



# The Ecology Co-op

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## **Proof of Evidence on European Site Matters**

**APPEAL AGAINST THE DECISION OF FAREHAM BOROUGH COUNCIL TO  
REFUSE OUTLINE PLANNING PERMISSION FOR:**

**THE RESIDENTIAL DEVELOPMENT OF 225 DWELLINGS, BIRD CONSERVATION  
AREA AND AREA OF OPEN SPACE WITH ALL MATTERS RESERVED EXCEPT FOR  
ACCESS**

Land South of Romsey Avenue, Fareham

Paul Whitby

Principal Ecologist/Director

The Ecology Co-op

## 1. PERSONAL INFORMATION

1.1. My name is Paul Whitby and I am the Managing Director and a Principal Ecologist at the Ecology Co-op. I have a Bachelor of Science degree in Environment, Economics and Ecology, I am a member of the Chartered Institute for Ecology and Environmental Management (CIEEM), and further, I am a Chartered Ecologist through CIEEM. I have 15 years' experience as an ecologist, including the production of Ecological Impact Assessments, designing mitigation schemes for developments and undertaking Habitats Regulations Assessments. I have experience as an expert witness on ecology matters, having appeared at several planning appeals.

## 2. SCOPE OF EVIDENCE

2.1. I am providing this Proof of Evidence on behalf of the appellants, Foreman Homes, in support of a development proposal to build 225 new dwellings (including 40% affordable housing), provide a significant offering of public open space and create a new bird conservation area. The evidence I have prepared is true and is based on my professional opinion, in line with a professional code of conduct as required under my CIEEM membership.

2.2. The planning application for this development was refused by Fareham Borough Council (the LPA) on the 21<sup>st</sup> September 2020. My proof has been prepared to address reasons for refusal b and d, as provided by Fareham Borough Council, which is as follows:

*b) "The proposal fails to appropriately mitigate the likely adverse effects on the integrity of European Protected Sites which would arise as a result of the effect of the development on, and loss of part of, a Primary Support Area for Brent geese and waders"*

*d) "The proposal fails to provide sufficient information to demonstrate that protected and priority species would be protected and enhanced"*

2.3. Separately, reason for refusal h) states that, *"In the absence of a legal agreement to secure such, the proposal fails to appropriately secure mitigation of the likely adverse effects on the integrity of European Protected Sites which, in combination with other developments, would arise due to the impacts of recreational disturbance"*. This is seen as a legal issue that will be dealt with separately and is covered within a separate Habitats Regulations Assessment and will be addressed in the Proof of Evidence produced by Mr Brown on behalf of the appellant. Whilst reason for refusal d) is relevant to my proof with respect solely to brent geese and wading birds, this reason for refusal will be the focus of Mr Day, who is providing evidence for 'on site ecology and nature conservation'.

2.4. This document has been produced to provide information to the Planning Inspector at an appeal hearing for the refused application of the development of Land South of Romsey Avenue, Fareham. It discusses only reasons for refusal b and d as outlined by Fareham Borough Council, with no other objections raised by the LPA with respect to the ecological surveys, assessment of protected species impacts or proposed mitigation with respect to habitats and species at the site.

2.5. Further to reasons for refusal b) and d) provided by the LPA, this document also aims to address an objection raised by Natural England. In their written statement on 26/08/2020<sup>1</sup>, Natural England produced the following objection response:

*"The application is likely to have a significant effect on the Portsmouth Harbour SPA and SSSI and the Council is advised to undertake an Appropriate Assessment under The Conservation of Habitat and Species Regulations 2017."*

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<sup>1</sup> Planning Consultation response by Natural England, 26/08/2020, NE ref: 324982

*The proposal will result in a loss of supporting habitat. There is uncertainty as to whether the mitigation measures proposed are likely to protect the integrity of the designated sites.”*

