

Alderholt Meadows, Fordingbridge

Response to Natural England Objection

Background

An outline planning application (P/OUT/2023/01166) was submitted to Dorset Council in March 2023 for:

“Mixed use development of up to 1,700 dwellings including affordable housing and care provision; 10,000sqm of employment space in the form of a business park; village centre with associated retail, commercial, community and health faculties; open space including the provision of suitable alternative natural green space (SANG); biodiversity enhancements; solar array, and new roads, access arrangements and associated infrastructure (Outline Application with all matters reserved apart from access off Hillbury Road)”

Natural England has objected to the planning application, requesting further information on a number of matters in their letter dated 25 May 2023. Responses to the points raised are provided in turn below.

Response to Natural England Comments

[Relevant extracts from Natural England’s response are shown below in capitalised italics to differentiate between evidence submitted as further information]

River Avon Phosphates

“THE INFORMATION FOR HRA INDICATES THAT A FULL ASSESSMENT OF THE LIKELY LEVEL OF NUTRIENT PHOSPHATE, WHICH IS ACKNOWLEDGED AS COMPLEX, HAS NOT BEEN PROVIDED FOR THE COUNCIL TO CONSIDER”.

Chapter 6 of the IfHRA submission provides a detailed assessment of the project nutrient contribution under both currently committed and anticipated wastewater treatment standards, in addition to a discussion of the likely effects of detailed surface water drainage design.

“THE APPLICANT HAS NOT PROVIDED ANY DETAILS TO PROVIDE CERTAINTY THAT THEY HAVE SECURED AN AGREED AND DELIVERABLE MECHANISM IN PRINCIPLE EG THROUGH SECURING CREDITS AVAILABLE FROM APPROVED PHOSPHATE OFFSETTING PROJECTS IN THE RIVER. THEREFORE THE COUNCIL CANNOT BE CERTAIN THAT THE NECESSARY MEASURES ARE AFFORDABLE, SECURED AND DELIVERABLE IN RELATION TO DEVELOPMENT PHASES.”

A Grampian condition is a restrictive planning condition which prohibits development authorised by the planning permission commencing until a specified action has been taken or completed. It often relates to infrastructure provision and measures that lie outside the control of the application site. The use of a Grampian condition to ensure that nutrient neutrality is secured prior to development commencing would fall within this.

Regulation 63 (6) of the Habitats Regulations states:

“In considering whether a plan or project will adversely affect the integrity of the site, the competent authority must have regard to the manner in which it is proposed to be carried out or to any conditions

or restrictions subject to which it proposes that the consent, permission or other authorisation should be given”.

Regulation 70(2) goes on to state:

“Where the assessment provisions apply, the competent authority may, if it considers that any adverse effects of the plan or project on the integrity of a European site or a European offshore marine site would be avoided if the planning permission were subject to conditions or limitations, grant planning permission, or, as the case may be, take action which results in planning permission being granted or deemed to be granted, subject to those conditions or limitations”.

The Regulations clearly allow for the use of a pre-commencement condition requiring measures to be implemented before development can commence. In relation to the securing of nutrient mitigation in particular, the use of such conditions was explicitly validated by the Inspector’s findings (**Appendix 1**) in the recent Bunwell Street, South Norfolk Appeal (APP/L2630/W/21/3289198).

The use of such conditions was also widely adopted - with Natural England’s blessing - by local authorities across South Hampshire following the emergence of the requirement for nutrient neutrality in respect of the Solent marine sites. A typical example of such a condition is proposed in East Hampshire District Council’s current position statement on nutrient neutrality (<https://www.easthants.gov.uk/planning-services/nutrient-neutrality-what-developers-need-know>):

“The development hereby permitted shall not be occupied until: a) A water efficiency calculation in accordance with the Government’s National Calculation Methodology for assessing water efficiency in new dwellings has been undertaken which demonstrates that no more than 120 litres of water per person per day shall be consumed within the development, and this calculation has been submitted to, and approved in writing by, the Local Planning Authority; all measures necessary to meet the agreed water efficiency calculation must be installed before first occupation and retained thereafter; b) A mitigation package addressing the additional nutrient input arising from the development has been submitted to, and approved in writing by, the Local Planning Authority. Such mitigation package shall address all of the additional nutrient load imposed on protected European Sites by the development when fully occupied and shall allow the Local Planning Authority to ascertain on the basis of the best available scientific evidence that such additional nutrient loading will not have an adverse effect on the integrity of the protected European Sites, having regard to the conservation objectives for those sites; and c) All measures forming part of that mitigation package have been provided to the Local Planning Authority and shall be implemented in full in accordance with an agreed timetable.”

