

# Thames Basin Heaths SPA Avoidance and Mitigation Supplementary Planning Document Consultation Statement

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# 1 Introduction

## Background

**1.1** The Council is required to prepare Supplementary Plan Documents in accordance with the Town and Country Planning (Local Development) (England) Regulations 2004 ('the Regulations'). This Statement explains how the Council has met the requirements of Regulation 18(4)(b) in the preparation of the Thames Basin Heaths SPA Avoidance and Mitigation Supplementary Planning Document (SPD).

**1.2** Bracknell Forest Council produced a draft Supplementary Planning Document (SPD) called the Thames Basin Heaths SPA Avoidance and Mitigation Supplementary Planning Document (SPD) Consultation Draft (September 2011). It was published for public consultation between 12th September and 24 October 2011. Regulations 18(4) (a) and (b) of the Town and Country Planning (Local Development) (England) Regulations 2004: (a) they have considered any representations; and (b) have prepared a statement setting out (i) a summary of the main issues raised; and (ii) how these main issues have been addressed in the SPD to be adopted.

**1.3** This Statement of Consultation summarises the consultations undertaken during the production of the SPD including the statutory consultation on the Thames Basin Heaths SPA Avoidance and Mitigation SPD Consultation Draft as described above.

## Consultation

**1.4** A first consultation on the draft Thames Basin Heaths Special Protection Area (SPA) Avoidance and Mitigation SPD took place between 02 November 2009 and 14 December 2009. The Council published a regulation 17(b) consultation statement (document reference SPA10) and proforma (document reference SPA14) detailing who was consulted and how the consultation was undertaken.

**1.5** Due to changes in planning policy at the national and regional levels, the SPD was further revised taking account of all the consultation comments and the new policy framework. A second consultation then took place between 12 September and 24 October 2011. The Council published a regulation 17(b) consultation statement (document reference SPA10) and proforma (document reference SPA17) detailing who was consulted and how the consultation was undertaken.

**1.6** Details of the consultation were sent to key stakeholders including: Parish Councils, other local authorities, developers, housing associations, local environmental groups and government agencies. The draft document was also made available on the Council's website, in local libraries and Council reception areas and the consultation was published on 15 September 2011 in the Bracknell Standard paper which is delivered to all households in the Borough.

**1.7** Twenty three consultation responses were received in connection with the SPD. These were subsequently collated and, where appropriate, changes were made to the SPD. Table 1 summarises the main issues raised during the consultation and how these issues were addressed in the SPD.

**1.8** Consultation on the draft Sustainability Appraisal (SA) was carried out alongside the draft SPD. The full document was emailed to statutory consultees and a non-technical summary was sent to all key stakeholders.

## Partnership Working

**1.9** In the preparation of the SPD, the Council has worked in partnership with a range of key and statutory organisations on SPA related issues, as follows:

- Bracknell Forest Council officers.
- Officers from other authorities affected by the Thames Basin Heaths Special Protection Area.
- Natural England
- Royal Society for the Protection of Birds (RSPB)
- Berks, Buck, Oxon Wildlife Trust (BBOWT)
- Land owners such as the Ministry of Defence and the Crown Estate

**1.10** The formal arrangement for this partnership working has been facilitated under the Thames Basin Heaths Joint Strategic Partnership.

**1.11** The formation of the SPD has taken account of a number of factors such as the South East Plan and a strategic dialogue facilitated through the Joint Strategic Planning Board with the organisations listed above. Many of the above organisations have responded to consultations on the SPD.

## 2 Summary of Representations and Council Responses

Organisation or Name	Summary Representation on Draft TBH SPA Avoidance and Mitigation SPD (2011)	Council Response and Action
1. Coal Authority	Thank you for consulting The Coal Authority. We have no specific comments to make on this document at this stage.	Noted.
2. Surrey Heath BC	At 3.1.2 the document states that HMOs will usually be treated as single dwelling units but that each will be dealt with on a case by case basis. I would query whether an HMO can really be treated as a single unit - a 5 bed HMO is likely to have a higher occupancy rate than an equivalent sized dwelling. Also, conversion from C3 (dwelling house) to C4 (HMO) is currently PD so I would question how the Council will become aware of such conversions in order to be able to consider the impacts on a case by case basis.	<p><b>Response:</b> Legislation issued in April and October 2010 put houses in multiple occupation (between 3 and 6 people) into its own use class (C4 use), and also introduced the permitted change of use between C3 and C4 uses without the need for planning permission. Therefore, these changes of use would not be monitored by the Council and would not be able to be assessed for SPA purposes. However, large HMOs (6 or more individuals) would require a change of use and so would be assessed on a case by case basis in relation to impact upon the SPA.</p> <p><b>Action:</b> Section 3.1 has been amended to reflect current legislation and clarify the position in relation to HMOs.</p>
3. Thames Valley Police Authority	The SPD acknowledges that replacement dwellings located between 400m and 5km of the SPA will not generally lead to increased recreational pressure. They will therefore have no likely significant effect on the SPA and will not be required to make a contribution to the provision of avoidance measures.	<p><b>Response:</b> Noted. Any <u>net</u> increase in residential dwellings located between 400m and 5km of the SPA will be required to make a contribution to the provision of avoidance measures. This is clearly set out in the SPD, section 3.0.</p> <p><b>Action:</b> No change to the SPD required.</p>
	To provide greater certainty for landowners, it is important that the SPD is clearer upon the approach towards the replacement of existing	<p><b>Response:</b> Non-residential developments (particularly in close proximity to the SPA) are subject to a Habitats Regulations Assessment and are considered on a case by case basis.</p>

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	non-residential uses with other non-residential uses within 400m of the SPA.	<p>The potential adverse effects, summarised in section 2.3, will enable such assessments. This is clearly set out in section 2.3.</p> <p><b>Action:</b> No change to the SPD required.</p>
<b>4. Theatres Trust</b>	As this consultation is not relevant to our remit we have no comment to make but look forward to being consulted on further planning policy documents in due course.	Noted.
<b>5. Crowthorne Parish Council</b>	Crowthorne Parish Council notes the proposed changes to the Thames Basin Heaths SPA Supplementary Planning Document and has no specific comments to make on the document as a whole.	Noted.
<b>6. Croudace Strategic</b>	<p>Our client is fully supportive of the Council's pro-active approach over the last few years in ensuring housing development is not stifled by the provisions that govern SPA matters. However, we wish to register an objection to the changes being proposed to existing adopted advice.</p> <p>It is our view that the proposed increase in tariff rates as set out in Table 1 of the draft document will place additional undue pressure on developers, at a time when development costs are rising, and continued uncertainty in the housing market is forcing many house builders to delay their plans with regard to bringing forward plans for housing.</p>	<p>Noted.</p> <p><b>Response:</b> The Council understands the need to deliver housing and the pressures the development industry is currently facing. However, it is the Council's duty to ensure that developments in Bracknell Forest are compliant with the Habitats Regulations otherwise planning permission cannot be granted.</p> <p>The avoidance and mitigation strategy is set out in accordance with national, regional and local policy frameworks.</p>

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	<p>This issue is highlighted in the Government's emerging National Planning Policy framework (NPPF) which supports our position as it clearly states that 'sites...should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened.' We consider that the revised SPD would be an unnecessary burden which could threaten the viability of new development schemes.</p>	<p>The increase in contributions compared to the current avoidance and mitigation strategy comes about as a result of the following:</p> <ul style="list-style-type: none"> <li>- the necessity to ensure that SANGs are available in perpetuity (defined as 125 years according to the 'In Perpetuity and Accumulations Act 2009') and not just for the 20 year plan period as set out in the current strategy. (NB: The draft SPD 2009 set out an 'in perpetuity' period of 80 years which was based on the Perpetuities and Accumulations Act 1964. This Act was updated in 2009 and the second draft and final SPD is based on the more recent 'in perpetuity' period of 125 years as stated in the Perpetuities and Accumulations Act 2009).</li> <li>- making provision for the collection of a sub-regional s106 contribution for strategic access management and monitoring in line with the Strategic Access Management and Monitoring (SAMM) Project.</li> </ul> <p>The contributions are similar to those set by other SPA affected local authorities and in some cases significantly lower.</p> <p><b>Action:</b> No change to the SPD required.</p>
	<p>Whilst our client fully understands the Council's need to raise additional funds to facilitate new SANG facilities within the Borough, we believe that there is an alternative that the Council should explore first and that is the Government's New Homes Bonus scheme which could provide a legitimate and secure funding regime to offset the increase in</p>	<p><b>Response:</b> The Council already supports the development industry by providing open spaces capable of conversion to SANGS. Other funding streams such as the New Homes Bonus (NHB) are not guaranteed in perpetuity. Such measures like the planning delivery grant could be withdrawn by central Government. This means that even if the Council decided to use NHB for the SPA, the Council could change</p>

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	<p>SPA contributions being sought. Taking this route would mean that the burden of provision is shared between the developer who will continue to pay contributions based on the existing arrangement and the Council through retention of Council Tax receipts. The Council could then review this arrangement in the future when the economy is more robust and such additional costs can be absorbed without contributing to a negative impact on housing delivery.</p>	<p>this decision at its own discretion. Therefore, reliance on other funding streams would result in the Council not being able to meet the Habitats Regulations and therefore not be an alternative solution.</p> <p>The Council has done its utmost to keep the SPA contributions to a minimum whilst at the same time ensuring that Habitats Regulations are being complied with. This will help to ensure that the majority of planning permissions are not refused on SPA grounds. Indeed the contributions in the final SPD are lower than in the consultation draft, following a recalculation of figures based on the latest housing trajectory (as set out in the Site Allocations Development Plan Document (DPD) Draft Submission) and a confirmation of SANGs areas and boundaries.</p> <p>The SPD is set out in accordance with national, regional and local policy frameworks. The South East Plan policy NRM6 states that local authorities will collect developer contributions towards mitigation measures and the SPD is compliant with this.</p> <p><b>Action:</b> No change to the SPD required.</p>
	<p>If the Council is intent on introducing the revised SPA as it stands, then we suggest that at the very least it is subject to a transitional arrangement whereby the revised charging structure is implemented at some point in the future (say 12 months following adoption) to allow developers to factor in any additional costs into future land acquisitions.</p>	<p><b>Response:</b> Current SPA avoidance and mitigation strategy in Bracknell Forest was set in 2007 (Limiting the Impact of Development SPD). This is now very out of date and not compliant with regional policy and the latest guidance such as the Thames Basin Heaths SPA Delivery Framework. At worst, any delay in updating SPA policy in Bracknell Forest could result in Natural England objecting to planning</p>

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		<p>applications if they are not compliant with Habitats Regulations and agreed policy/guidance.</p> <p><b>Action:</b> No change to the SPD required.</p>
<p><b>7. KW Henderson Esq, Warfield Priory</b></p>	<p>The 5km extent of the "Zone of Influence" is an arbitrary delineation that fails to reflect actual travel routes. Measured "as the crow flies" consequently includes sites (such as land adjoining Warfield Priory) within the 5km zone that in reality would be excluded, if based on distance travelled. The 5km zone should therefore be amended to reflect distance travelled.</p>	<p><b>Response:</b> The Thames Basin Heaths SPA Delivery Framework (2009) explains that the buffer zones are measured as the crow flies from the SPA perimeter to the point of access on the curtilage of the dwellings. The South East Plan Technical Assessor recommended that a zone of influence should be defined on the basis of travel distance. A travel distance approach was trialed by local authorities, however this led to increased confusion and uncertainty. The Thames Basin Heaths Joint Strategic Planning Board (JSPB) therefore recommends that, in the interests of certainty and clarity, the Zone of Influence of the Delivery Framework approach to provision of avoidance measures is based on a 5km linear distance. This distance is reflected in the Bracknell Forest Council Core Strategy Development Plan Document (2008) Policy CS14: Thames Basin Heaths Special Protection Area.</p> <p><b>Action:</b> This is made clearer in a footnote at the start of section 3 of the SPD.</p>
	<p>The application of an Avoidance and Mitigation Strategy based on a tariff that makes no distinction between those development proposals located just beyond the 400m boundary of the SPA (where arguably impact will be greater) and development on the fringes of the 5km zone, is not a reasonable and fair means of</p>	<p><b>Response:</b> The Thames Basin Heaths SPA Delivery Framework (2009) states that developments can provide - or make a contribution to the provision of - measures to ensure that they have no likely significant effect on the SPA. In doing so, residential development will not have to undergo an appropriate assessment. This principle has been established through the High Court</p>

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	<p>ensuring mitigation is commensurate with actual impact. The SPD should therefore acknowledge that the assessment of appropriate mitigation for sites located on the fringes of the 5km zone should be on a case by case basis and if impact is shown to be neutral, a requirement for mitigation will be nil.</p>	<p>Judgement of J Sullivan in Hart DC v SoS for Communities and Local Government [2008]. 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. This is clearly set out at the start of section 3 in the SPD.</p> <p><b>Action:</b> No change to the SPD required.</p>
<p><b>8. Environment Agency</b></p>	<p>The Draft Thames Basin Heaths Local Development Framework Documents are satisfactory.</p> <p>We note it is acknowledged that a flood risk benefit could be achieved through implementation of SANGS - this approach has been implemented elsewhere and we support the opportunity to reduce flood risk as a secondary benefit. To support this approach it would be necessary to have a good understanding of the frequency and severity of flooding at the proposed SANG location.</p>	<p>Noted.</p> <p><b>Response:</b> Agree that a flood risk benefit could be achieved through implementation of SANGS. This is however a detailed matter to be considered at the Management Plan stage.</p> <p><b>Action:</b> No change to the SPD required.</p>
<p><b>9. Warfield Parish Council</b></p>	<p>We consider that the proposed increase in visitors will far exceed doubling, as demonstrated in Table 5 Mitigation Carrying Capacity of SANGs, and this will not have been addressed in the survey.</p>	<p><b>Response:</b> Table 5 (now table 12) in Appendix 4 shows the carrying capacity of each SANG. This is the difference between the overall carrying capacity (based upon the 8ha/1000 standard) and the current visitor use. This approach is set out in the Thames Basin Heaths Delivery Framework (2009) and has been agreed with Natural England. The Strategic Access Management and Monitoring (SAMM) Project takes a strategic approach to visitor access management. It will monitor visitor use</p>

