

Statement of Common Ground
Portsmouth City Council as Local Planning
Authority
&
Marine Management Organisation

December 2024



Portsmouth
CITY COUNCIL



Marine
Management
Organisation

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1. Introduction

1.1 This Statement of Common Ground (SCG) is a jointly agreed statement between Portsmouth City Council Local Planning Authority (LPA) and the Marine Management Organisation (MMO). It sets out the position and understanding with respect to key strategic issues between the City Council and the MMO. It is not binding on either party but sets out a clear and positive direction to inform ongoing strategy and plan making. It should be noted that this is a bilateral agreement between these two organisations only.

1.2 This SCG has been prepared in accordance with paragraph 27 of the NPPF and the section of the Planning Practice Guidance on Maintaining Effective Cooperation. It has also followed guidance prepared by the Planning Advisory Service (PAS) on this matter. It has been prepared in advance of formal submission by the LPA of the Pre-Submission Portsmouth Local Plan (pursuant to Reg.22 of the Town and Country Planning (Local Planning) (England) Regulations 2012). This Plan, upon adoption, will supersede the existing Portsmouth Local Plan (2012). The new Local Plan will cover the period to 2040 and sets out the vision, objectives and policies to guide future development in the City over the plan period.

2.0 The Relation between PCC-LPA and the MMO

2.1 The MMO are a statutory consultee in the planning process. The MMO's purpose is to protect and enhance the marine environment around the English and Welsh coastline and regulates marine activities through licensing. This includes, inter alia, the management and monitoring of fisheries activities, making marine conservation byelaws and responding to marine emergencies. The MMO produces Marine Plans pursuant to the Marine and Coastal Access Act (2009)(as amended) and the UK Marine Policy Statement. It is a consultation body as defined in the Town and Country Planning (Environmental Impact Assessment) Regulations (2017), the Marine Works (Environmental Impact Assessment) Regulations 2017 and the Conservation of Habitats and Species Regulations 2017 (as amended)("The Habitats Regulations"). For the purposes of marine works and the Habitats Regulations, the MMO is the relevant 'competent authority'.

2.2 The MMO are a member body of the Tipner West Regulatory Panel. The Panel was established in January 2021 to act as a coordinated consultation body to consider matters relating to the Tipner West and Horsea Island East project, as promoted by PCC as landowner ("PCC-Promoter"). Its members comprise the following statutory consultees and non-statutory interest groups:

Statutory consultees:

- Natural England (NE)
- Environment Agency (EA)
- Marine Management Organisation (MMO)
- Historic England (HE)

Plus non-statutory interest groups as regular guest panellists:

- Royal Society for the Protection of Birds (RSPB); and
- Hampshire and Isle of Wight Wildlife Trust (HIWWT).

2.3 The Panel was established in line with the *Coastal Concordat*¹, which seeks to streamline the multiple consenting processes for coastal developments in England. There are five high level principles in the Coastal Concordat:

- i. Applicants seeking regulatory approval should be provided with a first point of entry into the regulatory system for consenting coastal development, guiding them to the organisations responsible for the range of consents, permissions and licences which may be required for their development.
- ii. Regulators should agree a single lead authority for coordinating the requirements of Environmental Impact Assessments or Habitats Regulations Assessments.
- iii. Where opportunities for dispensing or deferring regulatory responsibilities are legally possible and appropriate, they should be taken.
- iv. Where possible, at the pre-application stage, competent authorities and statutory advisors should agree the likely environmental and habitats assessment evidence requirements of all authorities at all stages of the consenting process.
- v. Where possible, regulators and statutory advisors should each provide coordinated advice to applicants from across their respective organisations.

2.4 The Panel was established to deliver on these principles with respect to the proposed strategic allocation of Tipner West and Horsea Island East. To this end, a "Working Protocol" was prepared which reflects the Concordat principles and supports the Panel in providing a clearly defined and coordinated regulatory body for the purposes of engagement with the Promoter. The MMO is signatory to this Working Protocol.

