

*Hart, Rushmoor and Surrey Heath
SPA Mitigation Project*

Habitat Restoration Feasibility Study

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RUSHMOOR
BOROUGH COUNCIL

This feasibility study is one of a collection of evidence and background studies which have been prepared alongside the main report on the Hart, Rushmoor and Surrey Heath (HRSH) Special Protection Area Mitigation Project. The full set of published reports are set out below:

SPA Visitor Distribution and Access Background Paper

Suitable Alternative Natural Greenspace (SANG) Background Paper

Strategic Access Management and Monitoring (SAMM) Background Paper

Suitable Alternative Natural Greenspace (SANG) Research Study

Habitat Restoration Feasibility Study

Access Restriction Research Study

Access Management Research Study

Car Parking Research Study

Dog Control Research Study

Mitigation Capacity Review & Supporting Advice

HRSH SPA Mitigation Project Report

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Executive Summary

The current approach to mitigation for the Thames Basin Heaths Special Protection Area (SPA) for affected planning authorities is set out in the associated Delivery Framework and relies upon the provision of Strategic Access Management and Monitoring Measures (SAMM), Suitable Alternative Natural Greenspace (SANG) and on site management of the SPA. Opportunities for identifying and delivering SANG are reducing and the Hart, Rushmoor and Surrey Heath Councils identified a concern that the current approach to avoidance and mitigation could result in some areas being unable to deliver residential development unless appropriate avoidance or mitigation solutions are found.

This study has investigated the potential for habitat restoration and management to provide an avoidance or mitigation measure which could enable housing development to be delivered while causing no adverse effects on the integrity of the Thames Basin Heaths Special Protection Area.

In principle habitat restoration, here defined as the clearance of forested areas to create, or recreate, and manage additional open habitat that is suitable for breeding SPA birds, could be utilised as a measure which would enable housing development to avoid impacts upon the SPA. Legal advice confirmed that this option could avoid impacts on the integrity of the SPA in line with regulation 63 of the Habitats Regulations, rather than automatically being considered compensation and requiring the tests of regulations 64 and 68.

The clearance of forested areas to create or recreate suitable habitat for the SPA birds would mean that although numbers of new visitors to the SPA would not be reduced, the impact on the SPA overall would not be so great. The newly restored heathland areas would need to be unlikely to become disturbed by recreation even with new development, as this approach would rely on the areas of undisturbed new habitat being able to sustain an equal or greater population of birds than those who may be affected by potential disturbance in other areas. In principle this could enable a conclusion to be reached on an Appropriate Assessment that development would not have an adverse effect on the integrity of the SPA.

This conclusion is subject to two main qualifications:

- 1) The habitat restoration must be additional to that which would be required to fulfil the UK's obligations to maintain and preserve the SPA under regulation 10 of the Habitats Regulations.

- 2) There must be sufficient certainty of the benefits from the habitat restoration.

The first qualification can be addressed through investigating the existing SPA requirements. Overall, the SPA is currently assessed as in favourable condition and it is accepted that land managed under rotational forestry provides habitat for the SPA birds at certain points in the felling cycle. If land was managed as open habitat permanently, instead of woodland, then this could be considered additional to what is required under the current landowner obligations and agreements (under the Habitats Regulations). It could therefore be accepted as a measure which could be allocated to housing development.

In relation to the second qualification above it is important to note that previous court judgments have shown that measures which are not in place at the time of the assessment of a plan or project but rely on future benefits cannot be considered to have sufficient certainty. Habitat restoration would therefore need to be in place, providing demonstrable benefits in the quantity and quality of habitat before it could be relied upon.

It currently remains uncertain whether there is suitable land available for the implementation of this option, based on landowner discussions. Although there are areas of woodland within the SPA which appear appropriate for habitat restoration, landowner agreement is essential in order to take this option forward.

The steps required to enable this option to be implemented as an approach for development to avoid adverse impacts on the integrity of the SPA include:

1. Establish landowner agreement and area of land.
2. Assess the area of land under consideration for suitability, accounting for ecological and practical considerations.
3. Calculate the housing capacity that this area is likely to enable.
4. Create habitat management plan to include initial and in-perpetuity works for the site.
5. Calculate costs.
6. Agree and secure costs and funding mechanisms with the relevant parties.
7. Agree and secure liabilities and in-perpetuity management with the relevant parties (e.g. deed of covenants).

8. Deliver the habitat management to provide functioning bird breeding habitat.
9. Monitor the habitat and bird numbers to establish the performance of the avoidance measure.

Developments could then rely on this approach to show they would not have an adverse effect on the integrity of the SPA in their appropriate assessment under the habitats regulations and financial contributions could be collected.

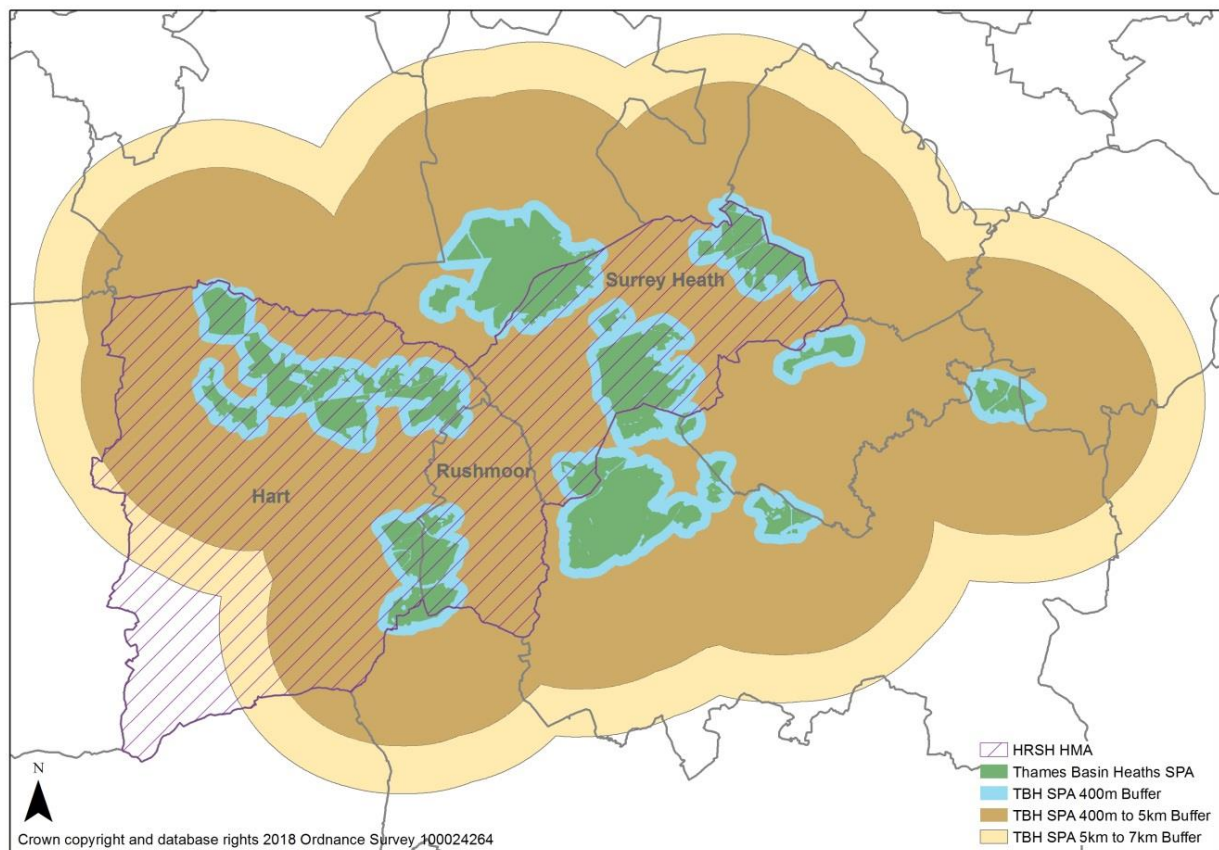
1. Introduction

- 1.1. There are a number of potential impact pathways that could result in development having a negative effect on European designated sites which are further detailed within the Hart Rushmoor and Surrey Heath Special Protection Area Mitigation Project main Project Report and associated project Background Papers. This project is focussed on avoiding or mitigating the impacts from additional residential development on the integrity of the Thames Basin Heaths Special Protection Area (TBH SPA) from recreational disturbance. Recreational disturbance is particularly an issue for this site due to its close proximity to urban areas and the sensitivity of the designated SPA breeding birds, namely nightjar, woodlark and Dartford warbler.
- 1.2. The Thames Basin Heaths Special Protection Area Delivery Framework¹ sets out the current approach to avoidance and mitigation in relation to TBH which is also embedded in affected Local Planning Authorities Local Plans and Avoidance and Mitigation Strategy documents.
- 1.3. The current mitigation measures are based around a three-pronged approach:
 1. Suitable Alternative Natural Greenspace (SANG);
 2. Strategic Access Management and Monitoring (SAMM); and
 3. On site management of the SPA.
- 1.4. It is considered that there is a combined effect of these measures, which ensure people are provided with alternative greenspaces to visit instead of the SPA, while also managing potential impacts on the SPA through on-site habitat and access management. The TBH SPA Delivery Framework focusses on the SANG and SAMM mitigation measures.
- 1.5. Hart, Rushmoor and Surrey Heath (HRSH) Council's form the HRSH Housing Market Area (HMA) (Figure 1). A significant proportion of the HMA is either designated as Thames Basin Heaths SPA or within the three buffer zones for the SPA (92%). The Councils have worked

¹ Thames Basin Heaths Joint Strategic Partnership Board (2009) *Thames Basin Heaths Special Protection Area Delivery Framework*

collaboratively to deliver access to cross boundary SANG solutions, to avoid adverse impacts on the integrity of the SPA from additional housing in line with the TBH Delivery Framework. However, there are many constraints to delivering development and new SANGs in the HMA area. Opportunities for delivering SANG are reducing and the Councils are concerned that the current approach to avoidance and mitigation could result in significant difficulties in delivering net new residential development in parts of the HMA.

