
The Conservation of Habitats and Species Regulations 2017

Screening Assessment and Appropriate Assessment

In the light of the “Sweetman Judgement” (People Over Wind and Sweetman v Coillte Teoranta, April 2018), the comments below comprise an Appropriate Assessment which includes advice on necessary avoidance and mitigation measures.

Summary

Wokingham Borough Council (WBC), in consultation with Natural England, has formed the view that any net increase in residential development between 400m and 5km straight-line distance from the Thames Basin Heath Special Protection Area (SPA), along with any larger developments comprising over 50 new dwellings within the wider 5km to 7km zone are likely to have a significant effect on the integrity of the SPA, either alone or in-combination with other plans or projects, if carried out in the absence of appropriate mitigation. An Appropriate Assessment has been carried out which includes regard to mitigation requirements.

This site is located approximately 6.4km from the boundary of the SPA. The proposals are for 130 new dwellings, plus a 70 bed care home and are therefore likely to result in an adverse effect on the SPA, unless it is carried out together with appropriate avoidance and mitigation measures.

As set out in WBC’s Infrastructure Delivery Contributions Supplementary Planning Document (SPD), the strategy to mitigate impacts upon the SPA is for relevant developments to: 1) provide (or make financial contributions towards the provision of) Suitable Alternative Natural Greenspaces (SANGs) in perpetuity as an alternative recreational location to the SPA; and 2) make financial contributions towards Strategic Access Management and Monitoring (SAMM) measures.

In this instance, as part of its works to form the northern distributor road, WBC (the Applicant) has provided a 7ha extension to the Old Forest Meadows SANG (to the west of Old Forest Road) through the conversion of previous agricultural fields. Planning permission for these works was granted under planning application 190198; with detailed landscaping approved pursuant to the planning conditions under submission reference 193104. The SANG extension has now been completed and is open to the public.

The development would also make a contribution towards Strategic Access Management and Monitoring (SAMM) which will be calculated on a per bedroom basis. The payment would be made pre-occupation of the dwellings.

Subject to these provisions, the proposals would not lead to an adverse effect on the integrity of the SPA and would comply with SEP Saved Policy NRM6, policy CP8 of the Core Strategy, and the NPPF.

In normal circumstances the applicant must agree to enter into a S106/s111 agreement to secure these provisions. In this instance however WBC is both landowner and LPA so cannot covenant with itself to comply with such planning obligations. WBC however are committed to the appropriate mitigation and, as the Competent Authority, will put in place an alternative and accountable method for ensuring the SAMM contribution at the relevant time.

1. The Conservation of Habitats and Species Regulations (2017)

1.1 In accordance with The Conservation of Habitats and Species Regulations (2017) Regulation 63 a competent authority (in this case Wokingham Borough Council (WBC)), before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which—

- a. is likely to have a significant effect on a European site...(either alone or in combination with other plans or projects), and
- b. is not directly connected with or necessary to the management of that site

must make an appropriate assessment of the implications of the plan or project for that site in view of that site's conservation objectives.

1.2 A person applying for any such consent, permission or other authorisation must provide such information as WBC may reasonably require for the purposes of the assessment or to enable it to determine whether an appropriate assessment is required.

1.3 WBC must for the purposes of the assessment consult Natural England (NE) and have regard to any representations made by that body. It must also, if it considers it appropriate, take the opinion of the general public, and if it does so, it must take such steps for that purpose as it considers appropriate. In the light of the conclusions of the assessment, and subject to Regulation 64 (Considerations of overriding public interest), WBC may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site.

1.4 In considering whether a plan or project will adversely affect the integrity of the site, WBC must have regard to the manner in which it is proposed to be carried out or to any conditions or restrictions subject to which it proposes that the consent, permission or other authorisation should be given.

2. Stage 1 Screening for Likely Significant Effects

2.1 This proposal is a 'plan or project' which is not directly connected with or necessary to the management of a European Site. The Thames Basin Heaths Special Protection Area (SPA) is a European designated site which affects the borough, and WBC must ensure that development does not result in an adverse impact on the SPA. The potential adverse effects on the integrity of the SPA include recreational activities from inside the SPA and air pollution from inside and outside the SPA.

