

Land South of Maddoxford Lane

Information for Habitats Regulations Assessment

Prepared on behalf of

Bloor Homes Limited

Final Report

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Executive Summary

An assessment of potential effects from the Proposed Development on land south of Maddoxford Lane on Internationally designated nature conservation sites was undertaken. Information presented in this report is to assist Eastleigh Borough Council, as the Competent Authority with undertaking a Habitats Regulations Assessment (HRA) of the proposals in respect of Internationally designated nature conservation sites considered to have the potential to be at risk of adverse effects from Proposed Development.

This assessment proposed the impact avoidance and mitigation measures are proposed where the potential for adverse effects have been identified.

In summary, changes in recreational pressure and water quality as a result of the Proposed Development are considered likely to result in significant adverse effects on Internationally designated nature conservation sites (New Forest Special Protection Area (SPA), Solent Maritime Special Area of Conservation (SAC) and Solent & Southampton Water SPA and Ramsar). Consequently, it will be necessary for Eastleigh Borough Council to undertake an Appropriate Assessment. It is the conclusion of this report that, subject to the necessary impact avoidance and mitigation measures being delivered there will be no significant adverse effect on Internationally designated nature conservation sites as a result of the Proposed Development, either alone or in-combination with other plans and projects.

This document provides the information that is necessary for Eastleigh Borough Council to undertake an Appropriate Assessment and conclude that the proposals will not lead to an adverse effect on the integrity of the International designated nature conservation sites concerned.

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1. INTRODUCTION

Background

- 1.1 Ecological Planning & Research Ltd (EPR) was commissioned by Bloor Homes Ltd to provide advice in relation to the need to ensure that the development proposals, are able to comply with the requirements of the Conservation of Habitats and Species Regulations 2017 (as amended) in respect of the protection that they afford to Internationally designated sites for nature conservation.
- 1.2 The Proposed Development is located within 5km of three Internationally designated sites. The River Itchen Special Area of Conservation (SAC), Solent Maritime SAC and Solent & Southampton Water Special Protection Area (SPA) and Ramsar. Due to distance and no direct aquatic links to the Proposed Development, the River Itchen SAC is not within the Zone of Influence and therefore not considered in this assessment. Additionally, the Site is located approximately 13km from the New Forest SPA which is within the 13.8km buffer zone, as The New Forest SPA Mitigation- Interim Framework (2014). These are shown on **Figure 1**.
- 1.3 Consequently, it will be necessary for Eastleigh Borough Council, as competent authority under the Conservation of Habitats and Species Regulations 2017 (as amended) to carry out an HRA of the proposals to determine whether they are likely to have a significant effect on the SPA, SAC and Ramsar either alone or in combination with other plans and projects, and if so carry out an Appropriate Assessment (AA) to determine whether there will be an adverse effect on the integrity of the SPA, SAC and Ramsar .
- 1.4 The purpose of this Information for Habitats Regulations Assessment (IfHRA) report is to provide Eastleigh Borough Council with the information that they will require in order to carry out an HRA, and if necessary, an AA, and these processes are described in more detail below.

Relevant Legislation, Policy, Guidance and Case Law

- 1.5 To improve document flow, information relating to relevant legislation, policy, guidance and case law is included at **Appendix 1**.

Preceding Plan-Level Sustainability Appraisal and Habitats Regulations Assessment

- 1.6 A Habitats Regulations Assessment (HRA) (Urban Edge Consulting, 2022) was undertaken on the Eastleigh Borough Local Plan (EBC, 2022), as is required under the Environmental Assessment of Plans and Programmes Regulations 2004 and The Conservation of Habitats and Species Regulations 2017 (as amended) (“the Habitat Regulations”).
- 1.7 The HRA identified increases in recreational pressure and water pollution as potential impact pathways which may result in adverse impacts on the internationally designated sites and the features for which it is designated as result of development.

- 1.8 With regard to recreational pressure on the Solent and Southampton Water SPA and New Forest SPA, following appropriate assessment the HRA concludes that the Eastleigh Borough Councils Local Plan 'As a strategically operating impact it is assumed that all proposed allocations with residential use will contribute to the effect'. The requirements contribution to visitor access management projects which are already in place, which is part of Eastleigh's interim mitigation strategy.
- 1.9 With regard to Water pollution and Nutrient budgeting on the Solent Maritime SAC, following appropriate assessment the HRA concludes that the Eastleigh Borough Councils Local Plan 'Taking account of the continuing uncertainty, this impact pathway is taken forward for assessment'. The requirement for Construction Environmental Management Plan and a construction and operational phase surface water drainage system will allow for adequate mitigation for hydrological impacts. The requirement for water pollution is that the WWTWs upgrade facilities to increase nitrogen removal capacity, contributions in terms of land acquisition or into schemes to offset the nutrients and measures to decrease water consumption will all aid the mitigation of water pollution impacts.

Conceptual Impact Assessment Model

- 1.10 In carrying out an assessment of the potential effects of a development proposal on an International Site, the 'source-pathway-receptor' concept provides a useful model for framing and objectively evaluating the mechanisms through which potential effects may occur and has been employed in this assessment. Table 1.1 below sets out the various parts of the model and how they relate to each other.

Table 1.1: Conceptual Impact Assessment Model

Source	Pathway	Receptor
Elements of the development proposals that are likely to generate or contribute towards certain environmental effects.	Changes in environmental conditions caused by aspects of the development proposals that have the potential to affect an identified impact receptor.	The interest features / conservation objectives of the International Site concerned, and the environmental conditions required to support it.

- 1.11 During the assessment process, information has been gathered relating to each part of the conceptual assessment model in respect of each potential impact upon nearby International Sites. The consideration of this information will then allow Eastleigh Borough Council as the Competent Authority to determine whether or not a potentially viable impact pathway exists between the development proposals and International Sites within the Zone of Influence (Zol) of the proposals.

Scope of the Habitats Regulations Assessment Report

- 1.12 In view of the above considerations, the scope of this IfHRA report is as follows:
- To gather information to establish whether or not the Proposed Development at Maddoxford Lane is likely to contribute to a significant effect on any International Sites located within the Zol, either alone or in combination with other plans and projects;
 - To gather information to establish, if a significant impact is likely, whether or not it would adversely affect the integrity of any International Sites;

- To recommend impact avoidance and mitigation measures, if required, to address any potential impacts identified; and
- To make recommendations in relation to the requirements of the Conservation of Habitats and Species Regulations 2017 (as amended) in view of the information collected, if possible.

2. CHARACTERISATION OF THE PROPOSED DEVELOPMENT

Introduction

- 2.1 Guidance from the European Commission indicates that the first stage of providing the information that is necessary for a Competent Authority to undertake the HRA process is for all those aspects of the subject project or plan, which either alone or in combination with other plans and projects have the potential for having a significant effect on an International Site, to be identified and characterised.
- 2.2 Undertaking such a systematic characterisation in respect of the Proposed Development will enable the various aspects of the project to then be related to the particular sensitivities of the International Sites, so that the potential ways in which the former may affect the latter can be examined.

Site Location and Context

- 2.3 **Figure 1** shows the location of the Site, which is located edge of a predominantly rural area on the eastern fringes of Boorley Green, Eastleigh (centred on Ordnance Survey Grid Reference SU 51436 14344). The Site comprises two former pastoral field, and two arable fields bound by hedgerows, a dry ditch, fencing and mature trees. Additionally, within the east of the Site there are two Sites of Interest to Nature Conservation (SINCs). To the west, the surrounding area is dominated by residential housing whilst to the north, east and south, a rural landscape dominated with agriculture land and woodland pockets, including the River Hamble, is present

Proposed Development

- 2.4 The description of the Proposed Development is as follows:

'Outline planning application with all matters reserved (except the main points of access) for the demolition of a residential dwelling (Use Class C3), removal of a mobile home, and demolition of existing buildings associated with a motor vehicle storage and motor vehicle body parts and scrap material business and the construction of up to 280 dwellings (Use Class C3), including affordable dwellings, and associated provision of informal and formal public open space, together with associated highways, landscape, earth works and level changes, foul and surface water drainage facilities, utilities provision and other associated and necessary infrastructure works'.

Likely Biophysical Changes and Zone of Influence

- 2.5 The activities associated with the Proposed Development which are likely to lead to biophysical changes – and could accordingly give rise to ecological effects on sensitive designated site features in the absence of mitigation – are set out in **Table 2.1** below, which is drawn from Box 9 of the EclA Guidelines (CIEEM, 2018).
- 2.6 The Zol of a Proposed Development is defined by the EclA Guidelines as:

“... the area over which ecological features may be affected by the biophysical changes caused by the proposed project and associated activities”.