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		<p>of SANGs and SPA to ensure that the SPA strategy across the sub region is working.</p> <p><b>Action:</b> No change to the SPD required.</p>
	<p>The leisure-net 'Parks and Open Spaces Users Survey' states in its executive summary (section 1.3) "users typically indicated that their visit would not be adversely affected if there were to be reasonable increases in visitor numbers". However, the Parish Council considers that 7½ times the existing numbers of visitors far exceeds 'a reasonable increase'. We are concerned that at peak times it is likely that the increase in visitors will be well above the proposed 7½ fold increase and we recommend that this should be taken into account when surveying potential users. A more realistic survey would ask visitors about their potential attendance with these proposed increases in capacity which we think may make visitors less inclined to use these sites.</p>	<p><b>Response:</b> The Parks and Open Spaces Users Surveys were carried out in 2006 and 2008 and all the SANGs listed in table 5 (now table 12), Appendix 4 were agreed with Natural England at that time. This informs the SPA Avoidance and Mitigation Strategy and lies outside the scope of the SPD. There will be ongoing monitoring of visitors on the SANGs and the SPA through the Strategic Access Management and Monitoring (SAMM) Project which takes a strategic approach to visitor access management. This will help to ensure that the SPA strategy is working well across the sub region.</p> <p><b>Action:</b> No change to the SPD required.</p>
	<p>Appendix 4 &amp; 5 - we consider there is insufficient additional capacity at the Cut Countryside Corridor and are dismayed that a 4 fold increase in visitors is proposed for Jocks Copse/Tinkers Copse/The Cut/Garth Meadows/Larks Hill/Piggy Wood. In particular, we are concerned that Piggy Wood, a local wildlife site, and Larks Hill are considered to be suitable for increased use. Many residents are already deterred from using Larks Hill for informal recreation.</p>	<p><b>Response:</b> The Parks and Open Spaces Users Surveys were carried out in 2006 and 2008 and all the SANGs listed in Appendix 4 ,Table 5 (now table 12) were agreed with Natural England at that time. Since then, the Council has been receiving developer contributions and actively enhancing and managing these sites as SANGs. The net result has been major improvements to these open spaces with a continued guarantee to maintain and improve them in the future. There will be ongoing monitoring of visitors on the SANGs and the SPA through the Strategic Access</p>

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	<p>This site is used extensively for dog walking and the resulting dog fouling makes it unpleasant for informal recreation. Increased usage will only exacerbate this situation. As 50% of visitors arrive by car if the site is busy these visitors have both the means and reason to travel to less occupied areas.</p>	<p>Management and Monitoring (SAMM) Project which takes a strategic approach to visitor access management. This will help to ensure that the SPA strategy is working well across the sub region.</p> <p><b>Action:</b> No change to the SPD required.</p>
	<p>We wish to point out that some of the calculations for the capacities in Appendix 5 of the appendices appear to be incorrect. Jocks Copse/Tinkers Copse/The Cut (3.63 ha), Garth Meadows (7.1 ha), Larks Hill (7.44 ha), and Piggy Wood (2.77 ha) total 20.94 ha not 22.3 ha. If the figure of 20.94 ha is used the mitigation capacity of the sites will reduce by 170 people resulting in a total excess mitigation capacity of 1926.</p>	<p><b>Response:</b> In finalising the SPD, the Council has thoroughly checked (and in some cases amended) the boundaries and areas of all the SANGs. The Cut Countryside Corridor has been confirmed as; Jocks Copse/Tinkers Copse/The Cut = 5.88ha, Garth Meadows = 7.12ha, Larks Hill = 7.58ha, Piggy Wood = 2.06ha. This is a total of 22.64ha. This is set out in Appendix 5. These figures are used in Appendix 4 to calculate the SANG capacity.</p> <p><b>Action:</b> Update the information and maps in Appendix 5 following confirmation of the SANGs boundaries and areas. Update the SANGs areas and capacity calculations in Appendix 4 following confirmation of the SANGs boundaries and areas.</p>
	<p>On page 38 the figures for Longhill Park (9.3 ha), Milman Close (0.53 ha), Beswick Gardens Copse (0.54 ha) and Clintons Hill (3.94 ha) total 14.31 ha and not 15.79 ha. This would reduce the mitigation capacity of these sites by 185 people with an excess mitigation capacity of 1568. When combined the total mitigation capacity is reduced by 355 visitors to 16,080.</p>	<p><b>Response:</b> In finalising the SPD, the Council has thoroughly checked (and in some cases amended) the boundaries of all the SANGs. The Longhill Park Group (excluding Lily Hill Park) has been confirmed as; Longhill Park = 9.31ha, Milman Close = 0.53ha, Beswick Gardens Copse = 0.54ha and Clintons Hill 3.91ha. This is a total of 14.29ha. This is set out in Appendix 5. These figures are used in Appendix 4 to calculate the SANG capacity.</p>

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	<p>We note the key objective of the SPA mitigation plan is to ensure new developments do not have an adverse effect on the protected species within the SPA (2.3.2). The majority of potential SANGs are habitat to at least one of the 24 species in the Bracknell Biodiversity Action Plan with some sites supporting 5 or 6 species. We are concerned that potential SANGs, which host at least 50% of Bracknell Forest's biodiversity species, may be under threat with increased visitor usage and particularly dog exercising. Bracknell Forest has an objective (section 1.2 of the Bracknell BAP) to protect the habitat of these species and when development occurs to ensure the best results for the wildlife. We are very concerned that through the protection of the Thames Basin Heath other sites will be severely disadvantaged and there is no plan to protect the existing diverse habitat of these important sites.</p>	<p><b>Action:</b> Update the information and maps in Appendix 5 following confirmation of the SANGs boundaries and areas. Update the SANGs areas and capacity calculations in Appendix 4 following confirmation of the SANGs boundaries and areas.</p> <p><b>Response:</b> As the Thames Basin Heaths SPA is a designated site of European importance, its protection takes precedent over the protection of other sites which may be of national or local nature conservation importance. It is however incorrect to say that there is no plan to protect the existing diverse habitat of the SANGs. Every SANG will be expected to have a management plan agreed with Natural England. These management plans will need to take account of existing biodiversity interests such as BAP species and be managed sympathetically to conserve or even enhance these species. The implementation of the management plans are underway by officers responsible for providing SANG improvements and other requirements on these areas such as for open space and biodiversity.</p> <p><b>Action:</b> No change to the SPD required.</p>
<p><b>10. Berks, Bucks and Oxfordshire Wildlife Trust (BBOWT)</b></p>	<p>We found the draft SPD to be clear in terms of securing contributions from developers to the two prong avoidance measures of SANG and SAMM. We are particularly pleased to see that the approach to bespoke</p>	<p>Noted.</p>

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	<p>solutions is clearly set out so that although large developers may provide their own bespoke SANG, a contribution to the important SAMM element is still expected.</p>	
	<p>We would be keen to understand the approach that will be taken to older schemes that have been granted consent without avoidance measures and which therefore require a Regulation 63 review under the Conservation of Habitats and Species Regulations 2010. It is not clear from Appendix 3 how many dwellings this applies to and how they are likely to be addressed under a Regulation 63 review.</p>	<p><b>Response:</b> The figures are set out in paragraph 3 in Appendix 3. However, this is at a point in time and the Council are monitoring existing consents on a regular basis. The Regulation 63 review is a process to be carried out outside of the SPD process and the Council welcomes on-going dialogue in this respect with interested parties.</p> <p><b>Action:</b> No change to the SPD required.</p>
	<p>We would welcome the following changes to the draft SPD:</p> <p>References to the SANG standard of 8 hectares per 1,000 population should refer to “a minimum” of 8 hectares throughout the SPD and its Appendices as set out in the Delivery Framework and at para. 3.3.3 of the draft SPD. For example, see footnotes 19, 28 and 32 of the draft SPD where this wording is missing. There are numerous missing references to this wording in the Appendices. Also para. 29 of Appendix 4 records the 8 hectare standard as a average; this is incorrect as there is no reference to this standard being an average in either the Delivery Framework or NRM6 of the South East Plan.</p>	<p><b>Response:</b> It is agreed that changes should be made where relevant in the SPD to ensure consistency with the Delivery Framework.</p> <p><b>Action:</b> The SPD has been amended to be consistent with the Delivery Framework which states 'at least 8ha/1000 population'.</p>

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	<p>Some non-residential development towards the edge of the 400m zone may require a Habitats Regulations Assessment if for example, there is an increase in commuting across the SPA to access these sites or there is the possibility of recreation on the SPA in lunch hours or before/after work etc. This may be relevant to large mixed use schemes such as TRL or Broadmoor Hospital. It seems premature at this stage to suggest that the commercial elements of such sites are “unlikely to require a HRA” when they are very close to the SPA as set out on pages 2 and 24. We consider this sentence should be removed or the caveat added “unless they are located close to the SPA”. We do however agree that such schemes should be considered on a case by case basis in consultation with NE where appropriate.</p>	<p><b>Response:</b> It is agreed that changes should be made where relevant in the SPD to ensure clarity in respect to sites such as Broadmoor or Crowthorne Business Estate.</p> <p><b>Action:</b> Tables 1 and 8 (now table 7) have been amended. 'Unlikely to require a Habitats Regulations Assessment' has been deleted.</p>
<p><b>11. Natural England</b></p>	<p>Table 1 - Natural England have concerns over the wording used in two sections of this table, and throughout the document. We feel it is not compliant with Policy NRM6 of the South East Plan. It relates to the consideration of large bespoke development both within and outside the five kilometre zone of influence. The table states the applications will be considered on a case by case basis “in consultation with Natural England and Bracknell Forest Council”. The wording of NRM6 states that these types of developments need to be agreed with Natural England. We</p>	<p><b>Response:</b> It is agreed that changes should be made where relevant in the SPD to ensure consistency with the the intention of NRM6.</p> <p><b>Action:</b> Wording has been amended throughout the document to 'in agreement with' Natural England.</p>

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	<p>recommend that the wording in this table is changed from “consultation” to “agreement with”.</p>	
	<p>3.0.4 - The paragraph correctly identifies the two prongs available for developers to contribute to, however it does not mention the third prong, Habitat Management. Natural England acknowledge that it currently is up to ourselves, land owners and managers to work on this prong, however for completeness we feel this document should include reference to the third prong, and that it is made clear that developers cannot contribute towards it.</p>	<p><b>Response:</b> It is agreed that changes should be made where relevant in section 3 of the SPD to clarify the need for habitat management.</p> <p><b>Action:</b> Habitat management has been included in section 3 of the final SPD.</p>
	<p>Figure 1 - Shows the 400m and 5km buffer, but does not show the 7km buffer. Again for completeness Natural England feel it is necessary to include this.</p>	<p><b>Response:</b> It is agreed that the 7km buffer should be added to Figure 1 for clarification.</p> <p><b>Action:</b> Figure 1 has been amended to include the 7km buffer.</p>
	<p>3.0.7 - This paragraph covers large scale developments over 5km away from the SPA. It does not mention that avoidance and mitigation packages need to be agreed with Natural England. We recommend this is added to this paragraph.</p>	<p><b>Response:</b> It is agreed that changes should be made to the paragraph in section 3.0. covering large scale developments over 5km away from the SPA. It should be clarified that measures should be also agreed with Natural England.</p> <p><b>Action:</b> The paragraph 3.0.7 (now 3.0.8) covering large scale developments over 5km away from the SPA has been amended to state that avoidance and mitigation measures need to be agreed with Natural England.</p>

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	<p>3.5 - This section covers the issue of bespoke solutions. There is no reference in this document as to what hectare standard Bracknell Forest would be looking for from these type of developments. Natural England feel it is vital to cover this point here. We would recommend that “a minimum of 8 hectares per 1000 head of population” is added to this paragraph. Along with some discussion around this potentially not being enough if the development is large scale and in close proximity to the SPA. This can be tied in to the sentence regarding potential Appropriate Assessment and agreement with Natural England.</p>	<p><b>Response:</b> There is a reference to the hectare standard in the footnotes in this section. However, additional amendments should be made for clarification. It is also stated that for bespoke solutions the minimum SANGs standard may not be adequate to demonstrate that the requirements of the Habitats Regulations are met - especially if the development is large scale and in close proximity to the SPA.</p> <p><b>Action:</b> The wording in section 3.5 has been amended to state that bespoke solutions would need to be 'at least 8ha per 1,000 population' as set out in the Thames Basin Heaths SPA Delivery Framework (2009).</p>
	<p>3.5.1, 3.5.3, 3.5.4 and Table 8 - We recommend changing “consultation” to “agreement with” as discussed above in Table 1.</p>	<p><b>Response:</b> It is agreed that the term "consultation" should be replaced with "agreement" because this is actually what happened during the process.</p> <p><b>Action:</b> 'Consultation' has been changed to 'agreement' in the relevant sections.</p>
	<p>Appendix 3 - Table 1. Footnote 4 states that 601 dwellings are providing mitigation in line with the old Avoidance and Mitigation Strategy. However the latest data provided to the JSPB shows that 926 dwellings have made contributions. Why is there a difference?</p>	<p><b>Response:</b> Table note 4 in Appendix 3 of the SPD is an estimate and only includes allocated sites. The correct and up to date figures for the number of dwellings providing mitigation in line with the previous Avoidance and Mitigation strategy are those figures reported regularly to the Joint Strategic Partnership (JSPB). These figures are set out in the Council's SPA monitoring spreadsheet and are constantly changing. This spreadsheet is used on a daily basis to allocate developments to particular SANGs and record contributions received and spent.</p>