- 2.6. Within the detail of their response, Natural England further discussed the identification of the site as a ‘primary support area’ for brent geese within the Solent Waders and Brent Goose Strategy (SWBGS) and the need for a suitable replacement site of appropriate habitat, area, disturbance and location. For primary support areas this is understood to be a requirement for an offsetting area that can fulfil ‘the same special contribution and particular function of the areas lost or damaged for the same species of birds’.
- 2.7. The SWBGS has been produced by the Solent Waders and Brent Goose Steering Group to inform both strategic planning strategies by LPAs and individual development proposals. Its principle objective states that it is ‘to ensure that sufficient feeding and roosting resources continue to be available and the integrity of the network of sites is restored and maintained, in order to ensure the survival of the Solent’s coastal bird populations. The underlying principle is to, wherever possible, conserve extant sites and to create new sites, enhancing the quality and extent of the feeding and roosting resource’.
- 2.8. The outline planning application for the development of the Land South of Romsey Avenue has been supported by the following documents:
- an Ecological Impact Assessment, Ecosupport (2018)
  - a Biodiversity Mitigation and Enhancement Plan, fpcr (2021)
  - a Biodiversity Net Gain Assessment, fpcr (2021)
  - Bird Mitigation Reserve Proposals, Lindsay Carrington Ecological Services (2020)
  - a Shadow Habitats Regulations Assessment (HRA), fpcr (2021)
- 2.9. All of these documents and data gathered from a range of protected species surveys (some of which are being updated at the time of writing) have been consolidated within a new Environmental Statement (ES) Chapter concerning Ecology (Chapter 10). This ES has been compiled by the Temple Group, with the Chapter on Ecology completed by FPCR and this Proof of Evidence will directly reference the content of the Ecology Chapter of this ES rather than the older EclA by Ecosupport.
- 2.10. Separately, the Appellant’s appointed ecologists have consulted with Natural England in order to try and meet agreement on the proposed mitigation for wintering wading birds and brent geese. Supporting documents and correspondence that will be referenced includes:
- Response To Natural England Objection of Bird Mitigation Reserve Proposals for Land off Romsey Avenue, Portchester, Lindsay Carrington Ecological Services (2020).
  - Natural England DAS response (2020).
- 2.11. Of particular consideration within the proposals is a mitigation strategy for the site that was originally designed by Ecosupport, modified by Lindsay Carrington Ecological Services and finally has been refined by FPCR within

Chapter 10 of the ES. Details of this mitigation strategy, with particular focus on the creation of a new bird reserve, is detailed within Chapter 10 of the ES and a separate Biodiversity Mitigation Enhancement Plan.

### 3. SITE AND CONTEXT

- 3.1. The Site comprises of a 12.6ha parcel of arable land situated to the south of Romsey Avenue in Fareham. This arable field is fringed by species-poor hedgerows on the eastern, southern and western boundaries, whilst the gardens of residential properties create a varied boundary including hedging and fence lines. The east of the site is bordered by a new development referred to as 'Land North of Cranleigh Road/West of Wicor Primary School, Porchester, Fareham', which was granted permission upon appeal on the 23<sup>rd</sup> March 2016 and is presently under construction. To the south the site is bordered by another arable field, the grounds of AFC Porchester football club and Wicor Recreation Ground. To the west the site is bordered by another arable field and an area of pasture.
- 3.2. The site is made up of a single cultivated arable field that has been managed for spring cereals for the last five years, but is presently sown with spring beans. The land is not presently, nor has previously been, managed under a stewardship scheme and has very narrow field margins. Habitats recorded from the Phase 1 Habitat survey of the site include arable land, improved grassland, tall ruderal, scattered scrub, hedgerows and trees.
- 3.3. At its closest point the site is situated 0.2km from the Portsmouth Harbour SPA, 5.14km from the Solent and Southampton Water SPA and 6.83km from the Chichester and Langstone Harbour SPA. The Portsmouth Harbour SPA lies directly south of the site and comprises a large and industrialised estuary that supports mudflats with beds of narrow-leaved and dwarf eel grass, on which brent geese forage whilst exposed at low tide.

#### 4. RELEVANT POLICY

4.1. The Fareham Borough Core Strategy (2011) sets out policies designed to shape the Local Development Framework. Of relevance to this appeal are Policy CS4, which sets out a hierarchy for the protection of habitats important to the biodiversity of the Borough. The Fareham Local Plan 'Part 2' includes two policies of relevance to brent geese, wading birds and European Protected species sites as follows:

Policy DSP14: Supporting Sites for Brent Geese and Waders

*Development on 'uncertain' sites for Brent Geese and/or Waders (as identified on the Policies Map or as updated or superseded by any revised plans, strategies or data) may be permitted where studies have been completed that clearly demonstrate that the site is not of 'importance'.*