Competent Authorities for Habitats Regulations Assessment (HRA)

2.5 The City Council is the LPA for the purposes of terrestrial Plan-making and planning applications made under the Town and Country Planning Acts and is also Competent Authority in undertaking these functions, as defined under the Conservation of Habitats and Species Regulations 2017 (as amended).

2.6 The MMO is the equivalent competent authority where undertaking its statutory plan-making and licensing functions.

2.7 Pursuant to the Habitats Regulations, the MMO and the LPA separately derive competent authority responsibility with regard to the inter-tidal zone between Mean Low and Mean High Water Springs (MLWS-MHWS), the MMO assessing an HRA up to MHWS, whilst the LPA assesses to MLWS. Where the overlap occurs eg. through foreshore works, the two parties will work closely together in accordance with the Coastal Concordat. Where the MMO feels able to adopt the LPA's HRA, deeming it sufficient in assessing the marine aspects, the MMO will do so to avoid separate HRAs for onshore/offshore.

¹ <https://www.gov.uk/government/publications/a-coastal-concordat-for-england/a-coastal-concordat-for-england-revised-december-2019>. The Concordat was originally an agreement between the Department for Environment, Food and Rural Affairs (DEFRA), the Department for Communities and Local Government (MHCLG), the Department for Transport (DoT), the Marine Management Organisation (MMO), the Environment Agency (EA), Natural England (NE) and the Local Government Association Coastal Special Interest Group. It applies to the consenting of projects that span the intertidal area in estuaries and on the coast and require multiple consents including both a marine licence and a planning permission from the local planning authority.

PCC-Promoter

2.8 The City Council is also acting as a site promoter and landowner, tasked with delivering the project. A separate Statement of Common Ground will be entered into between PCC-LPA and the PCC-Promoter.

3.0 Planning Policy and national legislation

3.1 Paragraph 25 of the NPPF states that Local Planning Authorities should collaborate with relevant bodies in strategic plan-making, including the MMO.

3.2 The **UK Marine Policy Statement 2011** recognises the importance of integration between the terrestrial and marine planning regimes. Marine plan boundaries extend up to mean high water spring tide levels, whilst terrestrial plans generally extend to low water spring tides and as such there is a physical overlap between respective Plans. This is to ensure marine and terrestrial environments are considered together in coastal environments and in associated strategic planning.

3.3 The **South Inshore and South offshore Marine Plan (2018)** provides strategic planning policies within the inshore and offshore waters between Folkstone in Kent and the river Dart in Devon and informs decision making by marine users and regulators on activities within the marine plan area. This south marine plan area includes Portsmouth and Southampton harbours, and is noted as part of "*...one of the busiest shipping channels in the world*" and which supports "*...significant fishing and aquaculture activity and have a strong association with the defence of Britain.*"(para.11)"

3.4 The Marine Plan contains 12 core objectives, each supported by a number of specific policies. The notable policies, as relevant to draft policy PLP3 for Tipner West and Horsea Island East, include the following:

S-DEF-1 - Proposals in or affecting MoD areas should only be authorised with agreement from the MoD.

S-PS-1 - Proposals that may have significant adverse impact upon current activity and future opportunity for expansion of port and harbour activities should demonstrate that they will, in order of preference: a) avoid, b) minimise, c) mitigate significant adverse impacts, d) if it is not possible to mitigate significant adverse impacts, proposals should state the case for proceeding.

S-INF-1 - Appropriate land-based infrastructure which facilitates marine activity (and vice versa) should be supported.

S-EMP-1 - Proposals that develop skills related to marine activities, particularly in line with local skills strategies, will be supported.

S-EMP-2 - Proposals resulting in a net increase to marine related employment will be supported, particularly where they are in line with the skills available in and adjacent to the south marine plan areas.

S-CC-3 - Proposals in the south marine plan area and adjacent marine plan areas that are likely to have a significant adverse impact on coastal change should not be supported.

S-CC-4 - Proposals that may have a significant adverse impact on habitats that provide a flood defence or carbon sequestration ecosystem service must demonstrate that they will, in order of preference: a) avoid, b) minimise, c) mitigate significant adverse impacts.

