

APPENDIX F

WAVERLEY BOROUGH COUNCIL

EXECUTIVE

1ST DECEMBER 2009

Title:

PROPOSED AVOIDANCE STRATEGY FOR THE THAMES BASIN HEATHS SPECIAL PROTECTION AREA

[Portfolio Holder for Planning: Richard Gates]

[Wards Affected: All Farnham Wards]

Summary and purpose:

The draft Avoidance Strategy has previously been considered by the Environment and Leisure Overview and Scrutiny Committee, by the Planning Policy Special Interest Group and by the Executive, following the public consultation that took place earlier in the year. The purpose of this report is to seek approval to the proposed Avoidance Strategy, which will replace the 2007 Interim Miniplan.

How this report relates to the Council's Corporate Priorities:

The environmental implications of the Avoidance Strategy are that it shows how the mitigation open space needed to compensate for new development in Farnham can be provided. An Avoidance Strategy will allow planning permission to be granted for new affordable housing in Farnham in accordance with Waverley Borough Council priorities.

Equality and Diversity Implications:

There are no implications.

Resource / Value for Money implications:

The Avoidance Strategy sets out the requirement for Section 106 agreements on new dwellings within the Farnham area. The funding secured through the earlier Miniplan has been used to improve Farnham Park through enhancing and monitoring its role as a SANG (Suitable Alternative Natural Greenspace). The new Avoidance Strategy will continue to secure the necessary contributions towards the Farnham Park SANG, together with an additional contribution towards strategic access management and monitoring of the Special Protection Area (SPA).

Legal Implications:

An Avoidance Strategy is a mechanism for allowing residential development within 5 kilometres of the Thames Basin Heaths SPA while complying with the Habitats Regulations.

Background

1. The report to the Executive on 29th September sets out the background regarding the Thames Basin Heaths SPA in terms of its location and importance. It also set out the background in relation to the 2007 Interim Miniplan. The Miniplan identified Farnham Park as Suitable Alternative Natural Greenspace (SANG) and set out the arrangements for securing contributions from developers proposing new housing within the zone of influence of the SPA, towards enhancements and maintenance of the Farnham Park SANG. The review that has resulted in the proposed new Avoidance Strategy arose from the fact that by the early part of this year, the capacity of the SANG at Farnham Park had been almost completely exhausted.

The Legal Position

2. This is set out in Annexe 1.

Consideration by the Executive on 29th September

3. At its meeting on 29 September 2009, the Executive received an update report on the consultation which took place in June and July 2009. The report included an analysis of the response to the Public Consultation and a review of potential alternative SANGs to Farnham Park.
4. The Executive resolved as follows:

Executive Decision Bulletin – Meeting of 29 September 2009

Agenda Item 8 – Review of the Thames Basin Heaths Special Protection Area Avoidance Strategy.

Detailed comments made at the meeting:

1. *The Executive accepts that the Council is unlikely to be able to achieve the overall housing allocations target for Waverley if provision is not made for some appropriate and controlled level of development in Farnham.*
2. *The Council, therefore, has to consider an Avoidance Strategy to meet the overall housing allocation targets and the needs to provide for suitable appropriate and controlled development within the 5 km area of the SPA provided it identifies SANG.*
3. *If the Council is minded to continue to use Farnham Park, the Executive accepted that expert advice was that the current allocation*

could be doubled and that no additional significant capital work to the Park would be necessary.

4. *The officers investigate the following sites as alternative SANG's (not in priority order):*

- *Alice Holt*
- *Land to the east of Farnham Park*
- *Farnham Quarry*

And, if none of the above sites are found to be suitable, to look further at the other two possible sites.