*Development on 'important' sites for Brent Geese and/or Waders, (as identified on the Policies Map or as updated or superseded by any revised plans, strategies or data) may be granted planning permission where:*

- i. it can be demonstrated that there is no adverse impact on those sites; or*
- ii. appropriate avoidance and/or mitigation measures to address the identified impacts, and a programme for the implementation of these measures, can be secured.*

*Where an adverse impact on an 'important' site cannot be avoided or satisfactorily mitigated, an Appropriate Assessment will be required to determine whether or not the proposed development would have an adverse effect on the integrity of the Special Protection Areas supporting sites. Where an adverse effect on the integrity of a Solent Special Protection Area cannot be mitigated, planning permission is likely to be refused.*

Policy DSP15: Recreational Disturbance on the Solent Special Protection Areas (SPA)

*In Combination Effects on SPA:*

*Planning permission for proposals resulting in a net increase in residential units may be permitted where 'in combination' effects of recreation on the Special Protection Areas are satisfactorily mitigated through the provision of a financial contribution that is consistent with the approach being taken through the Solent Recreation Mitigation Strategy. In the absence of a financial contribution toward mitigation, an Appropriate Assessment will be required to demonstrate that any 'in combination' negative effects can either be avoided or satisfactorily mitigated through a developer provided package of measures.*

*Direct Effects on Special Protection Areas:*

*Any application for development that is of a scale, or in a location, such that it is likely to have a direct effect on a European-designated site, will be required to undergo an individual Appropriate Assessment. This may result in the need for additional site-specific avoidance and/or mitigation measures to be maintained in perpetuity. Where proposals will result in an adverse effect on the integrity of any Special Protection Areas, planning permission will be refused.*

4.2. Fareham Borough Council is presently consulting on its Local Plan 2037, which is identified as a Publication Local Plan ahead of being formally adopted. The most relevant policy identified in this document is as follows:

Strategic Policy NE1: Protection of Nature Conservation, Biodiversity and the Local Ecological Network

*Development will be permitted where:*

- a) Designated international, national sites and local sites of nature conservation value are protected and enhanced, reflecting their status in the hierarchy of nature conservation designations; and*
- b) Protected and priority habitats and species, including breeding and foraging areas are protected and enhanced; and*
- c) Proposals do not prejudice the Ecological Network or result in its fragmentation.*

*Development within the Borough whose primary objective is to conserve and enhance biodiversity (including the Local Ecological Network), geodiversity and natural resources through restoration, re-creation or management will be supported.*

*Policy NE3: Recreational Disturbance on the Solent Special Protection Areas (SPAs)*

*Planning permission for proposals resulting in a net increase in residential units will be permitted where a financial contribution is made towards the Solent Recreation Mitigation Strategy.*

*In the absence of a financial contribution towards the Solent Recreation Mitigation Strategy, proposals will need to avoid or mitigate any ‘in combination’ negative effects from recreation through a developer-provided package of measures for the lifetime of the development.*

*Policy NE5: Solent Wader and Brent Goose Sites*

*Sites which are used by Solent Waders and/or Brent Geese (as shown on the Policies map) will be protected from adverse impacts commensurate to their status in the hierarchy of the Solent Wader and Brent Geese Network.*

*Core and Primary Support Areas*

*Development on ‘Core and Primary Support Areas’ (as shown on the Policies map) will only be permitted where:*

- a) The proposal has avoided or adequately mitigated impacts on-site and there is an overall net gain to the Solent Wader and Brent Geese Network; or*
- b) Where it can be clearly demonstrated that criteria a is not feasible or practicable, a suitable, readily available replacement site which conforms entirely to the specific requirements for the Solent Waders and Brent Geese species concerned and is satisfactorily agreed by the Council and other appropriate bodies is provided and secured for the lifetime of the development.*

