



Foreman Homes Ltd

Land East of Posbrook Lane, Titchfield, Hampshire

PINS Ref: APP/A1720/W20/3254389

LPA Ref: P/19/1193/OA

WBP Ref: 7796

**Ecology Statement of Common Ground
Prepared by FPCR and Fareham Borough Council
23 November 2021**

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1.0 INTRODUCTION

- 1.1 This Ecology Statement of Common Ground (ESoCG) relates to a Town and Country Planning Act 1990 Section 78 Planning Appeal lodged by Woolf Bond Planning LLP on behalf of Foreman Homes Ltd following the failure of Fareham Borough Council to determine an outline planning application within the statutory period for up to 57 dwellings together with associated parking, landscaping and access from Posbrook Lane (LPA Ref: P/19/1193/OA).
- 1.2 This ESoCG addresses Ecology only and for clarity, this document should be read in combination with the Planning SoCG prepared for the inquiry (CDD.1). FPCR are acting on behalf of Foreman Homes Ltd and the contents of this ESoCG have been compiled following discussions with the Ecologist acting on behalf of Fareham Borough, Nick Sibbett.
- 1.3 The Statement records the matters upon which the parties have agreed with the intention of avoiding the unnecessary production of evidence by both parties in relation to ecology matters thus saving time and resources at the inquiry.
- 1.4 During the course of the planning application to which this appeal relates being considered by the Local Planning Authority, Natural England were consulted on the proposals. In their second response dated 27th February 2020 (CDB.6) Natural England raised no objections, subject to the appropriate mitigation provisions being secured for the loss of Southampton Water and Solent SPA supporting habitat and nutrient neutrality being achieved. The first response from Natural England dated 7th January 2020 (CDB.5) had already raised no objection in relation to increased recreational disturbance on the Solent Protected Sites network subject to mitigation.
- 1.5 Fareham Borough raised ecology reasons for refusal (RfR) as follows;
- e) 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;*
- f) 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 would arise as a result of the loss of part of a Primary Support Area for Brent geese and waders;*
- g) In the absence of a legal agreement to secure such, the proposal fails to appropriately secure mitigation of the likely 8 adverse effects on the integrity of European Protected Sites which, in combination with other developments, would arise due to the additional generation of nutrients entering the water environment.*
- 1.6 As set out in the Planning SoCG, it is agreed that reasons (e), (f) and (g) can in principle be addressed through the unilateral undertaking.
- 1.7 Accordingly, and subject to a signed and dated Unilateral Undertaking that is acceptable to the Council, both parties consider agreement will be reached that all RFR have been addressed through the appropriate mechanisms, including a Bird Conservation Area, contributions to the Bird Aware Solent scheme and an update Nutrient budget showing neutrality. It is also agreed that the appeal site meets all other Local Planning Policies relating to ecology and the natural environment, as discussed in the Planning SoCG and that all on site ecology matters are dealt with in the previously submitted ecology documents to support the outline application.

- 1.8 Notwithstanding the agreed position with Natural England that is set out above, there remains a potential issue relating to potential increased recreational impacts arising on the New Forest European Protected sites from the appeal site.

Proposals and Site Context

- 1.9 Foreman Homes Ltd submitted an outline application for up to 57 dwellings, associated parking and landscaping and a means of access from Posbrook Lane. The Appellant lodged an appeal against the Council's failure to determine the application within the prescribed period. The land is currently pasture used for lowland grazing and is adjacent to the Solent & Southampton Water Special Protection Area (SPA) and Ramsar sites and a number of other statutory protected sites are present within 10 kilometres. The New Forest Special Area of Conservation (SAC), SPA and Ramsar sites are approximately 9.9km¹ from the site boundary at their nearest point in a straight line, however due to the geography of the Solent area, it is a 33km² journey by road to the closest feature of the protected sites at Copythorne (Barrow Hill Rd, Copythorne, Southampton, SO40 2PH).
- 1.10 A portion of the site has been identified as a Primary Support Area for dark-bellied brent geese (*Branta bernicla bernicla*) under the criteria of the Solent Waders and Brent Goose Strategy³ (2020) and is labelled as parcel F48b (F relating to the Fareham area of strategy sites).