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		<p>Because this total changes it is better to remove its reference from Table 4 altogether.</p> <p><b>Action:</b> Remove table note 4 in Appendix 3.</p>
	<p>Appendix 4 - Table 5. The residual SANG areas available in this document do not match what was submitted as the latest data to the JSPB. Can you confirm which is correct please?</p>	<p><b>Response:</b> The residual SANG area shown in Appendix 4 is based on the total area of strategic SANG in Bracknell Forest minus the existing number of visits to each site. It does not take account of SANGs capacity already used. SANGs contributions already received have been taken into account in Appendix 7 - the cost calculations. This will be made clearer in the document.</p> <p>The figures submitted to the JSPB show the total residual area of SANG available and the amount that has already been used. These figures reflect those in the BFC SPA monitoring spreadsheet. In the process of finalising the SPD, the Council has confirmed the SANGs areas / boundaries and the SPD has been amended accordingly. BFC on-going monitoring and the SPD have been reconciled, for example to take account of the change from the old 12ha/1000 population standard to reflect the 8ha/1000 population standard. This will be reported to the JSPB when next required.</p> <p><b>Action:</b> Check SANGs areas / boundaries and amend the SPD. In Appendix 7, note that the SANGs contributions already received have been taken into account in the cost calculations.</p>

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12. RSPB	<p>The revised SPD is generally thorough, clearly translating and further explaining in a local context the provisions of the NRM6 of the South East Plan and the further guidance contained within the endorsed Delivery Framework (March 2009).</p>	<p>Noted.</p>
	<p>Table 1 - Bespoke schemes. The SPD suggests that these are usually schemes of 110+ dwellings. Section 3.5 clarifies that this is the threshold that would generate a requirement for the minimum SANG size (i.e. 2ha). However, it is not clear whether schemes of 110+ dwellings could, in some instances (e.g. at greater distances from the SPA) contribute towards strategic SANGs. Presumably this is possible.</p>	<p><b>Response:</b> 109 dwellings is the minimum number of dwellings necessary to generate a requirement for a 2ha SANG (at an average of 2.31 people per dwelling and at least 8ha per 1,000 population SANG requirement) which is the smallest SANG by area which would be acceptable. 110 dwellings was an error in the draft SPD.</p> <p>Larger developments (109+) require a bespoke solution as set out in table 1 and table 8. This is because there is limited existing SANGS capacity in the appropriate catchment areas in the Borough to allow large sites to make contributions to existing SANGS. However, it may be appropriate for the Council to help provide new SANGS for new sites around the town centre.</p> <p><b>Action:</b> The figure 110 dwellings has been amended to 109 dwellings. Amend section 3.5 to include the requirement for a bespoke SANG for larger developments as set out in the summary tables 1 and 8 (now table 7).</p>
	<p>It is stated that non-residential development within 400m of the SPA will be subject to Habitats Regulations Assessment (HRA) and may be required to provide avoidance and mitigation measures. It is stated in the next section of the table that</p>	<p><b>Response:</b> It is agreed that amendments should be made to clarify that non-residential development will be dealt with on a case by case basis and therefore deleting reference which says "Unlikely to require a Habitats Regulations Assessment".</p>

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	<p>non-residential development between 400m and 5km is unlikely to require an HRA. We are concerned that this guidance is potentially misleading, as the 400m and 5km distance bands are derived from the evidence base for the impacts of residential development. The impacts arising from non-residential development could differ greatly. It is, for example, quite conceivable that an industrial development well beyond 400m from the SPA that could lead to potential effects, for example as a result of associated haulage routes passing within close proximity of the SPA. We recommend that this guidance should therefore be removed and the SPD limited to residential development, in line with the Delivery Framework.</p> <p>Paragraph 3.1.6 provides more appropriate guidance on the approach to non-residential developments, which we recommend should be retained.</p>	<p><b>Action:</b> Section 3.2 has been amended to state that all non-residential development should be dealt with on a case by case basis and Table 4 has been removed. Paragraph 3.1.6 (now 3.1.9) has been retained. Tables 1 and 8 (now table 7) have been amended. 'Unlikely to require a Habitats Regulations Assessment' has been deleted.</p>
	<p>Footnote 2, page 2 states, against Total Tariff: "Reduced to reflect any in-kind mitigation measures, which will be assessed through Appropriate Assessment on a case-by-case basis". Does it mean that the tariff will be reduced in some circumstances? And, if so, what could such "in-kind" measures include? Presumably any such measures should also be agreed with NE. This point should be clarified and the scope of possible in-kind measures set out.</p>	<p><b>Response:</b> This comment refers to table note 2, Table 1. This wording was an error in the draft SPD. This should be replaced with a more accurate wording that explains that both SANG and SAMP should ordinarily be applied unless a Habitats Regulations Assessment, approved by the Council in agreement with Natural England, will demonstrate no adverse effect on the integrity of the SPA in accordance with the Habitats Regulations.</p> <p><b>Action:</b> Table note 2, Table 1 has been removed and replaced with wording to state that both SANG and SAMP should</p>

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		<p>ordinarily be applied unless it can be demonstrated that, through any other package of avoidance and mitigation measures put forward, the development will lead to no significant adverse effect on the integrity of the SPA in accordance with the Conservation of Habitats and Species Regulations 2010. In accordance with this legislation, the local authority must adopt a precautionary approach and any avoidance and mitigation measures must be agreed in advance with the Council and Natural England.</p>
	<p>1.1.2 page 3 - the SPA 'zone of influence' spans 11 local authorities, not the SPA boundary itself.</p>	<p><b>Response:</b> This is agreed and the SPD should be amended for clarification</p> <p><b>Action:</b> Paragraph 1.1.2 has been amended to state that the SPA zone of influence spans 11 local authorities.</p>
	<p>Footnote 1 page 3 &amp; 2.1.1 page 8 - The EC Birds Directive has been updated, and should now be referenced as follows: Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (codified version) or Council Directive 2009/147/EC.</p>	<p><b>Response:</b> The SPD should be updated to reflect the most up-to-date directive.</p> <p><b>Action:</b> The references to the EC Birds Directive have been updated.</p>
	<p>2.3.1 page 10 - The SPD states that potential adverse effects on the SPA could arise as a result of the following: an increase in population close to the SPA, increased recreational activity, an increase in urban area. We would suggest that this is a</p>	<p><b>Response:</b> This is a reflection of how it is structured in the Bracknell Forest Council Appropriate Assessment to the Core Strategy DPD (June 2007) and should be updated to better reflect the Thames Basin Heaths SPA Delivery Framework (2009).</p>

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	slightly arbitrary (and potentially confusing) distinction, as all are interrelated in the context of increased recreational disturbance.	<b>Action:</b> The bullet points in 2.3.1 have been deleted and the sentence been amended to better reflect the Thames Basin Heaths SPA Delivery Framework (2009).
	2.3.2 page 10 - This section presents a broad list of potential urban impacts on heathlands. However, it should be noted that the avoidance and mitigation measures set out within the SPD are only designed to address recreation-related pressures. It will not mitigate for many of the additional issues listed under 2.3.2, such as hydrological impacts, fragmentation and pollution.	<b>Response:</b> The Council expects all issues to be considered and, where appropriate, addressed in respect to the SPD. Therefore, further clarification should be made to the SPD. Other effects should be considered in a Habitats Regulations Assessment.  <b>Action:</b> Section 2.3 has been amended to make it clear that the SPD tackles recreation-related pressures. Non-residential development (particularly in close proximity to the SPA) and larger residential development may need to take account of the additional issues listed.
	3.0.5 page 11 - this section states that “The avoidance measures should be provided in order that they can function in perpetuity.” Although it is stated elsewhere in the SPD, we would welcome further reference here to the need for measures to also be provided ahead of occupancy of the new housing.	<b>Response:</b> The requirement for measures to be provided before occupancy is set out in relevant sections elsewhere in the document. The Council do not consider it necessary to repeat it again here.  <b>Action:</b> No change to the SPD required.
	Table 4 page 14 - Following on from the guidance in Table 1, Table 4 goes further to suggest that employment and commercial development within 400m is unlikely to be allowed as “no effective avoidance and mitigation measures are considered to be available which would avoid impact on the SPA”. We strongly recommend that Table 4 is	<b>Response:</b> This is agreed and the SPD should be amended.  <b>Action:</b> Table 4 has been removed and the text in section 3.2 amended to make the distinction between residential and non-residential clearer.

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	<p>amended to more clearly reflect the agreed approach to the 400m zone, and reference to non-residential development is removed.</p>	
	<p>3.5.8 page 19 - we consider that this section could be clearer on the requirement for developers to also fund the ongoing management of any in-kind measures in perpetuity.</p>	<p><b>Response:</b> Relevant development is expected to fund management of SANGS in perpetuity and the SPD should be amended to clarify this.</p> <p><b>Action:</b> Section 3.5 has been amended to state clearly that there is a requirement for developers to fund ongoing SANGS management in perpetuity.</p>
	<p>Appendix 1 - The map showing the location of the SPA and the 5km zone is helpful, however it also appears to include other Natura 2000 sites in the area, such as the South West London Waterbodies SPA. Confusingly, the key identifies all such sites as being the Thames Basin Heaths SPA. This should be amended to avoid confusion.</p>	<p><b>Response:</b> This is agreed and the map should be replaced for clarity.</p> <p><b>Action:</b> The map in Appendix 1 has been replaced.</p>
<p><b>13. Warfield (North Bracknell) Consortium</b></p>	<p>Summary and sections 3.4 and 3.5: We contest the requirement for Strategic Access Management and Monitoring (SAMM) contributions for all schemes, including those with bespoke SANG provision. An objection to the requirement for SAMM contributions has been made by the Consortium on several previous occasions.</p>	<p><b>Response:</b> Although both SANG and SAMM mitigation would ordinarily be applied to relevant developments, there may be very few instances where this is not the case.</p> <p><b>Action:</b> The SPD has been amended to state that both SANG and SAMM should ordinarily be applied unless it can be demonstrated that, through any other package of avoidance and mitigation measures put forward, the development will lead to no significant adverse effect on the integrity of the SPA in accordance with the Conservation of Habitats and Species Regulations 2010. In accordance with</p>

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		<p>this legislation, the local authority must adopt a precautionary approach and any avoidance and mitigation measures must be agreed in advance with the Council and Natural England.</p>
	<p>The inclusion of SMM contributions is apparently not an element of this SPD, which is subject to this consultation, but one that has already been approved following an 'Executive decision on 5 July 2011, to sign the SMM Agreement' (according to the Limiting the Impact of Development SPD webpage on the BFC website). This implies that the introduction of increased contributions has been agreed outside of the process of public consultation. This would appear contrary to policy guidance (PPS12).</p>	<p><b>Response:</b> A first consultation on the Draft SPD was carried out in November 2009. The avoidance and mitigation measures in this draft included SMM contributions (although the proposal at that time was for them to be applied on a 'per dwelling' basis).</p> <p>PPS12 must be taken into account. However, in relation to the SPA, it would be unlawful to have to wait the end of an SPD adoption process before implementing the revised contributions. The SMM agreement is a material consideration in the determination of planning applications.</p> <p>The Habitats Directive and the Conservation of Habitats and Species Regulations 2010 preclude the grant of planning permission unless the local planning authority is satisfied that there will be no adverse impact upon the SPA. The objective evidence currently available points to the level of contributions set out in the revised Limiting the Impact of Development SPD being required to avoid any adverse impact. It follows that, if only a lower level of contributions could be required, then planning permission would have to be refused. In this case, pending the SPD adoption, a moratorium would once more have to be imposed upon residential development within a 5km of the SPA. The evidence pointing to increased contributions is a "material consideration" in the determination of applications and can, indeed must, be taken into account.</p>