## 5. ROLE OF THE SITE IN RESPECT TO THE SOLENT WADING BIRD AND BRENT GOOSE STRATEGY

- 5.1. The reason for refusal by the LPA and Natural England's objection both cited a likely significant effect of the development proposal on the Portsmouth Harbour Special Protection Area (SPA) and the loss of supporting habitat used by brent geese and wading birds as identified in the Solent Wading Birds and Brent Goose Strategy (SWBGS). This objection is centred on the identification of the site within the SWBGS as a Primary Support Area (identified within the SWBGS under parcel reference F21) and the loss of such a site requires detailed proposals for the provision of an appropriate replacement site that is assessed according to the habitat type, size, disturbance risks, geographical location and the timing and availability of this habitat. For clarity, the site does not form part of any SPA and is not a candidate SPA site, thus the development proposals will not in any way directly impact SPA habitat.
- 5.2. The identification of parcel F21 as a Primary Support Area is based on the identification of 300 brent geese recorded across two wintering periods on 19/11/2012 and 19/11/2013. The majority of data gathered to support the SWBGS is understood to have been gathered by The Hampshire County Council Ecology team and volunteers that have been collecting data for a number of years. Whilst a request was made for the specific details of the records for parcel F21, none could be provided by the Hampshire Biodiversity Records Centre and it is not therefore known if this data was made by a member of the public or a professional Ecologist. This is an important consideration, given the presence of other species of geese and data accuracy, particularly as Canada geese were recorded frequently on the fields and have been identified by the farmer as responsible for past crop damage and misidentification is possible. It should be noted that past iterations of the SWBGS from 2002 and 2010 did not identify parcel F21 as a primary support area and these records are the sole reason for the inclusion of this land within the SWBGS.
- 5.3. To qualify as a Primary Support Area, five separate metrics are used to create a combined score. These metrics use the highest counts recorded for a site to come up with a value that determines if a site is valued as a Core Area, Primary Support Area, Secondary Support Area, Low Use Site or Candidate Site. These designations are therefore entirely based on the data generated from records submitted to biodiversity record centres.
- 5.4. A Primary Support Area is identified as the second most important site by ranking behind a 'Core Area' outside of the Solent SPA sites. Primary Support Areas are considered to have importance to the integrity of the Solent SPA sites due to the support they are able to provide for foraging brent geese and wading birds and the SWBGS 'Guidance on Mitigation and Off-setting Requirements' (2018) states that "*Primary Support Areas are land that, when in suitable management, make an important contribution to the function of the Solent waders and brent goose ecological network*". The underlined part of this statement is a critical consideration, as suitable management has not been implemented at the site since autumn 2014, due to continued damage to winter cereal crops by Canada geese that was identified by the farmer. This crop damage made a winter crop rotation unviable and led to the start of spring crop

management. This new management strategy means that suitable foraging habitat is not present during the winter and illustrates that the site cannot act as a Primary Support Area and has not done so since 2014.

- 5.5. The lack of suitability of a cultivated arable field and consideration of the changes in land management practices is explained within the most recent SWBGS (2020), where under section 3.3 'Limitations of the Data', it states that:

*"The use of some sites will vary if the land use or management changes. For example, if a field is ploughed or allowed to scrub over, it will no longer be suitable to for use. The data therefore can only reflect the use of sites as dictated by their management regime during the study period."*

It is quite clear that a ploughed bare field cannot provide foraging value for brent geese that graze upon short swards.

- 5.6. The habitat value of the site is an important consideration when evaluating the suitability of this site for brent geese. Within section 10.4.29 of the ES it is highlighted that the two records of 300 brent geese in 2012 and 2013 coincide with years when the site was sown with winter wheat and winter oats. Table 10.5 within the ES (and section 3.40 of the shadow HRA) further provides a useful history of the management of the site, the context of which is crucial in forming a more detailed assessment of its value above the bird count data only approach that is possible within the SWBGS.
- 5.7. Due to the extensive damage caused by geese to these winter cereal crops in 2012 and 2013, the management regime at the site changed in the autumn of 2014 to incorporate a spring sowing cycle only. Under a spring sowing regime, each year following harvest, the remaining stubble crop is left to stand until November so that arable weeds are allowed to germinate, at which time the field is ploughed to leave the field bare until seeds are sown in February. In contrast, winter sown cereals provides grazing habitat for brent geese as crops sown in September will germinate to provide a short sward of young shoots through the winter that provide a foraging resource for geese. Spring sown cereals crop cycles do not provide this, with the ground remaining bare between ploughing in November and germination of seeds in late March. Brent Geese typically arrive in the UK in October and leave across March and April.
- 5.8. Considering the above, I believe consideration of real value of the site for brent geese is required. Since the permanent change to a spring crop cycle in 2015 (which would have begun in Autumn 2014), only a single brent goose has been observed at the site in 2017 and wintering birds surveys undertaken by Lindsey Carrington Ecological Services across the winters of 2014–2015 and 2016–2017 failed to identify the use of the site by brent geese, though 20 curlew were recorded in March 2014. This change in value at the site mirrors the consideration of Land Management discussed in section 5.4 of the SWBGS, which states that "Ploughed fields, stubble and certain crop types are unsuitable for these birds".
- 5.9. Within section 10.4.34 of the ES this change in the value of the site for brent geese is appropriately considered, with the historical value of the site measured as being of 'county importance', whilst under the current

