

Land to the South of Ringwood Road, Alderholt, Dorset

Ecology Topic Paper

1. REASON FOR REFUSAL 1

- 1.1 The planning decision notice dated 7 July 2023 (**CDA.76**) identifies nine reasons for refusal (RfR), of which Reason for Refusal 1 relates to ecology, and in particular the need to protect International Sites afforded protection under The Conservation of Habitats and Species Regulations 2017 (as amended)(the 'Habitats Regulations'):

“1. The proposal would have adverse impacts on the Dorset Heathlands Special Protection Area (SPA), Dorset Heaths Special Area of Conservation (SAC), New Forest SPA/SAC and River Avon SAC and it has not been demonstrated that appropriate mitigation can or will be provided, contrary to Policy ME2 of the adopted Christchurch and East Dorset Local Plan – part 1 2014, the Dorset Heathlands Planning Framework 2020-2025 SPD, and paragraphs 180-182 of the National Planning Policy Framework (NPPF). This forms a clear reason for refusal of the proposal in accordance with NPPF para 11 d) i.”

- 1.2 This Ecology Topic Paper therefore sets out relevant background to RfR 1 and provides a summary of matters that are agreed and matters that in Dorset Council's (DC) view remain outstanding. It was originally drafted by EPR, and has been edited following review and feedback received from DC.
- 1.3 Natural England are not a party to this Topic Paper and have not set out a formal position on matters agreed, though they did provide advice during the pre-Inquiry meeting held with DC on 19 April 2024. Their objection to the application remains outstanding pending review of the further information submitted.

2. SITE CONTEXT & REQUIREMENT FOR HRA

- 2.1 With reference to Map 1 of the submitted Information for Habitats Regulations Assessment report (ES TA 9.2, **CDA.30**) the Appeal Site is located within the zone of influence of the following International Sites afforded protection under the Habitats Regulations:

- The Dorset Heaths Special Area of Conservation (SAC) and The Dorset Heathlands Special Protection Area (SPA) and Ramsar Site (collectively referred to as the Dorset Heath(land)s);
- The River Avon SAC and The Avon Valley SPA and Ramsar Site; and
- The New Forest SAC, SPA and Ramsar Site.

- 2.2 As a result, the competent authority (previously DC, now the Inspector) can only grant planning permission if the legal requirements of the Habitats Regulations are met. This falls to be assessed within a Habitats Regulations Assessment or 'HRA', which is undertaken by the competent authority. The applicant is required to submit the information necessary to complete the HRA, which is often set out in the form of a 'shadow' HRA.

- 2.3 Further details of the stepwise assessment process required by the Habitats Regulations are provided within the Appellant's shadow HRA – the Information for HRA (IfHRA) report submitted at ES TA 9.2, **CDA.30**. This also provides information on the impacts which the Appellant considers are potentially generated by the Appeal Proposals (Section 2, with summary at Table 2.1) and the qualifying habitats and species of the designated sites which the Appellant identified as having the potential to be affected (Section 3).
- 2.4 Since the appeal proposals include mitigation measures to address likely significant effects on International Sites, the competent authority is required to carry out an Appropriate Assessment, in accordance with case law ('People over Wind' C-323/17).

3. POLICY & GUIDANCE OF RELEVANCE TO HRA

- 3.1 The following sources of policy, guidance and key information are of relevance to the HRA of the Appeal Proposals:

General

- Christchurch and East Dorset Local Plan 2014-2028 (adopted April, 2014)(**CDD.1**), Policy ME2 - Protection of the Dorset Heathlands;
- Natural England's European Site Conservation Objectives (**CDF.55**);
- Natural England's Supplementary Advice on Conserving and Restoring Site Features (**CDF.56**);

Recreational pressure

- The Dorset Heathlands Planning Framework 2020-2025 Supplementary Planning Document (**CDD.4**);
- Natural England (2021) Guidelines for the Creation of Suitable Alternative Natural Green Space (**CDF.57**);

Nutrient neutrality

- River Avon Special Area of Conservation Nutrient Management Plan for Phosphorus (DTA 2015) (**CDF.58**);
- Natural England's current 'Nutrient Neutrality Budget Calculator' for development in the River Avon catchment;

Air quality

- The Dorset Heathlands Interim Air Quality Strategy 2020-2025 (**CDF.24**);
- The UK's Air Pollution Information System (APIS); and
- Natural England's approach to advising competent authorities on the assessment of road traffic emissions under the Habitats Regulations (June 2018)(**CDF.59**).