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	<p>Object to the blanket approach of applying the SAMM contribution requirement in all cases, including those where provision of a bespoke SANG as part of an impact avoidance and mitigation strategy can demonstrate impact avoidance. The Consortium would argue that, in those circumstances where an impact avoidance and mitigation strategy (including provision of a bespoke SANG) for a scheme can demonstrate objectively that the development will not contribute to an adverse effect on the TBH SPA (i.e. the impact is avoided), then there is no residual adverse effect to 'mop up'.</p>	<p><b>Action:</b> No change to the SPD required.</p> <p><b>Response:</b> Although both SANG and SAMM mitigation would ordinarily be applied to relevant developments, there may be very few instances where this is not the case.</p> <p><b>Action:</b> The SPD has been amended to state that both SANG and SAMM should ordinarily be applied unless it can be demonstrated that, through any other package of avoidance and mitigation measures put forward, the development will lead to no significant adverse effect on the integrity of the SPA in accordance with the Conservation of Habitats and Species Regulations 2010. In accordance with this legislation, the local authority must adopt a precautionary approach and any avoidance and mitigation measures must be agreed in advance with the Council and Natural England.</p>
	<p>In respect of all 'one off' contributions that may eventually be agreed, and will presumably be used to purchase a financial instrument such as an annuity to provide a stream of future income for the local authority, it is recognised that current very low interest rates make the present cost unusually high. Therefore the Consortium expects some recognition that should interest rates increase, or other financial circumstances arise having the same effect, then 'one off' contributions being requested at the time will be expected to decrease appropriately.</p>	<p><b>Response:</b> At the time of calculating any 'one off' contributions, the Council will take into account the current financial situation as part of due process..</p> <p><b>Action:</b> No change to the SPD required.</p>

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	<p>The approved Core Strategy Policy CS5 (for Warfield) does not prescribe a bespoke SANG, only 'measures to avoid and mitigate the impact of the residential development upon the TBH SPA' will be required. The TBH SPD is being too prescriptive. Furthermore, justification for statements relies on other draft policy documents which are themselves yet to be adopted.</p>	<p><b>Response:</b> It is not the intention to imply that the wording in the Core Strategy DPD demands a bespoke SANG. It does however state that 'development will be detailed through further policies...'. Larger developments such as at Warfield will be required to provide bespoke SANG as there is not sufficient strategic SANG that has a catchment covering Warfield to which these developments could contribute. The wording should be amended to reflect the Core Strategy DPD and the Warfield SPD for clarification.</p> <p><b>Action:</b> Amend wording in section 3.5 to better reflect the wording in the Core Strategy DPD and Warfield SPD.</p>
	<p>Table 1 in Appendix 3 - Table note 2 states that, due to their size, the urban extensions identified in the Site Allocations DPD will also be expected to deliver bespoke SANGS. This includes the Warfield SPD allocation. Reference is made to the draft Site Allocations DPD to support a requirement for a bespoke SANG but this is not the wording in Policy CS5 in the Core Strategy DPD, which merely states that 'measures to avoid and mitigate the impact of the residential development upon the TBH SPA' will be required.</p>	<p><b>Response:</b> It is not the intention to imply that the wording in the Core Strategy DPD demands a bespoke SANG. It does however state that 'development will be detailed through further policies...'. The urban extensions will be required to provide bespoke SANG which is consistent with guidance and other established requirements. It has always been the intention for the Council to allocate capacity for strategic SANGS to smaller sites over the full Core Strategy period to 2026 whilst the site at Warfield has land to provide a bespoke solution. This is now set out in the Warfield SPD.</p> <p><b>Action:</b> No change to the SPD required.</p>
	<p>Section 3.5 Bespoke Solutions</p> <p>The final bullet point at paragraph 3.5.2 implies that Core Strategy DPD Policy CS5 requires bespoke avoidance and</p>	<p><b>Response:</b> It is not the intention to imply that the wording in the Core Strategy DPD demands a bespoke SANG. It does however state that 'development will be detailed through further policies...'. Larger developments</p>

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	mitigation measures. This is not how the policy is worded in the adopted Core Strategy DPD.	such as at Warfield will be required to provide bespoke SANG to be consistent with policy, guidance and other requirements.  <b>Action:</b> Amend wording in section 3.5 to better reflect the wording in the Core Strategy DPD and the Warfield SPD.
	The statement under the final bullet point at paragraph 3.5.2 refers to the draft Warfield SPD in support of the view that a bespoke solution is required. The Consortium would argue that since the Warfield SPD is itself a draft document at this stage reference to it should not be used to support these statements.	<b>Response:</b> The Warfield SPD was adopted in February 2012. This document has been subject to appropriate assessment and consultation.  <b>Action:</b> Reference to the final Warfield SPD has been made in Section 3.5.
	The Consortium argues that the policy (CS5) does not prohibit contributions to BFC's strategic avoidance and mitigation fund. The Consortium therefore maintains that a bespoke solution could include such contributions.	<b>Response:</b> It is agreed that policy CS5 in the Core Strategy DPD does not prohibit contributions to strategic avoidance and mitigation. However, the SPD has set out more detailed guidance on bespoke SANGS. Larger developments will be required to provide bespoke SANG as there is not sufficient strategic SANGs that have a catchment covering Warfield to which these developments could contribute.  <b>Action:</b> No change to the SPD required.
	Appendix 5 shows and lists the component parts of the Cut Countryside Corridor. There is no explanation for the omission of Garth Pond, which is clearly shown on the map in Appendix 8 to the June 2007 Thames Basin Heaths Technical Background Document.	<b>Response:</b> The Cut Countryside Corridor is a group of sites connected by link sites, of which Garth Pond is one. Link sites are not specifically part of the SANGs but offer significant potential to provide access improvements to provide the circular SANGs walk and improve access into the SANGs. Maps of the SANGs and their link sites (where relevant) can be found in the more

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		<p>detailed Open Space Management Plans on the Council's website at <a href="http://www.bracknell-forest.gov.uk/spa">http://www.bracknell-forest.gov.uk/spa</a></p> <p><b>Action:</b> No change to the SPD required.</p>
	<p>Paragraph 3.3.5, Table 5</p> <p>The Cut Countryside Corridor is assessed as having a 'Catchment Zone' of 5km. In reality, this group of open spaces is unlikely to be a destination to which many people would choose to travel 5km. The Cut Countryside Corridor does, however, provide good recreational opportunities for local people. We consider that the people most likely to use this SANG are those within walking distance or a very short drive, i.e. within 1km of any component part. The Consortium therefore proposes that Table 5: Suitable Areas of Strategic SANGs should be amended as follows:</p> <p>The Cut Countryside Corridor - Catchment Zone = 1km* A footnote should be included which reads: * 'due to its fragmentary nature, which means that a walk of the qualifying length for a large SANG would necessarily involve a 300m stretch along a busy distributor road.'</p>	<p><b>Response:</b> The Cut Countryside Corridor has been approved for use as a SANG by Natural England has been operating as a SANG since 2007. It forms part of the strategic suite of SANGS to deliver housing throughout the entire Core Strategy plan period (to 2026). It is inappropriate to review catchments without a comprehensive review of the SPA and Core Strategy housing levels because of an arbitrary comment on the SPD. It has always been the intention to provide SANGS with the development and the Council in the Major Location for Growth background Paper which supported the Core Strategy produced an illustrative plan which provided open space way over the amount required by the normal Council open space standards. The Council has been taking developer contributions for enhancement and maintenance of the site, in accordance with the approved management plan which can be viewed on the Council's website at <a href="http://www.bracknell-forest.gov.uk/spa">http://www.bracknell-forest.gov.uk/spa</a></p> <p>There are no plans to alter its catchment zone.</p> <p><b>Action:</b> No change to the SPD required.</p>
	<p>8ha Standard - Paragraphs 3.3.3, 3.5.6 &amp; paragraph 29 in Appendix 4 Paragraph 3.3.3 states that BFC considers an average of 8ha per 1000 new residents across the Borough is a suitable standard for provision of strategic</p>	<p><b>Response:</b> The 8ha per 1,000 population SANG standard is a minimum, not average, standard (any errors in SPD have been amended). As stated in section 3.5, applications where bespoke avoidance and mitigation measures are applied will be dealt with</p>

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	<p>SANG, but states at paragraph 29 in Appendix 4 that this figure 'is not directly transferable to bespoke solutions, where compliance with a general standard may not be sufficient to demonstrate that the requirements of the Habitats Regulations are met'. The only explanation offered for any difference between strategic and bespoke SANG is reference at paragraph 3.5.6 (footnote 30) to the SoS decision letter on the TRL Site, Crowthorne. The Consortium would welcome a discussion on the factors which will be taken into account in determining the adequacy of a bespoke SANG, where these are different from, or additional to the criteria set out in the SPD.</p>	<p>on a case by case basis in accordance with the Habitats Regulations 2010. Measures will be agreed with the Council and Natural England. A useful starting point for assessing the quality of a SANG can be found in the guidance issued by Natural England 'Guidelines for the creation of Suitable Accessible Natural Green Space (SANGS)'. This can be viewed on the Council's website at <a href="http://www.bracknell-forest.gov.uk/spa">http://www.bracknell-forest.gov.uk/spa</a></p> <p><b>Action:</b> The 8ha per 1,000 population SANG standard is a minimum, not average, standard. Any errors in SPD have been amended.</p>
	<p>Paragraph 3.3.3 sets out BFC's position that SANG must be in addition to normal open space requirements. Footnote 19 sets out the reasoning that each serves a different purpose, and that the capacity of SANG has been calculated after discounting any Open Space of Public Value (OSPV). This paragraph seems inconsistent with BFC's strategic impact avoidance and mitigation strategy, from paragraph 3.3.5. This relies on the enhancement of existing passive open spaces to create SANG. Some of these passive open spaces, including Larks Hill, were provided as Public Open Space (POS) for earlier developments.</p>	<p><b>Response:</b> Open land to avoid and mitigate adverse impacts on habitat protected by the SPA designation is not the same as open space provision to meet recreational needs. Each serves a different purpose and is defined as such. Therefore the capacity of the SANG is based on 8ha/1000 persons after discounting any relevant OSPV. Management of the SANGs is required to bring the sites up to a higher quality which will encourage more visitors and divert visits away from the SPA. If contributions towards the management of open space provision are reduced, the baseline quality of OSPV will be reduced. This baseline is a consideration in providing the necessary measures to bring SANGs up to the required standard.</p> <p><b>Action:</b> No change to the SPD required.</p>

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	<p>In Natural England's e-mail to EPR as it pertained to the redevelopment of the RAF Staff College in Bracknell, of 2 Oct 2007, Natural England clearly states that it does not object to SANG also being counted as passive open space. Section 2 of the Annex to PPG17 sets out the types of open space that may be of public value and many areas of SANG will fit this type of OSPV exactly. The PPG17 Annex goes on, in section 3, to advise that 'Local authorities should also recognise that most areas of open space can perform multiple functions. They should take account of the various functions of open space when applying the policies in this document.'</p> <p>Whilst, in his report on the RAF Staff College Inquiry (Appendix 3), the Inspector did not set out his views on this issue explicitly, at paragraph 15.3.19 he made it clear that he believed that the SANG shortfall was just 2.36ha. This means that he accepted that the proposed SANG could also be counted as passive open space. His position on this was endorsed by the Secretary of State at paragraph 21 of Appendix 4.</p> <p>The Council is therefore right to propose to use POS for SANG, as part of its own avoidance and mitigation strategy. However, it is inconsistent then to claim in paragraph 3.5.7 that these land uses are so incompatible that separate provision is required in</p>	<p><b>Response:</b> Open land to avoid and mitigate adverse impacts on habitat protected by the SPA designation is not the same as open space provision to meet recreational needs. Each serves a different purpose and is defined as such. Therefore the capacity of the SANG is based on 8ha/1000 persons after discounting any relevant OSPV as set out in Appendix 4. Management of the SANGs is required to bring the sites up to a higher quality which will encourage more visitors and divert visits away from the SPA. If contributions towards the management of open space provision are reduced, the baseline quality of OSPV will be reduced. This baseline is a consideration in providing the necessary measures to bring SANGs up to the required standard.</p> <p><b>Action:</b> No change to the SPD required.</p>

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	<p>bespoke SANG. 5.12 The Consortium therefore suggests that paragraphs 3.3.3 and 3.5.7 of the SPD should be amended to read as follows: 'Appropriately designed open space can be of public value as required by PPS 17 and also provide SANGs, providing it meets Natural England's SANGs quality criteria.'</p>	
	<p>SANG and SAMM Contributions - Section 4 and Appendix 7. Even without taking the additional amount needed for SAMM into account, the SANG contributions have increased enormously. In particular, annual maintenance costs have increased substantially. There is no clear explanation for the increase of the term from 20 years to 125 years. As a consequence of this increase, there is a large increase in facilitation costs.</p>	<p><b>Response:</b> The period for the maintenance of SANGs is currently set at 20 years because this was the plan period. The new SPD complies with South East Plan Policy NRM6 and the Thames Basin Heaths SPA Delivery Framework (2009) which states that mitigation measures must be provided 'in perpetuity'. In the Draft SPD 2009, this period was set at 80 years based on the Perpetuities and Accumulations Act 1964. A longer 'in perpetuity' period of 125 years has been applied in the Draft SPD 2011 due to a change in the legislation which defines the 'in perpetuity' period (Perpetuities and Accumulations Act 2009). This has, of course, lead to an increase in contributions for the maintenance of SANGs although the Council has worked hard to keep such contributions as low as possible.</p> <p>Table 8 (now table 15) in Appendix 7 sets out the reason for the requirement of a facilitation sum. Forward planning and delivering the SPA Avoidance and Mitigation Strategy involves a significant amount of work for the Council and this sum enable the Council to do this. If the SPA Avoidance and Mitigation Strategy were not in place and agreed with Natural England, this would result in the Council being unable to grant planning</p>