Figure 1: Thames Basin Heaths Special Protection Area, buffers and the Hart, Rushmoor and Surrey Heath Housing Market Area (HMA)



Scope of this Feasibility Study

- 1.6. The overall aim of the HRSH joint project is to identify complementary alternative mitigation measures, which can be delivered in order to mitigate new housing development within the HMA.
- 1.7. The existing mitigation approach requires contributions towards SAMM, alongside the provision of SANG. As part of the ongoing assessment of the availability of potential SANG in the HMA, a review of the evidence and a review of avoidance and mitigation strategies in place elsewhere, a number of alternative avoidance/mitigation options have been identified

for assessment. It is important to clarify that the aim of the project is not to evaluate the effectiveness of the existing approach. Therefore, the intention is to consider whether there are complementary alternative ways of providing the required avoidance/mitigation, alongside the existing SANG and SAMM approach.

- 1.8. This study explores the potential for habitat restoration and management to provide a form of avoidance or mitigation to enable housing delivery without causing negative impacts upon the integrity of the SPA. This would be delivered through enhancing habitat within the SPA to increase the resilience of bird populations by increasing the availability of suitable nesting habitat. Alternatively, habitat restoration could be considered compensation under Regulation 68 of the Habitats Regulations.
- 1.9. The existing evidence demonstrates that Natural England and others have previously viewed habitat restoration as having potential to address the impacts of housing development on the Thames Basin Heaths SPA. It was therefore considered that an up-to-date feasibility study would be beneficial to investigate this option further.
- 1.10. Within this report 'habitat restoration' can be taken to mean the clearance of forested areas to create, or recreate, and manage open habitat that is suitable for breeding SPA birds e.g. heathland.
- 1.11. This feasibility study will explore the option further, investigating both the legal and practical implications of habitat restoration as an avoidance, mitigation or compensation approach.
- 1.12. The aims of the feasibility study are to:
 - Provide an understanding of whether habitat restoration would be accepted as avoidance, mitigation or compensation for development surrounding the TBH SPA.
 - Identify opportunities to deliver habitat restoration on SPA land and investigate the scale of development this could enable.
- 1.13. Therefore, this report will cover the following:
 - Legal advice on habitat restoration as an avoidance, mitigation or compensation measure (chapter 2).
 - Details of works which could be identified as habitat restoration (chapter 3).
 - Identification of sites where habitat restoration may be feasible (chapter 4).

- Exploration of how to deliver habitat restoration works (chapter 5).
- Investigation of the number of dwellings that habitat restoration could enable (chapter 6).
- Further work required to implement habitat restoration (chapter 8).

The Existing Approach

1.14. The current three-pronged approach to mitigation for the Thames Basin Heaths SPA includes the requirement for on-site management of the SPA. This work mainly utilises the government Countryside Stewardship grants to improve habitats across the SPA in agreements with landowners. These agreements incentivise positive land management of sites, providing financial grants which are received once a live agreement is in place.

1.15. Where Sites of Special Scientific Interest (SSSI) are not in favourable condition, these agreements must include management options aimed to improve the site condition. If SSSIs are already in favourable condition, then the management should aim to maintain this. Works under Countryside Stewardship agreements are set out in the agreement documents, and should be fully recorded and monitored over time to verify compliance and enable payments to be made.

1.16. Public bodies, which are already government funded, are not eligible for Countryside Stewardship as they should use their existing funding streams to manage their land to achieve favourable condition.

Previous Research

1.17. As a mitigation option, habitat restoration was previously investigated for TBH SPA in 2014 through a feasibility assessment by Forest Enterprise and Natural England². This assessment explored the potential for heathland restoration from conifer plantation to mitigate likely impacts of housing development in the area.

² Forest Enterprise & Natural England (2014) *Joint feasibility assessment by Forest Enterprise (FE) and Natural England (NE). Heathland restoration from conifer plantation as mitigation of the likely impacts of housing development*

1.18. At the time, it was identified that there were substantial areas of the Public Forest Estate in which the tenure of Forest Enterprise would allow for the restoration of permanent heathland from conifer plantation. Forest Enterprise indicated in principle that it would be prepared to enter into a fully funded scheme arrangement for up to 60ha of additional heathland in the TBH SPA as mitigation for housing development.

1.19. As part of the assessment, NE advised that heathland restoration from conifer plantation would need to be:

- Additional to the management required for maintenance or restoration of the SPA and its component SSSIs (that is, it should not duplicate existing obligations),
- Certain in its effectiveness in increasing the numbers of protected birds on parts of the SPA, so as to at least balance the likely impacts of not providing SANGS for any particular number of dwellings,
- Capable of being secured, so that its effectiveness would be maintained for as long as the likelihood of impact from the new housing,
- Compatible with the habitat requirements of the other SSSI, Special Area of Conservation (SAC) and SPA features,
- Considered in relation to the Government's objective to increase the total amount of woodland cover, and have compensatory woodland planting built in as far as considered necessary in meeting this objective.

1.20. The above factors would need to be considered for any future use of habitat restoration.

When the 2014 feasibility work concluded the option was not taken forward, partly because a SANG became available which was likely to have been viewed as more straightforward to implement. There was also a remaining question as to whether the option would be considered avoidance, mitigation or compensation under the relevant regulations. This has been investigated further in this study within chapter 2.

1.21. This option was also considered during the South East Plan Technical Sessions. However, at the time no suitable landowner in the SPA was willing to consider it and there was no clear

baseline of habitat requirements. The South East Plan Assessors Report³ concluded that habitat management/restoration could have a role to play in avoidance and mitigation and advised that it should be explored further with any appropriate schemes being incorporated into the strategy for the SPA. At the time it was advised that a habitat management plan would be necessary for the whole SPA to determine differences between works necessary to achieve favourable conservation status, and those works that could be viewed as additional mitigation or avoidance measures. The topic of additionality is further explored in chapter 3 of this report.

³ Burley, P. (2007) *Report to the Panel for the Draft South East Plan Examination in Public on Thames Basin Heaths Special Protection Area and Natural England's Draft Delivery Plan*

2. The Legal Position

2.1. The HRSR Councils sought legal advice on whether habitat restoration and management would be considered as avoidance, mitigation or compensation for the SPA in line with the Habitats Directive⁴ (since the UK has left the European Union (EU) this Directive no longer applies in the UK however the transposed Conservation of Habitats and Species Regulations or ‘Habitats Regulations’ still apply). It was particularly key to consider the implications of the judgment in *Briels v. Minister van Infrastructuur en Milieu*⁵ which was highlighted in the 2014 feasibility assessment⁶ as having potential to cause habitat restoration to be considered compensation rather than mitigation, alongside more recent judgments.

The Habitats Regulations

2.2. The Conservation of Habitats and Species Regulations 2017⁷ provide for the designation and protection of sites, such as SPAs, which make up the national site network (previously referred to as Natura 2000 sites under the Habitats Directive). Competent authorities must assess plans or projects which may affect these sites under regulation 63, or regulation 105 for Local Plans. The sequential steps of this process are known as the Habitats Regulation Assessment (HRA) which is detailed further in this section and summarised in figure 2.

2.3. Regulation 10 of the Habitats Regulations sets out the objectives to preserve, maintain and re-establish a sufficient diversity and area of habitat for wild birds in the UK through upkeep, management and creation of such habitat. It states that competent authorities must use all reasonable endeavours to avoid any pollution or deterioration of habitats of wild birds.

⁴ European Commission Council (1992) *Directive 92/43/EEC of 21 May 1992 on the Conservation of natural habitats and of wild fauna and flora*

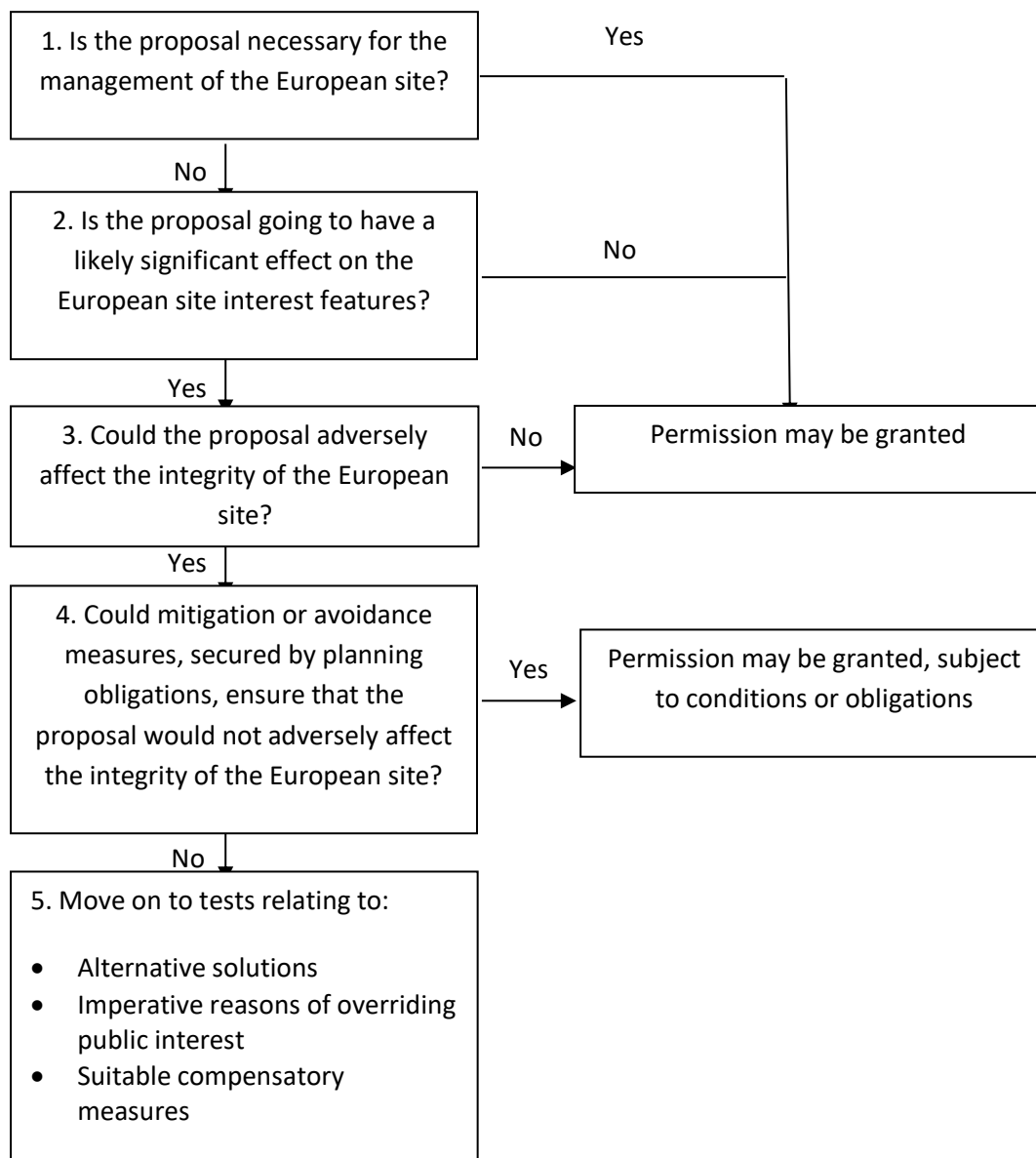
⁵ Court of Justice of the European Union Judgment (2014) *T. C. Briels and Others v. Minister van Infrastructuur en Milieu. C-521/12.*