4. THE APPELLANTS INFORMATION FOR HRA

- 4.1 The scope of the Appellant's shadow HRA was informed by a pre-application meeting with Natural England provided as part of their formal pre-application Discretionary Advice Service (DAS), held on the 17 June 2022 (meeting minutes written by the Appellant are found at **CDA.72**). It was also informed by EIA Scoping Advice provided by Natural England to DC, as set out within DC's EIA Scoping Opinion dated 21 December 2022 (**CDA.136**). **Table 4.1** below

summarises the shadow assessment submitted by the Appellant in 2023, as set out in ES TA 9.2 (CDA.30).

Table 4.1: Summary of the Appellant’s Shadow HRA as submitted at CDA.30

Impact Pathway	Scoping					Screening Stage Conclusion (ex. mitigation)	Impact Avoidance and Mitigation Measures Proposed to Ensure No Adverse Effect (alone and in combination)
	Dorset Heaths SAC	Dorset Heathlands SPA	Dorset Heathlands Ramsar	River Avon SAC/Avon Valley SPA/Ramsar	New Forest SAC/SPA/Ramsar		
Loss of offsite supporting habitat	OUT	IN	OUT	OUT	OUT	LSE	<ul style="list-style-type: none"> • New and enhanced habitats within SANG and GI network • Lighting Strategy
Hydrological change	OUT	OUT	OUT	IN	OUT	LSE	<ul style="list-style-type: none"> • Strategy for nutrient neutrality • CEMP • SuDS Strategy
Air pollution	IN	IN	IN	OUT	OUT	LSE	<ul style="list-style-type: none"> • CEMP • CIL contribution to Dorset Heathlands IAQS
Increased recreational pressure	IN	IN	IN	OUT	IN	LSE	<ul style="list-style-type: none"> • Bespoke SANG provision • Contribution to SAMM via Dorset Heathlands SPD

5. STAKEHOLDER CONSULTATION

5.1 **Table 5.1** below summarises the post-submission consultation responses received following review of the submitted shadow HRA (CDA.30), which are of relevance to RfR 1.

Table 5.1: Stakeholder consultation of relevance to RfR 1

Organisation	Date	Type	CD Ref
Dorset Council – Dorset NET Heathland Officer, Jade North	27/4/23	Consultation response	CDB.18
Dorset Council – Environmental Assessment Officer, Oliver Rendle	28/4/23	Consultation response	CDB.14

Organisation	Date	Type	CD Ref
Dorset Council – Dorset NET Ecology & Biodiversity	28/4/23	Consultation response	CDB.34
Dorset Council – Case Officer, Ursula Fay	15/5/23	Email to appellant regarding SANG following meeting of 12/5/23	CDB.35
Natural England	25/5/23	Consultation response – objection, further information required	CDB.21
New Forest District Council	31/5/23	Consultation response	CDB.23
Wessex Water	31/5/23	Consultation response	CDB.36

6. DORSET COUNCIL'S HRA

6.1 Prior to determination, DC undertook a HRA of the Appeal Proposals which drew on the consultation responses received, in particular that from Natural England. The record of this assessment is set out at **CDB.33**, dated 27 June 2023. A summary of this assessment is provided at **Table 6.1** below.