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		<p>permission on SPA grounds for the majority of developments within Bracknell Forest.</p> <p><b>Action:</b> A note to explain the 125 year 'in perpetuity' period has been added to Appendix 7 and Section 4 of the final SPD.</p>
	<p>On top of the increase in SANG contributions, the cost of SAMM amounts to a further substantial increase in the overall charge being levied. Nowhere are the charges or the proposed increases in the charges objectively justified.</p>	<p><b>Response:</b> The SAMM contributions replace the access management and education contributions that are set out in the Limiting the Impact of Development SPD. These are a result of access management and monitoring now being coordinated strategically by Natural England, in line with policy NRM6 of the South East Plan and the Thames Basin Heaths SPA Delivery Framework (2009). Further information on the SAMM Project can be found on the Council's website at <a href="http://www.bracknell-forest.gov.uk/spa">http://www.bracknell-forest.gov.uk/spa</a></p> <p><b>Action:</b> No change to the SPD required.</p>
	<p>SANGs Contribution Calculation - Paragraph 4.1.7, Table 6 and Appendix 7 - b) Paragraph 4.1.7 Table 6 relies on calculations in Appendix 7 section b which now uses the period of 125 years for 'in perpetuity'. However, no guidance is given on what period would be acceptable for calculating ongoing funding for a bespoke SANG. The Consortium considers that this guidance is essential in order for the impact avoidance and SPD to be transparent and robust.</p>	<p><b>Response:</b> Guidance in section 3.5 states that bespoke SANGs should be provided in perpetuity. Each bespoke SANG will be considered on a case by case basis, in agreement with Natural England.</p> <p><b>Action:</b> No change to the SPD required.</p>

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<p><b>14. Legal and General Property Partners (Life Fund) Ltd</b></p>	<p>Tables 1 and 8</p> <p>As currently worded these tables imply that an Appropriate Assessment is a pre-requisite for large residential developments (see SANG Contribution column). This cannot be correct, since in undertaking a Habitats Regulations assessment it may be possible to demonstrate that the plan/project will not be likely to have a significant effect on the European site, therefore the need for an Appropriate Assessment is not triggered.</p>	<p><b>Response:</b> It is agreed that the wording should be amended for this possibility notwithstanding the probable need for an Appropriate Assessment.</p> <p><b>Action:</b> In the final SPD, reference has been made to the Habitats Regulations instead of an Appropriate Assessment in tables 1 and 8 (now 7).</p>
	<p>Paragraph 1.1.6: The last sentence should refer to 'potential effects' on the SPA as opposed to "impacts". This comment also applies more widely within the document and all references should be picked up by the authority where consistency with the wording of the Habitats Directive/Regulations is required.</p>	<p><b>Response:</b> It is agreed that the wording in 1.1.6 should be amended to replace 'impacts' with 'effects'. It is also agreed that references to 'impacts' throughout the document should be amended to read 'effects' in line with the Habitats Directive/Regulations.</p> <p><b>Action:</b> Throughout the SPD, the word 'effects' has replaced 'impacts', where appropriate.</p>
	<p>Paragraph 2.1.3: The wording here should accurately reflect that of the Directive/Regulations to avoid any ambiguity. We suggest the following changes (after the first sentence): "Therefore, the Competent Authority must assess the possible effects of a plan or project on any Natura 2000 sites. This includes an initial screening stage to identify any likely significant effects on the SPA which may arise, either alone or in combination with other plans or projects. If at the screening stage it is considered that there</p>	<p><b>Response:</b> It is agreed that text should be reconsidered and amended to better reflect the Habitats Directive/Regulations.</p> <p><b>Action:</b> Section 2.1 of the SPD has been amended to more accurately reflect the Habitats Directive / Regulations.</p>

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	<p>is likely to be a significant effect, in view of the site's conservation objectives, then the plan or project must be subject to an Appropriate Assessment. Having undertaken the Appropriate Assessment (again in view of the site's conservation objectives) the Competent Authority shall agree to the plan or project only after ascertaining that it will not adversely affect the integrity of the European site concerned, or where the further tests as described in article 6(4) can be met." The last sentence of paragraph 2.1.3 could remain.</p>	
	<p>Paragraph 3.0.3. Only the Competent Authority can undertake an Appropriate Assessment. This paragraph should be changed to state "...where necessary provide information to enable an Appropriate Assessment to be undertaken by the Competent Authority to demonstrate ...."</p>	<p><b>Response:</b> The wording in paragraph 3.03 reflects the wording in the Thames Basin Heaths SPA Delivery Framework (2009).</p> <p><b>Action:</b> No change to the SPD required.</p>
	<p>Paragraph 3.2.1: This should reflect the wording of the Core Strategy DPD and Table 4 of this SPD. It should read "...presumption against residential development within this zone (the exclusion zone) except in exceptional circumstances".</p>	<p><b>Response:</b> Paragraph 3.2.1 reflects the wording in the Thames Basin Heaths SPA Delivery Framework (2009). No changes necessary.</p> <p><b>Action:</b> No change to the SPD required.</p>
	<p>Table 4: The sixth line of column two should refer to a Habitats Regulations Assessment, not an Appropriate Assessment.</p>	<p><b>Response:</b> Table 4 is to be deleted because Natural England deemed it misleading to apply the 400m buffer</p>

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		<p>zone to non-residential developments. Other relevant wording changes should be made to the SPD.</p> <p><b>Action:</b> Table 4 has been deleted and the wording in the surrounding paragraphs refer to Habitat Regulations Assessment.</p>
	<p>Paragraph 3.3.4: The document states that SANG should be provided in advance of dwelling completion..., however a likely significant effect on the SPA from an increase in visitors could only result once the dwelling is occupied. We suggest changing “completion” to occupation’ (similarly at footnote 21).</p>	<p><b>Response:</b> This is agreed and the text should be amended.</p> <p><b>Action:</b> Section 3 in the SPD has been amended. 'Completion has been replaced by 'occupation'.</p>
	<p>Appendix 4: At paragraph 29 it is stated in respect of SANGS provision for bespoke schemes that “...a general standard may not be sufficient to demonstrate that the requirements of the Habitats Regulations are met.” Whilst it may be correct to adopt the stance that a general standard is not appropriate, as currently worded the presumption is that the standard provision (8ha / 1000 new residents) would fall short of what should be delivered. There may of course be situations where in assessing a plan / project on its own merits the required SANGS would be less than the standard value. We suggest that this should be reflected in the wording of paragraph 29.</p>	<p><b>Response:</b> Although a minimum standard (8ha/1000 population) SANG would ordinarily be applied to relevant developments, there may be very few instances where this is not the case.</p> <p><b>Action:</b> Section 3.5 (Bespoke Solutions) has been amended to state that the minimum SANGS standard should ordinarily be applied unless it can be demonstrated that, through any other package of avoidance and mitigation measures put forward, the development will lead to no significant adverse effect on the integrity of the SPA in accordance with the Conservation of Habitats and Species Regulations 2010. In accordance with this legislation, the local authority must adopt a precautionary approach and any avoidance and mitigation measures must be agreed in advance with the Council and Natural England. Paragraph 29 in Appendix 4 has been deleted as it is not considered to be relevant here.</p>

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15. Interlaken	<p>Paragraphs 2.2.4 to 2.2.7: These are inaccurate and misleading. No mention is made of the fact that the attempted revocation of the Regional Strategies was held to be unlawful in the High Court Cala I case (Cala Homes vs SoS Communities [2010] EWHC 2866 (Admin)). The Court of Appeal Cala II judgement (Cala Homes vs SoS Communities [2011] EWCA Civ 639) clearly stated that the Government's intention to abolish Regional Strategies could be a material planning consideration in considering planning applications but, importantly, not in plan-making decisions. This was made explicit when the Court of Appeal specifically stated that it 'would be unlawful for a Local Authority preparing, or a Planning Inspector examining, development plan documents to have regard to the proposal to abolish Regional Strategies'.</p>	<p><b>Response:</b> Clarification should be provided in the SPD. However, it is clear that evidence in support of the South East Plan is and will remain relevant such as the delivery framework and the intention of policy NRM6. The SPD is in accordance with all relevant policy and guidance and more importantly, the Habitats Directive/Regulations.</p> <p><b>Action:</b> All references to the South East Plan have been deleted from section 2.2. and section 1.3 'Spatial Policy' has been updated.</p>
	<p>SANG Provision v Recreational Open Space</p> <p>Paragraph 3.3.3 states that SANGs provision at a rate of 8ha per 1,000 population must be in addition to normal open space (OSPV) requirements. Footnote 19 then goes on to state that "open land to avoid and mitigate adverse impacts on habitat protected by the SPA designation is not the same as open space provision to meet recreational needs. Each serves a different purpose and is defined as such".</p>	<p><b>Response:</b> Open land to avoid and mitigate adverse impacts on habitat protected by the SPA designation is not the same as open space provision to meet recreational needs. Each serves a different purpose and is defined as such. Therefore the capacity of the SANG is based on 8ha/1000 persons after discounting any relevant OSPV. Management of the SANGS is required to bring the sites up to a higher quality which will encourage more visitors and divert visits away from the SPA. If contributions towards the management of open space provision are reduced, the baseline quality of OSPV will be reduced. This baseline is a</p>

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	<p>BFC's position relies on research which has shown that "SPA visitors seek sites with different characteristics than general open space users" (Liley et al., 2005), as indicated in paragraph 3.5.7. Whilst this is accepted, BFC fail to acknowledge that general open space users would also freely use the enhanced facilities provided within a SANG designed to attract SPA users, if they were available. Although SANG therefore aims to attract a particular target user group in order to protect the SPA, this does not mean that it will not be used by others. Natural England's "Guidelines for the Creation of Suitable Accessible Natural Green Space (SANGS)" (2008) states explicitly: "These guidelines relate specifically to the means to provide mitigation for housing within the Thames Basin Heaths Planning Zone. They do not address nor preclude the other functions of green space (e.g. provision of disabled access). Other functions may be provided within SANGS, as long as this does not conflict with the specific function of mitigating visitor impacts on the SPA". [our emphasis)</p> <p>BFC's position appears inconsistent with its own strategic impact avoidance and mitigation strategy, which relies heavily on the enhancement of existing publicly accessible open spaces to create SANG. Some of these open spaces were provided as OSPV for earlier developments. This being the case, it is</p>	<p>consideration in providing the necessary measures to bring SANGs up to the required standard.</p> <p><b>Action:</b> No change to the SPD required.</p>

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	<p>inconsistent for the Council to propose to use pre-existing OSPV as new SANG, as part of its own strategic avoidance and mitigation strategy, whilst at the same time claiming in 3.3.3 and 3.5.7 of the SPD that OSPV is so different to SANG that separate provision is required for each.</p> <p>Section 2 of the Annex to PPG17 sets out the types of open space that may be of public value as recreational open space. It is our opinion that SANGs will frequently provide features of these types, and that SANG and OSPV are therefore not mutually exclusive. Section 3 of the Annex to PPG17 Annex goes further in offering the following specific guidance: "Local authorities should also recognise that most areas of open space can perform multiple functions. They should take account of the various functions of open space when applying the policies in this document". In EPR's view, provided that an area of open space also meets SANG criteria, there is no justification for the demand stated in the SPD for the two requirements to be met separately. BFC's position is therefore contrary to National Policy.</p> <p>BFC's position also differs from Natural England's position (see their email to EPR of 2 Oct 2007 on this subject, as it pertained to the redevelopment of the RAF Staff College in Bracknell, attached to this representation,</p>	

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	<p>and the quote from NE's SANG Guidelines, above). These clearly state that Natural England does not object to SANG also being counted as OSPV. Indeed, Natural England will presumably take such provision into account when determining their view on any SANG matter. We therefore suggest that paragraph 3.3.3 of the SPD should be amended to read as follows: "Open space provided to meet the requirements of PPG17 may also be counted as SANG, providing it meets Natural England's SANGs Quality Guidance".</p>	
	<p>The inclusion of the revised SAMM Contribution Tariff is apparently not an element of this SPD, which is subject to this consultation, but one that has already been approved following an "Executive decision on 5 July 2011, to sign the SAMM Agreement" (according to the Limiting the Impact of Development (LID) SPD webpage on the BFC website).</p> <p>Although the Council was authorised to enter into the SAMM Legal Agreement following the Executive meeting of the 5th July 2011, it is not clear on what grounds the LID SPD was amended. It would certainly seem that the introduction of the revised SAMM Tariff has been agreed outside of the process of public consultation, or at least represents a 'back-door' approach to introducing a material change in planning</p>	<p><b>Response:</b> A first consultation on the Draft SPD was carried out in November 2009. The avoidance and mitigation measures in this draft included SAMM contributions (although the proposal at that time was for them to be applied on a 'per dwelling' basis).</p> <p>The Habitats Directive and the Conservation of Habitats and Species Regulations 2010 preclude the grant of planning permission unless the local planning authority is satisfied that there will be no adverse effect upon the SPA. The objective evidence currently available points to the level of contributions set out in the revised Limiting the Impact of Development SPD being required to avoid any adverse impact. It follows that, if only a lower level of contributions could be required, then planning permission would have to be refused. In this case, pending the SPD adoption, a moratorium would once more have to be imposed upon residential development within a 5km of the SPA. Until the SPD is adopted, the</p>