⁶ Forest Enterprise & Natural England (2014) *Joint feasibility assessment by Forest Enterprise (FE) and Natural England (NE). Heathland restoration from conifer plantation as mitigation of the likely impacts of housing development*

⁷ The Stationary Office (2017) *The Conservation of Habitats and Species Regulations 2017*

- 2.4. The Habitats Regulations state under regulation 63 that a competent authority, before giving permission to a plan or project which is likely to have a significant effect on a European site (either alone or in combination with other plans or projects) and is not directly connected with or necessary to the management of the site, must make an appropriate assessment of the implications of the plan or project in view of the site's conservation objectives. The competent authority may only agree to the plan or project after having ascertained that it will not adversely affect the integrity of the designated site. When considering whether adverse effects on site integrity can be avoided mitigation measures can be taken into account.
- 2.5. Regulation 64 and 68 of the Habitats Regulations contain what are commonly referred to as the 'derogation provisions' which recognise that if the competent authority is satisfied that there are no alternative solutions and the project must be carried out for imperative reasons of overriding public interest (IROPI) it may agree to the plan or project despite a negative assessment of the implications for the designated site. Where this occurs the appropriate authority must secure any necessary compensatory measures to ensure that the overall coherence of the national site network is protected.
- 2.6. A distinction must be drawn to clarify whether habitat restoration should be considered a protective measure, intended to avoid or reduce any direct adverse effects caused by a plan or project (regulation 63), or a compensatory measure, to compensate for the negative effects that are likely to occur (regulation 64 and 68).
- 2.7. Boxes 1 and 2 show the HRA screening process, where effects may be screened out if they are unlikely or *de minimus*. If there are still potential significant effects, then an Appropriate Assessment must be completed (box 3 and 4) to identify effects on the integrity of the European site. This assessment can take account of any proposed avoidance/mitigation measures. If there still remain potential effects, then the further tests under regulation 64 and 68 must be met (box 5).

Figure 2: Habitat Regulation Assessment Process



2.8. If habitat restoration was thought to be a compensation measure, then any development relying on this approach would be considered to pose risk to the integrity of the SPA which could not be excluded at the Appropriate Assessment stage. The application would then need to meet the following sequential tests under regulation 64 of the Habitats Regulations:

- 1) There must be no feasible alternative solutions to the plan or project which are less damaging to the affected site(s).
- 2) There must be Imperative Reasons of Overriding Public Interest (IROPI), which may be social or economic, for the plan or project to proceed.

- 2.9. All necessary compensatory measures would then need to be secured to ensure that the overall coherence of the national sites network is protected.

Current Legal Advice

2.10. The current legal advice indicates that habitat restoration within the SPA could be considered to avoid impacts on the integrity of the SPA in line with regulation 63 of the Habitats Regulations, without this being automatically considered compensation.

2.11. The clearance of forested areas to create or recreate suitable habitat for the SPA birds would mean that although numbers of new visitors to the SPA would not be reduced, the impact on the SPA overall would not be so great. The newly restored heathland areas would need to be unlikely to become disturbed by recreation even with new development, as this approach would rely on the areas of undisturbed new habitat being able to sustain an equal or greater population of birds than those who may be affected by potential disturbance in other areas. The Queen's Counsel (QC) advice⁸ states that this could enable a conclusion to be reached on an Appropriate Assessment that development would not have an adverse effect on the integrity of the SPA.

2.12. This conclusion also relies upon expert judgement and is subject to two qualifications:

1) The habitat restoration must be additional to that which would be required to fulfil the UK's obligations to manage and conserve the SPA under Articles 6(1) and 6(2) of the Habitats Directive (interpreted as regulation 10 of the Habitats Regulations after the UK has left the EU). This topic is considered more fully under chapter 3 of this report.

2) There must be sufficient certainty of the benefits from the habitat restoration.

2.13. In relation to the second qualification above it is important to note that previous European judgments⁹ have shown that measures which are not in place at the time of the assessment of

⁸ Tromans, S. Queen's Counsel (2020) *Advice in the matter of Hart, Rushmoor and Surrey Heath SPA Mitigation Project*

⁹ Court of Justice of the European Union Judgment (2014) *T. C. Briels and Others v. Minister van Infrastructuur en Milieu*. C-521/12, Court of Justice of the European Union Judgment (2016) *Hilde Orleans and Others v. Vlaams Gewest*. C-387/15 and C-388/15, Court of Justice of the European Union Judgment (2018) *Edel Grace and Peter Sweetman v. An Bord Pleanála* C-164/17

a plan or project but rely on future benefits which may be uncertain cannot be considered as avoidance or mitigation.

- 2.14. There must be sufficient certainty that any proposed mitigation measures will be effective and can guarantee *“beyond reasonable doubt that the plan or project at issue will not adversely affect the integrity of that site”* if the mitigation is to be taken in to account within the Appropriate Assessment¹⁰. Any habitat restoration would therefore need to be in place and providing demonstrable benefits in the quantity and quality of habitat before it could be relied upon.
- 2.15. If habitat creation was undertaken in advance of any plan or project relying on it being assessed its success in attracting and providing habitat for the SPA bird species could be clearly demonstrated and measured. This would then be unlikely to be considered either mitigation or compensation, but would be *“something which has improved the baseline condition of the SPA, such that while the plan or project may still have a negative impact on parts of the SPA where there are increased visitor numbers, that impact would not constitute an adverse effect on the integrity of the SPA, because there is adequate alternative undisturbed habitat to avoid such an effect”*¹¹. The habitat restoration would therefore be increasing the resilience of the SPA and creating headroom so that overall development would avoid adverse impacts on the integrity of the SPA.
- 2.16. Habitat restoration would therefore not be aimed to reduce the total number of visitors to the SPA but to reduce the overall effect that additional visitors from developments would have. This should not be seen as compensation because it will ensure that development will not adversely impact the SPA integrity under regulation 63.
- 2.17. This conclusion, and the importance of the additional habitat being undisturbed, was also supported in the South East Plan examination where the assessor stated that *“I have had regard to the suggestion that such schemes would not make the SPA more robust in relation to increased visitor pressure. However, while I accept that this may be strictly accurate, if such*

¹⁰ Court of Justice of the European Union Judgment (2018) *Joined Cases: Coöperatie Mobilisation for the Environment UA, Vereniging Leefmilieu v. College van gedeputeerde staten van Limburg, College van gedeputeerde staten van Gelderland* [the Dutch Nitrogen Cases] C-293/17 and C-294/17

¹¹ Tromans, S. Queen’s Counsel (2020) *Advice in the matter of Hart, Rushmoor and Surrey Heath SPA Mitigation Project*

schemes were carried out in a less well used area they could potentially result in a significant increase in Annex 1 birds. In certain circumstances, this might be sufficient to more than offset any harm arising from increased recreational pressure in a well used area of the SPA, particularly if it was linked with access management measures and the provision of alternative open space”¹².

- 2.18. This investigation has focussed on development within the HRSH HMA. Scale could be relevant for any wider applications with there being greater uncertainty of the cumulative effects of development at a scale larger than the HMA. This could lead to difficulties in calculating how much habitat restoration would be required to provide the necessary headroom to enable development across the wider affected SPA authorities. Habitat restoration may therefore be more straightforward to deliver at HMA, or equivalent level.
- 2.19. It is important to note that these conclusions do not necessarily mean that this option could be implemented without difficulties, particularly as others may have alternative views and be minded to oppose or challenge this legal position. In the 2014 study¹³ the RSPB and local Wildlife Trusts viewed the proposal of habitat restoration to be compensation rather than mitigation/avoidance. They raised particular concerns over accepting increased visits to the SPA. Natural England’s (NE) view, as the statutory body responsible for advising competent authorities in SPA matters, remains that habitat restoration could avoid impacts on the integrity of the SPA where additionality can be evidenced.