- 2.7 In this case, the Zol of the Proposed Development will encompass different areas, and thus potentially impact upon different ecological receptors, depending upon the spatial extent of the relevant biophysical change (e.g. light, noise, habitat loss, recreational disturbance). The Zol(s) relevant to this assessment are summarised in **Table 2.1** below.

Table 2.1: Activities, potential impacts, and associated Zols

Activity	Potential Impact	Zone of Influence
<i>Site Clearance and Construction Phase</i>		
<i>Access and travel on / off site</i>	<i>Noise / visual / lighting disturbance of vulnerable species</i>	<i>Site and immediately adjacent land</i>
<i>Assembly and storage areas for machines and materials; construction compounds</i>	<i>Loss and fragmentation of habitats</i> <i>Noise / visual / lighting disturbance to vulnerable species</i>	<i>Site and immediately adjacent land</i>
<i>Vegetation clearance, ground, excavation and structural works, demolition and alteration operations</i>	<i>Loss and fragmentation of habitats</i> <i>Damage to vulnerable habitats</i> <i>Direct harm to vulnerable species</i> <i>Noise / visual / vibration/ lighting disturbance to vulnerable species</i> <i>Change to surface and ground water flows</i> <i>Dust generation</i>	<i>Site and immediately adjacent land</i>
<i>Lighting of work area</i>	<i>Disturbance to vulnerable species</i>	<i>Site and immediately adjacent land</i>
<i>Drainage</i>	<i>Change of groundwater flows</i> <i>Change of water quality in groundwater</i> <i>Change in habitats fed by groundwater flows</i>	<i>Potentially up to 5km</i>
<i>Operational Phase</i>		
<i>Access and travel on / off site</i>	<i>Noise / visual / lighting disturbance to vulnerable species</i>	<i>Site and immediately adjacent land</i>
<i>Occupation of new houses: urban effects</i>	<i>Noise / visual / lighting disturbance to vulnerable species</i> <i>Loss and fragmentation of habitats by trampling</i> <i>Increased risk of cat predation</i> <i>Degradation and pollution of vulnerable habitats through urban effects (such as fly tipping, introduction of non-native species, arson)</i>	<i>Approximately 400m radius from new development</i>
<i>Recreation</i>	<i>Fragmentation of habitats by trampling</i> <i>Noise / visual disturbance to vulnerable species by members of the public and/or dogs</i> <i>Nutrient enrichment through dog fouling</i>	<i>Potentially up to and exceeding 13km</i>

Activity	Potential Impact	Zone of Influence
<i>Drainage</i>	<i>Change of ground and surface water flows</i> <i>Change of water quality in ground and surface water</i> <i>Nutrient inputs from wastewater generated by the proposed development</i> <i>Change in habitats fed by ground and surface water flows and wastewater generation</i>	<i>Potentially up to 5km to include Solent Maritime SAC, Solent & Southampton Water SPA and Ramsar and Solent and Dorset Coast SPA</i>

3. CHARACTERISATION OF INTERNATIONAL SITES

Introduction

- 3.1 This section of the IfHRA report describes and characterises International Sites within the potential Zol of the Proposed Development, including their qualifying features and conservation objectives, in order to enable an assessment to be made of the potential for significant impacts arising in the absence of impact avoidance and mitigation measures.

International Sites Considered to be Within the Potential Zone of Influence of the Proposed Development

- 3.2 **Figure 1** shows the locations of International Sites within around 5 km of the Site, which includes:
- Solent Maritime SAC;
 - Solent & Southampton Water SPA and Ramsar;
 - Solent and Dorset Coast SPA; and
 - River Itchen SAC.
- 3.3 Additionally, the Site falls within the potential Zone of Influence, as it within the 13.8km buffer, for The New Forest SPA.
- 3.4 The citation, data sheet and a summary of the conservation objectives for Solent Maritime SAC, Solent & Southampton Water SPA and Ramsar and Solent and Dorset Coast SPA are included in **Appendix 3**. A summary of each International Site, its qualifying features and its conservation objectives follows.

Site Background, Qualifying Features & Component SSSIs

- 3.5 **Table 3.1** below provides a summary of the relevant background, qualifying features, component SSSIs and SSSI condition for each of the International Sites located within the potential Zol of the Proposed Development.

Table 3.1: Summary information for International Sites within the potential Zol

Site Name	Type	Area (ha)	Qualifying Features*	Closest Component SSSI (and distance from Site)	SSSI Condition
Solent Maritime SAC	Sediment habitats within the estuaries.	11,243	Annex I habitats: Estuaries Spartina swards (<i>Spartinion maritimae</i>) Atlantic salt meadows (<i>Glaucopuccinellietalia maritimae</i>) Sandbanks Mudflats and salt flats Annual vegetation drift lines Perennial vegetation of stony banks Salicornia and other annuals colonising mud and sand Shifting white dunes with <i>Ammophila arenaria</i> Coastal Lagoons Annex II species: Desmoulin's whorl snail <i>Vertigo moulinsiana</i>	Upper Hamble Estuary and Woods SSSI – 2.3km south east	Favourable– 90%; Unfavourable, recovering - 10%
Solent and Southampton Water SPA and Ramsar	estuaries and harbours with extensive mud-flats and saltmarshes	5,401	Annex I species: Common Tern <i>Sterna hirundo</i>, Little Tern <i>Sterna albifrons</i> Mediterranean Gull <i>Larus melanocephalus</i> Roseate Tern <i>Sterna dougallii</i> Sandwich Tern <i>Sterna sandvicensis</i>	Upper Hamble Estuary and Woods SSSI – 2.3km south east	Favourable– 90%; Unfavourable, recovering - 10%
Solent and Dorset SPA	Mudflats and salt flats	87,531	Annex I species: Common Tern Little Tern Sandwich Tern	Portsmouth Harbour SSSI- 4km south	Favourable, recovering – 65% Unfavourable, no change- 25%

Site Name	Type	Area (ha)	Qualifying Features*	Closest Component SSSI (and distance from Site)	SSSI Condition
River Itchen SAC			Annex I species: Southern damselfly <i>Coenagrion mercurial</i> White-clawed (or Atlantic stream) crayfish <i>Austropotamobius pallipes</i> Brook lamprey <i>Lampetra planeri</i> Atlantic salmon <i>Salmo salar</i> Bullhead <i>Cottus gobio</i> Otter <i>Lutra lutra</i>		
New Forest SPA	Heathland	27,968	Annex I species: European Honey-buzzard <i>Pernis apivorus</i> Hen Harrier <i>Circus cyaneus</i> Eurasian Hobby <i>Falco Subbuteo</i> European Nightjar <i>Caprimulgus europaeus</i> Woodlark <i>Lullula arborea</i> Dartford Warbler <i>Sylvia undata</i> Wood Warbler <i>Phylloscopus sibilatrix</i> .	The New Forest SSSI – 13km south	Favourable – 23.25% Unfavourable, recovering – 3.5% Unfavourable, no change- 1.5% Unfavourable, declining – 4.25% Not recorded- 67.5%

Conservation Objectives

Solent Maritime SAC Sites

3.6 The Natural England conservation objectives for the SAC sites listed in **Table 3.1** are as follows:

- *The extent and distribution of qualifying natural habitats and habitats of qualifying species;*
- *The structure and function (including typical species) of qualifying natural habitats;*
- *The structure and function of the habitats of qualifying species;*
- *The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely;*
- *The populations of qualifying species; and*
- *The distribution of qualifying species within the site.*

Solent and Southampton Water SPA and Ramsar

3.7 The Natural England conservation objectives for the SPA sites listed in **Table 3.1** are as follows:

- *The extent and distribution of the habitats of the qualifying features;*
- *The structure and function of the habitats of the qualifying features;*
- *The supporting processes on which the habitats of the qualifying features rely;*
- *The population of each of the qualifying features; and*
- *The distribution of the qualifying features within the site.*

Solent and Dorset SPA

3.8 The Natural England conservation objectives for the SPA sites listed in **Table 3.1** are as follows:

- *The extent and distribution of the habitats of the qualifying features;*
- *The structure and function of the habitats of the qualifying features;*
- *The supporting processes on which the habitats of the qualifying features rely;*
- *The population of each of the qualifying features; and*
- *The distribution of the qualifying features within the site.*

River Itchen SAC

3.9 The Natural England conservation objectives for the SPA sites listed in **Table 3.1** are as follows:

- *The extent and distribution of the habitats of the qualifying features;*
- *The structure and function of the habitats of the qualifying features;*
- *The supporting processes on which the habitats of the qualifying features rely;*
- *The population of each of the qualifying features; and*

- *The distribution of the qualifying features within the site.*

The New Forest SPA

3.10 The Natural England conservation objectives for the SPA sites listed in **Table 3.1** are as follows:

- *The extent and distribution of the habitats of the qualifying features;*
- *The structure and function of the habitats of the qualifying features;*
- *The supporting processes on which the habitats of the qualifying features rely;*
- *The population of each of the qualifying features; and*
- *The distribution of the qualifying features within the site.*

Ramsar Sites

3.11 Although Natural England do not set out conservation objectives for Ramsar Sites owing to the differing legislative origin in comparison to SACs and SPAs, Ramsar Sites are nevertheless afforded the same level of protection as SACs and SPAs as a matter of National Planning Policy (NPPF, 2024). As Ramsar designations usually coincide with SPA/SAC designations, the conservation objectives for an SPA/SAC may be considered in assessment terms as extending to apply to coinciding Ramsar designations.