S-MPA-1 - Proposals that support the objectives of marine protected areas and the ecological coherence of the marine protected area network will be supported. Proposals that may have adverse impacts on the objectives of marine protected areas and the ecological coherence of the marine protected area network must demonstrate that they will, in order of preference: a) avoid, b) minimise, c) mitigate adverse impacts, with due regard given to statutory advice on an ecologically coherent network.

S-MPA-4 - Until the ecological coherence of the marine protected area network is confirmed, proposals should demonstrate that they will, in order of preference: a) avoid, b) minimise, c) mitigate adverse impacts on features that may be required to complete the network, d) if it is not possible to mitigate adverse impacts, proposals should state the case for proceeding.

4.0 Portsmouth Context

4.1 Portsmouth is the UK's only island City. Whilst this brings an array of benefits, it does mean that the City is significantly constrained, especially when it comes to growth. Given the east, south and west are bound by the sea and the north by Portsdown Hill, this creates very little scope to grow beyond the current built up area.

4.2 Portsmouth has a shoreline with a total length of 44 km. The City Council is directly responsible for 23 km of Portsmouth's coastline with the remainder in private ownership, predominantly owned by the Ministry of Defence, including His Majesty's Naval Base. The open coast (8 km) is the southern and most exposed shoreline of Portsea Island. Portsmouth is significantly low lying with the majority of Portsea Island being less than 10m above sea level.

4.3 Portsmouth is a City that is exposed to significant degrees of flood risk with large areas to the south of the island and to the north, including the mainland, falling within flood zones 2 and 3 (areas most at risk of extreme flood events). This flood risk is expected to grow with the accompanying sea level rise brought about by future projected climate change.

4.4 Portsmouth is also the only City in the UK with a population density greater than that of London. The City is significantly compact and there are very few vacant sites or opportunity areas within the administrative boundary that could deliver significant levels of growth to meet housing need as calculated by the standard methodology.

5.0 Key Strategic Matters

Policy PLP3: Tipner West and Horsea Island East

5.1 The strategic site allocation, supported by draft policy PLP3, relates to the site identified in Fig.1 below. A copy of the Pre-Submission Policy PLP3 is provided at Appendix 1.