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	<p>guidance that is lacking in transparency. If indeed public consultation was not undertaken, this would appear contrary to policy guidance (PPS 12, refer to EPR letter 21 Sept 2011).</p>	<p>evidence pointing to increased contributions is a “material consideration” in the determination of applications and can, indeed must, be taken into account.</p> <p><b>Action:</b> No change to the SPD required.</p>
	<p>We object to the requirement for SAMM contributions for all schemes, including those with bespoke SANG provision. We agree that SAMM contributions may be warranted in those instances where there is still residual doubt as to whether a project may contribute towards a likely significant effect on the SPA despite the provision of impact avoidance measures such as SANG.</p>	<p><b>Response:</b> The Council strongly disagrees with the assertion that SAMM contributions are only required “to address any residual doubt”; access management measures are a fundamental premise of the strategy to avoid adverse impact upon the SPA.</p> <p>Although both SANG and SAMM mitigation would ordinarily be applied to relevant developments, there may be very few instances where this is not the case.</p> <p><b>Action:</b> The SPD has been amended to state that both SANG and SAMM should ordinarily be applied unless it can be demonstrated that, through any other package of avoidance and mitigation measures put forward, the development will lead to no significant adverse effect on the integrity of the SPA in accordance with the Conservation of Habitats and Species Regulations 2010. In accordance with this legislation, the local authority must adopt a precautionary approach and any avoidance and mitigation measures must be agreed in advance with the Council and Natural England.</p>
	<p>Whilst it is understood that securing 'avoidance' of effects across the whole area affected by the need to protect the SPA may require all three elements of the principles of avoiding effect</p>	<p><b>Response:</b> Although both SANG and SAMM mitigation would ordinarily be applied to relevant developments, there may be very few instances where this is not the case.</p>

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	<p>to be satisfied strategically (provision of alternative recreation space, access management and management of the SPA itself), a bespoke scheme can in fact satisfy all three components. The Council's approach does not properly or explicitly address the possibility that a bespoke scheme could achieve impact avoidance through demonstrating no net effect on the SPA.</p> <p>In summary, each scheme should be assessed on its merits, and it is not appropriate for the Council to pre-judge the efficacy of a scheme without having considered the site-specific circumstances. It is feasible to envisage a situation where in fact SANGs provision can be demonstrated, through 'objective evidence', to achieve complete avoidance, and it is therefore our opinion that a requirement to contribute to the SAMM Project should be evaluated on a case-by-case basis, and following the outcome of Screening under the Habitat Regulations Assessment.</p>	<p><b>Action:</b> The SPD has been amended to state that both SANG and SAMM should ordinarily be applied unless it can be demonstrated that, through any other package of avoidance and mitigation measures put forward, the development will lead to no significant adverse effect on the integrity of the SPA in accordance with the Conservation of Habitats and Species Regulations 2010. In accordance with this legislation, the local authority must adopt a precautionary approach and any avoidance and mitigation measures must be agreed in advance with the Council and Natural England.</p>
	<p>With respect to SAMM contributions, it seems that guidance on the level of contribution has already been predetermined to be calculated on a 'per dwelling/per bedroom' basis that does not take into account the efficacy of any bespoke impact avoidance measures proposed in conjunction with a scheme.</p>	<p><b>Response:</b> In 2010, a legal opinion was jointly sought to establish whether the proposed SAMM tariff was compliant with Circular 05/2005. A Counsel opinion concluded that the tariff did meet the requirements of the Circular except in regards to being a flat rate tariff. The opinion considered that a flat rate tariff would not be proportional and would fetter the local authorities' discretion. The opinion also stated that a tariff which included the number of bedrooms</p>

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		<p>and/or distance would be proportionate and acceptable. Previous Thames Basin Heaths SANG and SAMM tariffs took account of distance through the distance zoning scheme. In response, Natural England and the local authorities agreed a proportional SAMM tariff based on the number of bedrooms. BFC has also applied this to SANG tariffs in line with the other SPA affected local authorities. Tariffs calculated and applied in this way are considered to meet all the requirements of current policy guidance and will be able to provide effective mitigation to address the effect of additional housing on the SPA.</p> <p><b>Action:</b> Explain the reason for the introduction of 'per bedroom' SANG and SAMM tariffs in Section 3 of the SPD.</p>
	<p>We do not believe that the proposed SAMM tariff would meet the essential prerequisites set out by the CIL Regulations (in particular Regulation 122), and the demand would not, therefore, be either justified or proportionate.</p>	<p><b>Response:</b> In May 2010, the SPA affected local authorities obtained a legal opinion regarding SAMM. The opinion given was that the strategic access management and monitoring measures to protect the Thames Basin Heaths SPA do not fall within the definition of 'infrastructure' and the limit of pooling contributions from a maximum of 5 developments does not apply.</p> <p><b>Action:</b> No change to the SPD required.</p>
	<p>Section 3.0.2 footnote 12: The use of the reference to the High Court Judgement of J Sullivan in Hart DC v SoS for Communities and Local Government (2008) is misleading. This implies that the project, which was the subject to the High Court judgement, included a SAMM contribution. However, this was not the case.</p>	<p><b>Response:</b> It is agreed that the reference to this case should not be in this footnote 12 because it is not relevant to the SAMM issue. Therefore this footnote should be deleted for clarification.</p> <p><b>Action:</b> Delete footnote 12.</p>

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	<p>We welcome the sensible requirement set out in paragraph 3.5.8 that bespoke SANGs must be in place before property is occupied.</p>	<p>Noted.</p>
	<p>Paragraph 4.4.1: Regarding SAMM contributions, this states that "Any payments to be made to the Council are to be secured by planning obligations and paid no later than the commencement of the development. If the development is likely to be built in major phases, payment by instalment will be considered". No justification is given for this inconsistency. Given that the impact to be avoided and / or mitigated can only occur after occupation, the requirement for contribution on commencement of the development is illogical. Suggest the following amendments to paragraph 4.4.1: "Any payments to be made to the Council are to be secured by planning obligations and paid no later than the first occupation of the development or of the agreed phase of the development".</p>	<p><b>Response:</b> Although it is correct to say that the impact to be avoided and / or mitigated can only occur after occupation, the Council and (in the case of the SAMM) Natural England need time to apply these contributions so that the appropriate avoidance and mitigation measures are in place when the new people occupy the new development. No amendments to 4.4.1 are necessary.</p> <p><b>Action:</b> No change to the SPD required.</p>
<p><b>16. Royal Borough of Windsor and Maidenhead</b></p>	<p>RBWM supports the strategy of SPA avoidance and mitigation, and has no specific comments to make on the documents.</p>	<p>Noted.</p>
<p><b>17. Mr Daborn</b></p>	<p>Our client supports the principles of the TBHSPA Avoidance and Mitigation SPD as a mechanism to allow development to proceed in an area affected by the TBHSPA. Without such avoidance strategy there would be limited opportunities for new development.</p>	<p>Noted.</p>

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	<p>Section 3.5 Bespoke Solutions</p> <p>No objection is raised to the principle of the three strategic housing allocations identified in the Core Strategy under policies CS3, CS4 and CS5 having to provide their own bespoke SANG solution. In the case of the strategic development at Warfield where there are multiple land ownership interests, there is potential for the development being delayed whilst the SANG solution is resolved.</p>	<p><b>Response:</b> This is relevant to all development and is why the SANG solution should be progressed at an early stage. Early consultation with Natural England is always advisable.</p> <p><b>Action:</b> No change to the SPD required.</p>
	<p>Table 9 Appendix 7: This shows that the 109.14ha of strategic SANG capacity within the 6 sites identified in Appendix 4. This would provide SANG capacity for 13,643 people which is equivalent to 5,906 dwellings. However, under Appendix 3 there is a requirement for the Strategic SANG sites to provide mitigation for only 4,097 dwellings. Therefore there is theoretically spare capacity for some 1,809 dwellings, within the Strategic SANG sites.</p>	<p><b>Response:</b> In finalising the SPD, the Council has checked and confirmed the SANGs areas and boundaries. Therefore, the figures relating to the SANGs capacity have been amended in the final SPD. It is correct to say that there is spare SANGs capacity. However, as explained in the table note 1, table 9 (now table 16) in Appendix 7, the potential to mitigate for 13,643 (amended to 13,378) new population could almost certainly never be completely realised. This is because development does not always occur in areas where there is SANGs capacity and SANGs have particular catchment areas. In Bracknell Forest, for example, there are particular pressures on SANGs in the north of the borough.</p> <p><b>Action:</b> No change to the SPD required.</p>
	<p>Paragraph 3.3.5</p> <p>This should be amended to make it possible for small standalone schemes within the North Warfield development area to be able to make contributions</p>	<p><b>Response:</b> This is incorrect. The Warfield development will be required to provide bespoke SANG as there is not sufficient strategic SANG that has a catchment covering Warfield to which these developments could contribute. To enable timely development, the</p>

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	<p>towards the strategic SANG sites. This would help bring forward development, which would otherwise be prevented from coming forward should there be delays in securing the bespoke SANG solution at North Warfield.</p> <p>There is capacity in the proposed Strategic SANGS to allow for over 1,000, dwellings which could be used by small standalone schemes which could come forward, apart from resolution of the bespoke SANG at North Warfield.</p>	<p>SANG solution should be progressed at an early stage. Early consultation with Natural England is always advisable.</p> <p><b>Action:</b> No change to the SPD required.</p>
	<p>Paragraph 3.5.3 could be amended to read:</p> <p>“Due to the large scale nature of these developments, and the subsequent concentration of new residents arising in these locations, where possible these proposals will provide their own areas of SANGS on-site and where not possible off-site provision may be acceptable, including use of the strategic SANG allocations, where the Competent Authority, having regard to advice from Natural England, can conclude that the off-site SANGS will function as an effective alternative to the SPA.”</p>	<p><b>Response:</b> This amendment is not possible since there is not sufficient strategic SANG that has a catchment covering Warfield to which these developments could contribute. To enable timely development, the SANG solution should be progressed at an early stage. Early consultation with Natural England is always advisable.</p> <p><b>Action:</b> No change to the SPD required.</p>
	<p>We support the Council's approach to change the mitigation standard from 12ha/1,000 population to 8ha/1,000.</p>	<p>Noted.</p>

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	<p>Paragraph 3.5.7: In addition to SANG land developments need to provide a separate quantum of recreational open space. It is considered that this approach is outdated because of the amount of new SANG land that has been, and will be created to overcome the SPA issue. The requirement to provide additional open space as well as SANG land stifles development potential. One of the main purposes of SANG sites is to divert people away from the TBHSPA, especially dog walkers. Areas of informal open space can be just as attractive to residents as SANG land or the TBHSPA. As such some discount should be provided in the amount of SANG land a development needs to mitigate for the proposal if it is incorporate significant areas of informal open space, such as the proposed River Parks at land North of Warfield.</p>	<p><b>Response:</b> Open land to avoid and mitigate adverse impacts on habitat protected by the SPA designation is not the same as open space provision to meet recreational needs. Each serves a different purpose and is defined as such. Therefore the capacity of the SANG is based on 8ha/1000 persons after discounting any relevant OSPV. Management of the SANGs is required to bring the sites up to a higher quality which will encourage more visitors and divert visits away from the SPA. If contributions towards the management of open space provision are reduced, the baseline quality of OSPV will be reduced. This baseline is a consideration in providing the necessary measures to bring SANGs up to the required standard.</p> <p><b>Action:</b> No change to the SPD required.</p>
	<p>It is considered that the proposed SPA tariffs are too high and will have a detrimental impact on development viability, which in turn will have a detrimental effect on the deliverability of housing in the Borough. The Council should review its proposed tariffs to reduce the costs or at the very least allow for SPA contributions to be used as a basis to reduce other financial contributions to ensure that development proposals are viable.</p>	<p><b>Response:</b> The reason for the increase in tariffs is clearly set out in the SPD and is in line with SPA tariffs set in other SPA affected local authorities (indeed much lower in some cases). It is necessary for the Council to introduce the new tariffs to ensure that we are in compliance with the Habitats Regulations, current planning policy and can continue to grant planning permission on SPA grounds for relevant developments. The costs in the final SPD are lower than in the consultation draft due to updated calculations using the latest housing trajectory as set out in the Site Allocations Development Plan Document (DPD) Draft Submission.</p> <p><b>Action:</b> No change to the SPD required.</p>

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<b>18. Millgate Homes</b>	<p>Millgate Homes has various land interests in the development area North of Warfield.</p>	<p>Noted.</p>
	<p>Para. 3.5.3. No objection is raised to the principle of the 3 strategic housing allocations identified in the Core Strategy under policies CS3, CS4 and CS5 having to provide their own bespoke SANG solution. In the case of the strategic development at Warfield where there are multiple land ownership interests, there is potential for the development at Warfield being delayed whilst the SANG solution is resolved. Such a delay will then impact on the council's ability to meet its housing trajectories and therefore its housing needs.</p>	<p><b>Response:</b> The Warfield development will be required to provide bespoke SANG as there is not sufficient strategic SANG that has a catchment covering Warfield to which these developments could contribute. To enable timely development, the SANG solution should be progressed at an early stage. Early consultation with Natural England is always advisable.</p> <p><b>Action:</b> No change to the SPD required.</p>
	<p>Table 9 of Appendix 7 shows that the 109.14ha of SANG capacity within the 6 sites identified in Appendix 4 would provide SANG capacity for 13,643 people which is equivalent to 5,906 dwellings. However, under Appendix 3 there is a requirement for the Strategic SANG sites to provide mitigation for only 4,097 dwellings. Therefore there is theoretically spare capacity for some 1809 dwellings, within the Strategic SANG sites.</p>	<p><b>Response:</b> In finalising the SPD, the Council has checked and confirmed the SANGs areas and boundaries. Therefore, the figures relating to the SANGs capacity have been amended in the final SPD. It is correct to say that there is spare SANGs capacity. However, as explained in the table note 1, table 9 (now table 16) in Appendix 7, the potential to mitigate for 13,643 (amended to 13,378) new population could almost certainly never be completely realised. This is because development does not always occur in areas where there is SANGs capacity and SANGs have particular catchment areas. In Bracknell Forest, for example, there are particular pressures on SANGs in the north of the borough.</p> <p><b>Action:</b> No change to the SPD required.</p>