Natural England Supplementary Advice

3.12 Natural England has also published 'Supplementary Advice on Conserving and Restoring Site Features' for SAC and SPA sites described above and in **Table 3.2**. Natural England's supplementary advice includes site-specific targets intended to support the achievement of the conservation objectives, and these have been considered throughout this assessment.

3.13 The relevant publication dates for the Supplementary Advice for each designated site is listed in **Table 3.2** below along with a summary of the site-specific targets of most relevance to the HRA of the Proposed Development.

Table 3.2: Summary of Natural England Supplementary Advice for SAC and SPA sites within the Zol

Site Name	Publication Date	Site-specific Targets	Feature(s) Target Applies to
New Forest SPA	19/03/2019	Maintain the size of the breeding and non-breeding populations, whilst avoiding deterioration from its current level as indicated by the latest mean peak count or equivalent.	European Honey-buzzard Hen Harrier Eurasian Hobby European Nightjar Woodlark Dartford Warbler Wood Warbler
		Maintain the extent, distribution and availability of suitable breeding habitat which supports the necessary stages of its breeding cycle (courtship, nesting, feeding):	European Honey-buzzard Eurasian Hobby European Nightjar Woodlark

Site Name	Publication Date	Site-specific Targets	Feature(s) Target Applies to
			Dartford Warbler
		Maintain the extent, distribution and availability of suitable habitat which supports the necessary stages of non-breeding/wintering period (moulting, roosting, loafing, feeding)	Hen Harrier
		Maintain the distribution, abundance and availability of key prey items.	European Honey-buzzard Hen Harrier Eurasian Hobby European Nightjar Woodlark Dartford Warbler Wood Warbler
		Maintain the safe passage of bird species moving between nesting, feeding and/or roosting areas	European Honey-buzzard Hen Harrier European Nightjar
		Maintain management or other measures (whether within and/or outside the site boundary as appropriate) necessary to maintain the structure, function and/or the supporting processes associated with the feature and its supporting habitats.	European Honey-buzzard Hen Harrier Eurasian Hobby European Nightjar Woodlark Dartford Warbler Wood Warbler
		Where the supporting habitats of the SPA feature are dependent on surface water, maintain water quality and quantity at a standard which provides the necessary conditions to support the feature.	European Honey-buzzard Hen Harrier Eurasian Hobby Dartford Warbler Wood Warbler
		Maintain suitable habitats within the SPA and the wider local landscape.	European Honey-buzzard Eurasian Hobby European Nightjar Woodlark
		Restrict the frequency, duration and/or intensity of disturbance within nesting, roosting, foraging, feeding, moulting and/or loafing birds so that the feature is not significantly disturbed	European Honey-buzzard Hen Harrier Eurasian Hobby European Nightjar Woodlark Dartford Warbler
		Restrict predation and disturbance of breeding and non-breeding birds caused by native and non-native predators.	European Honey-buzzard Eurasian Hobby European Nightjar Woodlark Dartford Warbler

Site Name	Publication Date	Site-specific Targets	Feature(s) Target Applies to
			Wood Warbler
		Maintain a mixture of open areas, such as glades and wide rides, and stands of mature trees within woodlands in known nesting areas.	European Honey-buzzard Hen Harrier European Nightjar Woodlark Dartford Warbler Wood Warbler

Site Improvement Plans

- 3.14 Site Improvement Plans (SIPs) produced by Natural England set out measures to address prioritised issues affecting site condition. **Table 3.3** below sets out measures to addresses the following prioritised issues.

Table 3.3: Summary of SIPs for International Sites within the potential Zol

Site Name	Date of SIP	Prioritised Issues
Solent Maritime SAC, Solent and Southampton Water SPA and Ramsar	07/10/2014	Public access/disturbance Coastal Squeeze; Fisheries; Water pollution; Change in species distributions; Climate Change; Change to site conditions; Invasive species; Direct land take from development; Biological resource; Change in land management; Inappropriate pest control; Air pollution; Hydrological changes; Direct impact from 3rd party; Extraction; and Other.
River Itchen SAC	06/10/2024	Water pollution Physical modification; Siltation; Overgrazing; Water abstraction; Inappropriate weed control; Hydrological changes; Inappropriate water levels; Change in land management; Inappropriate cutting/mowing; Invasive species; Undergrazing; Inappropriate ditch management; Inappropriate scrub control; and Forestry and woodland management;
New Forest SPA	24/11/2014	Drainage;

Site Name	Date of SIP	Prioritised Issues
		In appropriate scrub control; Fish stocking; Deer; Air pollution; Public access/disturbance Change in land management; Change in species distributions; Water pollution; Forestry and woodland management; Inappropriate ditch management; Invasive species; Vehicles; Inappropriate cutting/ mowing; and Direct impact from 3rd party

3.15 A Site Improvement Plan is not currently available for the Solent and Dorset Coast SPA.

4. ASSESSMENT OF POTENTIAL IMPACT PATHWAYS

Introduction

- 4.1 The Source-Pathway-Receptor model described in **Section 1** has been used to consider whether the International Site qualifying features listed in **Section 3** might be adversely affected by the biophysical changes predicted to arise as a result of the Proposed Development in **Section 2** in the absence of impact avoidance and mitigation measures. Relevant impact pathways scoped in for further assessment are then considered in greater detail in the proceeding sections.
- 4.2 The source of potential effects in each case derives from the construction and operation of the Proposed Development, and the receptor is the qualifying features of the International Sites.

Potential Impact Pathways and Vulnerability of Receptors

- 4.3 **Table 4.1** below summarises the vulnerability of designated site receptors listed in **Section 3** to a number of potential impact pathways, and records whether each designated site is considered to fall within the predicted Zol for each impact type generated by the Proposed Development (as described in **Section 2**). The relevant sections of this report where further assessment is set out are also listed.

Table 4.1: Scoping of potential impact pathways

Impact Pathway	Vulnerability	Scoped In/Out					Report Section
		Solent Maritime SAC	Solent and Southampton Water SPA and Ramsar	The Solent and Dorset Coast SPA	River Itchen SAC	The New Forest SPA	
Loss and/or fragmentation of habitats	The birds associated with the SPA have specific nesting specialities, who rely upon particular habitat types for breeding and/or foraging.	<i>Scoped Out- The Site does not support birds species.</i>	<i>Scoped Out- The Site does not support habitats suitable for these species.</i>	<i>Scoped Out- The Site does not support habitats suitable for these species.</i>	<i>Scoped Out- The Site does not support habitats suitable for these species.</i>	<i>Scoped Out - The Site does not support habitats suitable for these species.</i>	N/A
Light pollution	Increases in light levels can impact upon bird behaviour, including increased levels of activity at unnatural hours of the day (e.g. singing overnight), and changes in foraging behaviour to avoid artificially lit areas. Such impacts may reduce species fitness, increase predation risk and reduce breeding success.	<i>Scoped Out- The Site does not support birds species.</i>	<i>Scoped Out- Due to the spatial distance between the Sites.</i>	<i>Scoped Out- Due to the spatial distance between the Sites.</i>	<i>Scoped Out- Due to the spatial distance between the Sites.</i>	<i>Scoped Out- Due to the spatial distance between the Sites.</i>	N/A
Noise	Increases in noise levels may impact upon bird behaviour and distribution, notably through disturbance to breeding behaviour (i.e. impacts upon singing males and territory distribution) and avoidance of foraging habitats. Such impacts may reduce species fitness and reduce breeding success.	<i>Scoped Out- The Site does not support birds species.</i>	<i>Scoped Out- Due to the spatial distance between the Sites.</i>	<i>Scoped Out- Due to the spatial distance between the Sites.</i>	<i>Scoped Out- Due to the spatial distance between the Sites.</i>	<i>Scoped Out- Due to the spatial distance between the Sites.</i>	
Recreational pressure	Birds can be sensitive to increased recreational use of nearby accessible land since this may disturb feeding and breeding behaviour, potentially leading to adverse effects. Increased recreational pressure also has the potential to result in effects on habitats from	<i>Scoped Out- The Site does not support birds species.</i>	<i>Scoped In</i>	<i>Scoped In</i>	<i>Scoped Out- The Site does not support birds species.</i>	<i>Scoped In</i>	5

