

WAVERLEY BOROUGH COUNCIL

Public Consultation on the Avoidance Strategy

It was agreed by Waverley's Executive in May this year that a public consultation should be held to seek the views of organisations and the public in Farnham on the proposals in the Avoidance Strategy.

These views would then inform Waverley in its consideration of the way forward.

The consultation took place from 8 June to 20th July 2009 (with an allowance for some late entries.) The steps taken to publicise the consultation were:

- a) An exhibition in the Farnham Locality Office until 19th August.
- b) Information posted on the notice board at the Farnham Park Ranger's Office (to remain there until September).
- c) A press release in the Farnham Herald which was followed by responding items and letters in the paper over 5 weeks.
- d) Letters or emails were sent to:
 - The Friends of Farnham Park and the Farnham Park Advisory Group
An officer meeting was also held with representatives of both groups before the consultation began;
 - Farnham resident associations and amenity organisations;
 - Farnham Town Council, and all other Parish Councils in the Borough;
 - adjoining Local Authorities and those affected by the Thames Basin Heaths Special Protection Area ("SPA").
 - GOSE, Natural England and the South East England Partnership Board (Previously SEERA), the RSPB, Surrey Wildlife Trust and CPRE;
 - The Avoidance Strategy was posted on the Waverley web site with a summary, an explanatory article and a brief questionnaire for interested respondents to complete.

Response to the Consultation

There were 219 responses to the consultation from individuals and organisations. A summary of each response is included in Annexe 2 of this report.

A characteristic of the objections was the strength of feeling in which they were held. A great majority (198) of the replies were opposed to the Avoidance Strategy.

The main issues raised by the consultees

The consultation responses fall into four areas of concern as set out below:

1. The effect of the Avoidance Strategy on Farnham

a) What is the situation on new housing and infrastructure?

It was stated that the effect of the Avoidance Strategy would be to enable the building of 500-800 dwelling within the 5km zone of Farnham, which extends across the majority of Farnham. It was believed that Farnham was "full up" and the infrastructure was already under strain, with problems of congestion, poor public transport, shortage of school places, medical facilities under pressure difficulties with sewerage and water supply.

If the SANG capacity was doubled from its current level, then it is correct that this would give room, if land was available and planning policy was met, for further development in Farnham. The maximum if the capacity were doubled from its current level, would be a further 539 additional dwellings.

If there is no Avoidance Strategy then there will be no development in most of Farnham.

b) Has there been approval of 567 dwellings in Farnham in 20 months since the Miniplan came into operation? If so, this was more than the target for the whole of Waverley .

This is correct, although of course the expectation is that the 567 homes will be built over an extended period of time, rather than in the 20 months and the situation was exceptional when two large sites in the central area of the town, long anticipated, received planning permission. These were East Street (239) and the Hospital Site (134). No similar sites have been identified for future development.

c) What is the situation on the SHLAA? Consultees proposed that no further action should be taken on the Avoidance Strategy until the Strategic Housing Land Availability Assessment had been published and consulted on. Therefore the consultation was premature.

Work on the SHLAA is ongoing and its broad conclusions were shared with Members at the recent Local Development Framework Briefing. It shows that only a limited number of specific future development opportunities have been identified within Farnham. The situation is expected to be finalised shortly.

2. Policy issues

a) *What is the status of the Avoidance Strategy?*

The starting point is the Planning and Compulsory Purchase Act 2004 which sets out the current law on planning matters. The Act directs that the South East Plan ("SEP") forms a mandatory part of Waverley's development plan. The SEP includes policy NRM6 which advises that in their Local Development Documents ("LDDs"), Local Planning Authorities ("LPAs") should propose a policy framework to protect the SPA whilst meeting the housing development requirements set out elsewhere in the SEP. Waverley's Core strategy is being prepared on this basis.

The Avoidance Strategy is not a LDD but could represent an interim position pending the adoption of Waverley's Core Strategy. Waverley and its neighbouring LPAs are also signatories to the *Thames Basin Heaths Special Protection Area Delivery Framework* which supports the principle of local or joint mini plans to protect the SPA. To date 8 of these LPAs have adopted Interim Avoidance Strategies / Mini Plans (the title is interchangeable).

b) *Is the Council legally obliged to develop an Avoidance Strategy?*

A number of representations have noted that there is no requirement on Waverley to produce a Strategy or provide SANG.