5. *That the existing tariffs be reviewed and the additional proposed tariff to fund National England be investigated.*

Consideration by the Environment and Leisure Overview and Scrutiny Committee on 10th November

5. The following are the comments from the Environment and Leisure Overview and Scrutiny Committee (ELOS) which met on 10th November:

1. *The Committee concurs with the views of Farnham residents who want to ensure the character of Farnham is preserved and although rapid further development was not favoured, Members acknowledge that some smaller development is necessary in the town.*
2. *Members agree that the Council needs an Avoidance Strategy and although doubling the SANG at Farnham Park could be a solution possibly the better way forward for the Council, in the short term, would be to allow a small and slow release of some further SANG on Farnham Park (possibly 4 hectares) and immediately pursue evaluation of the three other preferred sites which could be used in the medium-long term once they became available. In particular, it was felt that the land at the east of Farnham Park and Alice Holt Forest should be investigated further as soon as possible but in the long term also Farnham Quarry.*
3. *There is some concern regarding the statistics Members have been given in reports concerning planning permissions/developments already agreed and Members requested reassurance that they do provide real and reliable information. Although it is noted that it is difficult to know what would have happened if they hadn't taken the steps that had already been taken.*
4. *The Committee feel that this issue has been held back by the Core Strategy and the LDF had not yet being completed and Members agreed that they should support Officers to move ahead as quickly as possible with this work.*
5. *The Committee is concerned about uncontrollable, inappropriate development if doubling the SANG at Farnham Park was allowed.*

Report of conclusions of the Planning Policy SIG on 18th November

6. The following are the conclusions from the Planning Policy SIG which met on 18th November:
1. *A release of a further 4hectares of SANG on Farnham Park be recommended to the Executive,*
 2. *There be no further release of SANG on Farnham Park until the LDF and Core Strategy are approved; and*
 3. *Officers investigate the following sites as alternative SANG's for the medium to long term future once they became available (not in priority order)*
 - *Alice Holt*
 - *Land to the East of Farnham Park*
 - *Farnham Quarry*

Issues to be Considered

7. Based on the outcome from the consultation and previous consideration by the Executive, ELOS and the Planning Policy SIG, the following important issues have been identified:
- a. Potential alternative SANGs;
 - b. Potential Impact on Farnham Park resulting from further use as SANG; and
 - c. Implications for housing development.

Potential alternative SANGs

8. Following the meeting on 29 September 2009, there have been further discussions with the owners of potential SANG and it has become apparent that there are medium term opportunities to offer alternatives to Farnham Park as indicated in Annexe 2. However, it is also clear that of the sites considered, only Farnham Park offers the opportunity for immediate use as SANG.

Potential impact on Farnham Park

9. The public consultation responses included strong concerns about the impact of further SANG release on the Park. The concerns raised were principally that:
- The character of the Park will be damaged and urbanised.
 - The wildlife in Farnham Park will be put at risk.
10. Waverley has a responsibility to conserve and enhance the character and biodiversity of Farnham Park. The enhancements, already agreed by Natural England (NE) to meet the SANG requirements, are ones consulted on and recommended in the 'Historic Landscape Survey and Restoration Management Plan' (published in 2004 before the Interim 2007 Miniplan).
11. The further use of the Park would not require any additional enhancements other than those previously identified in 2007. Natural England is satisfied that the Park already has adequate capacity in its current state for an

increase without any further enhancements. Any further tariff collected would therefore be used to support long-term maintenance of the Park.

12. NE's criteria for a SANG is that it is a 'semi-natural space with little intrusion of artificial structures'. The same balance between formal amenity grass area and wilder hay meadows will be maintained, as detailed in the Park's 'Management and Implementation Plan 2007' that aims 'To manage Farnham Park as an historic landscape for the benefit of biodiversity and local recreation'. This does not conflict with its use as a SANG. It is clearly the case that a "successful" SANG would mean it is used by more people for dog walking than at present.

Implications for housing development

13. There are two related points:
 - (a) Quantity of new development.
 - (b) If new development was necessary, it should be appropriate to Farnham's character.
14. The first of these is raised against the background that the full immediate allocation of the 10.35 hectares of acceptable SANG at Farnham Park could potentially equate to 539 new dwellings (see Annexe 2). However, as noted in Annexe 2, specific proposals would, in common with the rest of the Borough, need to be judged against local and national development plan policies. The Executive has, as noted in 9.1 above, commented that, as Waverley's largest settlement, Farnham would need to make a continuing contribution to South East Plan housing targets and the maintenance of a five year housing supply. However, the concern over immediate very large developments could be significantly mitigated if only a portion of the 10.35 hectares was allocated.
15. So far as (b) is concerned, increased control over the design of new development in Farnham would be beneficial. It is expected that this will be provided by the Farnham Design Statement, which is currently being prepared by Farnham Town Council with support from Waverley's Officers.