The principal planning test that applies to the use of such conditions is that they *“should not be used where there are no prospects at all of the action in question being performed within the time-limit imposed by the permission”* (<https://www.gov.uk/guidance/use-of-planning-conditions>). Dorset Council can be satisfied that this criterion is met, not least in view of central government commitments to facilitate the achievement of nutrient neutral development, as summarised in the Secretary of State for the Environment’s Written Ministerial Statement of July 2022:

“We will make clear in planning guidance that judgements on deliverability of sites should take account of strategic mitigation schemes and the accelerated timescale for the Natural England’s mitigation schemes and immediate benefits on mitigation burdens once legislation requiring water treatment upgrades comes into force.”

The securing of mitigation at this stage would be highly impractical, given that the project nutrient budget would in any case need to be recalculated to inform HRA at Reserved Matters stage, whereupon it is likely that the newly redetermined mitigation liability would be very significantly reduced from current projections (as set out in Chapter 6 of the IfHRA), due to the effects of detailed drainage design and the anticipated adoption of a formal commitment to the optimisation of wastewater treatment standards from 2030.

New Forest Recreation

“THE COUNCILS AND NATURAL ENGLAND HAVE AGREED THAT THE PREDICTED LEVEL OF DEVELOPMENT COMING FORWARD AROUND THE DESIGNATED SITES WILL REQUIRE ADDITIONAL MEASURES OVER AND ABOVE THAT PROVIDED THROUGH THE DORSET SPD.....13.8KM ZONE OF INFLUENCE IS PROPOSED WITHIN WHICH RECREATIONAL IMPACTS REQUIRE MITIGATION. HOWEVER AT THIS TIME NO AGREED STRATEGY HAS BEEN CONSIDERED BY THE COMPETENT AUTHORITIES IN THIS AREA (INCLUDING DORSET COUNCIL)..... ONGOING WORK WITH THE COUNCILS ADVISORS INDICATES THAT THIS SITE IS LIKELY TO BE ABLE TO SECURE SUITABLE MEASURES BUT THESE ARE AS YET NOT CONFIRMED.” [our emphasis]

The applicant would like to note the following comments from DC’s Environmental Assessor, dated 28 April 2023, which conflict with the above comments from Natural England:

“Please note that the current position is that the mitigation provided through the Dorset Heathlands Planning Framework, such as SAMM and HIPS, are sufficient to address the potential recreational impacts upon the New Forest European Site where there is overlap in the 13.8km New Forest buffer zone and the 400m-5km Dorset Heathland buffer zone, as is the situation with the proposed development.”

Natural England’s latest position would therefore appear to supersede that of DC’s. Given that SANG is already proposed, which is the principal mechanism by which net increases in recreational pressure on designated sites located within relevant zones of influence are avoided, it is assumed that Natural England are alluding to a forthcoming requirement for a financial contribution towards New Forest SAMM. Natural England in their response (see underlined extract above) has indicated that the site is likely to be able to secure suitable measures, as and when these are devised and agreed by the relevant Councils. It should therefore be possible for DC to secure the appropriate mitigation contribution via planning condition or planning obligation.

New Forest Air Quality

“THE CURRENT AIR POLLUTION MODELLING IS INADEQUATE TO ALLOW A CONCLUSION THAT THERE WILL NOT BE A LIKELY SIGNIFICANT EFFECT ON THE DESIGNATED SITES EITHER ALONE OR IN-COMBINATION WITH A NUMBER OF SIGNIFICANT DEVELOPMENT COMING FORWARD AROUND FORDINGBRIDGE.”

A response to previous comments regarding New Forest air quality effects, raised by New Forest District Council and DC’s Case Officer, has been provided as follows:

“The screening stage air quality assessment, described within TA 9.2 ‘Information for HRA’ (see para 7.34 et seq), identified the road links predicted to experience an increase in traffic flows of more than 1,000 AADT (or 200 HDV) as a result of the Proposed Development either alone or in combination with other committed development, in accordance with Natural England’s guidance (2018). International Sites located within 200m of these ‘affected roads’ were then identified as having the potential to be significantly affected by air pollution, requiring further detailed air quality modelling and assessment as

part of an Appropriate Assessment. Map 6 shows the 'affected road network' (or ARN), and the sites located within a 200m linear distance. This zone of influence does not include parts of the New Forest International designations. However, it is recognised that Map 6 does not display the entirety of the 200m ARN zone at its north eastern extent, therefore a revised Map 6 is provided for clarity."