2.2 At this stage WBC cannot rule out 'likely significance effects' on the SPA (alone or in combination with other plans or projects) because the proposal could undermine the Conservation Objectives of these sites. This is because the proposal is located 6.4 km from the SPA and:

- represents a net increase of 130 dwellings within 5 – 7km of the Thames Basin Heaths Special Protection Area (SPA) which will lead to an increase in local population and a potential increase in recreational activity on the SPA

2.3 As the 'likely significance effects' cannot be ruled out at this stage an Appropriate Assessment must be undertaken.

3. Stage 2 Appropriate Assessment

3.1 Based on the information provided, WBC must decide whether or not an adverse effect on site integrity (alone or in combination with other plans or projects) can be ruled out. Mitigation may be able to be provided so that the proposal is altered to avoid or reduce impacts.

3.2 The following policies and guidance set out WBC's approach to relevant avoidance and mitigation measures which have been agreed with Natural England. For the majority of housing developments this will comprise the provision of (or contribution towards) Suitable Alternative Natural Greenspace (SANG) and a contribution towards the Strategic Access Management and Monitoring (SAMM) Project. The financial contributions towards SANG are generally secured either

through an obligation in a s106 agreement that requires WBC to allocate an appropriate amount of the development CIL receipt towards the provision of SANG, or through an obligation in an agreement under s111 of the Local Government Act, that requires the developer to make an appropriate financial contribution towards the provision of SANG (to be used in the event that the developer successfully seeks CIL relief). S106 obligations are also used to secure an appropriate financial contribution to the SAMM project.

3.3 For SDL development within 5-7km of the SPA, SANG is normally required at a minimum of 1.73-2.16 ha per 1,000 residents, constructed and delivered to Natural England's quality and quantity standards; together with a contribution towards SPA access management and monitoring.

Policies and Guidance

3.4 For this proposal the following guidance and policies apply:

- South East Plan (May 2009) Policy NRM6 (Thames Basin Heaths Special Protection Area) <http://webarchive.nationalarchives.gov.uk/20100528160926/http://www.gos.gov.uk/gose/planning/regionalPlanning/815640/>
- Wokingham Borough Core Strategy (2010) Policy CP8 (Thames Basin Heaths Special Protection Area) sets out the approach WBC will take in order to protect the TBH SPA <http://www.wokingham.gov.uk/planning/planningpolicy/local-plan-and-planning-policies/>
- Wokingham Borough Core Strategy (2010) Policy CP7 (Biodiversity) sets out the approach WBC will take in order to protect national and international nature conservation sites <http://www.wokingham.gov.uk/planning/planningpolicy/local-plan-and-planning-policies/>
- Wokingham Borough Managing Development Delivery Local Plan (2014) Policy TB23 (Biodiversity and Development) <http://www.wokingham.gov.uk/planning/planning-policy/local-plan-and-planning-policies/>
- Infrastructure Delivery and Contributions SPD (2011) <http://www.wokingham.gov.uk/EasySiteWeb/GatewayLink.aspx?allid=193415>

3.5 The project as proposed would not adversely impact on the integrity of the SPA if avoidance and mitigation measures are provided as stipulated by these policies and guidance.

SPA Avoidance and Mitigation Measures

3.6 The provision of Suitable Alternative Natural Greenspace (SANG) and its ongoing maintenance in perpetuity.

3.6.1 In accordance with the development plan, the proposed development will be required to provide alternative land to attract new residents away from the SPA. The term given to this alternative land is Suitable Alternative Natural Greenspace (SANG).

3.6.2 In this instance, as part of its works to form the northern distributor road, the Council (in this case also the Applicant) has provided a 7ha extension to the Old Forest Meadows SANG (to the west of Old Forest Road) through the conversion of previous agricultural fields. Planning permission for these works was granted under planning application 190198; with detailed landscaping approved pursuant to the planning conditions under submission reference 193104.

