

PORTSMOUTH LOCAL PLAN
EXAMINATION IN PUBLIC

NOTE FOR INSPECTORS ON HRA MATTERS

INTRODUCTION

1. The Composite Local Plan [KD03] relates to an area that either includes or affects a number of designated nature conservation sites: Portsmouth Harbour SPA/Ramsar Site; Chichester and Langstone Harbours SPA/Ramsar Site; Solent Maritime SAC; Solent and Dorset Coast SPA; Solent and Southampton Water SPA/Ramsar; Solent and Isle of Wight Lagoons SPA.
2. As a question of legal compliance, the inspectors need to be satisfied – in respect of each of these designated nature conservation sites – that the Composite Local Plan complies with reg 105 of the Conservation of Habitats and Species Regulations 2017 (“**the 2017 Regs**”). In short, reg.105 requires a four-stage assessment:
 - a. Is the adoption of this land use plan, in the absence of any mitigation, likely to have significant effects on a designated nature conservation site?
 - b. If so, has the plan making authority carried out an appropriate assessment of the implications of the plan for any designated nature conservation site?
 - c. When carrying out that appropriate assessment, has the plan-making authority taken into account the representations of the public and appropriate nature conservation bodies?
 - d. In light of the appropriate assessment, can it be concluded beyond reasonable scientific doubt that the land use plan will not adversely affect the integrity of any designated nature conservation site?
3. The Habitats Regulations Assessment (“**HRA**”) of the 2024 Pre-Submission Local Plan [KD16] concluded that:

- a. In the absence of mitigation, the Plan would be likely to have significant effects on a number of designated nature conservation sites;
 - b. After mitigation, one policy – policy PLP3 (Tipner West and Horsea Island East) – would still have adverse effects on the integrity of the Portsmouth Harbour SPA/Ramsar Site and the Dorset and Solent Coast SPA, arising from a permanent loss of protected habitat. That permanent loss of habitat arose from four elements of the (then) PLP3 strategic allocation: housing on land south of the firing range at Tipner West; reclamation of intertidal habitat for the proposed marine employment hub; dredging of intertidal habitat to provide boat access to the proposed marine employment hub; and bridge piers impinging on intertidal and subtidal habitat for the proposed Tipner-Horsea Island bridge.
4. On account of those anticipated adverse effects, the Council sought to rely on a derogation from the strict application of the Regulations, as permitted by regulation 107 of the 2017 Regs, on the basis that there were imperative reasons of overriding public interest (“**IROPI**”) that justified the adoption of PLP3 notwithstanding the adverse effects on site integrity.
5. On 1 October 2024, the Council sought an opinion from the Secretary of State as to whether she agreed with that assessment [**SS29**]. The Secretary of State has provided two IROPI opinions pursuant to that request, the first dated 28 February 2025 and the second dated 31 May 2025 [contained in SS33]. Both opinions concluded that the Secretary of State did not agree that there were IROPI, but both were withdrawn as the Secretary of State accepted they were based on errors of law.
6. In light of the Secretary of State’s first negative IROPI opinion, and in light of considerable delays to the progression of a lawful IROPI opinion, the Council decided in April 2025 to produce a Local Plan Addendum that removed all aspects of the Local Plan that might require a derogation.
7. That Local Plan Addendum [KD02] was published in November 2025. Significantly for Habitats purposes, it amended PLP3 to remove housing from land south of the firing range, removed the marine employment hub (and reclamation and dredging to support that use) and removed the allocation of, and requirement to build, a bridge from Tipner to Horsea Island (“**the Bridge**”).
8. The HRA for Submission of the Composite Local Plan [**KD18**] notes at paragraph 1.3 “*The new Policy PLP3 mean that adverse effects on the integrity of Portsmouth*

Harbour SPA/Ramsar sites and Solent & Dorset Coast SPA from Policy PLP3 can be avoided or adequately mitigated (see Chapter 6 of this HRA). Therefore, reliance on Derogations is no longer needed and Chapter 8 of the HRA is deleted.” At paragraph 7.23, the HRA concludes: “*With the amendments recommended above and now included in the Local Plan, it has been possible to conclude that no elements of Portsmouth Local Plan will have an adverse effect on the integrity of any Habitats sites, either alone or in combination with other plans or projects.*”

9. Returning to the four questions arising from reg 105 of the 2017 Regulations, the Council’s conclusions are as follows:
 - a. In the absence of any mitigation, the Plan is likely to have significant effects on a number of designated nature conservation sites.
 - b. The Council has carried out an appropriate assessment of the implications of the plan for those designated nature conservation sites – as demonstrated by the HRA of the Composite Local Plan **[KD18]**.
 - c. When carrying out that appropriate assessment, the Council took into account the representations of the public: see the Local Plan Consultation Statement **[KD34]**; and see Statements of Common Ground with RSPB and HIWWT **[SCG56]**, the Environment Agency **[SCG25]** and Natural England **[SCG27]**.
 - d. In light of the appropriate assessment, it can be concluded beyond reasonable scientific doubt that the Plan will not adversely affect the integrity of any designated nature conservation site.