The Proposed Avoidance Strategy

16. Attached as Annexe 3 is a copy of the proposed new Avoidance Strategy. The Strategy has been developed taking account of both the issues raised during the review and also in the context of the Delivery Framework produced by the Thames Basin Heaths Joint Strategic Partnership Board (JSPB) and Policy NRM6 of the South East Plan. Further details of both of these and their relevance is set out in the Avoidance Strategy itself. The proposed Avoidance Strategy has two key elements:
 - The further use of Farnham Park as SANG; and
 - The collection of an additional tariff to contribute towards the Strategic Access Management and Monitoring of the SPA

Further use of Farnham Park

17. Although Natural England was supportive of an increase in the SANG capacity in Farnham Park from the original 10.9ha to 21.25ha, it is

recommended at this stage that a more limited increase in SANG capacity should be agreed. It is therefore proposed that the SANG capacity be increased by a further 4ha from 10.9ha to 14.9ha. In terms of the number of dwellings, the capacity is increased by 208. This precautionary approach is being recommended for a number of reasons:

- In recognition of the need for monitoring of the use of the Park to ensure its character is not harmed
 - Having regard to the possibility that other sites will become available as alternative SANG
 - To allow for further review of the Council's approach to SPA mitigation and avoidance once the LDF Core Strategy has progressed further.
18. It is generally, but not universally, acknowledged, that development does need to continue in Farnham provided it is appropriate. Future control over development may be enhanced by the Farnham Design Statement and the LDF. There is every incentive therefore for the Design Statement to be completed as a matter of urgency.
19. The current tariff for Farnham Park was based on 21.25 hectares. Changes are required to reflect inflation since April 2007, changes in medium term interest rates with regard to the calculation of the capital sum required. Details of the tariff for the Farnham Park SANG are set out in the Avoidance Strategy itself.

Additional Tariff for Strategic Access Management and Monitoring

20. The new Avoidance Strategy differs from the earlier Interim Miniplan in one important respect. It now also includes a requirement for a contribution to access management and monitoring of the SPA itself. This approach follows guidance in the South East Plan and the Delivery Framework and constitutes an additional strand of avoidance/mitigation. It is in response to the fact that Natural England has worked up proposals for access management and monitoring that did not exist when the Interim Miniplan was adopted in 2007.

Conclusions

21. This matter has been thoroughly considered by ELOS and the Planning Policy SIG, and by the Executive at its earlier meeting in September. In particular, very careful consideration has been given to the representations raised in the consultation. There are no alternative sites that could immediately provide SANG. The principle of increasing the capacity of the SANG at Farnham Park has been agreed by Natural England but, for the reasons set out above, it is recommended that, at this time, the capacity is only increased by a further 4ha.

Recommendation

The Executive acknowledges with thanks the work of ELOS and the Planning Policy SIG, which was undertaken against the background of the recent consultation and the published responses to that consultation.

Recognising that work, and the concerns expressed during the consultation the Executive accepts the recommendations, which, in the executive's opinion, represent a fair balance between those concerns and future housing needs in Farnham.

Therefore the Executive recommends to Council:-

1. That the SPA Avoidance Strategy attached as Annex 3 is adopted.
2. A further 4 hectares of Farnham Park be designated as SANG (equivalent to 208 further homes)
3. A revised tariff taking into account inflation, changes in medium term interest rates and the proposed contribution towards the SPA Access Management and Monitoring project of Natural England be agreed as set out in the Avoidance Strategy (page
4. No further designations of Farnham Park as SANG will be considered until either the Core Strategy is adopted or July 2012 whichever is the earlier.
5. This Council's assurance is given that no further significant capital works will be undertaken in Farnham Park other than those proposed in the Historic Landscape Survey and Restoration Management Plan, and that maintenance and minor improvement works will be in accordance with this already agreed plan, modified only with the approval of stakeholders, in particular Farnham Town Council.

Further, the Executive :-

6. Requests Officers to continue to assist Farnham Town council with a view to the early conclusion of the Farnham Design Statement, recognising always that this is a Farnham Town Council project.
7. Requests that Officer continue their investigations of alternatives to Farnham Park as previously agreed with the Executive with the objective of enabling appropriate medium term options to be considered at a later date.