¹² Burley, P. (2007) *Report to the Panel for the Draft South East Plan Examination in Public on Thames Basin Heaths Special Protection Area and Natural England’s Draft Delivery Plan*

¹³ Forest Enterprise & Natural England (2014) *Joint feasibility assessment by Forest Enterprise (FE) and Natural England (NE). Heathland restoration from conifer plantation as mitigation of the likely impacts of housing development*

3. 'Additional' Habitat Restoration

- 3.1. The legal position explored in the previous chapter shows that, in order for habitat restoration to be considered an option to avoid impacts on the integrity of the SPA, the proposed works must be viewed as additional to that which is already required to conserve and protect the SPA under the Habitats Regulations.
- 3.2. It is therefore important to investigate what is required for the SPA to be in favourable conservation status. The bodies responsible for ensuring the favourable conservation status, and preventing deterioration, of European sites are the Secretary of State and Natural England.
- 3.3. Natural England state that the Thames Basin Heaths SPA is currently in favourable condition. Therefore, as a whole the sites are performing in their role to provide adequate habitat for populations of the three SPA birds to sustain themselves on a long-term basis and the requirements highlighted under regulation 10 are being satisfied.
- 3.4. There are 14 component SSSIs that make up the SPA, split into a total of 127 units. Units are usually created to separate different areas of habitat or land ownership. 42% of units were assessed as favourable in the last assessments. There are a range of reasons for sites being assessed as in unfavourable condition, often related to scrub encroachment, poor quality of open habitat and not meeting targets for habitat cover and diversity. Any plans for habitat restoration works would therefore need to be informed by the current status of the relevant SSSI units and potentially enable SSSI improvements alongside the SPA works.
- 3.5. As mentioned in chapter 1 the current approach to land management within the SPA mainly relies upon Countryside Stewardship agreements to assist landowners in improving the condition of their sites. It would be important to investigate whether any land where habitat restoration was proposed had agreements in place. Any works which were deemed necessary for the management of the site under the existing obligations would not be considered as 'additional' and therefore could not be part of the habitat restoration measures.
- 3.6. It is also important to note that SSSIs may be designated for species other than the three SPA birds. Any habitat management on these sites would need to be planned to also accommodate these species effectively to ensure that SPA works were not contrary to the SSSI objectives.

- 3.7. The three SPA birds favour open habitats for breeding but also rely on a range of habitat types to thrive, generally including:
- Young heathland (particularly heather),
 - Areas of dense gorse,
 - Young woodland with open areas,
 - Sparsely scattered trees,
 - Tussocky grassland,
 - Areas of bare ground and low-lying vegetation.
- 3.8. In areas of SPA currently managed as coniferous forestry Natural England (NE) view that these sites can be classed as in favourable condition based on the mosaic of habitat provided across the SPA and the understanding that these areas are felled on rotation. The current aim is for these sites to have Forest Management Plans agreed with NE and ensure that sites are clear-felled on a rotational basis, providing suitable bird breeding habitat in areas where felling was recently completed.
- 3.9. When forestry is clear felled it can be utilised very quickly by the SPA birds. Woodlark tend to be particularly quick to nest in areas that have recently been cleared with nightjar and then Dartford warbler often utilising sites after some succession has taken place. The amount of time that the habitat remains suitable for the SPA birds is likely to be site-specific as it is dependent upon many factors including soil conditions, vegetation present and the degree of post-felling treatment. Some areas could remain useful breeding habitat for 6-20 years.
- 3.10. Natural England state that additionality accrues if forestry conversion to open habitat can be guaranteed to result in a long-term increase in SPA bird numbers above that expected through the planned forestry management. The creation of more suitable conditions for the birds, more frequently than currently planned, equates to additionality.
- 3.11. Habitat restoration would involve clear felling an area of forestry to remove the trees and then managing the land to provide suitable open habitat for the SPA birds in perpetuity, rather than allowing, or encouraging, conifer woodland to re-establish. This would enable the provision of open habitat above that already planned to be qualified as additional and able to contribute to the avoidance of impacts from development.

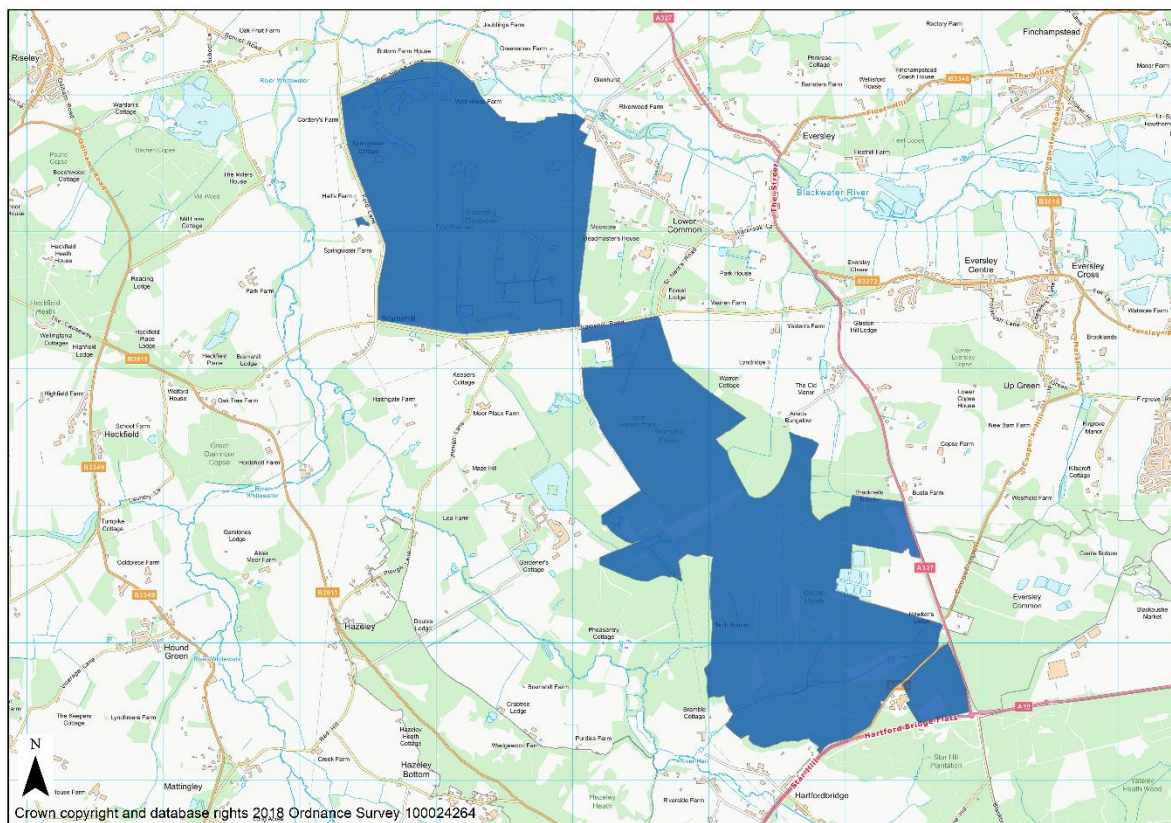
4. Site Identification

4.1. An investigation was made to identify sites, particularly within the HRSH Housing Market Area, where conifer plantations were present which could offer the potential opportunity for delivery of habitat restoration. Major landowners were then approached to gauge interest in habitat restoration being implemented on their land. If there is no landowner agreement, then this would cause the habitat restoration option to be unfeasible.

Bramshill SSSI

4.2. This SSSI is notified for a series of shallow acidic ponds and associated mire, which support a rich assemblage of dragonfly and damselfly, as well as the rotationally felled conifer plantation which supports the SSSI and SPA features of woodlark, Dartford warbler and nightjar. The full citation can be found in appendix 1.

Figure 3: Bramshill SSSI



- 4.3. Forestry England (FE, formerly known as Forestry Commission) land at Bramshill SSSI could be appropriate for habitat restoration and is a site that was considered suitable previously¹⁴. This site is completely within the district of Hart.
- 4.4. This area of the SPA has a relatively low visitor pressure compared to other accessible sites (see SPA Visitor Distribution and Access Background Paper for further information on visitor activity). Therefore, the area is already relatively undisturbed, and could provide suitable habitat for additional SPA birds. The areas which are clear-felled are also fenced to provide additional protection for SPA birds from recreational disturbance. This is currently a temporary measure but access restrictions through fencing could be considered for habitat restoration if necessary, to further reduce or maintain low levels of visitor pressure.
- 4.5. There is a Bramshill Forest Plan¹⁵ which has been agreed with Natural England and covers 1,274ha of SPA including 536 hectares under a freehold agreement and 738 under a leasehold agreement. This document sets FE objectives and illustrates how management will move towards achieving their vision over the initial 10 to 30 years. This plan shows that the existing management approach would enable suitable habitat for the birds to be present for 5-7 years after clear-felling. This provides an opportunity for management of open space above this time being considered additional. In 80 years (often accepted as the minimum in-perpetuity period) 73 years of habitat restoration could be counted as additional if the area is only currently planned to be felled once during the time.
- 4.6. If this site was to be utilised for habitat restoration further investigation would be required to ensure that SPA measures were compatible with SSSI requirements. The SSSI units in this area are 'unfavourable-recovering' so any detailed management plan would need to ensure SSSI features, such as *Odonata*, could be accommodated but works for them funded separately to the development-led SPA restoration works.
- 4.7. This option was discussed with Forestry England who expressed some interest in the proposals but could not commit to a definite agreement. FE stated that the option was positive from an

¹⁴ Forest Enterprise & Natural England (2014) *Joint feasibility assessment by Forest Enterprise (FE) and Natural England (NE). Heathland restoration from conifer plantation as mitigation of the likely impacts of housing development*