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	<p>Paragraph 3.5.3 could be amended to read:</p> <p>“Due to the large scale nature of these developments, and the subsequent concentration of new residents arising in these locations, where possible these proposals will provide their own areas of SANGS on-site and where not possible off-site provision may be acceptable, including use of the strategic SANG allocations, where the Competent Authority, having regard to advice from Natural England, can conclude that the off-site SANGS will function as an effective alternative to the SPA.”</p>	<p><b>Response:</b> This is incorrect. The Warfield development will be required to provide bespoke SANG as there is not sufficient strategic SANG that has a catchment covering Warfield to which these developments could contribute. To enable timely development, the SANG solution should be progressed at an early stage. Early consultation with Natural England is always advisable.</p> <p><b>Action:</b> No change to the SPD required.</p>
	<p>We support the Council's approach to change the mitigation standard from 12ha/1000 population to 8ha/1000.</p>	<p>Noted.</p>
	<p>Paragraph 3.5.7: In addition to SANG land, developments need to provide a separate quantum of recreational open space. It is considered that this approach is outdated because of the amount of new SANG land that has been, and will be created to overcome the SPA issue. The requirement to provide additional open space as well as SANG land stifles development potential. One of the main purposes of SANG sites is to divert people away from the TBHSPA, especially dog walkers. Areas of informal open space can be just as attractive to residents as SANG land or the TBHSPA. As such some discount should be provided in the amount of SANG</p>	<p><b>Response:</b> Open land to avoid and mitigate adverse impacts on habitat protected by the SPA designation is not the same as open space provision to meet recreational needs. Each serves a different purpose and is defined as such. Therefore the capacity of the SANG is based on 8ha/1000 persons after discounting any relevant OSPV. Management of the SANGs is required to bring the sites up to a higher quality which will encourage more visitors and divert visits away from the SPA. If contributions towards the management of open space provision are reduced, the baseline quality of OSPV will be reduced. This baseline is a consideration in providing the necessary measures to bring SANGs up to the required standard.</p>

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	land a development needs to mitigate for the proposal if it is incorporate significant areas of informal open space, such as the proposed River Parks at land North of Warfield.	<b>Action:</b> No change to the SPD required.
	The TBHSPA Avoidance and Mitigation SPA proposes to introduce tariffs which are substantially higher than those introduced in the Limiting the Impact of Development SPD July 2007. It is considered that the proposed tariffs are too high and will have a detrimental impact on development viability, which in turn will have a detrimental effect on the deliverability of housing in the Borough.	<p><b>Response:</b> Whilst the Council has some sympathy for this view, it is the Council's duty to ensure that developments in Bracknell Forest are compliant with the Habitats Regulations otherwise planning permission cannot be granted.</p> <p>The avoidance and mitigation strategy is set out in accordance with national, regional and local policy frameworks. The increase in contributions compared to the current avoidance and mitigation strategy comes about as a result of the following:</p> <ul style="list-style-type: none"> <li>- the necessity to ensure that SANGs are available in perpetuity (defined as 125 years according to the 'In Perpetuity and Accumulations Act 2009') and not just for the 20 year plan period as set out in the current strategy. (NB: The draft SPD 2009 set out an 'in perpetuity' period of 80 years which was based on the Perpetuities and Accumulations Act 1964. This Act was updated in 2009 and the second draft SPD is based on the more recent 'in perpetuity' period of 125 years as stated in the Perpetuities and Accumulations Act 2009).</li> <li>- making provision for the collection of a sub-regional s106 contribution for strategic access management and monitoring in line with the Strategic Access Management and Monitoring (SAMM) Project.</li> </ul>

Organisation or Name	Summary Representation on Draft TBH SPA Avoidance and Mitigation SPD (2011)	Council Response and Action
		<p>The contributions are similar to those set by other SPA affected local authorities and in some cases significantly lower.</p> <p>The costs in the final SPD are lower than in the consultation draft due to updated calculations using the latest housing trajectory as set out in the Site Allocations Development Plan Document (DPD) Draft Submission.</p> <p><b>Action:</b> Add a note to Table 8 (now table 15) in Appendix 7 to explain why an 'in perpetuity' period of 125 years are applied to the SANGs contributions.</p>
	<p>Support the principles of the TBHSPA Avoidance and Mitigation SPD as a mechanism to allow development to proceed in an area affected by the TBHSPA. Without such avoidance strategy there would be limited opportunities for new development.</p>	<p>Noted.</p>
	<p>There is capacity in the proposed Strategic SANGS to allow for over 1,000, dwellings which could be used by small standalone schemes which could come forward, apart from resolution of the bespoke SANG at North Warfield.</p>	<p><b>Response:</b> It is correct to say that there is spare SANGs capacity. However, as explained in the table note 1, table 9 (now table 16) in Appendix 7, the potential to mitigate for 13,643 (amended to 13,378) new population could almost certainly never be completely realised. This is because development does not always occur in areas where there is SANGs capacity and SANGs have particular catchment areas. In Bracknell Forest, for example, there are particular pressures on SANGs in the north of the borough. There is a need to provide a bespoke scheme for the Warfield SPD including for individual sites which come forward in accordance with the Warfield SPD.</p>

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		<b>Action:</b> No change to the SPD required.
<b>19. Kitewood Estates Ltd</b>	<p>Some of the people in new developments within the Thames Basin Heath protection zone will come from outside of the Borough but many will come from existing household within the Borough. In light of this we suggest the ratio of SANGS land should be expressed as, <i>'8 ha of SANGS land shall be secured for every 1000 new dwellings to be constructed with the ThamesBasin Heath protection zone'</i>.</p> <p>The SPD does not appear to included guidance as to how SANGS land is to be provided. Where SANGS land cannot be provided within a development area which is in the control of the developer, the SPD should make clear that in such circumstances the Council will accept a financial contribution towards such provisions. To facilitate the large developments around Bracknell, the SPD should also make clear that its policy will underpin-the Council actions so that the Council may compulsory purchase private land for SANGS land if this is not forthcoming from the private sector.</p>	<p><b>Response:</b> The existing wording in the SPD is in line with agreed regional and local policy. Any net increase in dwellings are subject to this policy.</p> <p><b>Action:</b> No change to the SPD required.</p> <p><b>Response:</b> As stated in the SPD, for larger developments, a bespoke SANG is required. The SANG solution will vary for each development site depending on local circumstances and will need to satisfy the Habitats Regulations, in agreement with Natural England. It is not possible to be prescriptive in the SPD about how the SANGS land is to be provided and its ownership and management arrangements.</p> <p>For these larger developments, the Council cannot accept a financial contribution towards the its strategic SANGS as there is not sufficient strategic SANG capacity that has a catchment to which these developments could contribute. To enable timely development, the SANG solution should be progressed at an early stage. Early consultation with Natural England is always advisable.</p> <p><b>Action:</b> No change to the SPD required.</p>

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<p><b>20. Luff Developments Ltd</b></p>	<p>Luff Developments are leading the development proposals for the Blue Mountain Golf Centre, which is the core land within proposed Policy SA7 of the Site Allocations DPD.</p>	<p>Noted.</p>
	<p>Table 1 - concerned that the cost of providing a bespoke SANG is not specified and therefore may not be equivalent to the financial contribution sought from smaller developments. We consider that the table should be amended to reflect the cost of providing a SANG, and that this should be on a per dwelling basis broadly similar to that of a contribution towards a SANG.</p>	<p><b>Response:</b> Where a bespoke SANG is provided, costs will vary in each case and will depend on the solution that satisfies the Habitats Regulations 2010, in agreement with Natural England. In the SPD, it is not possible to set a level of contributions for bespoke SANGS. No amendment is necessary to Table 1.</p> <p><b>Action:</b> No change to the SPD required.</p>
	<p>Para 3.5.7. We disagree that open space land should be counted separately from SANG land on the basis that each performs a different function.</p>	<p><b>Response:</b> Open land to avoid and mitigate adverse impacts on habitat protected by the SPA designation is not the same as open space provision to meet recreational needs. Each serves a different purpose and is defined as such. Therefore the capacity of the SANG is based on 8ha/1000 persons after discounting any relevant OSPV. Management of the SANGs is required to bring the sites up to a higher quality which will encourage more visitors and divert visits away from the SPA. If contributions towards the management of open space provision are reduced, the baseline quality of OSPV will be reduced. This baseline is a consideration in providing the necessary measures to bring SANGs up to the required standard.</p> <p><b>Action:</b> No change to the SPD required.</p>
	<p>The potential for sites which will be allocated through the SADPD to provide on-site SANGS has not</p>	<p><b>Response:</b> The preference for on-site SANGs over off-site SANGs has been set out in paragraph 3.5.3 (now 3.5.6).</p>

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	<p>been considered as part of the SPD.</p>	<p>This should refer to all development sites where bespoke SANGs is required.</p> <p><b>Action:</b> Reference to the development sites in the Site Allocations DPD (originally in paragraph 3.5.4) has been moved to appear before the reference to on and off-site SANGs (now 3.5.5). This shows that the preference for on-site SANGs applies to all development sites where bespoke SANGs is required.</p>
	<p>The SPD does not explain how privately owned SANGS will be managed, i.e. will the landowner/developer be expected to maintain the SANG, and if so will they receive a proportion of the payments collected from smaller developments? Alternatively, will there be an opportunity to convey the land to the Council for management purposes.</p>	<p><b>Response:</b> Ownership and management issues are set out in paragraph 3.5.8 (now 3.5.12). These are however matters which are the subject of more detailed discussions for each development site, where appropriate, and is not relevant to this SPD.</p> <p><b>Action:</b> No change to the SPD required.</p>
	<p>The SPD seeks payment towards Strategic Access Management and Monitoring (SAMM) from developments providing bespoke SANGS, however if these are to remain in private ownership, then we do not consider it appropriate for a contribution to be sought.</p>	<p><b>Response:</b> Ownership arrangements are irrelevant to the application of developer contributions towards the SAMM Project. Access management and monitoring measures are a fundamental premise of the strategy to avoid adverse impact upon the SPA.</p> <p>Although both SANG and SAMM mitigation would ordinarily be applied to relevant developments, there may be very few instances where this is not the case. The SPD should be amended for clarification.</p> <p><b>Action:</b> The SPD has been amended to state that both SANG and SAMM should ordinarily be applied unless it can be demonstrated that, through any</p>

Organisation or Name	Summary Representation on Draft TBH SPA Avoidance and Mitigation SPD (2011)	Council Response and Action
		<p>other package of avoidance and mitigation measures put forward, the development will lead to no significant adverse effect on the integrity of the SPA in accordance with the Conservation of Habitats and Species Regulations 2010. In accordance with this legislation, the local authority must adopt a precautionary approach and any avoidance and mitigation measures must be agreed in advance with the Council and Natural England.</p>
	<p>The change from a per dwelling basis to a per bedroom basis does not appear to have been justified.</p>	<p><b>Response:</b> In 2010, a legal opinion was jointly sought to establish whether the proposed SAMP tariff was compliant with Circular 05/2005. An opinion was received from David Elvin (Landmark Chambers) which concluded that the tariff did meet the requirements of the Circular except in regards to being a flat rate tariff. The opinion considered that a flat rate tariff would not be proportional and would fetter the local authorities' discretion. The opinion also stated that a tariff which included the number of bedrooms and/or distance would be proportionate and acceptable. Previous Thames Basin Heaths SANG and SAMP tariffs took account of distance through the distance zoning scheme. In response, Natural England and the local authorities agreed a proportional SAMP tariff based on the number of bedrooms. BFC has also applied this to SANG tariffs in line with the other SPA affected local authorities. Tariffs calculated and applied in this way are considered to meet all the requirements of current policy guidance and will be able to provide effective mitigation to address the effect of additional housing on the SPA. Further clarification should be provided in the SPD.</p>

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	<p>It is considered that the costs associated with the consultation SPD are too high, and in addition to other infrastructure requirements / contributions, have the potential to negatively affect the viability of developments. The Council should review its proposed tariffs to reduce the costs or at the very least allow for SPA contributions to be used as a basis to reduce other financial contributions to ensure that development proposals are viable.</p>	<p><b>Action:</b> Explain the reason for the introduction of 'per bedroom' SANG and SAMM tariffs in Section 3 of the SPD.</p> <p><b>Response:</b> Whilst the Council recognises that the contributions have increased, it is the Council's duty to ensure that developments in Bracknell Forest are compliant with the Habitats Regulations otherwise planning permission cannot be granted on SPA grounds.</p> <p>The SPA avoidance and mitigation strategy is set out in accordance with national, regional and local policy frameworks. The increase in contributions compared to the current avoidance and mitigation strategy comes about as a result of the following:</p> <ul style="list-style-type: none"> <li>- the necessity to ensure that SANGs are available in perpetuity (defined as 125 years according to the 'In Perpetuity and Accumulations Act 2009') and not just for the 20 year plan period as set out in the current strategy. (NB: The draft SPD 2009 set out an 'in perpetuity' period of 80 years which was based on the Perpetuities and Accumulations Act 1964. This Act was updated in 2009 and the second draft SPD is based on the more recent 'in perpetuity' period of 125 years as stated in the Perpetuities and Accumulations Act 2009).</li> <li>- making provision for the collection of a sub-regional s106 contribution for strategic access management and monitoring in line with the Strategic Access Management and Monitoring (SAMM) Project.</li> </ul>

