of new water efficiency standards and requirements to contribute to mitigate urban heat island effects and increases.
- 10.3 This strategy runs through several areas of the Plan:
- Air pollution and urban heat island effects (DM33, DM34);
 - Flood risk (SFRA level 1 and 2, DM39);
 - Water supply (DM38, DM41);
 - Sustainable Transport (CP7, other projects,⁴³ DSA policies⁴⁴).

11. How does the Plan address the issue of air quality?

- 11.1 The Plan addresses issues of air quality through general policies and through site-specific policies (see below). In accordance with NPPF 124, the Plan takes into account the presence of AQMAs and the

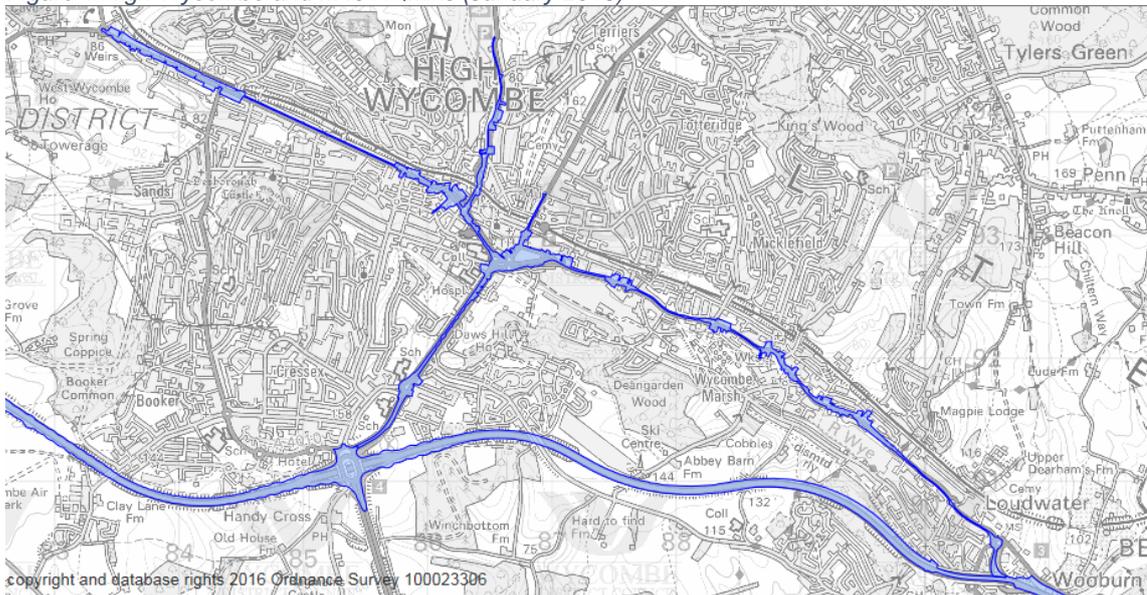
⁴³ See TP4 Topic Paper 4 – Transport

⁴⁴ DPD1 Adopted Delivery and Site Allocations (DSA) Plan for Town Centres and Managing Development

cumulative impact on air quality from individual sites in local areas. The topic of air quality as it relates to the HRA is covered under Matter 1, Questions 8-9.

11.2 Until January 2018 WDC had declared only one AQMA which followed the corridor of the M40 through the District. However, assessment reports in 2012 for High Wycombe⁴⁵ and in 2014 for Marlow⁴⁶ recommended that further AQMAs should be declared within these two towns (see Figure 1 and **Error! Reference source not found.**). These were ratified and adopted in January 2018. At the same time, the extent of the M40 AQMA was narrowed somewhat as further assessment refined the area affected. Although this was after the publication period of the submission version of the Plan, nevertheless the Plan anticipates these designations. The Council is also preparing an updated Air Quality Action Plan which is expected to be adopted in November 2018.

Figure 1 High Wycombe and M40 AQMAs (January 2018)



⁴⁵ <https://www.wycombe.gov.uk/uploads/public/documents/Environment/Air-pollution/Detailed-assessment-of-air-quality-in-High-Wycombe.pdf>

⁴⁶ <https://www.wycombe.gov.uk/uploads/public/documents/Environment/Air-pollution/Detailed-assessment-of-air-quality-in-Marlow.pdf>

Figure 2 Marlow AQMA (January 2018)



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- 11.3 It can be seen that the areas affected are concentrated on the main trafficked routes within the towns – notably, in High Wycombe this includes Marlow Hill, West Wycombe Road and the A40 London Road. Traffic congestion leads to slow-moving or stationary traffic which creates higher concentrations of pollutants.
- 11.4 The effects of the Plan on air quality have been assessed through Sustainability Appraisal (WDLP2⁴⁷), while the potential impact of increased traffic arising from cumulative development proposals in the Plan has been assessed through a series of traffic forecasting assessments.⁴⁸ This is of particular relevance to sites proposed in High Wycombe, including the former Reserve Sites. The Plan directs more development to High Wycombe as a Tier 1 settlement, which is more sustainable overall, however, it is recognised that the transport network in the town lacks capacity and the potential for transformational new highway schemes is limited.
- 11.5 It is clear that there are existing issues of traffic congestion and air quality, and evidence suggests that even with mitigation there are likely

⁴⁷ WDLP2 Sustainability Appraisal of the Publication Wycombe District Local Plan

⁴⁸ TR1 Countywide Local Plan modelling Phase 3, TR2 Countywide Local Plan modelling Phase 2, and TR3 Countywide Local Plan modelling Phase 1

to be significant increases in travel time on key routes including the A40 corridor and High Wycombe Town Centre. The SA also recognises that the delivery of the relief road as part of the Princes Risborough Expansion Area could help to reduce travel times in that area.