management, and in the absence of suitable winter foraging habitat, the site is considered to be of 'local importance'. This conclusion is further highlighted within sections 3.45 and 3.46 of the shadow HRA, whereby the metric calculations provided within the SWBGS are re-applied to incorporate the data gathered between 2014 and 2021 (since the change in arable management). With these new values, the site would be re-classified as a 'Low Use Site' (sites which has records of birds but in low numbers). Specifically for brent geese (in the absence of wading bird records), the site would be considered a 'candidate site'.

5.10. Wading birds have also been recorded using the site, with counts of 26 and 15 curlew in December 2013 and February 2014 respectively returned from biodiversity records, whilst a wintering bird survey in March 2014 also identified 20 curlew. A single oystercatcher was recorded in January 2013 from biodiversity records, though this record is centred on land to the south of the site (whilst still inside F21). The use of the site by wading birds is considered in a very different context, with wading birds relying more heavily on foraging of the intertidal zone across the SPA sites, with more limited foraging activity inland. Whilst records do not include particular behavioural observation, the presence of these birds can be due to their use of the site as a refuge at high tide (when their preferred foraging habitat is unavailable or during poor weather), or it may be a combination of use as a refuge and foraging. Wading birds including oystercatcher and curlew feed on small invertebrates living in intertidal muds and sediments or in damp soil, which strongly contrasts with the grazing behaviour of brent geese.

5.11. The use of the site by wading birds is not considered to be important to the integrity of the Solent SPA sites, as in isolation these records qualify the site as 'low use' only, as detailed in the Shadow HRA produced by fpcr in sections 3.45 and 3.46. Low Use sites receive a score of 0 within the SWBGS metric and the SWBGS defines low use sites as having records of birds, but in low numbers.

## 6. SCHEME DESIGN AND PERFORMANCE

- 6.1. The design and management of a bird reserve that would appropriately offset the impact of the development proposals upon wading birds and brent geese has been set out in the Bird Mitigation Reserve proposals produced out by Lindsay Carrington Ecological Services (August 2020), with further detail included section 10.6.29 and Appendix F4 of the ES. The Bird Mitigation Reserve document was produced to design an appropriate off-sett for the loss of a winter grazing site that supports 300 brent geese, in line with the request by Natural England made through the Discretionary Advice Service. The reserve has further been designed to provide habitat for other local wading bird populations, including curlew and oystercatcher that have been identified at the site previously and a variety of other bird species including kingfisher and sand martin.
- 6.2. The proposed bird reserve measures 4.2 ha in area, with 3.7 ha of this reserve dedicated to provide optimal foraging habitat for brent geese comprising a nitrogen rich short sward comprising 80% white clover and 20% perennial rye grass. The approximate dimensions are 250m wide and 150m high, making the reserve approximately the size of 6 football pitches. The size of the proposed bird reserve is comparable to other core and primary support areas identified within the SWBGS, including parcel G47, which measures 3.26 ha and has supported up to 1200 brent geese. Details of similar core and support areas are provided in Table 13 and subsequent text from pages 31-35 of the Shadow HRA produced by fpcr.
- 6.3. The reserve is located at the southern end of the site to ensure it bordered as much as possible by open arable habitat and although there are short hedgerows and tree lines bounding the reserve to the south, east and west, the site maintains a close connection to the coast, ensuring it has a high potential to be adopted by brent geese and wading birds leaving the intertidal areas of Portsmouth Harbour at high tide.
- 6.4. Careful consideration has been made to ensure that the bird reserve will be protected from disturbance and managed sensitively to ensure the greatest potential for adoption by brent geese and wading birds. A protective fence will be installed to prevent the public and potential predators such as foxes or dogs from entering the reserve. The fence will be 2 metres high and will have anti-climb measures in place, whilst a hide installed on the edge of the reserve will still allow people to observe and enjoy birdlife at the reserve. A second measure to help ensure security of the boundary will be the establishment of a ditch. This ditch will itself be managed for wildlife interest, with native reeds and bulrushes planted to provide habitat for reed, sedge and cetti's warbler. These tall reeds and bulrushes will also help create some screening of the reserve from the development to the north.
- 6.5. The creation of an optimised foraging habitat by sowing a nitrogen-rich white clover and perennial rye grass mixture for brent geese is an important consideration of the value of the reserve. Brent geese will prioritise grazing effort at sites where the greatest energy and nutrients can be obtained and the creation of an optimised grazing resource therefore both increases the potential for the reserve to be adopted by brent geese and ensures the reserve