Impact Pathway	Vulnerability		Scoped In/Out				Report Section
		Solent Maritime SAC	Solent and Southampton Water SPA and Ramsar	The Solent and Dorset Coast SPA	River Itchen SAC	The New Forest SPA	
	trampling, fragmentation and increased risk of wildfire.						
Construction	Wetlands and Coastal habitats can be sensitive to water quality changes arising from increased levels of nutrient nitrogen and phosphate input generated from contamination and changes in the quantity, flow and quality of water as a result of construction works	<i>Scoped In</i>	<i>Scoped In</i>	<i>Scoped In</i>	<i>Scoped In</i>	<i>Scoped Out-Due to spatial separation</i>	6
Hydrological change	Wetlands and Coastal habitats can be sensitive to water quality changes arising from increased levels of nutrient nitrogen and phosphate input generated by new development, both directly, through wastewater contributions, and indirectly, as a result of land use change on diffuse pollution.	<i>Scoped In</i>	<i>Scoped In</i>	<i>Scoped In</i>	<i>Scoped In</i>	<i>Scoped Out-Due to spatial separation</i>	6

5. RECREATIONAL PRESSURE

Introduction

- 5.1 This section considers the potential effects of increased recreational pressure generated during the operational phase of the Proposed Development on the Solent & Southampton Water SPA and Ramsar, Solent and Dorset Coast SPA and the New Forest SPA, in view of the above-described sensitivities of the International Sites and their qualifying features, and available information about the current and potential future levels of recreational pressure that could occur as a result of the proposals, either alone or in-combination with other plans and projects.
- 5.2 This assessment is then used to determine the scope of required impact avoidance and mitigation measures that are necessary to address any likely significant adverse effects arising from the proposals either alone or in-combination with other plans and projects, to prevent an adverse effect on the integrity of Solent & Southampton Water SPA and Ramsar, Solent and Dorset Coast SPA and the New Forest SPA from occurring.

Assessment Methodology

- 5.3 Existing information regarding the respective sensitivity of International Sites to effects arising from recreational pressure was investigated through desktop study, including review of site management plans, SSSI unit condition assessments, and strategic level mitigation frameworks.

Assessment of Likely Significant Effects

Baseline Recreational Pressure

Solent & Southampton Water SPA and Ramsar and Solent and Dorset Coast SPA

- 5.4 The Solent coast, particularly its mudflats, shingle and saltmarshes, provide essential winter feeding and roosting grounds for birds. The wide range of recreational activities which take place on this coast can result in disturbance to the birds.
- 5.5 Extensive studies were conducted between 2009-2013 to assess the impact of recreational activity on wintering birds along the Solent coast (Solent Disturbance Mitigation Project). This formed part of the Solent European Marine Sites Scheme of Management and ultimately informed production of the Solent Recreation Mitigation Strategy (2017).
- 5.6 The studies found that walking, jogging and cycling are the most popular activity along the Solent coast, accounting for 91% of all recreational activity. Dogs off lead were a cause of 47% of all 'major flights' i.e. bird(s) flying more than 50m to escape disturbance. As a result of planned new housing in the Solent region up to 2034, a 13% increase in visitor numbers at the Solent coast is predicted. The research concluded that mitigation should be required from all new dwellings constructed within 5.6km of the Solent SPAs including Solent & Southampton Water SPA.

New Forest SPA

- 5.7 The New Forest attracts large numbers of recreational visitors. The *New Forest Site Improvement Plan* cites the impacts of recreation - including disturbance to qualifying species such as Annex I birds that nest at or near ground-level, and "compaction, abrasion and other

modifications to vegetation, soils and watercourses” – as one of the main pressures upon both the SPA.

- 5.8 The existence of a well-evidenced recreational impact pathway toward a disturbance effect on Annex I bird species is reported in the *Solent Recreation Mitigation Strategy* (Bird Aware Solent, 2017). Two qualifying SAC habitat types - ‘annual vegetation of drift lines’ and ‘coastal shingle vegetation outside the reach of waves’ - are identified by the *Solent Site Improvement Plan* as sensitive to degradation arising from increased recreational use.

Potential Increase in Visitation

Solent & Southampton Water SPA and Ramsar and Solent and Dorset Coast SPA

- 5.9 The Proposed Development will result in an increase of approximately up to 280 dwellings in the Solent area. The average household occupancy for the UK is 2.40 (ONS Census 2021). The proposals will therefore result in approximately an additional 672 new residents. Data published by the Pet Food Manufacturers’ Association (www.pfma.org.uk) suggests that 29% of households in the south-east owned a dog in 2024/25. Of the proposed 280 new households introduced by the Proposed Development therefore, in the region of 83 households are therefore likely to own a dog or dogs. It can be expected therefore that a proportion of the above 672 new residents will be likely to pursue recreational activity on nearby publicly accessible sites.

- 5.10 Therefore, there is the potential for the Proposed Development to contribute in-combination with other planned and proposed projects towards a significant adverse effect on the Solent & Southampton Water SPA and Ramsar and Solent and Dorset Coast SPA by increasing visitation to the International Sites by new residents during the operational phase. An Appropriate Assessment will be required to assess impacts on the Solent & Southampton Water SPA and Ramsar and Solent and Dorset Coast SPA.

New Forest SPA

- 5.11 The Local Plan HRA concludes that on the basis of Policy DM11 that no adverse effects on the integrity of the New Forest SPA, with the appropriate mitigation put in place in the interim mitigation strategy.
- 5.12 Evidence presented in the *Solent Recreation Mitigation Strategy* indicates that the core recreational catchment of the Solent SPAs extends to 5.6km linear distance from SPA boundaries. For the purposes of this assessment, this catchment is considered equally applicable to the Solent Maritime SAC designation.
- 5.13 The Proposed Development falls within the recreational catchments of both the New Forest and the Solent coast and is therefore considered likely, in the absence of mitigation, to have a significant effect on both the New Forest and Solent International Sites.

Information for Appropriate Assessment

Impact Avoidance and Mitigation

- 5.14 The preceding paragraphs bear out the conclusion that potential increase in new residents generated by the Proposed Development will give rise to a likely significant adverse effect on the qualifying features of the International Sites. Therefore, impact avoidance and mitigation measures will be required.

- 5.15 Eastleigh Borough Council are part of the Solent Recreation Mitigation Partnership and a scheme for the New Forest which was established to formulate, implement and monitor the Solent Recreation Mitigation Strategy and Eastleigh Borough Councils scheme, using developer financial contributions transferred from member local planning authorities. The Solent Recreation Mitigation Strategy provides a means for mitigating the impact of small developments for which it would not be practical to provide bespoke mitigation for. As the Proposed Development cannot provide bespoke mitigation in the form of new/enhanced strategic greenspace that meet the criteria set out in Appendix B of the Solent Recreation Mitigation Strategy a developer financial contribution payment will be required.

Conclusion

- 5.16 The assessment concludes that there will be no significant adverse effects, either alone or in combination with other planned development, from recreational disturbance on the qualifying features of the International Sites providing a developer financial contribution payment is made. The financial contribution payment will be secured through a Section 106 agreement.

6. WATER QUALITY

Introduction

- 6.1 This section considers the potential for the Proposed Development, either alone or in-combination with other plans and projects, to generate effects arising from water quality changes on Solent Maritime SAC, Solent & Southampton Water SPA and Ramsar and Solent and Dorset Coast potential SPA.
- 6.2 The assessment in this section is then used to determine the scope of required impact avoidance and mitigation measures that are considered necessary to address any likely significant adverse effects arising from the proposals either alone or in-combination with other plans and projects, to prevent an adverse effect on the integrity of Solent Maritime SAC, Solent & Southampton Water SPA and Ramsar and Solent and Dorset Coast potential SPA from occurring.

Assessment Methodology

- 6.3 Natural England have produced guidance (Natural England, July 2023) for local planning authorities on how new developments might achieve nutrient neutrality. This includes a methodology for calculating the Total Nitrogen and Total Phosphate budget of a Proposed Development in order to determine whether it makes a contribution and the degree to which this is so.