QUESTION 7 OF MATTER 1

10. By question 7 of Matter 1, and through an exchange with Mr Fisher during the morning session of the examination-in-public on 6 October 2026, it became apparent that the inspectors had concerns about how the Bridge has or has not been factored into the HRA process.
11. The HRA of the Composite Local Plan **[KD18]** acknowledges that, although the Plan no longer allocates or requires the delivery of the Bridge, the Plan (reflecting Policy K of the adopted Portsmouth Transport Strategy **[IN08]**) contemplates the possible future delivery of the Bridge:

- a. In relation to impacts arising from the period associated with the construction of the Bridge, the HRA acknowledges the potential for likely significant effects (§5.20); notes that available mitigation tools to address disturbance impacts could be applied to any future bridge construction (6.82); but notes that it is not possible generally to examine construction-period disturbance in detail until the planning application stage as it depends on noise measurements and modelling, knowledge of construction programmes and details of construction methods (§6.88).
 - b. In relation to impacts arising from any potential permanent loss of habitat from the Bridge, the HRA notes that the Plan does not allocate or commit to delivering the Bridge. Noting that there are several potential methods of bridge construction (not all of which involve bridge piers), the HRA notes that it would only be at the project stage that an appropriate assessment could be carried out to assess impacts (if any) arising from permanent loss of habitat (§§5.67, 5.69).
 - c. In relation to the potential loss of functionally linked habitat, the HRA notes that the safeguarded corridor for the Bridge traverses part of Core Area P75. Noting that construction along the eastern margin of P75 would not necessarily render that site unusable by SPA birds, the extent of any impacts would depend on the nature of the design, the timing of construction, and how the birds use the site, all of which would need to be assessed at the project stage (§6.38).
 - d. In relation to atmospheric pollution, the HRA notes that the air quality modelling relied on took account of the presence of a possible future bridge (§6.126).
12. Accordingly, the HRA does acknowledge that, if it came forward, the potential Bridge could have likely significant effects. In relation to air quality, the appropriate assessment concludes that there will be no adverse impact on the integrity of nature conservation sites. However, in relation to construction impacts, permanent loss of habitat and potential loss of functionally linked habitat, the HRA notes that the Plan does not allocate or require delivery of the Bridge and concludes that a detailed assessment of likely significant effects, and mitigation, could only be carried out at the project stage, in light of detailed designs and construction methods. In circumstances where the Bridge is not allocated in, and not required by, any policy in the Plan, and where there are no detailed designs capable of assessment, that level of assessment is appropriate. As affirmed by Lord Carnwath in ***R (Champion) v North Norfolk District Council***

[2015] UKSC 52, “appropriate” in the phrase “appropriate assessment” is not a technical term and simply means that the assessment should be suitable to its task. In an appropriate assessment of a Local Plan, what is “appropriate” in relation to any aspect will often depend on the plan’s precision. As articulated in the opinion of AG Kokott in *Commission v UK* Case C-6/04 (2005), “*Many details [in a land use plan] are regularly not settled until the time of the final permission.... adverse effects on areas of conservation must be assessed at every relevant stage of the procedure to the extent possible on the basis of the precision of the plan.*”

13. The Council therefore submits that the HRA is complete and the Plan is legally compliant. The Plan:

- Does not allocate a bridge;
- Does not require delivery of a bridge;
- Does not dictate the route of a bridge or require any particular design;
- Does not allocate development that is dependent on a bridge; and
- Requires any planning application for a bridge to be subject to its own HRA.

14. To the extent that some of the supporting text in the Plan provides in-principle support for the delivery of the Bridge, it simply reflects the pre-existing support contained in Policy K of the adopted Portsmouth Transport Strategy, as reflected in the Infrastructure Delivery Plan. That is, the Plan does not provide policy support for the Bridge beyond what already exists.

15. On that basis, adoption of the Plan, as submitted, will not have adverse effects on the integrity of any nature conservation site by reason of the construction or operation of the Bridge.