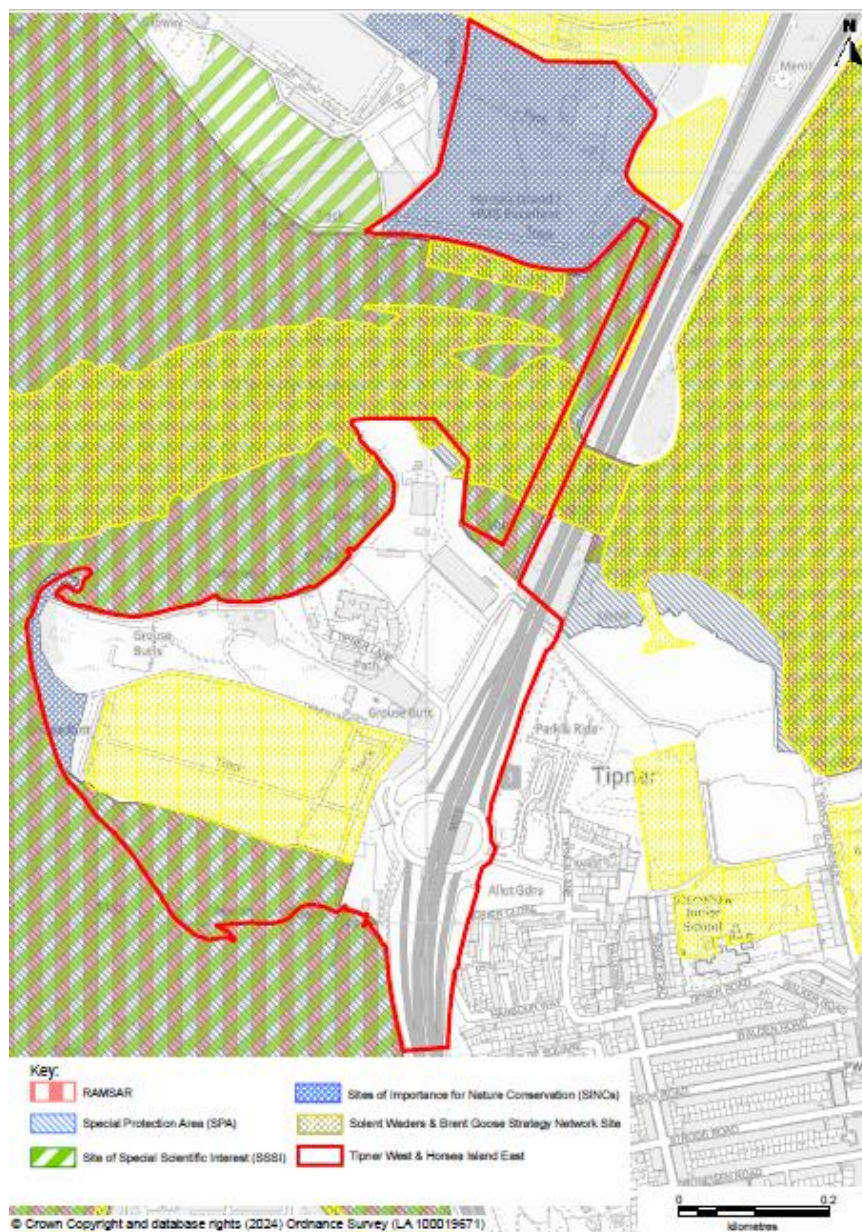


Figure 2: Statutory and Non-Statutory Designated Wildlife Sites

(3) The MMO has no in principle objection to the site-wide requirements set out in draft policy PLP3 and is satisfied with the policy criteria as set out in the Regulation 19 Pre-Submission Portsmouth Local Plan. In particular, the MMO supports in principle the delivery of a new regionally significant marine employment hub as supported by the City Deal of 2013, subject to compliance of detailed proposals with the objectives and policies of the South Inshore and South Offshore Marine Plan 2018 and safeguarding of the coherence of the marine protected area network and requirements of the Habitats Regulations 2017³.

³ [The Conservation of Habitats and Species Regulations 2017](#)

(4) The MMO notes that deep water access to the proposed marine hub will require dredging works within the immediate vicinity of the proposed marine hub quaysides (north site of the Tipner West landmass). There is no in principle objection to such dredging, provided it is limited to the minimum necessary to provide the required deep water access, and complies with all legal requirements including MMO licensing.

(5) With regard to the LPA's Regulation 19 Habitats Regulations Assessment (HRA, Feb 2024) and HRA Supplement (Oct 2024), the MMO considers that the LPA has conducted a reasonable search for alternative sites, appropriate at the strategic plan level, and has reached a reasonable conclusion that there are no clearly preferable alternative sites to deliver the marine hub.

(6) The LPA has considered disaggregation of the components of the marine hub and their provision at more than one un-connected sites and has reasonably concluded that disaggregation would not deliver on the overall objective of Policy PLP3.

(7) Policy PLP3 does not specify the layout and design of the marine hub or the bridge within the allocated site. Save for the inevitable dredging of inter-tidal habitat to provide deep water access, it is not inevitable that delivery of the marine hub and bridge will cause further harm to the integrity of the Portsmouth Harbour SPA/Ramsar site and Solent & Dorset Coast SPA. Questions of alternative layout, heights, density, form, and bridge design (including pier supports) are project-level considerations and for a project level HRA.

(8) The LPA has considered reasonable alternatives to the alignment of the bridge and has reached the reasonable conclusion, at the strategic Plan-level, that there are no clearly preferable alignments other than as provided for in the proposed site allocation bridge corridor.

(9) There is a social and economic need for a marine employment hub in the Solent region to support the growth of the marine, maritime and advanced manufacturing sectors and to provide employment and economic growth in the region.