¹⁷ Forestry Commission (2018) *Bramshill Forest Plan*

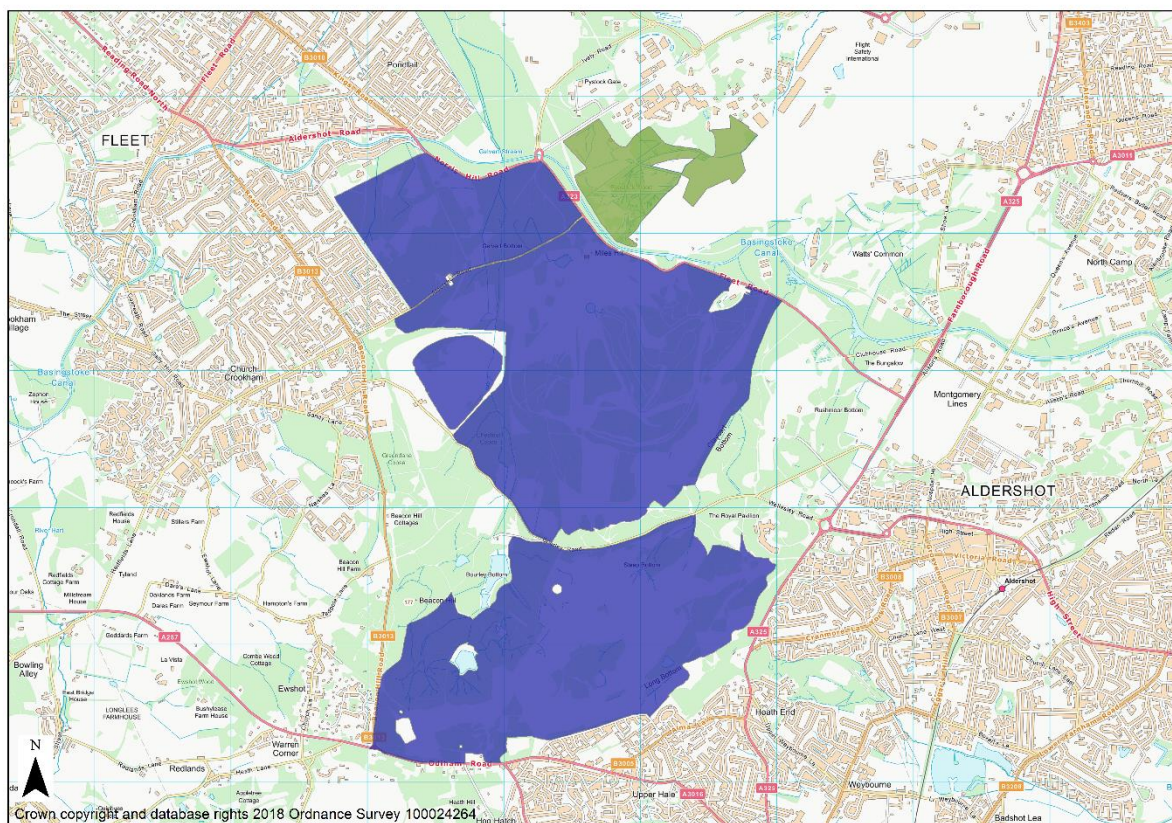
ecological perspective but would need to further consider how this would fit with other priorities related to timber provision and recreation.

Bourley and Long Valley SSSI

4.8. The Bourley and Long Valley SSSI was notified for its diverse habitat which supports a rich flora and fauna, including nationally scarce plants, nationally rare insects and nationally important adder populations, as well as hobby and the three SPA birds. The full citation can be found in appendix 2.

4.9. There are areas of the Bourley and Long Valley SSSI, such as units 1 and 6, which are predominantly conifer woodland owed by the Ministry of Defence (MoD). These areas could provide opportunities for habitat restoration. Unit 1 is mainly in the Hart district but has a very small area within the borough of Rushmoor. Unit 6 is also mostly in Hart and partly within the borough of Waverley.

Figure 4: The Bourley and Long Valley SSSI (area shaded blue)



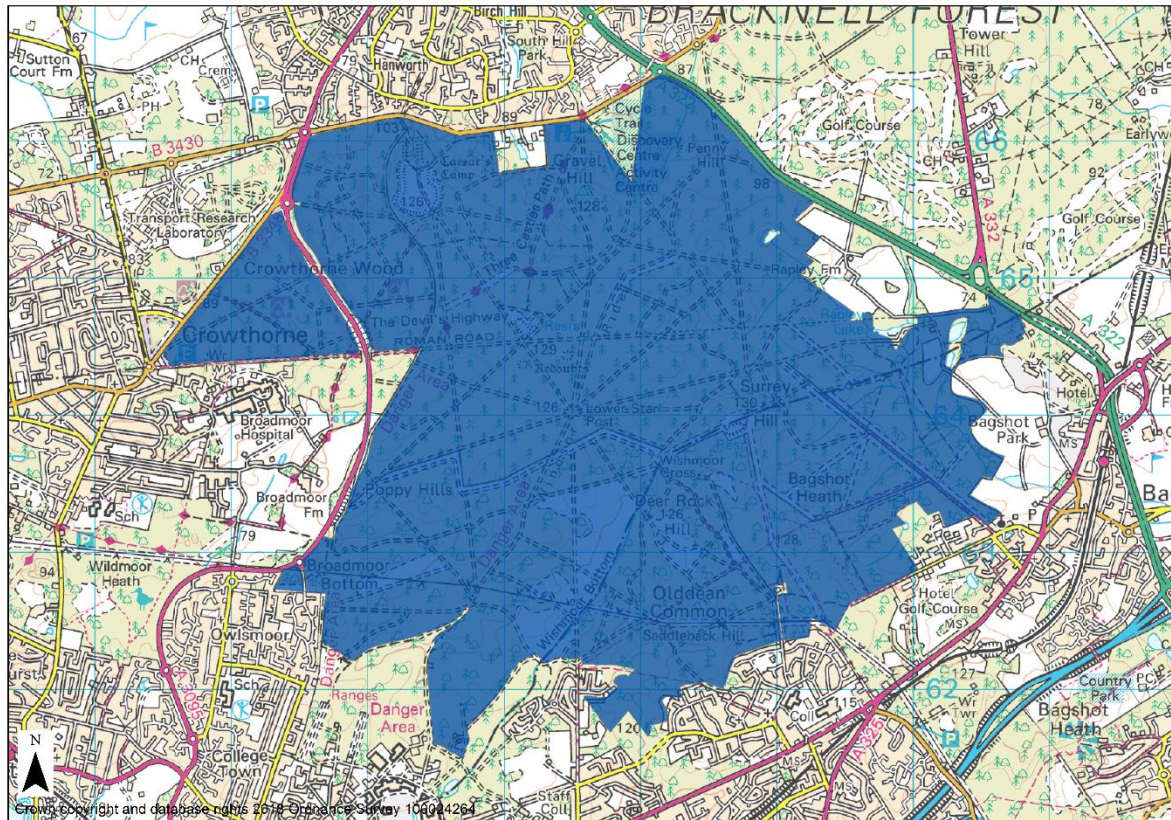
4.10. There is no current Forest Plan for these sites so investigations would be required to establish the current plans for management and demonstrate the felling currently planned to establish what additional habitat could be provided through in-perpetuity restoration.

- 4.11. As with Bramshill SSSI the units here are in 'unfavourable-recovering' status which would require consideration when creating detailed management plans to ensure that works are additional, and complementary to those required to reach favourable status.
- 4.12. Unit 1 is in close proximity to existing housing with Fleet and Church Crookham so recreational disturbance would need to be considered. Visitor surveys show unit 6 has a low level of existing visitor pressure which could be beneficial for a potential habitat restoration site. Further investigations of visitor pressure and potential access restrictions would be needed if a specific area of land was identified.
- 4.13. The potential for habitat restoration to be implemented on their land was discussed with the MoD. The MoD's overall view was that the remaining woodland within the SPA is a highly valuable training feature which is important for military training. It is therefore unlikely that an appreciable amount of land would become available in the MoD estate for habitat restoration purposes. The MoD also currently work to a yearly programme so committing to long-term management approaches may be challenging. At the time of writing the MoD are unable to commit to pursuing habitat restoration works on their land.

Broadmoor to Bagshot Woods and Heaths SSSI

- 4.14. This SSSI is partly within Surrey Heath but mostly lies within Bracknell Forest and is owned by the Crown Estate (CE) with some areas being leased to organisations such as the MoD. The SSSI is notified for supporting nationally important dragonfly and damselfly populations, as well as the three SPA birds. It also includes the valley bogs of Broadmoor Bottom and Wishmoor Bottom which form the most important remaining examples of this type of habitat in the area. The full citation can be found in appendix 3.

Figure 5: Broadmoor to Bagshot Woods and Heaths SSSI



4.15. Some of this area includes high levels of recreational activity with a visitor centre, café, adventure playground and mountain biking centre in close proximity to the SSSI. The level of recreational disturbance to any potential area of habitat restoration would need to be carefully considered for this site. Access restrictions may be an option to reduce visitor pressure, although CE noted anecdotally that signs and fences are often disregarded by visitors in this area. Therefore, it could be important to investigate the best methods of discouraging/restricting access to areas of habitat restoration which may include, for example a specific wardening presence alongside physical measures (fences/signs). This SSSI includes 'danger areas' where the MoD already restrict access so lessons could be learnt from existing approaches.

4.16. The Visitor Distribution and Access Background Paper shows relatively high visitor pressure through the centre of the site with a reduced pressure to the east. This site also includes the SPA's furthest point from a car park (over 2.1km) so there may be opportunities for habitat restoration to be targeted in areas with lower visitor pressure. If any access restrictions were to be implemented alongside the habitat restoration then consultation and engagement with the public would be important to enable understanding of the reasoning behind any restrictions,

reduce resistance and increase the compliance. Further information on this can be found within the Access Restriction Research Paper.

- 4.17. Most of the units of this SSSI are in favourable condition, allowing any habitat restoration works to clearly be viewed as additional. Some areas e.g. unit 7 have been clear felled recently and are already providing good habitat for the birds. The aim of 'restoration' in these areas would therefore be to maintain and enhance this habitat to continue to provide areas suitable for bird breeding in the future, rather than allowing conifer woodland to re-establish.
- 4.18. The suitable SSSI units of this site are already in favourable condition. There is also a current Forest Plan in place which has been agreed with NE. This should enable the habitat restoration works to be clearly defined as additional to what is currently required or planned. The assessment of felling works undertaken in unit 7 in 2017 states that the works would enable suitable habitat to be present for the birds for 5-10 years. Taking 10 years as a precautionary estimate, this gives opportunity for additional habitat restoration to be provided for 70 years (if planned to be felled once) or 60 years (if felled twice).
- 4.19. Meetings were held with the Crown Estate, Natural England and Bracknell Forest Council (BFC) to discuss the potential for habitat restoration on land owned by CE at Broadmoor to Bagshot Woods and Heaths SSSI. CE expressed interest in pursuing this option further and agreed to meet with NE officers to identify land that could be suitable. At the time of writing discussions are ongoing.