Background Papers (CE)

Report to Executive 29 September 2009

CONTACT OFFICER:

Name: Matthew Evans
Head of Planning

Telephone: 01483 523298
Email: matthew.evans@waverley.gov.uk

ANNEXE 1

The SPA was classified in March 2005 for nightjar, woodlark and Dartford warbler¹. The site is protected by the Conservation (Natural Habitats) Regulations 1994, commonly referred to as the Habitats Regulations. The Habitats Regulations transpose the European Community's Directives 79/409/EEC 1979 on the Conservation of Wild Birds and 92/43/EEC on the Conservation of Natural and Semi-Natural Habitats and of Wild Fauna and Flora into UK legislation. These Directives are commonly referred to as the Birds Directive and Habitats Directive respectively. Authorities responsible for issuing permissions or authorisations that may affect a site protected by the Habitats Regulations are called competent authorities. Local planning authorities are the competent authorities for planning applications affecting the SPA.

A proposal for new residential development, whether a single new dwelling or many, and whether a conversion or a new building, is a 'plan or project' to which the Habitats Regulations apply². The Regulations must be applied by the Council when considering whether to grant planning permission and by the Secretary of State when he or an Inspector is delegated to make the decision on the Minister's behalf in considering an appeal against a refusal of planning permission.

Regulations 48 to 53 of the Habitats Regulations established a set of procedures for decision making by competent authorities with explicit reference to planning permission.

In essence, the Habitats Regulations require all plans or projects with the potential to affect an SPA and not directly connected with and necessary to their management for nature conservation to be assessed. Those that are likely to have a significant effect on the site, alone or in combination with other plans or projects must be subject to a more detailed assessment in order to ascertain if the proposal would adversely affect the integrity of the site.

Developments can provide - or make a contribution to the provision of - measures to ensure that they have no likely significant effect on the SPA. If they do so residential development will not have to undergo an appropriate assessment³. The option remains for developers to undertake a Habitats Regulations screening assessment and where necessary, a full appropriate assessment to demonstrate that a proposal will not adversely affect the integrity of the SPA.

¹ The site qualifies because it is regularly used by 1% or more of Great Britain population of birds listed in Annex 1 of the Directive 79/409 on the Conservation of Wild Birds, commonly called the Birds Directive.

², The Conservation (Natural Habitats&) Regulations 1994 Regulation 48(1).

³, This principle has been established through the High Court Judgement of J Sullivan in Hart DC v SoS for Communities and Local Government (2008).

ANNEXE 2

Alice Holt Forest

Discussions have progressed well with both Natural England and the Forestry Commission who own the land. In principle, both are supportive of designation of the Forest as SANG. The land lies in East Hampshire and discussion with them would be needed. At this stage, it would appear that the site could be available as SANG in the short - medium term – 1 - 5 years.

Land to the east of Farnham Park

Discussions are continuing with the owner of the land. Natural England has agreed that the site is suitable as SANG. A pedestrian link with the Park would be especially beneficial. Allocation of this land as SANG would safeguard it as open space, which would re-enforce the Farnham Aldershot Strategic Gap. As with Alice Holt, further discussions with the landowner and Natural England before the site can be allocated as SANG. However, a provision of SANG could again be in the short term - medium term (1 - 5 years) but is dependant on the land owner making the land available and the necessary improvements being in place.

Farnham Quarry

Discussions with the owners of Farnham Quarry are ongoing. Natural England have agreed in principle that the site could make suitable SANG. Restoration of the site will take about five years to reach a reasonable landscape quality. The site abuts Rushmoor Borough Council and offers the possibility of cross-boundary working on shared SANG and wider landscape and open space improvements in the Blackwater Valley.

Farnham Park

Bearing in mind the outcome of a visitor survey which revealed that the Park is underused and the improvements which have taken in place, Natural England have now confirmed that the total SANG capacity is 21.25 ha. If this position is adopted by the Council, then a further 10.35 ha of SANG could be released in Farnham Park equating to potentially 539 new dwellings. It is important to stress that it would not automatically mean that permission for 539 dwellings would be granted as any individual proposals for development would, in common with the rest of the Borough, need to be judged against other development plan policies.