Assessment of Likely Significant Effects and Potential for Adverse Effects on Integrity

Construction Phase

Solent Maritime SAC

- 6.4 The Proposed Development has potential for negative effects arising from contamination and changes in the quantity, flow and quality of water as a result of construction works that might affect vegetation within the Solent Maritime SAC. Therefore, likely significant adverse effects on the Solent Maritime SAC from water quality during the construction phase cannot be ruled out. An Appropriate Assessment will be required to assess impacts on the Solent Maritime SAC and its sensitive qualifying features.

Solent & Southampton Water SPA and Ramsar

- 6.5 The Proposed Development has potential for negative effects arising from contamination and changes in the quantity, flow and quality of water as a result of construction works that might affect vegetation within the Solent & Southampton Water SPA and Ramsar. Therefore, likely significant adverse effects on the Solent & Southampton Water SPA and Ramsar from water quality during the construction phase cannot be ruled out. An Appropriate Assessment will be required to assess impacts on the Solent & Southampton Water SPA and Ramsar and its sensitive qualifying features.

Solent and Dorset Coast SPA

- 6.6 The Proposed Development has potential for negative effects arising from contamination and changes in the quantity, flow and quality of water as a result of construction works that might affect vegetation within the Solent and Dorset Coast SPA. Therefore, likely significant adverse

effects on the Solent and Dorset Coast SPA from water quality during the construction phase cannot be ruled out. An Appropriate Assessment will be required to assess impacts on the Solent and Dorset Coast SPA and its sensitive qualifying features.

River Itchen SAC

- 6.7 The Proposed Development has potential for negative effects arising from contamination and changes in the quantity, flow and quality of water as a result of construction works that might affect vegetation within the River Itchen SAC. Therefore, likely significant adverse effects on the River Itchen SAC from water quality during the construction phase cannot be ruled out. An Appropriate Assessment will be required to assess impacts on the River Itchen SAC and its sensitive qualifying features.

Operational Phase

Solent Maritime SAC, Solent & Southampton Water SPA and Ramsar, Solent and Dorset Coast SPA and River Itchen SAC

- 6.8 The surface water drainage system designed for the Proposed Development, to include an attenuation basin, will ensure that there will not be a significant adverse effect on the qualifying features of the Solent Maritime SAC, Solent & Southampton Water SPA and Ramsar and Solent and Dorset Coast SPA with relation to water quality changes through ground and surface water run-off during the operational phase.
- 6.9 Natural England's current guidance sets out a stepwise approach to quantifying the net nutrient nitrogen contribution or reduction generated by Proposed Development in the Solent region. The various steps of this calculation are set out in full in **Appendix 2** and summarised below.
- 6.10 Application of Natural England's nutrient budgeting method indicates that the Proposed Development will annually generate pre-2030 832.79 kg/year and post-2030 208.15 kg/year of nitrogen through discharge of treated wastewater from Chickenhall, the receiving wastewater treatment works (WWTW).
- 6.11 Application of Natural England's nutrient budgeting method indicates that the Proposed Development will annually generate pre-2030 24.55 kg/year and post-2030 13.50 kg/year of phosphate through discharge of treated wastewater from Chickenhall, the receiving wastewater treatment works (WWTW).
- 6.12 The development will not be delivered in full prior to 2030, with the majority of the development being delivered after 2030. Once confirmed timescales are available the figures of pre and post 2030 development numbers should be calculated and these figures used to ascertain the actual nutrient loading pre and post 2030.
- 6.13 The total net effect of wastewater discharge and land use change arising from the Proposed Development is an annual contribution for nitrates of 210.55 kg/year and for phosphates of 10.52 kg/year. The application of a precautionary 20% buffer, as prescribed by Natural England's guidance, indicates a 'final' nutrient balance and mitigation target for Nitrates of **208.15 kg/year** and for Phosphates of **11.25 kg/year**— although this figure may vary subject to the actual number and mix of units delivered.

On the basis of the calculation of the Nitrogen Budget the development will contribute to nutrient impacts on the International Sites (Solent Maritime SAC, Solent & Southampton Water SPA and

Ramsar, Solent and Dorset Coast SPA and River Itchen SAC) and will have a likely significant adverse effect alone or in-combination with other plans and projects. An Appropriate Assessment will be required to assess impacts on the Solent Maritime SAC, Solent & Southampton Water SPA and Ramsar and Solent and Dorset Coast SPA and their sensitive qualifying features.

Information for Appropriate Assessment

Impact Avoidance and Mitigation

- 6.14 The preceding paragraphs bear out the conclusion that changes in water quality generated by the Proposed Development during the construction and operational phases has the potential to give rise to a likely significant adverse effect on International Sites. Therefore, impact avoidance and mitigation measures will be required.

Construction Phase

Solent Maritime SAC

- 6.15 A Construction Environmental Management Plan (CEMP), which is an industry standard document that commonly is required by Local Planning Authorities, will be produced and will include measures for protecting the aquatic and terrestrial environment including valuable ecological features, during the site clearance and construction phase. This will include pollution prevention methods and the means of avoiding or reducing damage and/or disturbance to important species and habitats. This will also include the requirement to appoint an Ecological Clerk of Works to ensure that the CEMP is correctly implemented.
- 6.16 Any construction impacts with relation to contamination and changes in the quantity, flow and quality of water on Solent Maritime SAC will be avoided through the implementation of measures identified in the CEMP to include incorporating a suitable buffer zone to exclude any storage of potentially polluting materials and a drainage strategy.

Solent & Southampton Water SPA and Ramsar

- 6.17 As with Solent Maritime SAC mentioned above, any construction impacts with relation to contamination and changes in the quantity, flow and quality of water on Solent & Southampton Water SPA and Ramsar will be avoided through the implementation of measures identified in the CEMP.

Solent and Dorset Coast SPA

- 6.18 As with Solent Maritime SAC mentioned above, any construction impacts with relation to contamination and changes in the quantity, flow and quality of water on Solent and Dorset Coast SPA will be avoided through the implementation of measures identified in the CEMP.

River Itchen SAC

- 6.19 As with Solent Maritime SAC mentioned above, any construction impacts with relation to contamination and changes in the quantity, flow and quality of water on Rive Itchen SAC will be avoided through the implementation of measures identified in the CEMP.

Operational Phase

Solent Maritime SAC, Solent & Southampton Water SPA and Ramsar, Solent and Dorset Coast SPA and River Itchen SAC

- 6.20 A blended approach will be taken to offset the nutrient requirements of the development. This will be a combination of nutrient mitigation credits (both nitrates and phosphates where appropriate), this will be in form of paying into a scheme, such as Eastleigh Borough Council's nutrient scheme or an alternative local credit scheme. Additionally, where appropriate, infrastructure upgrades can be provided to aid the mitigation measures.

Conclusion

- 6.21 The assessment concludes that there will be no significant adverse effects, either alone or in combination with other planned development, from nutrient additions on the qualifying features of the International Sites providing a developer financial contribution payment is made, and where possible infrastructure upgrades are made. The financial contribution payment to a suitable scheme will be secured through a Section 106 agreement.

7. SUMMARY AND CONCLUSIONS

Summary

- 7.1 **Table 7.1** overleaf provides a summary of the impact pathways considered in this Information for HRA report, the conclusion of the screening stage assessment carried out in respect of each, and a summary of the impact avoidance and mitigation strategy (IAMS) that is proposed to address the potential for likely significant effects.
- 7.2 The IAMS summarised below, will be delivered and secured in perpetuity, will ensure that adverse effects on the integrity of International Sites considered in this assessment will not arise as a result of the Proposed Development, either alone or in combination with other plans and projects.

Conclusions in Respect of the Habitats Regulations

- 7.3 In accordance with the Conservation of Habitats and Species Regulations 2017 (as amended), and taking into account the most recent relevant case law, it is considered that Eastleigh Borough Council can safely conclude that the proposals **will not have an adverse effect on the integrity** of the Solent Maritime SAC, Solent & Southampton Water SPA and Ramsar, and Solent and Dorset Coast SPA and New Forest SPA considered in this assessment, either alone or in combination with other plans or projects.
- 7.4 Consequently, an Appropriate Assessment of the proposals under Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 (as amended) can be passed.