provides a significant benefit. Importantly, the reserve will be established in the spring, with the sward given time to establish before brent geese typically arrive from Siberia in October and the reserve will be fully established and complete before any work commences on the housing development.

- 6.6. Following successful establishment, the sward will be managed with regular cutting through the summer up until September, when a final cut to a height of approximately 5cm will be made to ensure the site is not disturbed when the gees arrive in October and the sward is at an optimal height for foraging. Whilst brent geese do graze upon winter cereals, both the maintenance of the short sward and the growth of a sward optimised for its nutritional value means this would provide better foraging habitat than the more inconsistent and changing management within an arable system.
- 6.7. To ensure habitat for curlew and oystercatcher is created, wetter areas off the site will be created, including a central scrape that will have a graded depth of 2 feet and will create softer muddier areas that wading birds can forage in.

## 7. IMPACT OF THE DEVELOPMENT ON SPA SUPPORTING HABITAT

- 7.1. Throughout the consultation process with Natural England a focus has remained on the impact to brent geese from the loss of a Primary Support Area, identified to support 300 brent geese in 2012 and 2013 and the need to provide adequate mitigation for this loss. The reliance upon the guidance provided within the SWBGS is understood, however, there are a number of factors that can make the reliance of the data used within the metrics to allocate sites, unreliable in a current context.
- 7.2. It has been clearly illustrated within section 5 of this proof that the site has neither supported suitable habitat for brent geese since Autumn 2014, or has any significant records for brent geese since this time, with only a single individual recorded since 2017. In contrast, the development proposal offers the creation of a permanent foraging habitat that will be managed in perpetuity as a bird reserve for the benefit of brent geese and wading birds, as explained within section 6 of this proof.
- 7.3. Considering both this new weighting to the value of the site for brent geese, the mitigation proposals that have been produced, as set out within section 10.6.29 and detailed within Appendix F4 of the ES would appear to be wholly adequate, through the provision of a new permanent suitable foraging resource to replace a highly unfavourable habitat resource for this species.
- 7.4. Whilst there has been disagreement between Natural England and the appellant on the suitability of the proposed bird reserve to support 300 foraging brent geese, it has been illustrated that both similar sized and indeed smaller sites have supported greater numbers of brent geese. The bird reserve is clearly also a significant improvement on the value of the site as managed under a spring cereal crop rotation and it can therefore be concluded that the impact of the development proposals upon SPA supporting habitat is positive.

## 8. IMPACTS UPON SOLENT SPA SITES

- 8.1. The impacts upon the Portsmouth Harbour SPA, and the Solent and Southampton Water SPA in addition to other Natura 2000 sites is considered within the Shadow HRA. Within the Shadow HRA a standard approach to mitigating the increase in recreational disturbance created through new residential development has been adopted. Within section 3.8 of the HRA it is explained that “Policy NE3 of the Fareham Borough Local Plan provides a financial mechanism through which the impacts of recreational disturbance from new residential developments can be mitigated. Policy NE3 is implemented through the Solent Bird Aware Solent Recreation Mitigation Strategy”. Details of developer contributions required for each new dwelling is further set out in section 3.9 and in section 3.10 it is concluded that a development contribution of £145,027 will be required to adequately mitigate the effects of increased recreational disturbance on the Solent SPAs. The legal framework through which this contribution is agreed is not considered here, but it is clear that appropriate mitigation for new development impacts can be incorporated for the anticipated increase in recreational pressure.

8.2. As Primary Support Sites are considered to have a functional link with the Solent SPA sites, a key consideration of the impact of this development proposal upon these parcels of land has been the potential loss of foraging habitat for brent geese and other wading birds during high tide. As set out within section 3.74 of the shadow HRA and section 7 of my proof, site F21 has been identified not to act as supporting habitat since 2014. Following a change in arable management, its loss would not impact on the condition feature (dark bellied brent geese or other wading bird species) in relation to the Solent Protected Sites Network.