Table 6.1: Summary of DC's HRA of the Appeal Proposals

Designated site	HRA Screening: LSE ¹ Y/N	Impact	Appropriate Assessment: AESI ² Y/N	Commentary
River Avon SAC	Y	Water quality	Y	The applicant has not provided sufficient detail to provide certainty that a deliverable mitigation mechanism [to secure nutrient neutrality] has been secured and agreed.
Dorset Heathlands SPA Dorset Heathlands Ramsar Dorset Heaths SAC	Y	Recreational pressure	Y	Given the scale and location of the proposed development, both a SAMM and a HIP will be required. A contribution towards Strategic Access Management and Monitoring (SAMM) will be collected through S106 agreement. Natural England have confirmed that the SANG area of 53.4ha is suitable for the proposed development, with the Cross Roads Plantation SANG compartment being particularly well

Designated site	HRA Screening: LSE ¹ Y/N	Impact	Appropriate Assessment: AESI ² Y/N	Commentary
				<p>placed to intercept existing public pressures.</p> <p>However, Natural England has objected due to the need for further information and detail on the mitigation provided, in particular more detail on the design of SuDS, SANG management, phasing, and mechanisms to secure and maintain the SANG in perpetuity.</p> <p>Further concern related to the proposal for improved cycle and pedestrian links from the site to Ringwood Forest, Cranborne Common and Verwood, encouraging further recreational use of the Dorset Heaths site.</p>
		Air quality – traffic emissions	N (inferred from report commentary, though not explicitly stated by DC)	The adopted Dorset Heathlands Interim Air Quality Strategy 2020-25 SPD provides an approach to addressing the adverse effects of airborne nitrogen upon the Dorset Heathlands. Since the proposed development will not contribute through the Community Infrastructure Levy (CIL), there will be a requirement to provide a bespoke contribution towards the strategy through a S106.
		Functionally linked land/supporting habitat	N (inferred from report commentary, though not explicitly stated by DC)	<p>The development site provides supporting habitat for Nightjar breeding within the heathland at Cranborne Common to the west of the Site.</p> <p>All of the potential supporting habitat with the Appeal Site that the Nightjar appear to target for the purpose of foraging, which extends to approx. 52ha, is located within areas proposed as SANG, other semi-natural green infrastructure and as a potential location for solar arrays. Therefore, there will be no loss of potential supporting habitat to built development.</p>

Designated site	HRA Screening: LSE ¹ Y/N	Impact	Appropriate Assessment: AESI ² Y/N	Commentary
				It is recommended that a planning condition is added to ensure that a suitable lighting strategy is secured and agreed to prevent an adverse effect upon the integrity of the Dorset Heaths as a result of damage to supporting habitat.
New Forest SAC New Forest SPA New Forest Ramsar	Y	Recreational pressure	Y	The mitigation provided through the Dorset Heathlands Planning Framework 2020-25, such as SAMM and HIPS, are sufficient to address the impacts upon the New Forest European Site where there is overlap in the 13.8km New Forest buffer zone and the 400m-5km Dorset Heathland buffer zone. However, Natural England have objected on the grounds of further information on the SANG mitigation being required and the improved cycle and pedestrian links encouraging access to Cranborne Common.
		Air quality	Y	Natural England commented that the current air pollution modelling is inadequate to allow a conclusion that there will not be a likely significant effect on the designated sites, either alone or in-combination with a number of significant developments coming forward within the Fordingbridge area.

1. LSE – likely significant effect
2. AESI – adverse effect on site integrity, taking account of proposed avoidance and mitigation

7. FURTHER INFORMATION

- 7.1 Following correspondence with DC and the receipt of Natural England's objection, both in May 2023, initial responses were made by EPR on behalf of the Appellant, prior to the planning decision being made in July 2023. This included:

- 'Response to Case Officer regarding Proposed SANG' - EPR, 23 May 2023 (**CDA.59**); and
- 'Response to Natural England Objection' – EPR, 9 June 2023 (**CDA.70**).

- 7.2 These responses provided points of clarification and further information regarding the assessment work carried out and the mitigation proposed, including the potential means for securement.
- 7.3 Following the refusal of planning permission, the Appellant met with Natural England in October 2023 to discuss and understand the issues raised and the further information considered necessary to satisfy the requirements of the Habitats Regulations (meeting minutes are at **CDA.86**). Further work then commenced.
- 7.4 The ongoing further work, and some of the further information emerging, was then discussed with Natural England, DC and their appointed ecological consultant (RSK) on the 19 April 2024 [note that in previous EPR documents this date has been referred to as the 18 April, but the meeting was held on the 19th], during a meeting held in advance of the Inquiry to review the Appellant's draft Ecology SoCG. Table 7.1 below provides a summary of the matters outstanding and actions being taken to address RfR 1, as drafted by EPR on the basis of discussions that took place between the Appellant, Natural England and DC during this meeting.