- 11.6 The SA of the Local Plan recommended that the Plan should include stronger policy measures in relation to air quality. Consequently, clause DM33(1)(c) was inserted, to 'make provision for alternative vehicle types and fuels', together with supporting text. The trend for increased uptake of electric vehicles will contribute to falling emissions, while overall background trends in emissions are falling as a result of more stringent standards and improved vehicle efficiency.
- 11.7 Site-specific policies for proposals in High Wycombe and other larger sites (HW4, HW5, HW6, HW7, HW8, HW12, HW13, HW14, HW16, HW19, MR7, BE1, BE2) set out a number of requirements intended to facilitate sustainable modes of travel (walking, cycling and public transport) so as to provide alternatives to the private car; and also to deliver interventions on the transport network to smooth the flow of traffic such as new junctions / increased junction capacity / intelligent traffic signals.
- 11.8 Other policies within the Plan will indirectly affect air quality positively (CP7, CP10, CP12, DM34, DM35).
- 11.9 Policies within the existing DSA DPD⁴⁹ also indirectly affect air quality, notably policy DM2 (Transport requirements of development sites), DM4 (Former Bourne End to High Wycombe railway line) and DM11 (Green networks and infrastructure). Policies for the alternative route through High Wycombe town centre intend to achieve calmer, steady traffic flows which will result in lower emissions than the existing stop-start arrangements. These policies are being retained.

⁴⁹ DPD1 Adopted Delivery and Site Allocations (DSA) Plan

11.10 The Plan proposes relatively little new development for Marlow (circa 48 homes⁵⁰) – consequently the potential for introducing new sustainable travel initiatives in this Plan are limited. However, through the DSA DPD (DPD1) the Council together with the Highway Authority (Buckinghamshire County Council), has delivered or plans to deliver a number of transport initiatives in the town, including increased provision of cycleways, and improved use of highway capacity through urban traffic management control systems and electronic car park guidance.

11.11 Air quality along the M40 is principally a matter for Highways England, and the Council, together with Buckinghamshire County Council, works positively and proactively with Highways England to assess the impacts of local growth on the strategic road network.

12. Does the Plan comply with all other relevant legal requirements, including those in the 2004 Act (as amended) and the 2012 Regulations?

12.1 Yes, the Plan complies with the legal requirements as set out in the 2004 Act (as amended) and the 2012 Regulations. A full breakdown of the individual requirements and how the Plan has met these is identified in the PAS Legal Compliance Checklist.⁵¹

12.2 In addition to those legal requirements which have already been identified in Matter 1, the Plan has met the following other legal requirements:

- **Public Consultation** - consultation requirements for contacting specific and general consultees at the different plan stages and making documents available at the required locations and for required time periods has been met. Full details of the process undertaken and feedback received, including how the Plan has been amended as a result of consultation is set out in the Statement of Consultation (WDLP10).

⁵⁰ See Table 13 of WDLP1 Wycombe District Local Plan, p. 157

⁵¹ WDLP6 Wycombe District Council Local Plan Submission Legal Compliance Checklist

- **Amended Policies Map** – Appendix K of the Local Plan provides a schedule of changes to the Policies Map.
- **Identification of Superseded Policies** - Appendix J identifies a schedule of policies replaced by this Plan; and Schedule of policies retained in the Delivery and Site Allocations Plan.⁵²
- **Approval of Plan for submission** – on 18 September 2017, Cabinet, and on 9 October 2017, full Council, approved the Local Plan to be published and submitted for examination.
- **Notification of the Hearing**⁵³ – the appropriate individuals and organisations were notified between 26 - 29 May 2018 of the details of the hearing and the name of the person appointed to carry out the examination.

13. Does the Plan provide robust mechanisms for the Monitoring and Implementation of the Plan's Strategy?

13.1 The Planning Practice Guidance (PPG) requires that information on how the implementation of policies in the Local Plan is progressing be monitored and reported as frequently as possible to communities.⁵⁴ To meet this requirement, chapter 7 of the Local Plan⁵⁵ sets out how the Plan will be delivered and monitored. A monitoring framework is contained within appendix H. It is considered to be a robust mechanism to monitor the delivery of the Plan's strategy.