It is absolutely correct that Waverley has no legal obligation to develop an AS or to provide a SANG or SANGs. However as is often the case in planning matters the UK government has imposed competing obligations which have to be met. The SEP proposes a solution to this conundrum through the provision of SANGs to attract people, and more particularly, people with dogs, away from the SPA. It does not specify who should provide them

However the Thames Basin Heaths SPA Delivery Framework (of which Waverley is a signatory) advises in paragraph 5.3 that SANG should be delivered by local authorities or groups of local authorities and funded by developer contributions (paragraph 5.30).

An alternative to Waverley putting in place a strategy would be that developers are left to provide their own SANGs. This is likely to be an option only for large developments.

(c) *Why has no appropriate assessment been carried out?*

As the Avoidance Strategy is directly connected with or necessary to the management of the Thames Basin Heaths Special Protection Area itself

Paragraph (b) of Regulation 48(1) of the Habitat Regulations makes it clear that the requirement to make an Appropriate Assessment is not triggered.

d) What is the position regarding Regional Policy NRM6? Many of the responses quoted Regional Policy NRM6 and consultees felt that development should be located outside the 5km zone.

Policy NRM6 sets out the approach that Waverley should take in assessing development which is likely to have a significant effect on the ecological integrity of the SPA. The Policy states that "Priority should be given to directing development to those areas where potential adverse effects can be avoided without the need for mitigation measures".

However giving priority to development outside the zone does not mean that development within the 5km zone is completely prohibited, and the current "owner" of the SEP (the South East Partnership Board) supports a Waverley Avoidance Strategy. The reason is clear, namely that policy NRM6 is only one amongst several policies and issues which Waverley must consider.

It has to be assessed in the context of national policies such as PPS3 which advocates making best use of previously developed land and locating development where there is good access to jobs and services. There are other SEP policies such as H1 which requires LPAs to "allocate sufficient land and facilitate the delivery of their share of the regional housing target", H2 which requires LPAs to take account of a range of other considerations when dealing with housing provision, H3 and H4 which relate to meeting local housing needs, and SP5 which seeks to protect the Green Belt. The Waverley Corporate Plan also has an ambition to deliver affordable housing and Farnham is the settlement where the need is greatest.

As is not unusual, the dilemma for Waverley is which policies are given the greatest weight.

e) What is the position regarding Circular 6/2005? Paragraph 24. The extract frequently quoted was.... the decision taker "must first be satisfied that there are no alternative solutions. If there are alternative solutions, which would have no (or a lesser) effect on the site's integrity, then consent cannot be granted in accordance with the Habitat Regulations; permission must be refused or the appeal dismissed."

If there is no Avoidance Strategy, then indeed permission cannot be granted. This has been the situation in Farnham since February this year. An Avoidance Strategy is an alternative solution.

f) What is the position regarding PPS 3? Paragraph 53 was often quoted "'Local Planning authorities should identify sufficient deliverable sites to deliver housing in the first five years". Respondents were of the view that this has not been carried out by Waverley.

The Council published data on the 5 years housing supply in the Annual Monitoring Report 2008. The Council met the 5 years supply in 2008, with a small surplus.

g) What is the position regarding the extract from the South East Plan Panel. Paragraph 26.85. This allocated Waverley Borough Council 5000 dwellings for the plan period. The Report states "We assume that all this could be provided outside the 5km zone of the TBH"

Officers' assessment of this extract is that this comment relates only to the uplift from 230 to 250 dwellings per year proposed by the Panel. All the evidence provided by Waverley for consideration for the SE Plan assumed that Farnham within the 5km zone would be available for some development over the plan period. The Council is preparing for the Options consultation stage of the Core Strategy. The allocation of dwellings across the Borough has yet to be finalised, but is thought unlikely to conclude that there should be no development whatsoever within the 5km zone of influence.

h) What is the position on quotations given from the Inspector's report on the Examination in 2006 of the Waverley Core Strategy? "There does not appear to have been any proper evaluation of development options, which might have reduced the effects which gave rise to the need for mitigation in the first place. In the absence of such a process, the strategy could be held to be unsound against Test VII."