Table 7.1: Summary of matters outstanding and actions, as identified by EPR, following meeting between the Appellant, Natural England and DC on 19 April 2024

Site/Impact	Outstanding Issue	Further Action	Output	Responsible party
Dorset Heath(land)s/ recreational pressure	SANG and development phasing detail	NE has requested that suitable links between residential parcels and SANGs are identified as part of the phasing plan, along with the proportions in each phase, with residential parcel dwelling numbers labelled	Revised IDP Addendum IfHRA	Intelligent Land/Rapleys EPR
	Detail regarding SANG creation and management to provide certainty suitable SANG can be delivered	DC/NE to review what additional detail is required, re: DC Heathland Officer comments	Addendum IfHRA	EPR
	Barrier between SANG and Cranborne Common	Further detail regarding the wetland barrier proposed along Sleep Brook to the west of the SANG	Addendum IfHRA	EPR
	Promotion of bridleway through Cranborne Common	Corrections to Transport Strategy to remove reference to promotion of bridleway across Cranborne Common (will not affect TA)	Revised Transport Strategy	Paul Basham
River Avon/ Nutrient Neutrality	Detail regarding Phosphate calculation, mitigation and delivery. Need to demonstrate credits are secured.	Detail of revised calculation, detail of SuDS and mechanism for securement and sufficient evidence that units have been secured	Addendum IfHRA	EPR
New Forest/ Air Quality	Details of air quality modelling, in particular in combination assessment	Further work to verify transport modelling, air quality assessment and as a consequence information for HRA.	Revised TA, AQA and Addendum IfHRA	Paul Basham Waterman Group EPR
All	Details of viability, mechanism to secure mitigation	Revised viability assessment work and drafting of the S106	Revised viability assessment and Draft S106	Intelligent Land/Rapleys

- 7.5 Following the meeting a revised draft Ecology SoCG was circulated on 19 April. Following an email request from EPR on 29 April requesting feedback on the draft SoCG from DC, DC replied to advise that they would not be in a position to comment on the SoCG until the further information outlined in **Table 7.1** had been received and reviewed. The Addendum Information for HRA (ES TA 9.2Ad **CDA.99**) was submitted to DC on 2 May 2024 prior to the Case Management Conference. Natural England have advised that they are unable to review the Addendum Information until w/c 24 June.
- 7.6 On the basis of the further information submitted, **Table 7.2** summarises the elements of the HRA mitigation strategy that are currently proposed by the Appellant to address the potential for adverse effects on the integrity of the sites concerned, either alone or in combination with other plans and projects, delivery of which would be secured by S106 and/or planning condition.

Table 7.2: Summary of the mitigation strategy proposed by the Appellant

Impact Pathway	Relevant Sites					Impact Avoidance and Mitigation Measures Proposed to Ensure No Adverse Effect (alone and in combination)
	Dorset Heaths SAC	Dorset Heathlands SPA	Dorset Heathlands Ramsar	River Avon SAC/Avon Valley SPA/Ramsar	New Forest SAC/SPA/Ramsar	
Loss of offsite supporting habitat, Nightjar		X				<ul style="list-style-type: none"> New and enhanced habitats within SANG and GI network, to be detailed in SANG MP/LEMP Lighting Strategy
Nutrient neutrality				X		<ul style="list-style-type: none"> Nutrient budget calculation and purchase of required Phosphate credits to achieve nutrient neutrality CEMP SuDS Strategy - to provide further details re: SUDS at later planning stages (detailed design) in order to justify a lower nutrient liability
Air pollution	X	X	X			<ul style="list-style-type: none"> CEMP Contribution to Dorset Heathlands IAQS
Increased recreational pressure	X	X	X		X	<ul style="list-style-type: none"> Bespoke SANG provision, detailed via SANG MP/LEMP Contribution to SAMP via Dorset Heathlands SPD Contribution to New Forest SAMP

8. MATTERS AGREED/OUTSTANDING

8.1 **Table 8.1** below sets out the ecological issues relating to RfR 1 that are agreed or in DC's view remain outstanding at the time of production of this Topic Paper.