Organisation or Name	Summary Representation on Draft TBH SPA Avoidance and Mitigation SPD (2011)	Council Response and Action
		<p>The contributions are similar to those set by other SPA affected local authorities and in some cases significantly lower.</p> <p><b>Action:</b> No change to the SPD required.</p>
	<p>The reduction in SANG size required should in theory lead to a decrease in the overall costs of SANGS provision, however the cost has increased substantially since the SPD 2007 was adopted. We would therefore question how the Council have arrived at the current costs used to calculate the contributions sought in the consultation SPD.</p>	<p><b>Response:</b> The method of calculating the contributions are clearly set out in Appendix 7. Whilst the Council recognises that the contributions have increased, it is the Council's duty to ensure that developments in Bracknell Forest are compliant with the Habitats Regulations otherwise planning permission cannot be granted on SPA grounds.</p> <p>The SPA avoidance and mitigation strategy is set out in accordance with national, regional and local policy frameworks. The increase in contributions compared to the current avoidance and mitigation strategy comes about as a result of the following:</p> <ul style="list-style-type: none"> <li>- the necessity to ensure that SANGs are available in perpetuity (defined as 125 years according to the 'In Perpetuity and Accumulations Act 2009') and not just for the 20 year plan period as set out in the current strategy. (NB: The draft SPD 2009 set out an 'in perpetuity' period of 80 years which was based on the Perpetuities and Accumulations Act 1964. This Act was updated in 2009 and the second draft SPD is based on the more recent 'in perpetuity' period of 125 years as stated in the Perpetuities and Accumulations Act 2009).</li> <li>- making provision for the collection of a sub-regional s106 contribution for strategic access management and</li> </ul>

Organisation or Name	Summary Representation on Draft TBH SPA Avoidance and Mitigation SPD (2011)	Council Response and Action
		<p>monitoring in line with the Strategic Access Management and Monitoring (SAMM) Project.</p> <p>The contributions are similar to those set by other SPA affected local authorities and in some cases significantly lower.</p> <p><b>Action:</b> No change to the SPD required.</p>
<p><b>21. Surrey County Council</b></p>	<p>There seems to be a discrepancy within the catchment areas of the potential SANGs identified within the SPD. We note that the catchment area for each potential SANG is set out within the Delivery Framework from the Thames Basin Heath Joint Strategic Partnership Board. The Long Hill Park Group potential SANG has an estimated area of 15.79ha however is designated as having a catchment of 5km. This should be changed to 4km to be consistent with the Delivery Framework.</p>	<p><b>Response:</b> The Longhill Park Group SANG includes Lily Hill Park which covers an area of approximately 37ha. Therefore a catchment area of 5km has been applied to this SANG, in line with the Delivery Framework and in agreement with Natural England. Lily Hill Park SANG is not shown in the cost calculations in this SPD since its capacity has been reserved for the Bracknell Town Centre Development, as explained in Appendix 7.</p> <p><b>Action:</b> The component sites of the Longhill Park Group SANG have been made clearer in Table 3 (now table 10), Appendix 4.</p>
	<p>In the Surrey Heath Borough Council Thames Basin Heaths Special Protection Area Strategy Draft SPD we note that for developer contributions a different methodology has been used in comparison to the formula used within this SPD. The method used by Surrey Heath Borough Council is based upon occupancy rates rather than dwelling size. As the Thames Basin Heaths SPA designation covers a number of local authorities it may be suitable to develop a standard</p>	<p><b>Response:</b> There is no standard method agreed between all the SPA affected local authorities of working out SANGs developer contributions. The SAMM Project Tariff Guidance (March 2011) sets out a method for the calculation of SAMM Contributions which is applied in the SPD. Appendix 7 in the SPD clearly shows the method of calculation used and this demonstrates that occupancy rates are applied to both SAMM and SANGs contributions.</p> <p><b>Action:</b> No changes to the SPD required.</p>

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	methodology for developer contributions.	
<b>22. Ecological Planning and Research (EPR)</b>	<p>EPR are the consultant ecologists instructed to provide ecological advice in respect of proposals at the Land at Amen Corner North site in West Bracknell</p>	<p>Noted.</p>
	<p>Can an automatic requirement for developers to provide a contribution towards the SAMM Project be justified? It appears that the Council intend for this requirement to apply to all new net residential development within the zone of influence around the SPA, including those being delivered with bespoke impact avoidance and mitigation solutions. We agree that SAMM contributions may be warranted in those instances where there is still residual doubt as to whether a project may contribute towards a likely significant effect on the SPA despite the provision of impact avoidance measures such as SANG. If it can be demonstrated, through "objective evidence" (please refer to Circular 06/05), that a bespoke SANG scheme (or any other package of impact avoidance measures put forward by a project proponent) is likely to be so effective that it eliminates the likelihood of that project contributing any likely significant effect on the SPA, then there would be no justified grounds on which to require additional measures in the form of SAMM contributions.</p>	<p><b>Response:</b> The Council strongly disagrees with the assertion that SAMM contributions are only required "to address any residual doubt"; access management measures are a fundamental premise of the strategy to avoid adverse impact upon the SPA.</p> <p>Although both SANG and SAMM mitigation would ordinarily be applied to relevant developments, there may be very few instances where this is not the case. The SPD should be amended for clarification.</p> <p><b>Action:</b> The SPD has been amended to state that both SANG and SAMM should ordinarily be applied unless it can be demonstrated that, through any other package of avoidance and mitigation measures put forward, the development will lead to no significant adverse effect on the integrity of the SPA in accordance with the Conservation of Habitats and Species Regulations 2010. In accordance with this legislation, the local authority must adopt a precautionary approach and any avoidance and mitigation measures must be agreed in advance with the Council and Natural England.</p>

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	<p>Both the JSPB's Delivery Framework (2009) and South East Plan Policy NRM6 provide for the potential circumstances in which a "bespoke" scheme may come forward with its own tailored package of impact avoidance measures, and be tested and considered by the competent authority on its own merits taking into account the advice of Natural England. Nothing in the emerging SPD should override the ability, for which provision is already made in the RSS and the JSPB Delivery Framework, for a project to be assessed under the Habitats Regulations.</p>	
	<p>3.4.1. Strongly disagree with the statement that "<i>SANGs provision alone cannot be relied upon to entirely avoid harm to the SPA</i>". In fact, there are a number of cases where schemes have been consented on exactly this premise, including the landmark Dilly lane decision which was upheld in the High Court. Each scheme should be assessed on its merits, and it is not appropriate for the Council to pre-judge the efficacy of a scheme. It is feasible to envisage a situation where in fact SANGs provision <i>can</i> be demonstrated, through "objective evidence", to achieve complete avoidance, and it is therefore our opinion that a requirement to contribute to the SAMM Project should be evaluated on a case-by-case basis, and following the outcome of Screening under the Habitats Regulations Assessment.</p>	<p><b>Response:</b> Although both SANG and SAMM mitigation would ordinarily be applied to relevant developments, there may be very few instances where this is not the case. The SPD should be amended for clarification.</p> <p><b>Action:</b> The first bullet point in paragraph 3.4.1 has been deleted.</p> <p>The SPD has been amended to state that both SANG and SAMM should ordinarily be applied unless it can be demonstrated that, through any other package of avoidance and mitigation measures put forward, the development will lead to no significant adverse effect on the integrity of the SPA in accordance with the Conservation of Habitats and Species Regulations 2010. In accordance with this legislation, the local authority must adopt a precautionary approach and any avoidance and mitigation measures must be agreed in advance with the Council and Natural England.</p>

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	<p>With respect to SAMM contributions, it seems that guidance on the level of the contribution has already been predetermined to be calculated on a "per dwelling/per bedroom" basis that does not take into account the efficacy of any impact avoidance measures proposed in conjunction with a scheme.</p>	<p>In 2010, a legal opinion was jointly sought to establish whether the proposed SAMM tariff was compliant with Circular 05/2005. A Counsel opinion concluded that the tariff did meet the requirements of the Circular except in regards to being a flat rate tariff. The opinion considered that a flat rate tariff would not be proportional and would fetter the local authorities' discretion. The opinion also stated that a tariff which included the number of bedrooms and/or distance would be proportionate and acceptable. Previous Thames Basin Heaths SANG and SAMM tariffs took account of distance through the distance zoning scheme. In response, Natural England and the local authorities agreed a proportional SAMM tariff based on the number of bedrooms. BFC has also applied this to SANG tariffs in line with the other SPA affected local authorities. Tariffs calculated and applied in this way are considered to meet all the requirements of current policy guidance and will be able to provide effective mitigation to address the effect of additional housing on the SPA. Further clarification should be added to the SPD explaining why a per bedroom tariff is required.</p> <p><b>Action:</b> Explain the reason for the introduction of 'per bedroom' SANG and SAMM tariffs in Section 3 of the SPD.</p>
	<p>Do not believe that the proposed SAMM tariff would meet the essential prerequisites set out by the CIL Regulations.</p>	<p><b>Response:</b> In May 2010, the SPA affected local authorities obtained a legal opinion regarding SAMM. The opinion given was that the strategic access management and monitoring measures to protect the Thames Basin Heaths SPA do not fall within the</p>

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		<p>definition of 'infrastructure' and the limit of pooling contributions from a maximum of 5 developments does not apply.</p> <p><b>Action:</b> No changes to the SPD required.</p>
	<p>The recent modification, of Appendix C of the Limiting the Impact of Development Supplementary Planning Document (LID SPD) states that the SPA contributions as set out in the latest SPD Consultation Draft include the revised SAMM contribution tariff. We have not been able to ascertain whether modification of the LID SPD was afforded any consultation. Although the</p> <p>Council has been authorised to enter into the SAMM Legal Agreement following the Executive meeting of the 5th July 2011, it is not clear on what grounds the LID SPD has been amended.</p>	<p><b>Response:</b> A first consultation on the Draft SPD was carried out in November 2009. The avoidance and mitigation measures in this draft included SAMM contributions (although the proposal at that time was for them to be applied on a 'per dwelling' basis).</p> <p>The Habitats Directive and the Conservation of Habitats and Species Regulations 2010 preclude the grant of planning permission unless the local planning authority is satisfied that there will be no adverse effect upon the SPA. The objective evidence currently available points to the level of contributions set out in the revised Limiting the Impact of Development SPD being required to avoid any adverse impact. It follows that, if only a lower level of contributions could be required, then planning permission would have to be refused. In this case, pending the SPD adoption, a moratorium would once more have to be imposed upon residential development within a 5km of the SPA. Until the SPD is adopted, the evidence pointing to increased contributions is a "material consideration" in the determination of applications and can, indeed must, be taken into account.</p> <p><b>Action:</b> No changes to the SPD required.</p>

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<p><b>23. SE Wildfire Group</b></p>	<p>Defra and CLG in partnership with the England and Wales Wildfire Forum should jointly produce a vegetation fire policy, strategy and action plan.</p>	<p><b>Response:</b> These recommendations falls outside the remit of the Thames Basin Heaths SPA Avoidance and Mitigation SPD.</p>
	<p>CLG and Defra should jointly improve the recording and reporting of vegetation fires and impacts to improve the evidence base for policy decision making.</p>	<p>Section 2.3 in the SPD lists the potential adverse effects on the integrity of the SPA which were identified through the Appropriate Assessment of the Core Strategy. This includes fire. Any Habitat Regulations Assessments carried out in Bracknell Forest will need to consider whether a plan or project will lead to an adverse effect on the integrity of the SPA as a result of fire. If so, avoidance and mitigation measures will need to be put in place and agreed with the Council and Natural England for the plan or project to be able to proceed in accordance with the Habitats Regulations.</p> <p><b>Action:</b> No changes to the SPD required.</p>
	<p>Defra agencies in partnership with the England and Wales Wildfire Forum should produce a vegetation fire risk assessment process and wildfire guidance for land management advisors.</p>	
	<p>Defra should recognise Wildfire Forums and Groups.</p>	
	<p>Defra should ensure that the Natural Environment White Paper builds resilience to wildfire incidents by help adapting, as well as protecting and enhancing; biodiversity, landscapes and heritage susceptible to wildfire.</p>	
	<p>CLG should provide preparedness and prevention to wildfires and other natural hazards in National Planning Policy Framework (NPPF).</p>	
	<p>Cabinet Office should support awareness raising and guidance for local authorities of wildfire incidents in community risk registers.</p>	
	<p>Defra, CLG and Cabinet Office should provide or support funding for wildfire research for</p>	

Organisation or Name	Summary Representation on Draft TBH SPA Avoidance and Mitigation SPD (2011)	Council Response and Action
	universities and government agencies across a range of needs and requirements.	

**Table 1 Summary of Representations and Council Responses**

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### **Nepali**

यस प्रचारको सक्षेपं वा सार निचोड चाहिं दिइने छ ठूलो अक्षरमा, ब्रेल वा क्यासेट सून्नको लागी । अरु भाषाको नक्कल पनि हासिल गर्न सकिने छ । कृपया सम्पर्क गनुहोला ०१३४४ ३५२००० ।

### **Tagalog**

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