This is a quotation from one of the papers issued by the LDF Inspector, identifying matters that he would need to consider. As the Core Strategy was subsequently withdrawn, the issue was not be debated further in any Examination Hearing. The issue will be addressed in the current Core Strategy as it develops.

i) Are there any proposals to protect the Special Protection Area itself?

The proposed tariff for Natural England is specifically to enable them to improve the management and monitoring of the SPA. The responsibility to manage the SPA lies primarily with the landowner in partnership with Natural England. It can be argued that NE should undertake that from within their own budgets, but the reality is that they are not funded by government to do so.

J) What is the position on the tariffs? Where consultees objected to the Avoidance Strategy in principle, they also objected to the tariffs or thought the matter irrelevant.

The tariffs are an intrinsic part of the Avoidance Strategy to facilitate the maintenance of any SANG in perpetuity and the monitoring and protection of the SPA itself by NE.

3. Farnham Park

a) If Farnham park capacity for a SANG was increased will the proposals urbanise or damage the Park?

The Council agreed the document "Farnham Park: Historic Landscape Survey and Restoration Management Plan" in January 2004, and the proposals in the Avoidance Strategy for improvement of the Park were derived from the Management Plan. Conservation and care of the Park has always been one of Waverley's objectives.

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.

Waverley has a responsibility to conserve and enhance the character and biodiversity of Farnham Park. The enhancements, already agreed by Natural England 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).

If the Avoidance Strategy included further use of the Park there would be no further enhancements, other than at the Eastern Car park. Natural England are satisfied that the Park already has adequate capacity in its current state for an increase without any further enhancements.

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 & 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.

However it clearly the case that a "successful" SANG would mean it is used by more people for dog walking than at present. It is Waverley's Countryside officers' view that there is capacity for this activity, and monitoring of use will ensure that measures can be taken to prevent this harming the park.

Developer contributions would, however, continue to be required to ensure the maintenance of the Park in perpetuity and, as previously stated, to enable NE to monitor and protect the SPA.

b) Does a SANG work? What is the evidence base? There was no evidence provided in the Avoidance Strategy that people were being attracted away from the Special Protection Area to the Park and that the SANG provision in the Miniplan had worked.

This is a fair comment. It is always difficult to determine what would have happened if something had not been done. Waverley rely on NE's expertise in this matter, and an AS is also supported by the RSPB and the Surrey Wildlife trust (the latter with qualifications). They could be wrong, but Waverley has to take their support seriously.

A monitoring strategy has been put in place to identify any trends and changes in visitor use of the Park. Surveys have been conducted in the Park in 2007 and 2009 Further monitoring work carried out in the Park is producing weekly data. This information will be compiled to ascertain footfall in the Park and identify changes. Natural England will be conducting detailed surveys to look at visitors to the SPA itself and this information should produce data that will see if people are being attracted to the Park. This process is ongoing.

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The 2007 and 2009 surveys showed a similar pattern of use, despite slightly differing weather conditions. There were some differences:-

Increase in the number of dog walkers (+8%) and numbers coming by car (+6%) to Farnham Park compared with 2007.

Increase in the number of Farnham Park users that also visit the SPA, however much less often than they use the Farnham Park.

Of those who used the SPA, 71% were aware of the importance of rare ground nesting birds and 89% were willing to use alternative sites to the SPA during the sensitive bird-nesting season.

The Park is a Local Nature Reserve, a Site of Nature Conservation Interest and is managed according to a Defra environmental stewardship scheme. Its main biodiversity interests are different from the Thames Basin Heaths Special Protection Area. The Park is important for its veteran trees and great crested newts, which are less sensitive to the impact of visitor numbers than the rare ground nesting birds on the SPA that are easily disturbed by walkers and dogs. Monitoring has been put in place to ensure the Park's wildlife value is protected.

c) What is the position regarding the Eastern car park? The proposed use of the parking area adjacent to Six Bells Roundabout was not suitable as it was too far from the Park, and would attract Rushmoor residents.

Waverley has been guided by Natural England on the criteria for car parks and access to a SANG, and Natural England is satisfied that the access from the car park near Six Bells to the Park is acceptable, with some additional signage. Rushmoor residents, or indeed residents from anywhere else, may use the Park, but for it to be designated as a SANG for another LPA, specific Waverley approval at Council level would need to be sought, which it has not been.

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