16. If the Inspectors were to conclude (contrary to the Council’s position) that the language in the Plan goes beyond the in-principle support for the delivery of the Bridge contained in Policy K of the adopted Portsmouth Transport Strategy, and/or otherwise conclude that the in-principle support for a bridge in the Plan could provide support to a future planning application that might have adverse effects on the integrity of designated nature conservation sites, the Council proposes the following:

- a. the inspectors use their post-hearings letter to recommend modifications to the Composite Plan to:
 - i. remove any language that arguably provides support for the Bridge and that goes beyond the support already offered by Policy K of the adopted Portsmouth Transport Strategy: see the Council’s

proposed modifications in strike-through (deletions) and red underlined text (additions) in Annex A to this document; and/or

- ii. clarify that the Plan does not provide any support for development of a Bridge that has adverse effects on the integrity of nature conservation sites: see the Council's proposed modification in blue text in Annex A to this document.

- b. the Council would, in parallel, amend its Infrastructure Delivery Plan as set out at Annex B to this document.

17. Such modifications would be subject to appropriate assessment. The proposed modification to supporting text paragraph A44, p.58 would exclude the possibility that the adoption of the Local Plan would have adverse effects on the integrity of nature conservation sites by reason of a possible Bridge: see ***Feeney v Oxford City Council*** [2011] EWHC 2699 (Admin) at [88]-[91] and ***Forest of Dean Friends of the Earth v Forest of Dean District Council*** [2013] EWHC 1567 (Admin) at [96] – [99].

9 October 2026

Annex A

PCC's proposed amendments to references to

Tipner-Horsea Island bridge in the Composite Local Plan

(only if the inspectors deem it necessary)

Table 4.1 p.46

- Tipner West "Land safeguarded for **possible** new bridge"
- Horsea Island Strategic Open Space: "Land safeguarded for **possible** new bridge"

Policy PLP3

- Introductory paragraph A30, p.51

"...A large area of public open space is being created on Horsea Island to the north, which ~~will~~ **may in future** be accessible via a **possible** new bridge from Tipner West, for the new residents and visitors to enjoy; the open space is allocated under Policy PLP9... A map of Tipner West including the **indicative** route of the **possible** ~~proposed~~ bridge, is shown as figure 4.2."

- Introductory paragraph A33, p.52

"Landfall for a possible ~~A new bridge, connecting Tipner West with Horsea Island East, is an essential consideration for the site allocation and land is safeguarded for its landfall in this policy and Policy PLP9: Horsea Island Strategic Open Space; the safeguarded land is identified on both the Policies Map and figure 4.2. **If delivered**, the bridge will **would** be open to sustainable modes of transport only, with exceptional all-mode use for emergencies. The Portsmouth Transport Strategy identifies the bridge as a key part of the South East Hampshire Rapid Transit (SEHRT) network that aims to transform the way people travel between Portsmouth and the surrounding towns. It is identified as critical infrastructure in the Infrastructure Delivery Plan. A Feasibility Study has been prepared, which provides outline and high-level evidence demonstrating the potential for a bridge link between Horsea Island and Tipner in a civil engineering context. It also outlines the onward process of delivering a crossing. A Transport Position Paper has been prepared by the City Council, which sets out the position of the Transport Department regarding the further development of the options for a bridge between Tipner and Horsea Island."~~

- Policy PLP3 Vision, p.54

“...They will make fewer journeys by car and instead will make use of new and improved public transport connections and infrastructure, ~~including a bridge to the mainland~~. New climate change resilient sea defences will defend the community alongside the existing residents of north Portsea Island...”

- Policy PLP3, paragraph 2, p.54

“Land is safeguarded for landfall of a **possible** new bridge, as shown on the Policies Map and figure 4.2, connecting Tipner West to Horsea Island for the use of sustainable transport modes only.”

- Policy PLP3, paragraph 3(l), p.56

“Deliver or contribute proportionally to ~~the~~ relevant transport and highways mitigation measures identified within the Local Plan Strategic Transport Assessment and/or Infrastructure Delivery Plan, ~~including the proposed bridge connecting Tipner West with Horsea Island~~”

- Supporting text paragraph A42, p.56

“The purpose of this policy is to allocate Tipner West as part of a new gateway to Portsmouth with the provision of new employment, homes, flood defences, decontamination and safeguarding of land for a **possible** new bridge to the mainland”

- Supporting text paragraph A44, p.58

“The policy safeguards part of the site for the landfall of a **possible new** bridge linking Tipner West to Horsea Island East. The bridge ~~will~~ **would** provide easy access for new residents to walk their dogs on Horsea Island Open Space and for other informal recreation, without disturbing the protected birds. In addition, it ~~represents critical infrastructure for~~ **would deliver** improved sustainable transport connections for residents travelling from north of Portsea Island to the City Centre, as well as emergency access not dependent upon the congested Portway junction, in particular for residents at Port Solent. ~~At Any~~ planning applications for the bridge will need to be supported by a shadow, project level HRA. **Nothing in**

this Plan should be taken as support for the approval of a planning application for a bridge that has adverse effects on the integrity of designated nature conservation sites.”