Table 7.1: Summary of information for HRA

Report Section	Impact Pathway	Scoping Result				Impact Avoidance and Mitigation Measures Proposed to Ensure No Adverse Effect and pass Appropriate Assessment test (alone and in combination)
		Solent Maritime SAC	Solent and Southampton Water SPA and Ramsar	The Solent and Dorset Coast SPA	The New Forest SPA	
5	<i>Increased recreational pressure</i>	<i>OUT</i>	<i>IN</i>	<i>IN</i>	<i>IN</i>	<i>Financial Contribution</i>
6	<i>Hydrological Change</i>	<i>IN</i>	<i>IN</i>	<i>IN</i>	<i>IN</i>	<i>CEMP Financial Contribution</i>

8. REFERENCES

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Figures

Figure 1 Site Location and Context

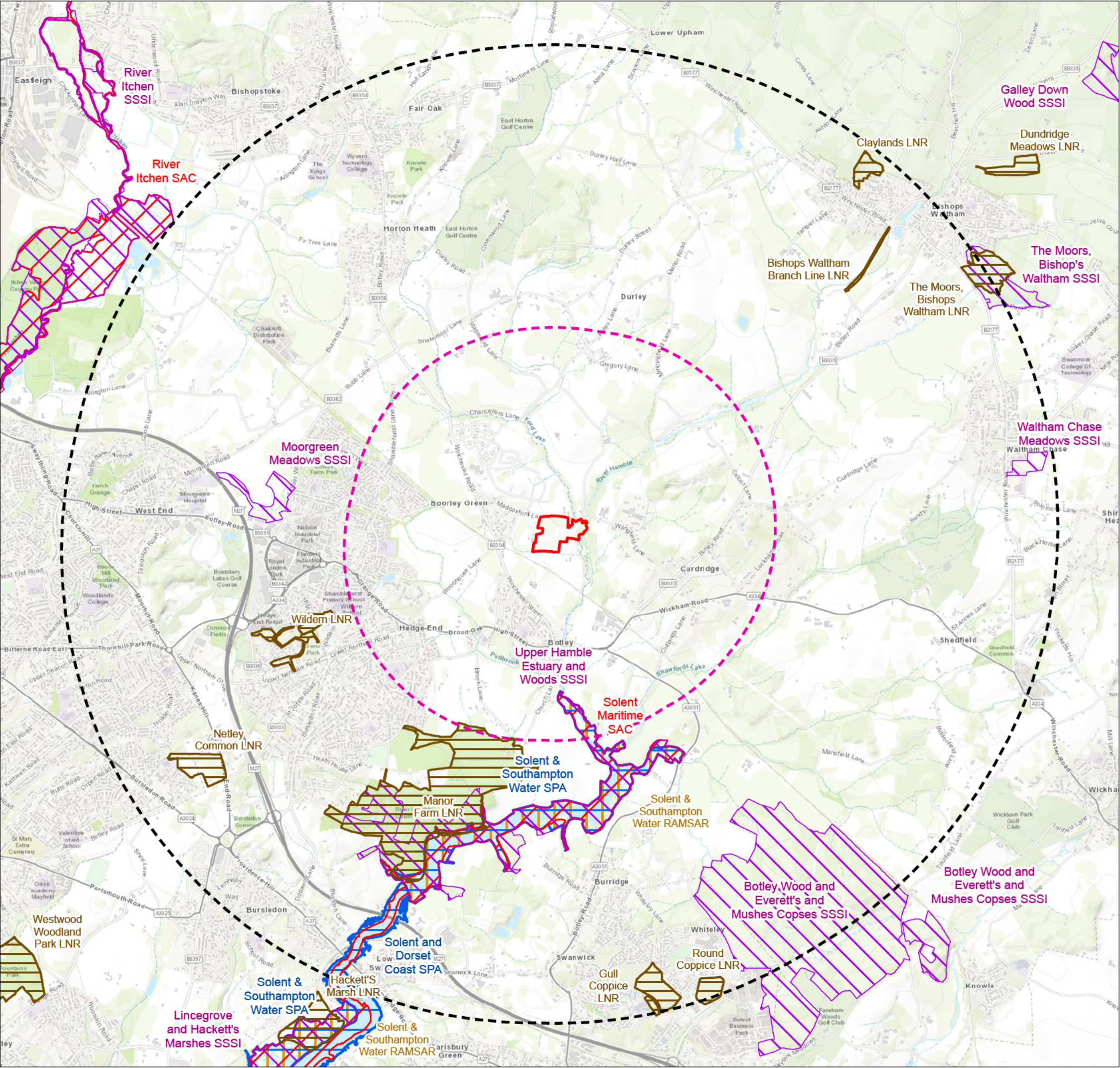


Figure 1 Site Location & Context

KEY

- Site boundary
- 2km linear distance from site boundary
- 5km linear distance from site boundary
- Local Nature Reserves (LNR)
- Sites of Special Scientific Interest (SSSI)
- Special Areas of Conservation (SAC)
- Special Protection Areas (SPA)
- Ramsar

SCALE: 1:40,000 at A3

0 500 1,000 1,500 2,000 Metres

N



CLIENT: Bloor Homes Ltd

PROJECT: Land South of Maddoxford Lane

DATE: 01 December 2025

Appendix 1

Relevant Legislation, Policy, Guidance and Case Law

Legislation

The Conservation of Habitats and Species Regulations 2017 (as amended) (known as the “Habitats Regulations”) were originally drawn up to transpose the European Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (the “Habitats Directive”) into UK legislation. Following the UK’s exit from the European Union, the Habitats Regulations – as amended by Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 – remain in force until such a time as they are superseded by new or updated domestic legislation.

The key sections of relevance to projects appear from Regulation 63 onwards. Regulation 63 states that:

“(1) A competent authority, 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 or a European offshore marine 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.*

(2) A person applying for any such consent, permission or other authorisation must provide such information as the competent authority may reasonably require for the purposes of the assessment or to enable it to determine whether an appropriate assessment is required.” [our emphasis]

The above legislation thus requires that a sequential approach be adopted when addressing potential impacts upon International Sites. Guidance for doing this in practice has been published by the European Commission and others, and is discussed below.

The requirement for HRA under the Habitats Regulations applies to Special Areas of Conservation (SACs) designated under for certain Internationally important habitat types and animal populations under the aforementioned Habitats Directive, and Special Protection Areas (SPAs) classified under the earlier Birds Directive (now codified under Directive 2009/147/EC).

SACs and SPAs are collectively referred to as either European Sites or Natura 2000 sites in Europe, and are now part of the UK’s “National Sites Network”. However, as the National Planning Policy Framework (2019) also applies the protection afforded to these sites to Ramsar Sites (which are wetlands of International Importance designated under the separate Ramsar Convention in Iran in 1979) as a matter of National Planning Policy, these three types of site are collectively referred to as ‘International Sites’ for expediency.

Policy

National Planning Policy Framework 2024 (NPPF)

Section 15 ('Conserving and enhancing the natural environment') of the NPPF sets out expectations and principles regarding the protection of designated sites of importance for biodiversity, including international or 'habitats' sites. Paragraph 195 states:

"The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site." [our emphasis]

Eastleigh Borough Local Plan (2016-2036)

Policy DM11, Nature conservation

1. Development which is likely (either individually or in combination with other developments) to adversely affect the integrity of an international or European nature conservation site will not be permitted subject only to imperative reasons of overriding public interest and securing any necessary compensatory measures in the absence of alternative solutions. A 'project level' Habitat Regulations Assessment will be required where there are likely significant effects or uncertainty. Any mitigation measures required to ensure no adverse impact must be implemented at the appropriate time.
2. The Council will work with PfSH, Natural England, the Environment Agency and other wildlife organisations to develop and implement with developers a strategic approach to the protection and enhancement of international and European sites from the direct and indirect effects of development. Within Eastleigh Borough this will include:
 - a. implementing:
 - i. the Solent Recreation Mitigation Strategy (requiring contributions from residential developments within 5.6 kilometres of the Solent Special Protection Area to the Strategy); and
 - ii. the interim and any future New Forest Recreation Mitigation Strategy if required; or alternative agreed site specific measures to address recreational disturbance;
 - b. preserving the water quality and flows within the Itchen and Hamble, Southampton Water and Solent;
 - c. protecting the River Itchen SAC, in particular the maintenance and where appropriate restoration of habitats and qualifying species to favourable conservation status (as defined by article 1 of the Habitats Directive); and
 - d. seek contributions towards measures set out in the Southern Damselfly Conservation Strategy (or other strategy) specifically to deliver biodiversity net gain.

Guidance

The Habitats Regulations Assessment Process

Although the UK has now left the European Union, as the HRA process originates from the European Habitats Directive and must still (at time of writing) be interpreted in accordance with rulings from the CJEU, reference has been made to European Commission guidance on Habitats Regulations Assessment (EC, 2000, 2001, 2018). This guidance provides advice on meeting the correct stepwise approach required by Article 6 of the Habitats Directive. The whole process is usually referred to in the UK as “Habitats Regulations Assessment” (HRA) and is split into the following stages that are undertaken in sequence:

- Screening the need for an Appropriate Assessment;
- The “Appropriate Assessment” (AA);
- The Assessment of Alternative Solutions; and
- Assessment where no alternative solutions exist and where adverse impacts remain (also known as the test for “Imperative Reasons of Overriding Public Interest” or IROPI).

