

ANNEX 1 – Letter from English Nature Dated 24.4.06

Mrs M Kirby
Principal Planning Officer
Strategic Planning
Winchester City Council
Colebrook Street
WINCHESTER
SO23 9LJ

Your ref: MK/PO4.15.34
Our ref: SU43.3

24 April 2006

Dear Mrs Kirby

**Re: Comments on the proposed modifications to the Winchester District Local Plan Review, Local Reserve Sites – Worthy Road/Francis Gardens site
River Itchen Site of Special Scientific Interest and Special Area Of Conservation**

Thank you for your letter dated 11th April 2006 asking for English Nature's comments on the suitability of this Local Reserve Site for development in Winchester. While we are grateful that you have sought our comments on this, English Nature would have preferred to provide the following information for independent assessment as part of the Local Plan Inquiry Process, rather than at this late stage. Unfortunately, though this particular Local Reserve Site was in the Proposed Modification consultation, due to a shortage of staff we did not pick this up; otherwise we would have endeavoured to respond at that time. However we would have expected the Council to alert us if they were proposing to allocate sites adjacent to a SSSI and SAC. The SSSI checklist that we produced in February last year was designed to help Local Authorities with this, and other Authorities in our area have found it helpful in identifying proposals which require consultation with English Nature. This checklist has previously been provided to the Council but I enclose another copy of the document with this letter for your information. In respect to threshold distances from floodplains English Nature would recommend consulting the Environment Agency for this information. I have also included the reasons for notification of River Itchen SSSI and SAC so that you can see the feature interests of the site that may be affected by development in these threshold distances.

As you know the proposed development is in the catchment of the River Itchen. The River Itchen is a Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC). As such the site has protection under the Wildlife and Countryside Act 1981, as substituted by the Countryside & Rights of Way Act 2000, and as a European site under the Conservation (Natural Habitats &c.) Regulations 1994 (subsequently referred to as the Habitats Regulations).

The information that we currently have on the proposed Worthy Road/Francis Gardens Local Reserve Site is that it is currently agricultural land with 80 dwellings proposed. It is adjacent to the River Itchen SSSI and within 70m of the SAC.

Assessment under the Conservation (Natural Habitats &c.) Regulations 1994

Regulation 48 (1) of the Habitat Regulations requires that if a plan or project, either alone or in combination with others, is likely to have a significant effect on a European site an appropriate assessment should be made of the implications for the site. In this instance we are not aware of any assessment looking at whether the use of the proposed site for housing could have a significant effect on the designated site. **We are therefore unable to advise (on the current information) that there is not likely to be a significant effect.**

Advice under S28I of the Wildlife & Countryside Act 1981 (as substituted by Schedule 9 to the Countryside & Rights of Way Act 2000)

It is English Nature's opinion that the proposal could cause damage to the features of interest of the River Itchen SSSI, for the reason outlined above.

It is our opinion that the proposed use of the site would be likely to have a negative effect on the River Itchen SSSI and SAC for the following reasons:

- Building work and housing this close to SSSI, SAC and floodplain on this gradient could lead to long term changes to the hydrology adversely affecting wetland communities;
- Building work and housing this close to SSSI, SAC and floodplain on this gradient could have large impacts on water quality in regards to water drainage, runoff and sewerage disposal;
- Building work and housing this close to SSSI, SAC and floodplain on this gradient could have large impacts on water quantity and water resources due to changes to hydrology from the possible need for further water abstraction;
- Loss of open ground and increased runoff could potentially lead to a higher risk of flooding in the area and for areas down river;
- The siting of this development adjacent to the SSSI and SAC and this density of houses could result in a significant increase in the use and disturbance of the SSSI and SAC leading to damage;
- The siting of this development adjacent to the SSSI and this density of houses could result in significant noise or light pollution that may lead to the disturbance of birds.

We are not aware how Local Reserve Sites were considered or assessed in the Inquiry, especially those that were added after the Revised Deposit Draft stage, when we were last able to comment. The Major Development Area at Barton Farm will have shown the Council that assessments relating to European sites (SACs and SPAs) need to be more comprehensive than for other areas.

