

3c Five Year Plan Outcomes

Responding to this consultation will contribute to the following Five Year Plan outcomes:

- **Outcome 3: Slough will be an attractive place where people choose to live, work and stay.**
- **Outcomes 4: Our residents will live in good quality homes.**

Other Implications

(a) Financial

There are no financial implications.

(b) Risk Management

<i>Recommendation</i>	<i>Risk/Threat/Opportunity</i>	<i>Mitigation(s)</i>
That the Committee approves the recommendation.	Failure to agree the proposed response to the consultation could have implications for future housing where financial contributions would need to be made to any new housing development, including in Slough Town Centre.	Agree the recommendations.

(c) Human Rights Act and Other Legal Implications

There are no Human Rights Act Implications as a result of this report.

4. Supporting Information

Introduction

- 4.1 Burnham Beeches was designated as a Special Area of Conservation (SAC) in 2005 due to the importance of Beech woodland habitats which qualify under Annex I of the European Habitats Directive 1.
- 4.2 Burnham Beeches SAC lies within the southern part of Buckinghamshire and covers 382.76 hectares. It comprises two main areas. To the south is a wooded common and Public Open Space. To the north is private woodland.
- 4.3 The Habitats Regulations set out how European Sites, including SACs, should be dealt with in preparing plans and determining planning applications to ensure they do not adversely affect the integrity of their qualifying characteristics...
- 4.4 A Habitat Regulations Assessment was undertaken for the Chiltern and South Bucks Local Plan which identified public access and disturbance impacts as a

potential likely significant effect at Burnham Beeches SAC. The outcome was a requirement to set up a mitigation strategy to avoid adverse impacts on Burnham Beeches SAC.

- 4.5 This strategy is set out in the SPD. It is intended to apply within Buckinghamshire only, and to apply to the adopted planning policies and any subsequent adopted Local Plan. The evidence behind the strategy was primarily set out in a report produced by Footprint Ecology in August 2019. The council has not been consulted on it or its principles. The report includes assumptions about Slough on the distribution of housing, the provision of open space and housing numbers within the 2017 Issues and Options Consultation Document. Slough Council notes the SPD cannot apply to Slough but it is concerned that the findings will set an inappropriate precedent for the principle and amount of S106 contributions from new housing in Slough. It is therefore important to respond to the consultation so this is recognised and avoided.
- 4.6 As part of our emerging Slough Local Plan a Habitat Regulations Assessment Screening (HRA) was undertaken. This assessed whether the development proposed in the Issues and Options Consultation would significantly affect a Natura 2000 site this covers Special Areas of Conservation and Special Protection Areas. The screening concluded that, based on the information currently available in the Issues and Options Consultation, a likely significant effect on the qualifying features of Burnham Beeches SAC cannot be effectively ruled out. A meeting has been held as part of the Duty to Cooperate between South Bucks District Council and Slough Borough Council on the Burnham Beeches SAC in 2017 when we were preparing our issues and options document.

The Burnham Beeches SAC SPD consultation

- 4.7 Slough Borough Council have been consulted on this Supplementary Planning Document (SPD) which sets out a Strategic Access Management and Monitoring Strategy (SAMMS) required to avoid adverse public access and disturbance impacts from development on the Burnham Beeches SAC for 80 years, with reviews at least every 5 years (and more frequently if necessary).
- 4.8 This Council response to the consultation needs to be submitted by 3rd September 2020. It is important that Slough Borough Council submit a response to this consultation as it will potentially have impacts on any future major housing development in Slough. This is discussed further in the report below.
- 4.9 The SPD notes that Burnham Beeches is a popular destination for recreation and provides an important function as a greenspace. It is designated for the beech trees but is also important for wildlife with around 80 protected species. The SPD states that a number of visitors to Burnham Beeches have been increasing over the years, placing the trees at risk from pedestrian and dog

footfall. Growing numbers of visitors can result in conflict for space among users and demand for more facilities.

- 4.10 It accepts the conclusion in the Footprint Ecology assessment that if net new homes continue to be built around the SAC this will result in more people living nearby who are likely to visit Burnham Beeches, and these will result in likely significant effects.
- 4.11 As a result the mitigation strategy comprises two components: (i) an advisory for Appropriate Assessments of a presumption against net increase in residential development within 500m of the SAC; and (ii) financial contributions towards the SAMMS to be paid for each new net dwelling that is permitted within the 5.6km *zone of influence*.
- 4.12 This proposed *zone of influence* is drawn as circular area up to 5.6 kilometres from the boundary of the SAC. This means extends into Slough Borough Council area including the town centre.
- 4.13 The Mitigation Strategy is intended to address both the requirement to address adverse impacts on the SAC from local plan led development, and further deterioration resulting from public access. The document states the SAMMS projects are designed to mitigate the scale of development to come forward over the Chiltern and South Bucks Plan or its successor. . They can be summarised as follows:
- provision of electronic interpretation;
 - events and promotion of activities aimed at raising public awareness of recreation pressure and alternative places to visit;
 - the appointment of a ranger/ambassador (a new member of staff);
 - visitor surveys;
 - monitoring of visitor impacts on the ecology of the SAC; and
 - the production of an access plan/carrying capacity study.
- 4.14 The draft SPD sets out a calculation for a contribution to the SAMMS of £2,023.87 plus a monitoring fee of almost £25 to be paid by each net new home that is granted planning permission from 1 March 2020. This is a significant cost to each new home being built, and is semi-retrospective. The calculation based on an un-evidenced formula that appears to be the total cost of the strategy over 80 years being payable by the untested assumption of a total 2,364 anticipated new properties to be built from the within the Buckinghamshire portion of the buffer from 500m to 5.6km buffer within an ungiven timescale . The Strategy includes several Projects that should address or integrate monitoring so the monitoring element should not be an additional cost. The Footprints report notes the scope of the assessment and assumptions within in it – these include an assumption that no additional greenspace will be provided, that Slough generates 5% of the additional trips