(10) Should the existing sea defences fail, there is also a real risk that contaminants in the ground on Tipner West would leach into Portsmouth Harbour and pollute designated nature conservation sites. This could have significant adverse impacts on the integrity of Habitats Sites and the ecological status of the Portsmouth Harbour Water Framework Directive waterbody.

(11) There are no matters of disagreement between the MMO and PCC-LPA in regards to the Pre-Submission Local Plan and its HRA.

6.0 Signatories

6.1 Both parties agree that this statement is an accurate representation of matters discussed and issues agreed upon.

6.2 Both parties agree that they have engaged positively on an ongoing basis and that on this basis the Duty to Cooperate has been met.

6.3 Both parties agree that there are no substantial areas of disagreement between the parties relating to the emerging Portsmouth Local Plan and will both continue to work proactively on the key strategic cross boundary issues identified in this SCG.

6.4 Signatures

	Signed:	Signed:
		
	Name: Lucy Howard	Name: Linda Brewis
	Position: Head of Planning Policy	Position: Senior Marine Licensing Case Manager
	Portsmouth City Council	Marine Management Organisation
	Date: 06 December 2024	Date: 03/12/2024

Appendix 1

Draft Regulation 19 Portsmouth Local Plan 2040

Policy PLP3 - Tipner West and Horsea Island East

Strategic Site Allocation Policy PLP3: Tipner West & Horsea Island East

- 1. Tipner West & Horsea Island East, as shown on the Policies Map, is allocated for the mixed use development of the following uses and large scale infrastructure:**
 - a) A marine hub with a working quayside and up to 58,000 m² of marine employment floorspace (class E(g) offices, research and development, light industrial, B2 general industrial and B8 storage or distribution);**
 - b) A new community with between 814 and 1,250 residential dwellings (class C3);**
 - c) A bridge between Tipner West and Horsea Island East for the use of sustainable transport modes only;**
 - d) Flood defences along the peninsula edges of Tipner West and Horsea Island East in line with robust climate change scenarios;**
 - e) Shops selling essential goods, including food, where the shop's premises do not exceed 280 m² (class F2a); and**
 - f) Meeting places for the principal use of the local community (class F2b).**
- 2. Development proposals for the above named uses will be permitted provided that they meet all of the following site specific development requirements:**
 - a) Create a new landmark gateway to the City of Portsmouth to be demonstrated through a conceptual site-wide masterplan with an accompanying design code framework that delivers beautiful place-making and has regard to the National Model Design Code;**
 - b) Break down the barriers, both physical and perceived, created by the M275 motorway and Portsbridge Creek. This will be achieved through the design of both buildings and spaces to create excellent connections with new development at Tipner East and the wider area. The design, scale and massing of the scheme needs to respond sensitively to the significance of Portchester Castle including its setting, taking into account its dominance in Portsmouth Harbour and the contribution made by views to and from the Castle to its significance;**
 - c) Allow views to and from Tipner West and notable landmarks within the zone of visibility including Portchester Castle, the Spinnaker Tower and His Majesty's Naval Base;**
 - d) Integrate green and blue infrastructure into the masterplanning and design of the development and seek to mitigate the urban heat island effect;**

- e) **Submission of a site-wide Arboricultural Impact Assessment is required, which includes a proposed Tree Removal, Replacement and Retention Plan and Tree Protection Plan that protects the trees of highest value.**
- f) **Identify and incorporate opportunities to conserve, restore and recreate priority habitats and ecological networks;**
- g) **Except for the minimum dredging necessary to establish and maintain deep water access to the marine hub, avoid the loss of or damage to SPA/Ramsar habitats. If that is not viable or feasible, minimise such loss or damage to that required to enable the viable and feasible development of the site in line with the development quantum set out in this Policy whilst protecting the integrity of the international, national and local nature designations⁴;**
- h) **Incorporate car-free streets wherever feasible, with 'Mobility as a Service' and sustainable transport modes prioritised;**
- i) **Improve off-road pedestrian and cycle provision linking Port Solent and Tipner to the City Centre, nearby public open spaces including Horsea Island Open Space, recreational facilities including the Mountbatten Centre and other local shops and services;**
- j) **Provide safe and efficient vehicular access to and from the M275 and the surrounding non-strategic road network;**
- k) **Deliver or contribute proportionally to the relevant transport and highways mitigation measures identified within the Local Plan Strategic Transport Assessment⁵ and/or Infrastructure Delivery Plan⁶;**
- l) **Mitigate likely significant effects from recreational disturbance to protected bird populations through a bespoke developer-provided package of measures for the lifetime of the development as advised by Natural England;**
- m) **Provide for public access for all along the waterfront where feasible and without causing unmitigated recreational disturbance to protected bird populations;**
- n) **Deliver appropriate surface water and foul drainage infrastructure together with required nutrient neutrality and water usage mitigation measures to support the Environment Agency in achieving and/or maintaining at least 'Good' water quality status and to protect designated habitats within the Portsmouth Harbour Waterbody (pursuant to the Water Environment Regulations);**