We draw your attention to the duty, under S28G of the Wildlife and Countryside Act 1981, as incorporated by the Countryside and Rights of Way Act 2000, to take reasonable steps, consistent with the proper exercise of your functions, to **further the conservation and enhancement of the SSSI.**

English Nature supports a strategic approach to identifying appropriate and sustainable sites for development. It is English Nature's opinion that the scale and density of the proposed development on this site would increase pressure on those semi-natural habitats that remain in the area, causing effects such as hydrological changes and increased recreational use which would lead to deterioration of biodiversity. If this site were to be promoted further English Nature would recommend a full ecological appraisal.

The above development is of significant size and as an organisation we recognise that sustainable development is vitally important. Therefore we would like to suggest that some aspects of ecological design are incorporated, enhancing the site where possible, and minimising its impact on the surrounding area. For example, the retention of wildlife corridors, installation of green roofs, and the use of a Sustainable Urban Drainage System (SUDS) should be considered. There are also many other biodiversity enhancements that could be incorporated including native planting, wildlife ponds, nest boxes, bat boxes and access points. I have attached the following link, <http://www.tcpa.org.uk/projects.htm> to 'Biodiversity by Design, A Guide for Sustainable Communities' for your information.

In conclusion, we advise that if the Local Reserve Site remains in the local plan and is released for development, the proposal should come forward as a full application and not as an outline application with details to be decided later. An assessment of whether the development is likely to have a significant effect on the SAC should be carried out on the full application, and then if necessary an appropriate assessment. This is in addition to a full ecological appraisal to identify and address issues relating to the SSSI. The Council will then have these assessments to guide their decision on whether the application should proceed and if so what appropriate conditions should be placed on the permission.

Re: Transitional Arrangements for Local Plans adopted before the Habitats Regulations are amended

With regard to your questions about the need for assessment of the Local Plan in relation to its effect on European Sites I have obtained the following advice. As you are aware the ODPM has said that Local Authorities in Winchester City Council's situation should assess the effects of their plans and decide whether it is reasonably practicable to carry out an Appropriate Assessment on them. ODPM has strongly encouraged Local Authorities to apply Appropriate Assessments from the date of the ruling where possible. If Winchester City Council decides that it is not reasonably practicable to apply an Appropriate Assessment to its local plan, the Council should justify their decision with evidence. It is English Nature's position that it ought to be reasonably practicable for an Authority to decide if any aspect of their plan is likely to have a significant effect on any international site and then to undertake an appropriate assessment if required. This is an assessment of the implications of the proposal in respect of the site's conservation objectives. The conclusions of the assessment should enable Winchester City Council as the competent authority to ascertain whether the proposal would adversely affect the integrity of the site. I have enclosed a copy of our Habitats Regulations Guidance Note No. 1 which gives information about undertaking appropriate assessments, along with the key steps involved.

I have compiled some suggestions below of the ways in which the following European sites might be affected by development. These are not intended to be comprehensive lists but an indication of the types of ways that developments could have effects. Whether the impacts have already been identified and any mitigation put in place should also form part of your assessment.

River Itchen SAC:

Development allocations might have direct or indirect onsite and offsite impacts on water resources or water quality. These could be due to increase in water demand and increased use of sewage treatment works, disturbance to hydrological regimes from development on areas in hydrological continuity with the River Itchen and its floodplain, and disturbance from residents of new housing areas requiring areas for recreation.

Solent and Southampton Water SPA, Portsmouth Harbour SPA, Chichester and Langstone Harbour SPA:

Development allocations might have direct offsite impacts on feeding and roosting areas used by birds such as Brent geese. These could be in the form of land-take, disturbance to birds from development adjacent to these areas, and disturbance from residents of new housing areas requiring areas for recreation. If you require any further information regarding these SPAs please contact Tony Cosgrove or Zoë James at this office.

I hope these comments are of help. If I can be of any further assistance please do not hesitate to contact me.

Yours sincerely

Alison Graham-Smith
Conservation Officer
Hampshire Downs and Rivers

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Encs:

SSSI consultation zone checklist – by email
SSSI consultation zone spreadsheet – by email
Reasons for notification of River Itchen SSSI
Reasons for notification of River Itchen SAC
Habitats Regulations Guidance Note No. 1 – by email