2.0 POINTS OF AGREEMENT

Reason for Refusal e)

e) 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;

- 2.1 The shadow HRA prepared by CSA Environmental in 2020 considered potential increased recreational disturbance to the protected sites in The Solent and agreed that a significant effect on the site's conservation objectives was likely and therefore mitigation was required.
- 2.2 The Solent Bird Aware scheme provides an agreed financial mechanism to mitigate the effects of increased recreational disturbance from new developments. This is fully costed under the 2017 Solent Recreation Mitigation Strategy, with tariffs revised each April in line with the Retail Prices Index. The contributions from 1st April 2021 are as follows:
- 1 bedroom property £361
 - 2 bedroom property £522
 - 3 bedroom property £681
 - 4 bedroom property £801
 - 5 bedroom property £940
 - Flat Rate £604

¹ Measurement taken from site boundary to nearest protected site boundary on www.magic.gov.uk

² Measurement taken from Google maps. Distance by road from Posbrook Lane to nearest accessible boundary of The New Forest protected sites at Barrow Hill Road, SO40 2PH, <https://goo.gl/maps/C9aahq5qXz9f2Wwj6>

³ Whitfield, D (2020) *Solent Waders and Brent Goose Strategy*, Hampshire and Isle of Wight Wildlife Trust. Curdrige.

- 2.3 The current housing mix for the site is not agreed and therefore the flat rate has been used as the most appropriate sum. A minimum total contribution of **£34,428** to the Bird Aware Solent scheme will be required, although a detailed final figure should be calculated at the reserved matters stage.
- 2.4 This minimum contribution will be secured through a Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act (1990) in favour of Fareham Borough Council
- 2.5 The shadow HRA prepared by CSA Environmental in 2020 (CDAA.2) did not consider potential increased recreational disturbance on protected sites other than in The Solent, for example The New Forest Special Area of Conservation (SAC), SPA and Ramsar.
- 2.6 The wording of reason for refusal e) means that it could relate to likely adverse effects on any European Protected Sites not just those in The Solent.

Reason for Refusal f)

f) 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 would arise as a result of the loss of part of a Primary Support Area for Brent geese and waders

- 2.7 RfR f) related to the lack of appropriate mitigation for the loss of a portion of a Primary Support Area for brent geese and waders under the Solent Wader and Brent Goose Strategy. The Appellant has proposed the provision of a dedicated Bird Conservation Area (BCA), providing approximately 6.50ha of enhanced habitat suitable for brent geese and waders and suitably secured from human disturbance as specified in the Tetra Tech Winter Bird Mitigation Technical Note (document reference 784-B032535),
- 2.8 To secure this provision in perpetuity, the appellant will enter into an agreement with Hampshire and Isle of White Wildlife Trust, to manage the BCA for the in-perpetuity period (125 years or the lifetime of the development).
- 2.9 The creation and management of the BCA will be secured financially through the UU under a S106 based on the figures in paragraph 2.2. The Wildlife Trust will provide a detailed costing to be agreed at the reserved matters application stage.
- 2.10 The Council has considered the Tetra Tech Winter Bird Mitigation Technical Note (document reference 784-B032535 (CDAA.6)) and is satisfied that the document provides acceptable and appropriate mitigation proposals to overcome reason for refusal f) subject to being adequately secured through the unilateral undertaking.

Reason for Refusal g)

g) 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 additional generation of nutrients entering the water environment.

- 2.11 Previously there was not an agreement on the nitrogen budget calculations used for the appeal site. This was caused by the incorrect calculation method being used.
- 2.12 Update nitrogen budget spreadsheets have been prepared that assess the red line land and BCA and remaining blue line land separately. The baseline for the site was assessed as being lowland

grazing. The development was assessed as urban and all Green Infrastructure, the BCA and remaining blue line land as Suitable Alternative Natural Green Spaces (SANGS).

- 2.13 The update nitrogen budgets calculated the red line land as contributing a net increase of 19.7kg per year and the BCA and blue line land as providing a net decrease of 47.4kg per year. Overall, there is therefore a 27.7kg per year decrease in nitrogen compared to the baseline use of the site as a result of the development and no further mitigation is required given that the future use of the BCA will be controlled as per the proposed management regime and secured in the unilateral undertaking.