Each of the stages determines the requirement for the next one in the sequence to be carried out. For example, if it is concluded at the Screening stage that the plan or project is unlikely to generate significant adverse effects upon the International site in question, there is no need to proceed to the Appropriate Assessment stage, and so on.

Undertaking the Habitats Regulations Assessment process is the responsibility of the decision maker as the Competent Authority for the purposes of the Habitats Regulations (in this case Eastleigh Borough Council as the Local Planning Authority); although it is the responsibility of the proponent of a plan or project to provide the Competent Authority with the information that they require for this purpose.

In the first instance, this report is intended to provide the Competent Authority under the Habitats Regulations with the information that is required in order to determine whether or not the proposals are likely to have a significant effect on an International Site either alone or in combination with other plans and projects, and consequently whether or not an Appropriate Assessment is required. Should it be considered that an Appropriate Assessment is required, then this report also aims to supply the information that will be necessary in determining whether or not there will be an adverse effect on the integrity of the International Site(s) concerned.

Other HRA guidance that has been taken into account during the preparation of this document includes:

- The European Commission’s ‘Managing Natura 2000 Sites’ document (2018) that provides guidance on some of the key concepts enshrined in Article 6 of the Habitats Directive);
- The European Commission’s ‘Assessment of Plans and Projects Significantly Affecting Natura 2000 Sites’ (Revised Version, 2021) that outlines the key steps and principles of the HRA process;
- The ‘Communication from the Commission on the Precautionary Principle’ (2000) which provides guidance on the correct application of the precautionary principle, stating that it should be applied with proportionality and should not aim at zero risk;

- Circular 06/05 'Biodiversity and Geological Conservation – Statutory Obligations and Their Impact Within the Planning System'; and
- 'Planning for the Protection of European Sites' (DCLG, 2006); and
- PINS NOTE 05/2018 'Consideration of avoidance and reduction measures in Habitats Regulations Assessment: People over Wind, Peter Sweetman v Coillte Teoranta' (Planning Inspectorate 9 May 2018).

The National Planning Policy Framework (NPPF) (2024) also contains sections of relevance to HRA and International Sites, and this has been taken into account.

The Chartered Institute of Ecology and Environmental Assessment's Guidelines for Ecological Impact Assessment in the United Kingdom (CIEEM, 2018)

Whilst the key guidance documents for the HRA process are those produced by the European Commission (EC, 2000, 2001, 2018), the approach taken in this document has also been carried out in accordance with the broad process advocated in Version 1.3 of the Chartered Institute of Ecology and Environmental Management's 'Guidelines for Ecological Impact Assessment' (the "EcIA Guidelines").

These guidelines are endorsed by the main stakeholders in the UK planning system that have a specific responsibility for wildlife and nature conservation, including Natural England, the Environment Agency and the Wildlife Trusts.

Broadly, the EcIA Guidelines prescribe an approach that can be summarised as the following sequential process:

- Establishing the spatial extent of the Zone of Influence (Zoi) within which the Proposed Development is likely to exert biophysical changes upon the environment during either the site clearance, construction or operational phase;
- The identification, description and valuation (where possible) of ecological features and resources of value within that Zoi (note that in this case the ecological features of relevance will be those for which the relevant International Sites were designated, and consequently of International nature conservation value);
- The assessment of the likely magnitude and significance of potential impacts and effects that might be exerted upon those features and resources in the absence of any impact avoidance or mitigation measures;
- The development of impact avoidance and/or mitigation measures to avoid and/or minimise potentially significant effects;
- The assessment of any residual effects (positive or negative) that would remain following the application of any impact avoidance and/or mitigation measures, and the development of appropriate compensation measures where significant residual negative effects remain;
- The development of ecological enhancement measures to be incorporated into the project proposals to deliver net gains; and
- Advice on the consequent potential implications of relevant nature conservation related legislation or planning policy.

Other subject-specific guidance is referred to in the relevant assessment sections in this document.

Relevant Case Law

There is a wide body of case law pertaining to the HRA process that provides insight into the correct interpretation of the Habitats Regulations, from both domestic UK Courts and the Court of Justice of the European Union (CJEU). Details of the most relevant articles of case law are given below (organised according to points of relevance for ease of reading, rather than chronology, and with some relevant interpretation from Planning Inquiry decisions presented), and include the following:

- CJEU Case C-127/02 (2002) – The ‘Waddenzee’ Case;
- The Supreme Court ruling of *R. (Champion) v North Norfolk DC* [2015] 1 WLR 3710;
- UK Court of Appeal judgement in *R (on the application of Boggis) v Natural England* (2009) EWCA Civ 1061;
- The UK High Court, in the judgement of J Sullivan in *Hart DC v Secretary of State for Communities and Local Government* (referred to as ‘Dilly Lane’) (2008);
- CJEU Case C-323/17 in 2018 (referred to as ‘People over Wind’);
- Eco Advocacy CLG and An Bord Pleanála (Case C-721/21) (June 2023);
- Administrative Court ruling on *R (on the application of Christopher Prideaux) v Buckinghamshire County Council* [2013] EWHC 1054 (Admin)

Case C-127/02 of the European Court of Justice (ECJ) – The ‘Waddenzee’ Case

The ECJ Waddenzee Case clarified a number of important points in relation to the correct interpretation of Article 6(3) of the Habitats Directive in particular. This clarification has been helpfully set out in Government Circular 06/05 ‘*Biodiversity and Geological Conservation*’.

In particular, one of the key messages from the ECJ was that, where a plan or project has the potential to affect a Natura 2000 site, an ‘Appropriate Assessment’ is necessary:

*“...if it cannot be excluded, on the basis of **objective information**, that it will have a significant effect on that site, either alone or in combination with other plans and projects”* [our emphasis]

[Paragraph 13 of Circular 06/05 or paragraph 44 of the Waddenzee Judgment]

The ECJ expanded upon this by saying that:

“...where such a plan or project has an effect on that site but is not likely to undermine its conservation objectives, it cannot be considered likely to have a significant effect on the site concerned.”

[Paragraph 47 of the Waddenzee Judgement]

Further to the above the ECJ clarified that, once an Appropriate Assessment has been triggered, except in the circumstances outlined in Article 6(4) of the Directive, a plan or project can only be authorised where it will not have an adverse effect on the integrity of the Natura 2000 site, and that:

“That is the case where no reasonable scientific doubt remains as to the absence of such effects”.

[Paragraph 21 of Circular 06/05, or paragraph 59 of the Waddenzee Judgement]

Champion in the Supreme Court

The Supreme Court ruling of R. (Champion) v North Norfolk DC [2015] 1 WLR 3710 considers the “Screening” stage in HRA and clarifies the level of certainty required in an Appropriate Assessment, further building on the Waddenzee Judgment.

This case related to an earlier Court of Appeal decision which upheld the consenting of a Proposed Development by North Norfolk District Council for the Crisp Malting Group to erect two silos and construct a lorry park near the river Newsum, an SAC, without the need for an EIA, or an Appropriate Assessment under the Habitats Regulations. After the developer produced a report that recommended pollution prevention strategies and mitigation measures and bodies such as Natural England and the Environment Agency withdrew their objections, NNDC approved the development with planning conditions attached.

The Supreme Court said that first stage of Article 6(3) was to consider whether there “may” be a significant effect, until Champion it was common to call this first stage a “Screening” stage, and much of the guidance and case-law pre-dating (and indeed post-dating) this case uses this language. Lord Carnwath said:

“the Habitats Directive and Regulations contain no equivalent to “screening” under the EIA Regulations. Mr Buxton relies on the opinion of Advocate General Sharpston in the Sweetman case [2014] PTSR 1092 itself. She was principally concerned to dispel confusion created by different terminology used in some of the cases to describe the test under article 6(3) . In her view all that was needed at what she called “the first stage” of article 6(3) was to show that there “may” be a significant effect ...

However, there is nothing in the language of the Habitats Directive to support a separate stage of “screening” in any formal sense. Nor is it reflected in the reasoning of the CJEU [Court of Justice of the European Union] itself. In Sweetman the first stage was the appropriate assessment, the second the decision whether in the light of its conclusions the project could be permitted. “Triggering” was simply the word the CJEU used to set the threshold for the first stage. The same approach is also found in the European Commission’s guidance Managing Natura 2000 Sites ...

... At least in this country the use of the term “screening” in relation to the Habitats Directive is potentially confusing, because of the technical meaning it has under the EIA Regulations. The formal procedures prescribed for EIA purposes, including “screening”, preparation of an environmental statement, and mandatory public consultation, have no counterpart in the Habitats legislation” [our addition]

Champion therefore clarified that there is no prescribed filtering process at the Screening Stage of the Directive, but that does not mean that a Competent Authority must ignore information in front of them when deciding whether or not to carry out an Appropriate Assessment. This is supported by the Dilly Lane Case (discussed further below).