5. Practical Delivery

5.1. It has been established that habitat restoration may be a potential option for housing delivery in principle. In order for habitat restoration to be relied upon there are many practical areas which require consideration. This chapter explores some of the additional elements that should be addressed in order for habitat restoration to be delivered.

Costs

5.2. Costs will need to be agreed with landowners and may vary depending on the management approach. The following costs should be particularly considered:

- Creation of a bespoke habitat management plan for the site.
- Taking forestry out of production (loss of income to be compensated).
- Removal of trees and post-clearance works, e.g. stump removal, regrowth treatment, bracken control.
- Installation and maintenance of any required infrastructure, e.g. fencing, signage.
- Ongoing habitat management, e.g. removal of successional species every 5 years.
- Fire risk management, e.g. yearly firebreaks.
- Monitoring of habitat and SPA bird numbers.
- A potential share of the uplift in capital value of the associated housing development land.

5.3. The 2014 study costs included the uplifted land value in calculations. FE requested costs to be set at a commercial market rate for releasing the land from commercial forestry. The market rate was set by the cost of alternative mitigation options (i.e. SANG) therefore the overall cost of habitat restoration could directly reflect the prevailing cost of SANG.

5.4. As the habitat restoration works must be in place and functioning in advance of any development coming forward to allocate to the avoidance measure, initial costs will need to be provided for by a suitable body with these being recouped over time. Chapter 8 on implementation details this further.

Securing Delivery

- 5.5. To provide sufficient certainty that this option would be effective the management would need to be secured in-perpetuity. This is commonly accepted as a minimum of 80 years for mitigation for the Thames Basin Heaths SPA. The habitat management, and associated costs for capital works and ongoing management would also need to be secured for this option to be relied upon.
- 5.6. If the land goes through a change of use when converting it from forestry to open habitat then a planning application should be made and the associated management plans and funding can be secured through legal agreements. This could be processed using similar methods to those currently used to secure SANG. For example, utilising planning conditions and Section 106 agreements to ensure delivery of the capital works and in perpetuity management. These legal obligations would also give Local Planning Authorities (LPAs) mechanisms to enforce the management to ensure that agreements are complied with, with the opportunity to take action to ensure rectification of any failures. For SANGs which aren't owned by the LPA 'step-in rights' are often agreed and required by Natural England. This allows the authorities to take over management, and associated funding, of the land in the event of persistent failures from the existing management company. This mechanism could provide additional security to ensure that habitat restoration works were delivered and managed appropriately, further reducing the risk of the approach.
- 5.7. If there is no change of use of the land in planning terms then a planning application may not be necessary for the works to proceed. In this case usual planning conditions and Section 106 agreements could not be relied upon. One alternative option would be to utilise a lease arrangement. This would involve the landowner granting a lease to the Council, or other management body, granting them control over a specific area. The terms of the lease would need to be agreed with the landowner to ensure that the period of time covered was sufficient and that relevant parties' liabilities were clearly set out. The lease (being over 7 years in length) would be registered with the land registry, ensuring that it would also remain in the event of any future land sales.
- 5.8. Alternatively, a deed of covenant could be utilised to bind landowners, or other parties, to deliver management works on a piece of land and retain its use as open space/heathland. To ensure the deed runs with the land the landowner would need to permit a restriction to be entered in the land title ensuring that no transfer of the land can be registered without the new purchaser agreeing to also be bound by the deed. There is some level of risk with this approach

as future purchasers could not be adequately bound. Deed of covenants could also be utilised to ensure that funding for works is secured to ring fence provisions for in-perpetuity management.

- 5.9. The delivery mechanisms and management responsibilities will need to be agreed and secured in advance of the works. Current landowners may wish to employ, lease or sell the land to, other organisations to deliver the habitat management works if they are not going to manage the open habitat themselves. The specific responsibilities of parties should be clearly set out within any associated binding agreements.

Fire Risk

- 5.10. Open habitats and particularly heathlands are at increased risk of wildfires as fires can spread rapidly through the dry vegetation, causing destruction of areas of habitat. Although controlled burning is used to manage heathland in some areas, uncontrolled wildfires pose threats to habitats and species (including SPA birds), as well as human life and property.
- 5.11. The number of wildlife incidents is increasing over time. During the summer of 2020 the prolonged periods of hot dry weather are likely to have contributed to the scale of impacts from major fire incidents in areas of the TBH SPA.
- 5.12. Fire breaks and suitable management to reduce fire risks would be important to include within associated management plans for open habitat. Depending on the size and type of fire break consideration would be needed to identify whether this area could be used to support the SPA birds and therefore included within the avoidance capacity.

Other Environmental Effects and Public Views

- 5.13. Other considerations include additional potential environmental effects of woodland clearance and associated impacts upon public opinion. For example, woodlands are known for removing carbon from the atmosphere and positively assisting in reducing effects from climate change. The removal of large areas of woodland may therefore be viewed negatively and against the climate change agenda. Consultation and effective communication of the reasoning behind this type of habitat management is key to ensure that the public and other organisations are engaged in the process and given accurate information. The effective management of the felling and habitat works will also be important to reduce the potential effects on water sediment and nutrient loads.

- 5.14. Compensatory woodland planting could also be considered to enable the benefits of woodland to be provided elsewhere and ensure that there is no net loss of woodland. The overarching UK policy includes a presumption against the conversion of forest land to open habitat to avoid reduction in biodiversity. However, it is acknowledged that several key species could benefit, and compensatory planting has not been deemed necessary in other SPA areas, for example the New Forest which is SPA partly designated for nightjar, woodlark and Dartford warbler¹⁶. The need for compensatory planting may require further exploration.
- 5.15. Where felling takes place to permanently reduce woodland cover, particularly on SPA sites an Environmental Impact Assessment (EIA) screening is likely to be required and an application should be made to the Forestry Commission to convert woodland to open habitat.
- 5.16. Landscape impacts should also be considered as any large-scale felling may alter the landscape character of an area. The Hart Local Plan¹⁷ includes Policy NBE2 on landscape which specifically aims to ensure respect and where possible enhancement of the special characteristics, value or visual amenity of Hart's landscapes. Settlement coalescence could also be an important consideration dependent upon the site location.
- 5.17. A bespoke management plan will be required for the open habitat to ensure that any individual site is managed in the optimum way to provide good habitat for the SPA birds. Heathland habitat is particularly at risk of encroachment by scrub, bracken and trees due to succession. Management must aim to keep the habitat open while providing suitable areas for the SPA birds to nest and feed. Grazing is often viewed as a positive management technique for heathlands to promote diversity and structure in vegetation, but its suitability may depend upon the nature and size of land parcel under consideration. Grazing can conversely be viewed negatively by local visitors to sites, particularly dog walkers, who may have concerns over conflicts. Early engagement and public communication would be important if grazing was to be considered as part of site management unless access was restricted to the site.

¹⁶ Forestry Commission (2019) *Forestry England Proposals for deforestation in the New Forest Inclosures: Background and Statement of Reasons Supporting Decision to Grant Consent*

¹⁷ Hart District Council (2020) *Hart Local Plan (Strategy and Sites) 2032*

Monitoring

5.18. Monitoring is also important to ensure that the habitat restoration is functioning and that SPA birds are utilising the area. Bird monitoring is currently undertaken as part of the Strategic Access Management and Monitoring (SAMM) under the current mitigation approach. This data is also used to report on the conservation status of the SSSIs. Investigations would be required to establish whether the current monitoring was sufficient to inform this option, or whether increased monitoring would be required for the restored areas.

6. Capacity

- 6.1. If habitat restoration is to be utilised by development coming forward in areas surrounding the Thames Basin Heaths SPA then robust capacity calculations must be made to evidence the number of dwellings to be mitigated.
- 6.2. In the previous 2014 study¹⁸ Footprint Ecology made capacity calculations based on bird data, particularly focusing on nightjar as these are known as the most sensitive of the SPA birds to disturbance and have the largest territories. It is therefore precautionary to base habitat restoration requirements on nightjar as this would also provide enough area for Dartford warbler and woodlark. The calculations provided an indicative estimate of 9.05ha of habitat restoration being required for 1,000 new residents.
- 6.3. The calculations were made for proposed development in Surrey Heath of 1,000 dwellings. A potential increase in visitors to the SPA was calculated and used to estimate the likely scale of habitat restoration required. The impacts on nightjars were estimated at 0.4 pairs, the territory area required was multiplied by the three SPA species to give the amount of restored land required for 1,000 dwellings as 21.72ha which could then be converted to show the per resident capacity:

$$0.4 \text{ pairs} \times 18.1 \text{ ha/pair} = 7.24 \text{ ha}$$

$$7.24 \text{ ha} \times 3 \text{ species} = 21.72 \text{ ha per 1,000 dwellings}$$

$$21.72 \text{ ha} / 2.4 \text{ occupants} = 9.05 \text{ ha per 1,000 residents}$$

- 6.4. The legal advice¹⁹ received by the Councils for this study noted that reducing the capacity of habitat restoration to a simple formula could be problematic but did acknowledge that some form of quantitative approach would be necessary in order to rely on it for the delivery of a certain amount of housing development. It was suggested that this could be approached by
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¹⁸ Forest Enterprise & Natural England (2014) *Joint feasibility assessment by Forest Enterprise (FE) and Natural England (NE). Heathland restoration from conifer plantation as mitigation of the likely impacts of housing development*

¹⁹ Tromans, S. Queen's Counsel (2020) *Advice in the matter of Hart, Rushmoor and Surrey Heath SPA Mitigation Project*

considering the levels of development which will come forward under Local Plans and how much disturbance this might be expected to create. It would then be necessary to establish what level of additional habitat would make it possible to be confident that there would not be an adverse impact on the SPA integrity. This view supports the previous approach by Footprint Ecology. It was also emphasised that ecological advice would be integral to the calculations.