based on 2017 housing numbers. The buffer does not apply a spatial assessment to existing trips – for example that these do not originate in Slough town centre, or what transport they rely on, or if they are within the vulnerable area of the SAC. The Council consider this formula therefore needs revising as for example it appears to place a duty on new properties to mitigate for impacts from dwellings that will be built after the current plan period, and out side of the Borough.

- 4.15 The council's officers have met annually to discuss impacts on the Beeches from visitors from Slough, and has previously engaged with Footprint on their 2014 survey, and questioned the details of assumptions of impacts from Slough residents. Details of Slough's housing trajectory within the buffer area were provided, along with a full trajectory, but this was not advised as needed to contribute to an SPD. The Council is concerned about the use and contribution of assumptions from the number and distribution of houses in Slough, and considers the evidence falls short of meeting the legal tests for s106 Agreements.
- 4.16 Historically Slough has therefore not paid a contribution. More recently developments at Horlicks have agreed S106 funds to support the Beeches. This was agreed at £378 per unit (£429,411 overall) with much of it spent in Slough. The agreed mitigation was bespoke to this application which should not be treated as a precedent. It is important to note that the methodologies used, conclusions drawn and mitigation agreed has not been tested for its effectiveness to prevent further harm to the Beeches. These calculations were also based upon the viability of this particular site.

Grounds of Objection

- 4.15 The Council has sought legal advice from Clyde and Co who have produced a note which is set out in Appendix A. This forms the basis of our proposed objections to the proposed requirement for a financial contribution to be levied on properties in Slough that fall within the Zone of Influence.
- 4.16 A summary of the grounds of objection are as follows:
- 4.17 Firstly, the draft SPD has been produced in the form of a Development Plan Document (DPD) in that it has policies which guide the determination of planning applications. The 2012 Regulations require such policies are set out in DPD not SPD.
- 4.18 Secondly, there is no explicit planning policy basis for the draft document in an Adopted Local Plan which the SPD can be supplementary to. .
- 4.19 Thirdly, and related to the above, it is inappropriate and premature to progress the Draft SPD in advance of adoption of the Draft Local Plan. Whilst the Draft Plan has been submitted for examination by the Secretary of State, the Inspectors who have been charged with conduct of this examination have

expressed concerns about whether South Bucks has discharged its duty to cooperate.

- 4.20 Fourth, there is a concern that a planning obligation entered into pursuant to the Draft SPD would be contrary to the CIL Regulations 2010 (as amended) in that the proposed mitigation is not properly related to the development.
- 4.21 South Bucks Council has failed under the duty to cooperate to have updated the Council on the intention to develop a tariff for Burnham Beeches SAC that would impact Slough. Limited meetings took place in 2017 and 2018 but these were technical working meetings on the Beeches. .
- 4.22 This Council is currently preparing the Preferred Spatial Strategy for the Local Plan which is out for consultation in November 2020. The spatial strategy will seek to provide mitigation locally for the impact on Burnham Beeches SAC. The components of the spatial strategy promote “live locally” concept which will mean residents will work, live, shop, visit local green spaces. There is going to be an improvement of local green spaces and other amenity spaces in Slough meaning that residents we not need to travel out of the borough boundary for recreation activities.
- 4.23 The impact of Covid19 has meant that local people have made the most of local parks and open spaces and realised the opportunities for recreation in their local area. Therefore there is less need to visit places outside of the borough like Burnham Beeches.
- 4.24 The zone of influence where there would be impact on Burnham Beeches covers Slough Town centre. The future housing in this area is going to be high density flats which will not have gardens and majority of local residents will not have not have car parking spaces. This means that dog ownership is likely to be low and that majority of these residents will have access to a car to visit Burnham Beeches. As a result it is unreasonable to apply the proposed financial contribution to every new dwelling in Slough Town Centre.
- 4.25 The Slough Borough Council Habitat Regulations will address impacts from the Borough emerging from local plan led development, and will continue to negotiate on a case by case basis the impact of new development ahead of or outside of that. The Planning team note the Footprints report and elements of its mapping such as visitor origins, and will engage with Buckinghamshire Council on the HRA process informing the Slough Local Plan.

5 Conclusions

- 5.1 Slough welcomes Buckinghamshire’s efforts to meet its requirements to protect Burnham Beeches SAC, and notes the SPD does not need to be subject to an SEA. The Council notes it has historically worked together to understand and address impacts on the Beeches, but that is was not formally consulted on the Footprints updated methodology nor the evolution of proposals to an SPD.

- 5.2 It is recommended that formal objections, based upon the concerns raised in this report, and the legal opinion offered are submitted to Buckinghamshire Council.

6 Appendices

Appendix A – Grounds of objection to the Burnham Beeches Supplementary Planning Document.

7 Background Papers

1. Burnham Beeches SAC Strategic Access Management and Monitoring Strategy SPD
2. Habitats Regulations Assessment of the Slough Local Plan HRA Screening Document, January 2017