The process for, and certainty required in an Appropriate Assessment is also considered:

"All that is required is that, in a case where the authority has found there to be a risk of significant adverse effects to a protected site, there should be an appropriate assessment. Appropriate is not a technical term. It indicates no more than that the assessment should be appropriate to the task in hand: that task being to satisfy the responsible authority that the project will not adversely affect the integrity of the site concerned taking account of the matters set in the article. As the court itself indicated in Waddenzee the context implies a high standard of investigation. However, as Advocate General Kokott said in Waddenzee [2005] All ER (EC) 353, para 107:

"the necessary certainty cannot be construed as meaning absolute certainty since that is almost impossible to attain. Instead, it is clear from the second sentence of article 6(3) of the Habitats Directive that the competent authorities must take a decision having assessed all the relevant information which is set out in particular in the appropriate assessment. The conclusion of this assessment is, of necessity, subjective in nature. Therefore, the competent authorities can, from their point of view, be certain that there will be no adverse effects even though, from an objective point of view, there is no absolute certainty."

In short, no special procedure is prescribed, and, while a high standard of investigation is demanded, the issue ultimately rests on the judgment of the authority."

R (on the application of Boggis) v Natural England

The Court of Appeal (Civil Division) ruling on *R (on the application of Boggis) v Natural England* [2009] EWCA Civ 1061, concerned a dispute over the extension of a SSSI on the Suffolk Coast to include an area subject to cliff erosion, as this could prevent affected residents from creating sea defences to protect their properties.

The case is of interest as it reiterates the earlier ruling in *Waddenzee* 2004 that the requirement for an appropriate assessment is conditional on there being "a probability or a risk that the [plan or project] will have significant effects on the site concerned."

The Appeal Court found that "a claimant who alleges that there was a risk which should have been considered by the authorising authority so that it could decide whether that risk could be "excluded on the basis of objective information", must produce credible evidence that there was a **real, rather than a hypothetical, risk** which should have been considered." (para 37). [Our emphasis].

The 'Dilly Lane' and 'People over Wind' Judgments

The High Court, in the judgment of J Sullivan in *Hart DC v Secretary of State for Communities and Local Government* (2008), has for some time formed the basis of established HRA Practice pertaining to the Thames Basin Heaths SPA, insofar as it has determined the approach to the Screening and Appropriate Assessment stages of the HRA process.

Up until recently the established approach derived from the *Dilly Lane* Case meant that where impact avoidance and mitigation measures (such as SANG) were put forward as integral parts of a plan or project, and where the Competent Authority was also satisfied that those measures would both be

effective, deliverable and could be secured, then there was no need for an Appropriate Assessment to be carried out.

This was because in such circumstances it was considered that the information pertaining to the efficacy of those impact avoidance and mitigation measures represented the 'objective information' referred to by the European Court of Justice (ECJ) in the Waddenzee case (above)

More recently however, in case C-323/17 of the ECJ (referred to as 'People over Wind'), the ECJ concluded that it was not appropriate to take account of "...*measures intended to avoid or reduce the harmful effects of the plan or project...*" at the Screening stage of the HRA process. Although there appear to be some inconsistencies between this judgment and previous ECJ case law, until such time as the ECJ may provide further clarification, it will be necessary to consider the efficacy of impact avoidance and mitigation measures such as SANG and SAMM through the medium of an Appropriate Assessment in order to ensure compliance with the findings of the judgment.

A further more recent ECJ case, known as the *Grace and Sweetman* case (July 2018)(Case C-164/17) appears to have reiterated the approach taken in 'People over Wind' with respect to measures intended to avoid or reduce the harmful effects of a plan or project, as well as outlining that compensatory measures should only be taken into consideration in the circumstances laid out by Article 6(4) of the Habitats Directive (i.e. where there are imperative reasons of overriding public interest).

Eco Advocacy CLG and An Bord Pleanála (Case C-721/21) (June 2023)

This case from June 2023 followed on from the People over Wind' (POW) ruling in 2018 (C-323/17) outlined above, which ruled that "...it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that [The European designated] site..."

The Eco Advocacy CLG case clarified that the CJEU considers features to be 'measures intended to avoid or reduce the harmful effects of the plan or project' if they have been deliberately introduced into the project for that purpose alone, and otherwise the project could proceed without it. If however projects of that type are always required to incorporate those features regardless of the potential of the project to affect a European site, then such features can be considered as 'standard features, inherent in such a plan or project' and can be taken into account at the Screening stage of HRA, regardless of whether or not the feature has the effect of reducing harm to a European protected site.

R (on the Application of Prideaux) v Buckinghamshire CC

The Administrative Court ruling on R (on the application of Christopher Prideaux) v Buckinghamshire County Council [2013] EWHC 1054 (Admin) is notable in that it discusses the weight that should be given to Natural England's expert opinion in planning decisions.

In this case, the claimant (Prideaux) challenged a planning permission granted by the defendant (Buckinghamshire CC) for an energy from waste facility, on nature conservation related grounds. Natural England had initially objected to the proposals due to likely negative impacts on the interest features of nearby SSSIs. Following continued consultation with the applicant, and the provision of the further information by the applicant's ecologist regarding the mitigation and compensation proposed, Natural England withdrew their objection.

Mr Justice Lindblom considers the weight that should be given to Natural England's opinion at paragraph 116:

"(...) It is clear that the committee gave considerable weight to the conclusions reached by Natural England. This is hardly surprising. It is exactly what one would expect. Natural England is the "appropriate nature conservation body" under the regulations. Its views on issues relating to nature conservation deserve great weight. An authority may sensibly rely on those views. It is not bound to agree with them, but it would need cogent reasons for departing from them."

At paragraph 133 he goes on to underline the importance of making a decision based on the sum of information provided, including any extra material submitted following the initial application:

"It is important, I think, to view the relevant ecological material as a whole, as it was after a process of consultation, the submission of further information, the refinement of FCC's proposals, the evolution of the intended measures for avoiding harmful impacts on the species potentially affected by the development, SLR's correspondence [SLR were the developer's ecological consultants] and dialogue with Natural England, and the withdrawal of Natural England's objection." [our addition]

Appendix 2

Nutrient Budget Calculation

Nutrient load from wastewater	
Net dwellings	278
Net residents	667
Wastewater/resident/(l/day)	120.0
Net wastewater/day (l)	80064.00
WWTW P permit limit (mg TP/l)	0.60
WWTW N permit limit (mg TN/l)	25.0
Pre-2030 Annual wastewater TP load (kg TP/yr)	15.79
Pre-2030 Annual wastewater TN load (kg TN/yr)	731.08
Post-2030 Annual wastewater TP load (kg TP/yr)	6.58
Post-2030 Annual wastewater TN load (kg TN/yr)	210.55

Nutrients from Current Land Use	Area/ha	Annual Phosphate nutrient export (kg TP/yr)	Annual Nitrate nutrient export (kg TN/yr)
Lowland	4.12	2.47	30.24
Woodland	0.57	0.01	1.77
Horticulture	6.90	5.87	99.36
Greenspace	1.46	0.03	4.38
Shrub	0.61	0.01	1.83
Urban	0.56	0.98	9.13
Commercial/Industrial Urban Land	0.09	0.12	0.78
Total	14.31	9.49	147.49

Nutrients from Future Land Use	Area/ha	Annual Phosphate nutrient export (kg TP/yr)	Annual Nitrate nutrient export (kg TN/yr)
Urban	8.01	14.03	130.64
Woodland	0.57	0.01	1.71
Shrub	0.15	0.00	0.45
Greenspace	5.58	0.11	16.74
Total	14.31	14.15	149.54

Final Nutrient Budget	
Wastewater TP load (kg TP/yr)	6.58
Net land use TP change (kg TP/yr)	4.67
P budget (kg TP/yr)	1.25
P budget +20% buffer (kg TP/yr)	13.05
Wastewater TN load (kg TN/yr)	210.55
Net land use TN change (kg TN/yr)	-37.09
N budget (kg TN/yr)	173.46
N budget +20% buffer (kg TN/yr)	208.15
Annual Nutrient Budget	
The total annual Phosphate load to mitigate is (kg TP/yr)	13.50
The total annual Nitrate load to mitigate is (kg TN/yr)	208.15
Pre-2030 Annual Nutrient Budget	
The total annual Phosphate load to mitigate is (kg TP/yr)	24.55
The total annual Nitrate load to mitigate is (kg TN/yr)	832.79