- 6.5. Further capacity calculations were not undertaken as part of this study as there is currently no certainty of the mitigation approach being taken forward imminently by landowners. If this option is to be delivered in future, then recent data should be utilised to create updated reliable capacity calculations.

7. Feasibility Conclusions

- 7.1. The feasibility investigations indicate that habitat restoration could perform as a measure to avoid impacts on the Thames Basin Heaths SPA from development in principle. Legal advice confirmed that this option could avoid the impacts on the integrity of the SPA in line with regulation 63 of the Habitats Regulations, rather than being considered compensation. This would be based on habitat restoration avoiding impacts on the SPA by increasing its resilience through providing additional undisturbed habitat for SPA birds, ensuring that the overall bird numbers increase or remain the same despite increases in housing development.
- 7.2. This conclusion is subject to two qualifications:
- 1) The habitat restoration must be additional to that which would be required to fulfil the UK's obligations to manage and conserve the SPA under the Habitats Regulations.
 - 2) There must be sufficient certainty of the benefits from the habitat restoration.
- 7.3. The first qualification can be addressed through investigating the existing SPA requirements. Overall, the SPA is currently assessed as in favourable condition and it is accepted that land managed under rotational forestry provides habitat for the SPA birds at certain points in the felling cycle. If land was managed as open habitat permanently, instead of woodland, then this could be considered additional to what is required under the current landowner obligations and agreements. It can therefore be accepted as a measure which has potential to be allocated to housing development.
- 7.4. In relation to the second qualification above it is important to note that previous European judgments²⁰ have shown that measures which are not in place at the time of the assessment of a plan or project but rely on future benefits cannot be considered to have sufficient certainty.

²⁰Court of Justice of the European Union Judgment (2014) *T. C. Briels and Others v. Minister van Infrastructuur en Milieu*. C-521/12, Court of Justice of the European Union Judgment (2016) *Hilde Orleans and Others v. Vlaams Gewest*. C-387/15 and C-388/15, Court of Justice of the European Union Judgment (2018) *Edel Grace and Peter Sweetman v. An Bord Pleanála* C-164/17

Habitat restoration would therefore need to be in place, providing demonstrable benefits in the quantity and quality of habitat before it could be relied upon.

- 7.5. In order to deliver habitat restoration suitable land is required with landowner agreement. The ongoing management and monitoring of that land would need to be secured in order to deliver further certainty that it will continue to provide good quality bird breeding habitat in perpetuity.
- 7.6. Up to date capacity calculations will also be important in order to provide a basis for this measure to be suitably allocated to development which may rely on it to meet the Habitats Regulations requirements.
- 7.7. It should be noted that other organisations may have differing views on this option and could challenge it as a suitable approach for use by housing development. Engagement with non-governmental organisations, and other authorities in the area would be beneficial to increase their understanding of the proposal, discuss concerns that they may raise and potentially work together to enable delivery of a strategic approach.
- 7.8. At this time there is no certainty that a landowner will agree to the delivery of this option. It is therefore not currently recommended that further work is carried out unless progress is made on an agreement. Chapter 8 sets out the further work that would be required to enable implementation of this option if it was to be taken forward in future.

8. Further Work and Implementation

- 8.1. It currently remains uncertain whether there is suitable land available for the implementation of this option, based on landowner discussions. Although there are areas of land within the SPA which appear appropriate for habitat restoration, landowner agreement is essential in order to take this option forward.
- 8.2. Other organisations who have invested in the existing mitigation approach of SANG and SAMM may view a new avoidance/mitigation approach as having potential to undermine the current mitigation strategy. An appropriate implementation strategy, including the management of allocating capacity would be important to avoid impacts upon the existing approach. If this option remains at a similar price for developers as SANG (as was found in 2014) then it is unlikely to be the preferred option based on cost.
- 8.3. As the capacity of this option is also limited by the amount of land available, it could be beneficial for the capacity of this mitigation to be managed at a higher level than individual Local Authorities. For example, if the HMA group, or TBH Joint Strategic Partnership Board (JSPB), incorporating the 11 affected authorities surrounding the SPA, had control over how capacity was utilised then it could be managed to ensure that only developments which met certain strict criteria were allocated capacity. This would ensure that where SANG could be delivered it would continue to be utilised, but in areas where SANG land cannot be found this could be an alternative option.
- 8.4. Sites suitable for implementing habitat restoration should be agreed with Natural England. If there is potential for more than one site to come forward it could also be advantageous to create a set of criteria or principles for the delivery of habitat restoration. These could function in a similar way to the current SANG Guidelines²¹ and ensure that a certain standard is met in order to deliver effective measures.
- 8.5. There may be opportunities to embed this option in relevant policy documents, such as supplementary planning documents or TBH strategies to further set out requirements for

²¹ Natural England (2008) *SANG Guidelines*

capacity allocation and delivery within local authority areas. As Local Plans are updated, this could then be included as appropriate.

- 8.6. As the habitat restoration works would be required to be completed in advance of any associated applications it is likely that up-front costs would need to be provided with future contributions being collected to recoup these costs through a pooled developer fund which could be collected under Section 106 obligations.
- 8.7. Any developments utilising habitat restoration under Section 106 would therefore need to meet the tests of planning obligations²², ensuring that the contributions are:
- Necessary to make the development acceptable in planning terms;
 - Directly related to the development; and
 - Fairly and reasonably related in scale and kind to the development.
- 8.8. In this case the contributions would ensure that a cumulative effect would not occur from development surrounding the SPA and so could be related to development coming forward that would otherwise be refused.
- 8.9. The main recommended steps required to enable this option to be taken forward as an approach for development to avoid adverse impacts on the integrity of the SPA are:
1. Establish landowner agreement and area of land.
 2. Assess the area of land under consideration for suitability, accounting for ecological and practical considerations (soils, habitat, existing visitor pressure, ease of access for management etc).
 3. Calculate the housing capacity that this area is likely to enable.
 4. Create habitat management plan to include initial and in-perpetuity works for the site.

²² Ministry of Housing Communities and Local Government (2019) *National Planning Policy Framework (NPPF)*

5. Calculate costs (further detailed under paragraph 5.2 of this report).
 6. Agree and secure costs and funding mechanisms with Local Planning Authority, landowner, delivery body (if different).
 7. Agree and secure liabilities and in-perpetuity management with the relevant parties (e.g. deed of covenants).
 8. Deliver the habitat management to provide functioning bird breeding habitat.
 9. Monitor the bird numbers to establish the performance of the avoidance measure. Monitoring to then be ongoing.
- 8.10. Developments could then rely on this approach to show they would not have an adverse effect on the integrity of the SPA in their appropriate assessment under the habitats regulations and financial contributions could be collected.

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Appendix 1: Bramshill SSSI Citation

County: Hampshire

Site Name: Bramshill

Status: Site of Special Scientific Interest (SSSI) notified under Section 28 of the Wildlife and Countryside Act 1981 (as amended)

Local Planning Authority: Hampshire County Council, Hart District Council

National grid reference: SU774596

Ordnance survey sheet: 1:50,000: 186 1:10,000: SU76 SE/SW, SU75 NE

Date notified (under 1981 Act): 1988, 1990 **Date of last revision:** 20.10.2000

Area: 671.99 ha **Date of Confirmation:** 17.7.2001

Reasons for Notification

This site is notified for a series of shallow acid ponds and associated mire, which support a rich assemblage of dragonfly and damselfly, and rotationally felled conifer plantation, which provides habitat for internationally important populations of nightjar, woodlark and Dartford warbler.

General Description

Bramshill comprises extensive areas of conifer plantation together with a series of shallow acidic ponds within relic wet heathland and a small unimproved grassland area adjacent which provides habitat for the nationally rare small fleabane *Pulicaria vulgaris*.

Management of the pine plantations results in a sequence of clearings and young coniferous trees which are utilised by breeding nightjar *Caprimulgus europaeus*, woodlark *Lullula arborea* and Dartford warbler *Sylvia udnata*. The site also contains small breeding populations of hobby *Falco subbuteo* and little ringed plover *Charadrius dubius*.

The pond areas differ in character, the northern and middle areas occupying former gravel workings, whilst the southern series occupies a damp valley and was formed by damming a small acidic stream. The areas of open water are dominated by bog pondweed *Potamogeton polygonifolius* and very large populations of the nationally scarce pillwort *Pilularia globulifera*. The shallow, often exposed margins have a rich flora dominated by soft rush *Juncus effusus*, compact rush *J. conglomerates*, lesser spearwort *Ranunculus flammula* and reedmace *Typha latifolia*. Nationally scarce plants occurring here include the needle spike rush *Elecharis acicularis*, six stamened waterwort *Elatine hexandra* and small water-pepper *Persicaria minor*.

Within the plantations there are a few small areas of wet heath dominated by purple moor-grass *Molinia caerulea*, wet heathland with cross leaved heath *Erica tetralix* and fragments of dry heathland with heather *Calluna vulgaris*. Locally uncommon plants present include petty whin *Genista anglica* and small cudweed *Filago minima*, together with stag's horn clubmoss *Lycopodium clavatum* at its only Hampshire location. Heath communities are present alongside forest tracks and briefly recolonise

after forestry clearance operations, before the tree cover closes over again following planting. Yellow bartisia *Parentucellia viscosa* is found along some woodland rides.