13.2 The monitoring framework, as set out in paragraph 7.19, focuses on monitoring the delivery of the core policies which are the tools to deliver the Plan's strategy. By effectively monitoring the delivery of the core

⁵² DPD1 Adopted Delivery and Site Allocations (DSA) Plan for Town Centres and Managing Development

⁵³ In accordance with Regulation 24 of the Town and Country Planning (Local Planning)(England) Regulations 2012

⁵⁴ Planning Practice Guidance: Local Plans. Paragraph 027, reference ID: 12-027-20170728. Revision date 28 07 2017.

⁵⁵ Chapter 7, WDLP1 Wycombe District Local Plan

policies, an assessment can be made of the extent to which the Plan's strategy is being met.

- 13.3 Indicators have been set out within the monitoring framework for each of the core policies. These indicators have been selected on the basis of the availability of the data and the practicality of its collection, in order to ensure that monitoring is achievable.
- 13.4 We currently compile a Wycombe Monitoring Report on a regular basis.⁵⁶ The report presents information collected against the indicators set out in the adopted Core Strategy⁵⁷ (July 2008) and Delivery and Site Allocations document⁵⁸ (July 2013). Following the adoption of the Local Plan, the Wycombe Monitoring Report will be the vehicle we use to present information collected using the new Plan's monitoring framework.
- 13.5 We therefore have resources and procedures already in place to deliver the monitoring framework.

14. Will the Plan be supported by Supplementary Planning Documents?

- 14.1 Yes. The Plan will be supported by both statutory SPD and non-statutory guidance. This will be split between area based guidance and topic based guidance. The text below sets out the Council's current intentions in this regard.

Area Based Guidance

- 14.2 The Council's general approach to large scale developments is to use development briefs as a focus for community engagement and master planning. This will typically follow the formal SPD process in terms of consultation, although not all briefs are formally adopted as SPD.

⁵⁶ See HELS7 Wycombe Monitoring Report Monitoring Period 1 April 2015 to 31 March 2017 for the most recently completed Wycombe Monitoring Report.

⁵⁷ DPD4 Wycombe Development Framework Adopted Core Strategy Development Plan Document

⁵⁸ DPD1 Adopted Delivery and Site Allocations (DSA) Plan for Town Centres and Managing Development

14.3 We have already adopted development briefs for four out of the five core strategy reserve sites. These are guiding the preparation of planning applications (which have already been received for two of the sites⁵⁹ and part of a third site⁶⁰) and we are preparing a brief for the fifth site, Abbey Barn North. **(Policies HW4, HW5, HW6, HW7, BE1)**

14.4 The Council proposes a similar approach to the following additional sites in the new Local Plan:

- **PR3 Princes Risborough.** The Council has continued to develop the work on the proposed Princes Risborough Expansion Area and is currently preparing a draft Delivery Plan (including more detailed consideration of phasing and cost equalisation) and a draft Capacity Plan (looking in more detail at layout and key design principles), the aim being to share these with key stakeholders and landowners/developers in July 2018. These will ultimately form planning guidance for the expansion area which will be subject to public consultation and which would be adopted as SPD shortly after the adoption of the Local Plan.
- **BE2 Hollands Farm.** A masterplanning brief will be required for this site.
- **HW8 Land off Amersham Road.** This may in due course become a joint brief with Chiltern District Council.
- **HW16 Wycombe Air Park.** This would not warrant a full brief, but some technical guidance regarding design in conjunction with the flying activities may be needed.

14.5 **Chilterns Building Design Guide:** The Chilterns' buildings design guide was originally published in 1999 and was adopted as Supplementary Planning Guidance (SPG) by local planning authorities

⁵⁹ Application reference 18/05363/FUL Abbey Barn South reserve site, application reference 18/05597/OUT Slate Meadow reserve site.

⁶⁰ Application reference 18/05002/R9OUTE Ashwells Field, part of the Gomm Valley and Ashwells reserve site.

covering over 90 per cent of the AONB. A second edition of the guide was published in 2010. The design guide covers such topics as the setting of buildings, the design of vernacular features and the use of traditional local materials. The design guide is also supported by three additional technical notes on the use of flint, clay products and roofing materials. The Council may wish to adopt future updates as SPD.

(Policy DM30 The Chilterns Area of Outstanding Natural Beauty).

Topic Based Guidance

- 14.6 **CP7 and DM24:** A replacement/update of our current Planning Obligations and Affordable Housing SPD is planned.
- 14.7 **DM29:** A replacement/update of our current Community Facilities SPD may be required.
- 14.8 **DM33:** There is existing non-statutory Countywide Parking Guidance (see Policy DM33.1.e and paragraph 6.132). The Council, in time, may wish to review the effectiveness of this guidance, and it may wish to develop SPD guidance on this issue that is specific to the district, which may include guidance on alternative fuels.
- 14.9 **DM34:** A new SPD is planned providing further technical guidance on the implementation of Policy DM34. This will be technical design guidance addressing in particular Part 3 of DM34. This may also incorporate ongoing/planned joint work on GI mapping and biodiversity accounting.
- 14.10 **DM35:** The Council will amend its Residential Design Guidance (RDG) and Housing Intensification SPDs to associate them with the new Policy and may include additional guidance within the RDG (The RDG was drafted in parallel to the Plan).