3.0 OUTSTANDING ISSUE FOR POTENTIAL CONSIDERATION

Recreational impacts on the New Forest European Sites

- 3.1 There is a potential outstanding point in relation to recreational impacts on the New Forest European Sites. In summer 2021, Natural England begun providing consultation on applications in relation to the impacts of increased recreational impacts on the New Forest SAC, SPA and Ramsar protected sites. This was in reaction to studies commissioned by Natural England and published by Footprint Ecology in 2020 and 2021. To date, Natural England have not raised the issue of increased recreational disturbance to the New Forest protected sites in relation to the appeal site in their consultation responses dated 7th January and 27th February 2020; however, this predates the updated Footprint Ecology study.
- 3.2 Footprint Ecology recommended that a 13.8km Zone of Influence (ZOI) be applied (CDH.46), in which proposed developments should mitigate for impacts of increased recreational disturbance by making payments under an agreed mechanism or provide suitably sized SANGS under another mechanism.
- 3.3 At paragraph 5.13 of CDH.46, Footprint Ecology (a national leader in this area of expertise) recommended that some boroughs, including Fareham, should be excluded from the ZOI, owing to the geography of the Solent, which makes the New Forest less accessible for settlements east of Southampton. This was caveated in the report by proposing that all developments of around 200 units outside of the ZOI should be assessed on a case-by-case basis as follows
- 3.4 *“We recommend that the zone of influence should be modified to exclude the following local authorities: Fareham, Gosport and the Isle of Wight. This is to take into account the particular geographic barrier of Southampton Water and the Solent.*
- We recommend that large developments just outside the zone of influence should be subject to HRA and that mitigation may be required. This could be either through the provision of very high-quality local greenspace or a reduced per dwelling contribution to the strategic mitigation scheme. The need for mitigation should be assessed on a site-by-site basis and should potentially be relevant for any site of around 200 or more dwellings within 15km of the SAC/SPA/Ramsar boundary.”*
- 3.5 In recent months Natural England have advised that mitigation is required for other larger proposals in Fareham, but as the number of dwellings (57) proposed for Land East of Posbrook is well below the “around 200” threshold recommended in CDH.46, the Appellant had presumed to date that it can be screened-out of the Zone-of-Influence for the New Forest European protected sites. The Council, however, believe it likely that Natural England will raise recreational impacts on the New Forest European Sites as a likely significant effect requiring mitigation and therefore an Appropriate

Assessment. In a recent consultation from 16th November 2021 for a 49-dwelling application in Fareham (P/21/1707/OA), Natural England advised that any HRA for the development should include mitigation for recreational impacts to the New Forest designated sites on the basis of the development being within the 13.8km buffer zone.

- 3.6 Fareham Borough Council did not complete an HRA in relation to the Appeal Development in their role as Competent Authority for the outline application, and due to the recent emergence of this potential issue, the Appellant has not had time to consult Natural England through their Discretionary Advice Service. The Planning Inspector is now the Competent Authority conducting the HRA, and so recreational impacts on the New Forest European Protected Sites and consultation with Natural England will form part of the Appeal.
- 3.7 FPCR have prepared a shadow HRA (CDAA.3) in which a likely significant effect is screened out based on the Footprint Ecology study. It is the Appellants view that this is based on the best available scientific evidence and so at the present time is the correct conclusion. However, and notwithstanding, were the inspector to conclude, through an Appropriate Assessment that mitigation was nevertheless required, provision for a monetary contribution is secured through the UU on a “per dwelling” basis.
- 3.8 The Appellant has calculated the financial sum following the methodology used in a shadow HRA by ECOSA (October 2021) for an appeal site on Land East of Crofton Cemetery and West of Peak Lane, Stubbington, Fareham (P/20/0522/FP). This method is detailed in paragraphs 4.3 - 4.15 of the shadow HRA.
- 3.9 For the Appeal Site, a financial contribution at 10% of the value of the New Forest National Park Authority scheme (£351.20 per dwelling) is proposed by the Appellant, totalling up to £20,018.40.
- 3.10 Fareham Borough have agreed to consult with Natural England on their most recent position prior to the Inquiry commencing on 7th December, however as the competent authority, it is ultimately the decision of the Planning Inspector as to whether a significant effect is likely, and therefore whether any mitigation is required.

4.0 CONDITIONS

- 4.1 It is agreed that there should be a schedule of ecology conditions agreed between the parties, for discussion with the Inspector during the Inquiry.
- 4.2 The schedule will be compiled and submitted to the Inspector prior to the Inquiry.

5.0 CONFIRMATION SIGNATURES

Signed on behalf of the appellant Foreman Homes Ltd, by representing Ecologist Adam Day of FPCR Environment and Design Ltd;

A large black rectangular redaction box covering the signature of Adam Day.

Signed on behalf of Fareham Borough Council by Principal Planner Richard Wright;

A black rectangular redaction box covering the signature of Richard Wright.