The acidic ponds are fed by the surrounding heathland and are generally clear and free of pollution. At least 24 species of dragonfly and damselfly have been recorded breeding out of a total of 37 resident in Britain. The occurrence of the nationally scarce small red damselfly *Ceriagrion tenellum*, downy emerald *Cordulia aenea* and brilliant emerald *Somatochlora metallica* are of particular note. The open water and heathland areas are also important for other invertebrates, including the nationally scarce horsefly *Tabanus cordiger*, woodland grasshopper *Omocestrus rufipes* and a colony of the shortwinged conehead *Conocephalus dorsalis*.

Two unimproved grassland fields close to Springwater Farm lie adjacent to the northern plantation at Bramshill. Extensive grazing has created habitat for a population of the nationally rare small fleabane *Pulicaria vulgaris*, which is also vulnerable in a European context. This is the only site in Hampshire which supports this plant, outside the New Forest.

Other Information

1. This site incorporates two areas previously notified as Bramshill SSSI and Warren Heath Ponds SSSI with extensions to incorporate coniferous plantation which provide habitat for Annex I birds.
2. This site includes land which has been proposed for designation as a Special Protection Area under Directive 79/409/EEC on the Conservation of Wild Birds. Nightjar, woodlark and Dartford warbler are listed on Annex 1 of the Directive.
3. Woodlark and nightjar are priority species in the UK Biodiversity Action Plan.
4. Woodlark, Dartford warbler, hobby and little ringed plover are specially protected by being listed on Schedule 1 of the Wildlife and Countryside Act 1981 (as amended).
5. Small fleabane is a Red Data book species listed on Schedule 8 of the Wildlife and Countryside Act.

Appendix 2: Bourley and Long Valley SSSI Citation

County: Hampshire

Site Name: Bourley and Long Valley

Status: Site of Special Scientific Interest (SSSI) notified under Section 28 of the Wildlife and Countryside Act, 1981.

Local Planning Authority: Hampshire County Council, Surrey County Council, Hart District Council, Rushmoor Borough Council, Waverley Borough Council

National Grid Reference: SU 835515 **Area:** 819.70 (ha)

Ordnance Survey Sheet 1:50,000: 186 **1:10,000:** SU 85 SW, SU 85 SE, SU 84 NW

Date Notified (Under 1981 Act): 15 Oct. 1993 **Date of Last Revision:** –

Date Confirmed: 15 June 1994

Other Information:

This site includes land proposed for designation as a Special Protection Area under the EC Directive 79/409 on the Conservation of Wild Birds.

Description and Reasons for Notification:

The site comprises a diverse mosaic of heathland, woodland, mire, scrub and grassland habitats. Such habitat diversity supports a rich flora and fauna including nationally scarce plants, nationally rare insects and three bird species listed in Annex 1 of the EC Directive on the Conservation of Wild Birds. The majority of the site is underlain by gently undulating deposits of gravels and sands from the Tertiary era, with Quaternary gravel deposits forming a high ridge to the south of the site and Quaternary Barton sand deposits exposed in Long Valley. Wetter areas such as Bourley Bottom and Long Bottom are underlain by Bagshot Beds.

The dry heathland areas are dominated by heather *Calluna vulgaris*, bell heather *Erica cinerea* and dwarf gorse *Ulex minor* with bilberry *Vaccinium myrtillus* a frequent associate. Extensive patches of dodder *Cuscuta epithymum* occur on dense heather areas. Cross-leaved heath *Erica tetralix* is found in more humid heathland areas, with purple moor-grass *Molinia caerulea* dominating locally. The acidic grassland includes areas dominated by bristle bent *Agrostis curtisii*, a grass with a restricted distribution in south-east England. Scrub, dominated by gorse *Ulex europaeus*, forms part of this habitat mosaic.

Springs and ditches, and valleys where drainage is impeded, support valley mire communities. Here, cross-leaved heath and bog mosses *Sphagnum* spp., dominate, with other typical bog plants occurring including common cottongrass *Eriophorum angustifolium*, round-leaved sundew *Drosera rotundifolia* and the nationally scarce marsh clubmoss *Lycopodiella inundata*. The nationally scarce pale dog-violet *Viola lactea* is also found on the site. The rich invertebrate fauna includes three nationally rare species,* ruby-tailed wasp *Chrysis fulgida* and the heathland flies *Pelecocera tricincta* and *Thyridanthrax fenestratus*. Three nationally scarce heathland insects include the potter wasp

Eumenes coarctatus, silver-studded blue butterfly *Plebejus argus* and downy emerald dragonfly *Cordulia aenea*.

The mixture of open heathland, scrub, sandy areas and clearings in the coniferous woodland provide habitat for heathland birds including three particularly vulnerable species on Annex 1 of the Birds Directive; woodlark *Lullula arborea*, nightjar *Caprimulgus europaeus* and Dartford warbler *Sylvia undata*. The site also supports a small breeding population of hobby *Falco subutteo* which is important in a British context,** and on a European basis as a migratory species. Nationally important populations of the adder *Vipera berus* are also found.

* Nationally rare species are equivalent to those listed in the British Red Data Book which includes those considered endangered, vulnerable or rare.

** Schedule 1 birds as listed in the Wildlife and Countryside Act, 1981 (as amended).

Appendix 3: Broadmoor to Bagshot Woods and Heaths SSSI Citation

County: BERKSHIRE/SURREY **Site Name :** BROADMOOR TO BAGSHOT WOODS AND HEATHS

Status: Site of Special Scientific Interest (SSSI) notified under Section 28 of the Wildlife and Countryside Act 1981 (as amended)

Local Planning Authorities: Bracknell Forest Borough Council, Surrey County Council, Surrey Heath District Council

National Grid Reference: SU877644

Ordnance Survey Sheet 1:50,000: 175 **1:10,000:** SU86 SE, SW, NW, SU96 SW

Date Notified (Under 1949 Act): 1973 **Date of Last Revision:** 1975

Date Notified (Under 1981 Act): 1983, 1985 **Date of Last Revision:** 20 October 2000

Area: 1696.99 ha

Reasons for Notification

This site has an extensive mosaic of broadleaved woodland, coniferous plantation, dry and wet heathland, valley mire, a series of base-poor ponds and a scarce breeding invertebrate assemblage. In particular, the heathland and coniferous plantation supports internationally important populations of woodlark, nightjar and Dartford warbler, and have a nationally important dragonfly and damselfly population. The site includes the valley bogs of Broadmoor Bottom and Wishmoor Bottom which form the most important remaining examples of this type of habitat in the area.

General Description

The mosaic of habitats mostly overlies sandy Barton Bed deposits and plateau gravels of the Thames Basin series. Wetter areas are underlain by sands and clays of the Bracklesham Beds and alluvium.

The valley bog at Broadmoor Bottom supports wet heath dominated by cross-leaved heath *Erica tetralix* and the bog moss *Sphagnum compactum* with areas of bog myrtle *Myrica gale*. Wetter areas contain typical bog plants including bog asphodel *Narthecium ossifragum*, round-leaved sundew *Drosera rotundifolia*, and deer grass *Trichophorum cespitosum*, whilst purple moor-grass *Molinia caerulea* dominates much of the remainder. The valley bog at Wishmoor Bottom supports a rich bryophyte flora with nine species of *Sphagnum* bog moss including the nationally scarce *Sphagnum flexuosum*, and *S. magellanicum* which is scarce in southern England. Hare's-tail cotton grass *Eriophorum vaginatum*, which is uncommon in south-east England, is also present in wetter areas around Wishmoor Bottom, together with two important fern species, the nationally rare crested buckler-fern *Dryopteris cristata* and the nationally scarce marsh fern *Thelypteris palustris*.

The drier heathland is mainly dominated by heather *Calluna vulgaris* and dwarf gorse *Ulex minor*, with areas of bracken and pine and birch scrub. An area of grass heath dominated by bristle bent *Agrostis curtisii* and dwarf gorse occurs to the east of Wishmoor Bottom at one of the most easterly limits of

the community. Common wintergreen *Pyrola minor*, which has a very local distribution in Berkshire, is present in the grass heath.

The invertebrate fauna of the wetland areas includes the bog bush-cricket *Metrioptera brachyptera* and a range of dragonflies. These include the broad-bodied chaser *Libellula depressa*, black-tailed skimmer *Orthetrum cancellatum*, large red damselfly *Pyrrhosoma nymphula* and the golden-ringed dragonfly *Cordulegaster boltonii* which is local in southern England. The dry heathland areas support the nationally scarce silver-studded blue butterfly *Plebejus argus*, and the uncommon spider *Euarcha arcuata*.

The mixture of open heathland and woodland provides habitat for heathland birds including stonechat *Saxicola torquata*, redstart *Phoenicurus phoenicurus* and three particularly vulnerable species of bird, woodlark *Lullula arborea*, nightjar *Caprimulgus europaeus* and Dartford warbler *Sylvia undata*. The site also has a small breeding population of hobby *Falco subbuteo*. Forestry management of the coniferous woodland, which includes rotational clearance and subsequent replanting, provides temporary areas of developing heathland. These areas, together with open storm damaged areas and the developing heathland alongside broad forest rides, are utilised as breeding habitat by woodlark and nightjar.

Rapley Lakes are a collection of large, base-poor ponds. They support a rich diversity of aquatic and marginal plants including alternate water milfoil *Myriophyllum alterniflorum*, bog St John's wort *Hypericum elodes* and lesser bulrush *Typha angustifolium*. Of particular importance is the dragonfly fauna with several rare species present including the brilliant emerald *Somatochlora metallica*, ruddy darter *Sympetrum sanguineum*, downy emerald *Cordulia aenea* and small red damselfly *Ceriagrion tenellum*.

Other Information

1. This site includes land which has been proposed for the designation as a Special Protection Area under the Directive 79/409/EEC on the Conservation of Wild Birds. Nightjar, woodlark and Dartford warbler are listed on Annex I of the Directive.
2. Woodlark, Dartford warbler and hobby are specially protected by being listed in Schedule I of the Wildlife and Countryside Act 1981 (as amended).
3. Woodlark and nightjar are priority species in the UK Biodiversity Action Plan.
4. Lowland heathland is a priority habitat in the UK Biodiversity Action Plan