Table 8.1: Ecological Issues Agreed/Outstanding

Designated Site	Ecological issue	DC Concern	DC Position: Issue agreed/outstanding?
All	Assessment of in-combination effects	No specific list of plans or projects considered, as relevant to hydrological change, loss of supporting habitat and recreational pressure.	<i>Outstanding</i> The information to support HRA provided by the Appellant did not contain a list of the plans or projects that have been considered as part of the in combination and cumulative effects, making it difficult to conclude that an adequate assessment of cumulative impacts has been undertaken. This was mentioned in paragraphs 16.43 and 16.45 of the Committee Report produced by DC.
River Avon SAC	Water quality	Nutrient neutrality budget	<i>Outstanding</i> Mechanism of securing phosphate units is acceptable, but the actual phosphate liability for the scheme pre and post 2030 is required. Also, evidence that appropriate number of units have actually been secured.
Dorset Heath(lands) SAC/SPA/Ramsar	Recreational pressure	Claims that SANG will mitigate for both Dorset Heaths and AONB	<i>Outstanding</i> Appellant has not provided any evidence that the SANGs will adequately offset recreational pressure on both the AONB and the Dorset Heaths - the efficacy has not been justified. Part of new strategy from the Appellant to resolve RfR 8 with regards tranquillity and the AONB.
	Loss of supporting habitat for Nightjar (within the area of proposed SANGs)	Lack of assessment of increased recreational pressure on supporting habitat resulting from creation of the SANGs.	<i>Outstanding</i> The proposed SANGs are known to provide supporting habitat for foraging Nightjar. Concern that increase in recreational use of the SANGs could lead to disturbance and displacement of foraging nightjar which has not really been assessed within the information to inform HRA.

Designated Site	Ecological issue	DC Concern	DC Position: Issue agreed/outstanding?
		Doubt whether enhancement of SANGs for foraging Nightjar would be suitable/successful due to increased disturbance, even at dusk/dawn.	<i>Outstanding</i> The appellants information to support HRA has not considered the potential for recreational usage of the SANGs to disturb foraging Nightjar, it being dismissed on the basis that nightjar forage mainly at night. The SANGs are known to support foraging nightjar and although they do forage mainly at night, they are active at dusk and dawn and there is therefore a potential for recreational disturbance at these times – from summer barbeques for example.
	Other urban effects	Doubt whether other urban effects should have been scoped out, including noise, light and visual disturbance of species, and other urban impacts on habitats/supporting habitats from fly-tipping, spread of non-native invasive species and increased risk of wildfires.	<i>Outstanding</i> Appellant has not considered potential impact of other urban effects on foraging Nightjar – for example fly tipping, fires and other antisocial activities. Research conducted by Footprint Ecology for the Dorset Heaths forum show that this type of activity can and does occur and therefore there needs to some assessment of the potential for significant effects and the likely mechanism to resolve the issues when they occur. This could be addressed by condition and perhaps some mechanism in the SANGs management plan such as warden provision.
	Air pollution	-	<i>Agreed</i> Based on mitigation proposed.
New Forest SAC/SPA/Ramsar	Recreational pressure	-	<i>Agreed</i> Based on mitigation proposed.
	Air pollution	Results of revised traffic flows and air quality modelling for the New Forest not yet available. Currently unable to conclude if there will be an air quality impact or not. If an impact is anticipated, then mitigation would follow same approach as for Dorset Heaths albeit that New Forest policy is not as advanced as for the Dorset heaths.	<i>Outstanding</i> In S106 discussions, appellant has indicated willingness to resolve this issue, if required, through provision of a financial contribution towards monitoring the effects of traffic emissions on sensitive locations, with management or mitigation measures if harmful effects are confirmed in the future.