Policy PLP9

- Introductory paragraph A128, p.130

“This policy is concerned with the former landfill site and its redevelopment and re-use for public open space. The southeastern corner of Horsea Island will be safeguarded for a sustainable transport route and a connecting bridge link to Tipner West (as mirrored in policy PLP3), whilst Port Solent is allocated under policy PLP11.”

- Introductory paragraph A131, p.131

“It will be accessed from the north through Port Solent and **potentially** from the south via a ~~proposed~~ **possible** new bridge linking Horsea Island and Tipner West. The indicative route through the strategic site is shown on figure 4.8. Landfall for the **possible** Tipner bridge is shown on figure 4.8 and the Policies Map and is safeguarded. The new open space will help to reduce recreational disturbance to protected birds on a City-wide basis.”

- Policy PLP9, para.2, p.131

“Land is safeguarded for landfall of a possible new bridge, as shown on the Policies Map and figure 4.8, connecting Tipner West to Horsea Island for the use of sustainable transport modes only.”

- Policy PLP9, para.3(f), p.132

“Deliver or contribute proportionally to ~~the~~ relevant transport and highways mitigation measures identified within the Local Plan Strategic Transport Assessment and/or Infrastructure Delivery Plan ~~including the proposed bridge connecting Horsea Island with Tipner West.~~”

- Policy PLP9, para.3(h), p.132

“Improve facilities for cycling, walking and public transport linking to, and enhancing, the existing networks and any new networks ~~delivered as part of this allocation~~ that might be delivered in future, including the possible new sustainable transport link from Port Solent across the bridge to Tipner”

- Supporting text, paragraph A141

“The policy safeguards part of the site for the landfall of a possible new bridge linking Tipner West to Horsea Island East. The bridge ~~will~~ would provide easy access for new residents to walk their dogs on Horsea Island Open Space and for other informal recreation, without disturbing the protected birds. In addition, it ~~represents critical infrastructure for~~ would deliver improved sustainable transport connections for residents travelling from north of Portsea Island to the City Centre, as well as emergency access not dependent upon the congested Portway junction, in particular for residents at Port Solent.”

Policy PLP11

- Introductory text, paragraph A169, p.157

“...This should join up to existing bus routes that run along Southampton Road to the north and allow future access for any public transport links via the possible new bridge link from the south. This new route would also provide safe access and egress in the event of a flood.”

- Policy PLP11, para.2(h)

“Improve facilities for cycling, walking and public transport linking to, and enhancing, the existing networks and any new networks ~~delivered as part of this allocation~~ that might be delivered in future, including the possible new sustainable transport link from Port Solent across the bridge to Tipner.”

- Policy PLP11, para 2(j)

“Deliver or contribute proportionally to ~~the~~ relevant transport and highways mitigation measures identified within the Local Plan Strategic Transport Assessment and/or Infrastructure Delivery Plan ~~including the proposed bridge connecting Horsea Island with Tipner West.~~”

- Supporting text, paragraph A179, p.160

“...Land should be protected for any future links to the bus, cycle and pedestrian route including a **possible** bridge link between Horsea Island and Tipner...”

Table 12.1, p.338

~~“New bridge delivered between 2025-40”~~

Annex B

PCC's proposed amendments to references to

Tipner-Horsea Island bridge in the Infrastructure Delivery Plan

Tipner Bridge, p.69

To unlock and deliver the best available development at Tipner West, Tipner East, Horsea Island Strategic Open Space and Port Solent, a bridge link providing public and active travel links between Tipner and Horsea Island ~~must~~ **should** be delivered in order to support proposed development and improve sustainable travel options serving these areas. ~~It is classed as critical infrastructure and~~ **L**and is safeguarded for the landfall of the bridge in both the strategic site allocations in the Pre-Submission Local Plan Addendum (2025) of Tipner West and Horsea Island Strategic Open Space

Appendix 2, Infrastructure Delivery Schedule, row T1, column Critical/Essential/Desirable, p.161

~~Critical~~ **Essential**