## 9. RESPONSE TO REASON FOR REFUSAL AND NATURAL ENGLAND OBJECTION

- 9.1. The reason for refusal b) provided by Fareham Borough Council appears to have been largely based upon the objection held by Natural England with respect to the perceived adverse impact that would result in the loss of part of a Primary Support Area for brent geese and waders.
- 9.2. Part of the objection raised by Natural England is founded upon the principle of implementing the recommendations of the SWBGS, based upon the data provided for parcel F21. At the time of the application and subsequent consultation process, it is unfortunate that consideration of the land management of the site was not considered in assessing the real value of the site, rather than relying solely on historical records. Within the original ES produced by Ecosupport in 2018 to support the application, an erroneous data record was made, indicating that two records of 300 brent geese were identified from 2017. It is important to note that this record was an error and also that Natural England in considering this record within the ES had a false perception of the use and indeed the value of the site for brent geese.
- 9.3. Within this proof, the revised Environmental Statement and Shadow HRA, further detail has been provided that requires fresh consideration, as parcel F21 clearly does not act as supporting habitat to the Solent SPA sites and historically only appears to have supported brent geese periodically. The principle for assessing the value of a site to support wading birds and brent geese based on its habitat value is supported within the SWBGS (see section 7.2 above) and it is clear that the site has not been identified to support any significant numbers of brent geese since the arable management at the site changed to focus on spring cereals.
- 9.4. The Bird Mitigation Reserve design as set out by Lindsay Carrington Ecological Services was designed to support at least 300 foraging brent geese. Whilst agreement on the value of this bird reserve was not reached with Natural England, given the present value of the site for brent geese, I am confident that agreement can be reached that this reserve far exceeds the requirement to support very low numbers of brent geese, with only a single individual identified since 2013. This same conclusion can be provided for curlew and oystercatcher, with the site not identified to be of particular importance for these birds and the size of the bird reserve clearly sufficient to support the historical numbers identified.
- 9.5. The other part of the objection raised by Natural England was the likely significant effect of the development upon the Portsmouth Harbour SPA and SSSI, with an Appropriate Assessment recommended. A Shadow HRA has now been produced by fpcr that clearly sets out all of the effects and appropriate mitigation and compensation measures required to ensure that there will be no effect on the conservation objectives and the integrity of the Solent SPA sites.

## 10. CONCLUSIONS

- 10.1. Whilst it is accepted that the original application by Foreman Homes lacked some detail on the likely impact of the proposals upon Natura 2000 sites and brent geese, it is felt that the additional information about the use of the site by brent geese and the changing historical picture of habitat suitability at the site for this species indicates that whilst identified as a Primary Support Area based on past records, the functional value of the site is much lower than that afforded within both the planning determination and within the DAS response by Natural England. The site has also been identified to have some limited value for curlew and oystercatcher, which given the small numbers of these birds that has been identified, leaves little doubt that the bird reserve is a suitable size to support the same or greater numbers and Natural England has not raised any concerns over the design or size of the bird reserve to support curlew and oystercatcher.
- 10.2. The DAS with Natural England was made solely upon the value attributed to the site as a support area for the Solent SPA sites, without consideration of the suitability of this land to support foraging brent geese in a current context. The value of the site to support brent geese has now been set out clearly within the ES and shadow HRA and fresh consideration of the real impact of this development upon the Solent SPA sites and brent geese is required.
- 10.3. The Mitigation provided within the scheme for 3.7ha of new grazing habitat as set out within the Biodiversity Mitigation Enhancement Plan, therefore, is now considered to provide a permanent habitat of value for foraging brent geese and wading birds that could provide a permanent enhancement feature of value to the wider Solent Protected Sites Network.
- 10.4. This new consideration of the effect of the development proposals upon a support area for brent geese and the clear strategy of how the effects of development near to the Solent SPA sites can be offset within the Shadow HRA supporting this appeal also make it clear that there will not be any anticipated residual negative effects upon the integrity of these protected sites. Conversely, I feel the creation a new permanent foraging resource for wading birds and brent geese under stable management provides an opportunity to create an enhancement above the existing value of the site.