3.6.3 This SANG is in addition to the existing 2.59ha of SANG already in that location and would far exceed the 3.056 Ha that would otherwise be expected under paragraph 4.49 of the Core Strategy (8ha per 1,000 population - calculated at a rate of 2.4 persons per household plus the 70 care home beds – $312+70=382$).

3.6.4 The SANG extension has now been completed and is open to the public.

3.6.5 The SANG has been constructed and delivered to Natural England's quality and quantity standards and WBC, as owners of the site, have assumed responsibility for its ongoing maintenance. The SANG is already open to the public such that, in this regard, the Habitats Regulations will have already been satisfied in accordance with South East Plan Policy NRM6 (iii) and Core Strategy Policy CP8.

3.7 Strategic Access Management and Monitoring (SAMM) Contribution

3.7.1 The proposed development will also make a contribution towards Strategic Access Management and Monitoring (SAMM). This project funds strategic visitor access management measures on the SPA to mitigate the effects of new development on it.

3.7.2 The level of contributions will be calculated on a per bedroom basis; as set out in the table below. Payment will be made prior to occupation of the dwellings. The final level of contribution will be calculated when the dwelling mix is fixed through the Reserved Matters planning applications.

No. of bedrooms	SAMM Contribution 5-7km
1	£101.69
2	£132.93
3	£174.52
4	£230.03

3.7.3 In normal circumstances the applicant must agree to enter into a S106 agreement to secure these provisions. In this instance however WBC is both landowner and LPA so cannot covenant with itself to comply with the planning obligations. WBC however are committed to the appropriate mitigation and, as the Competent Authority, will put in place an alternative and accountable method for ensuring timely payment.

3.8 Air Pollution Impact Pathway

3.8.1 Information provided with the application indicate that the proposals would have a negligible impact in terms of changes in traffic flows locally; with the greatest increase in flows likely to occur on the Twyford Road, which would see an increase of 29 two-way vehicle movements during the AM peak hour, equating to a net impact of just 1.9% against the Without Development scenario. The change in pollutant concentrations attributable to traffic emissions associated with the operation phase of the Proposed Development (i.e. impacts on local air quality) are therefore considered negligible (themselves not warranting the need for mitigation).

3.8.2 Given the location and distance of the TBHSPA designation from the site, only a limited proportion of the traffic generated would be anticipated to travel in the direction of the designation (south/south east). It is reasonable to assume that the majority of this traffic would be headed for Wokingham town centre, with only a small proportion travelling on towards destinations or routes in closer proximity to the SPA (e.g. Sandhurst, Camberley or Farnborough).

3.8.3 In view of the size and scale of the proposed development along with the distance and separation from the SPA components, and modelled traffic information it is considered that the traffic levels emanating from the development will trail off to a de minimis level well before any component of the TBHSPA and accordingly, likely significant effects on the SPA in respect of air pollution as a result of the proposed development, either alone or in combination with other schemes, can be suitably

ruled out. WBC came to a similar conclusion when undertaking an Appropriate Assessment with respect to the recent planning application at Ashridge Farm – 153 dwellings, planning reference 201515.

3.8.4 Accordingly, it is not considered that the development will result in changes to air quality that would adversely affect the integrity of the SPA, either alone, or in- combination with other plans or projects and no further assessment is required.

4. Conclusion

4.1 An Appropriate Assessment has been carried out for this development in accordance with the Habitats Regulations 2017 (as amended). Without any appropriate avoidance and mitigation measures the Appropriate Assessment concludes that the development is likely to have a significant effect upon the integrity of the SPA with the result that WBC would be required to refuse a planning application.

4.2 In this instance however the applicant has already provided a 7 Ha SANG extension and will make a financial contribution towards the costs of SPA avoidance and mitigation measures. The application will therefore be in accordance with the SPA mitigation requirements as set out in the relevant policies.

4.3 WBC is satisfied that the above measures will prevent an adverse effect on the integrity of the SPA. Pursuant to Article 6(3) of the Habitats Directive (Council Directive 92/43/EEC) and Regulation 61(5) of the Conservation of Habitats and Species Regulations (2017), permission may therefore be granted.

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