

Inspector's Q105

VALP's Habitats Regulation Assessment is based on a main report of 2016 evaluating an earlier version of the plan, supplemented by an update of 2017 which evaluates three main policy changes (S3, S4 and D4) to conclude that the original Assessment continues to hold true for the submission plan. "It is assumed that all other policies would remain unchanged." However, paragraph 5.21 of the original report identifies two allocations which may have significant effects on the Chiltern Beechwoods SAC through disturbance caused by increased public access to the Ashbridge Estate. Paragraphs 5.22 and 5.23 of the original assessment concludes that the plan contains sufficient mitigation because policy I1 "specifically outlines the amount of and distance to sufficient green space and thus has the potential to offset recreational impacts." That conclusion is reiterated in paragraph 6.2 of the original assessment. However, policy I1 as submitted appears to have dropped the prescriptions for the provision of natural green spaces which was in the earlier version of the plan, so I have a concern that the provisions of the submitted plan may no longer justify the conclusion that likely significant effects on the SAC have been adequately mitigated. This concern reinforces the concerns expressed by the Sports Council (my Q42) and also representations made to policy I2 (Q100). I would appreciate the Council's observations on this point.

Inspector's Q108

Following the recent judgement in the Court of Justice of the European Union (People over wind, Peter Sweetman v Coillte Teoranta) (Case C-323/17) I have revisited my examination of the Council's Habitats Regulations Appraisal Report (the HRA) by Land Use.co.uk and the subsequent HRA of potential changes to VALP. I note that paragraph 5.22 of the former document notes that policies NE1, NE2 and I1 specifically outline the amount of and distance to sufficient green space and thus have the potential to offset recreational impacts to the two SACs which are of concern to the HRA and that policy I1 is particularly prescriptive for the provision of natural green spaces. Paragraph 5.23 goes on to conclude that "In the light of the small scale of proposed development within 5km of the Ashridge Estate, together with the predictive policies and proposals for green infrastructure and open space provided within the plan, no likely significant effect on Chilterns Beechwoods SAC is predicted." I note that the particular prescription of policy I1 which was included in the version of the plan the subject of the HRA report is not carried through to the submitted plan but, in any event, it appears that reliance on the mitigation effects of policies NE1 and NE2 falls foul of the EU Court of Justice decision. I must therefore ask the Council to revisit the HRA report and its screening assessment and to consider the extent to which it complies with the judgment. If the revised screening assessment concludes that an Appropriate Assessment (AA) is required, this should be carried out. The Council will also need to consider whether any main modifications would be necessary consequent on any AA, in particular whether the particular prescriptions of the previous version of policy I1 should be reintroduced.

The Council is reminded that further consultation may be required on any revised screening assessment of AA. 21.5.18

AVDC Response to both Q105 and Q108:

AVDC confirms that the VALP Habitat Regulations Appraisal Report (HRA) (CD/SUB/007) was screened on the 2016 Draft Plan version of VALP rather than the Proposed Submission Plan apart of the specific addendum on the RAF Halton site (CD/SUB/008). This is because the HRA was part of the technical evidence needed to inform the production of the Proposed Submission Plan and so that version of the VALP could be written to take account of its findings. In terms of the overall levels of growth, AVDC was aware following the completion of the Buckinghamshire HEDNA in December 2016 and reduction of unmet need coming from the southern Buckinghamshire councils that the Proposed Submission VALP would have a lower housing target than the Draft Plan. On this basis AVDC did not consider an overall re-screening was required in finalising the Proposed Submission plan because the levels of growth were reduced and there was no reason to consider the overall conclusion on Likely Significant Effects would be different.

The HRA Stage 1 Screening for VALP (April 2017) and its addendum on RAF Halton (August 2017) concluded that no Appropriate Assessment was required. However, whilst the VALP has been at Examination, AVDC has become aware of the Sweetman Judgement and its implications for the HRA and in particular the conclusion of not being able to take account of mitigation policies. Therefore AVDC has commissioned its consultants LUC to undertake a revised stage 1 HRA Screening Assessment on the Submitted VALP, based on the implications of the Sweetman judgement. AVDC has also asked LUC to carry out an Appropriate Assessment (the Stage 2 of an HRA) based on the Submitted VALP, *should the HRA Stage 1 concluded there would be no likely significant effects*. The timetable for completion of this work of both the revised HRA Stage 1 Screening and also an HRA Stage 2: Appropriate Assessment (should that be required) is the end of July 2018. There will be a final report which can be published for the VALP Examination. This will include the time to include a view of Natural England who are the required consultee in producing an HRA. Any Appropriate Assessment will need to be the subject to consultation as noted but it is not considered that this needs any delay in the progress of the Examination.

In terms of the Inspector's query on Policy I1 and why the prescriptions for the provision of natural green spaces were taken out the plan, the standards were deemed sufficient to be contained in the Assessment of Open Space, Sport and Recreation Needs for Aylesbury Vale (2017) evidence document. There is a minor difference between those standards and the ones that appeared within Policy I1 in the VALP Draft Plan – the 2.4ha per 1000 population as major open space in the Draft Plan is now replaced by standard of 1.2ha per 1000 population. The reason for this is because the 2.4ha standard included 1.2ha for pitch sport. In the Assessment

of Open Space, Sport and Recreation Needs for Aylesbury Vale (2017) this was removed from the major open space standard to avoid a duplication of requirements as there was a separate standard for pitch sport.

AVDC confirms para 5.6 (page 23) of the VALP Habitat Regulations Appraisal Report (HRA) (CD/SUB/007) identifies which policies in the VALP Draft Plan comprised mitigation. Those policies are:

S1 Sustainable development for Aylesbury Vale;

S3 Settlement hierarchy and cohesive development;

S4 Green Belt;

S6 Protected transport schemes (as regards provision of public transport);

D1 Delivering Aylesbury Garden Town;

D10 Town, village, and local centres to support new and existing communities;

T2 Footpaths and cycle routes;

NE1 Protected sites;

NE2 Biodiversity;

NE5 Pollution, air quality and contaminated land; NE6 Local green space;

C4 Protection of public rights of way;

I1 Green infrastructure; and

I2 Sports and recreation.

As part of the HRA re-screening, LUC will consider the differences between the VALP Draft Plan and the Proposed Submission version, update the above list and consider is there would be LSE without this mitigation.

In terms of the Inspector's question on whether the HRA work being carried out affects the comments made by the Sports Council on Q42, AVDC considers this would not affect the preparation of a Playing Pitch Strategy or Built Sport Facilities Strategy or the justification for requirements for sports facilities included within the details of site allocations. AVDC does also not consider the HRA work being carried out would affect Q100 on the justification for Policy I2 on the required sports and recreation provision.