⁴ Notably the Portsmouth Harbour SPA and Ramsar site, Portsmouth Harbour SSSI and Solent and Dorset Coast SPA – as required by the Habitats Regulations (2017) (as amended) and related national habitats legislation.

⁵ <https://www.portsmouth.gov.uk/newlocalplanevidencedocu>

⁶ <https://www.portsmouth.gov.uk/newlocalplanevidencedocg>

- o) Future development of the site will require land raising and construction of flood defences. Their implementation should be informed by the SFRA Level 1 and 2;**
 - p) Deliver surface water management measures to make provision for storage during high tide events, when the surface water drainage may be subject to tide locking;**
 - q) Mitigate and remediate contamination from current and historic uses; and**
 - r) Provide a skills & employability plan for both the construction and occupation stages of the development.**
- 3. The Listed Buildings located on Tipner West must be retained, restored and re-used. The Scheduled D-Day Slipways adjoining Horsea Island East must also be retained, and where feasible restored. Their fabric and setting must be conserved, and where desirable/possible enhanced. This will include the investigation, recording and safeguarding of known and potential finds of archaeological significance, including those as may be identified below mean high water springs.**
- 4. A segregated bus way, alongside a new pedestrian and cycle way between Tipner West and Horsea Island via a new bridge and on to Port Solent, will be established, operated and maintained.**
- 5. The deep water access to Tipner Point and the new marine hub quaysides will be maintained, with dredging as necessary, to support optimal boat access at all times whilst protecting the Scheduled D-Day Slipways and acceptable sediment transport conditions.**
- 6. A shadow, project level Habitat Regulations Assessment (HRA) will be required to be submitted along with the planning application, and as necessary for any phased applications, to the local planning authority as competent authority. On account of the fact that delivery of the Policy will inevitably result in the loss of some designated SPA/Ramsar habitat and will likely result in the loss of some functionally linked habitat, the HRA must among other things:**
 - a) provide sufficient evidence for the local planning authority to conclude, in consultation with Natural England and Secretary of State, that all three derogation tests have been passed.**
 - b) demonstrate that any loss of functionally linked habitat, including that identified as a primary or secondary support area in the Solent Waders and Brent Goose Strategy⁶, will be mitigated through the provision of replacement functionally linked supporting habitat of equal or greater quality and quantity, which fulfils the same special contribution and particular function of the areas lost or damaged for the same species of birds.**
- 7. An Environmental Impact Assessment (EIA) will also be required to be submitted along with the planning application, and as necessary for any phased applications, to the local planning authority.**

8. Whilst the City Council wishes to see a comprehensive development of the site, it recognises that planning applications may come forward separately or in phases. As well as complying with the development requirements set out above, all development proposals need to demonstrate consistency with other permissions granted and emerging proposals, including any Transport and Works Act Order, Harbour Revision Order, Marine Licence of other marine and environmental consents as may be required. All development proposals will be supported by appropriate site phasing and sequencing strategies to ensure a holistic approach is taken to the delivery of development. Planning applications will need to demonstrate potential landscaping or other solutions for land comprising later phases in the event that such phases do not come forward within an agreed timeframe.