Although Section 4 of the Information for HRA report refers to 'scoping out' potential air quality effects on the New Forest designations on the basis of Local Plan evidence, the methodology adopted for air quality assessment has not actively excluded analysis of the New Forest as a potential air pollution receptor and has followed Natural England guidance (as referred to above). The transport modelling predicts that the ARN would not extend to within 200m of the New Forest designations, therefore had it not been 'scoped out' within Section 4 of the report, it would not, in any event, have fallen to be subject to detailed assessment within Section 7 of that report. The revised Map 6 referred to above is provided at **Appendix 2**.

SANG Management Plan

"THE OVERALL MANAGEMENT OUTLINED IN THE PLAN IS AGREED IN PRINCIPLE SUBJECT TO A MORE DETAILED PLAN.....NATURAL ENGLAND CONFIRM THAT THE THREE SANG AREAS IDENTIFIED AT MAP 3 (53.4HA) COULD PROVIDE A SUITABLE CAPACITY OF NEW ACCESSIBLE GREENSPACE FOR THE PROPOSED DEVELOPMENT IN RELATION TO THE DORSET HEATHLANDS PLANNING FRAMEWORK SPD. IT IS NOTED THAT APP 9.2 USES AN INCORRECT OCCUPANCY FIGURE OF 2.4. THE CROSS ROADS PLANTATION COMPARTMENT IS PARTICULARLY WELL PLACED TO INTERCEPT EXISTING PUBLIC PRESSURES."

Natural England's positive comments regarding the proposed SANG are welcome. With respect to household occupancy, whilst the SPD uses an occupancy figure of 2.42 for houses and 1.65 for flats to calculate SAMM contributions, 2.4 people per dwelling is understood to be the general ratio to use for calculating SANG quantum and provision rate when the exact balance between the number of houses and flats within a development is not yet known, such as at the outline planning stage. This occupancy ratio has been used by EPR for a number of development projects in Dorset without comment from Natural England. Further feedback on this point is therefore welcome.

"THE PLAN SETS OUT THREE AREAS OF SANG AND INDICATES THAT DELIVERY WILL BE PHASED, HOWEVER THERE IS NO INFORMATION TO CONFIRM THAT DEVELOPMENT PHASES WILL BE SUFFICIENTLY CLOSELY LINKED AND LOCATED TO DELIVERY OF SANG AREAS OF SUITABLE SIZES."

Further information on development and SANG phasing has been provided to the Case Officer.

"THE MECHANISMS BY WHICH THE SANG COULD BE SECURED AND MAINTAINED IN PERPETUITY ARE OUTLINED BUT NOT DETERMINED IN SUFFICIENT DETAIL TO ALLOW NATURAL ENGLAND TO CONFIRM THAT THE MITIGATION WILL BE SECURED. THE PROPOSED MECHANISMS SHOULD BE NARROWED TO A PREFERRED OPTION WITH SUFFICIENT DETAIL TO ALLOW ADEQUATE SCRUTINY BY THE AUTHORITY."

An extract from TA 9.4: Outline Suitable Alternative Natural Greenspace (SANG) Creation and Management Plan is provided below. This clearly sets out a single proposed means for securing the perpetuity management of the proposed SANG – retention of the land by W H White, management via a Management Company, with step-in rights offered to DC alongside a commuted sum secured by S106 agreement. Further information regarding the additional detail sought by Natural England is requested.

Ownership & Management

- 7.4 W H White Ltd will retain ownership of the SANG and manage it via a management company in perpetuity.
- 7.5 Step-in rights will be offered to the Council as a mechanism to ensure the continued implementation of this Plan.
- 7.6 Sufficient funding to cover the management of the SANG in perpetuity will be provided in the form of a commuted sum or alternative financial arrangement, secured through a Section 106 Agreement or other enforceable legal agreement.

Access to the West

“NATURAL ENGLAND IS CONCERNED THAT THERE IS A RISK OF PUBLIC ACCESS WESTWARDS WITH A DEVELOPMENT OF THIS SCALE IN CLOSE PROXIMITY TO THE DESIGNATED SITES AT CRANBORNE COMMON AND WITH THE WIDER AREA OF RINGWOOD FOREST AS AN ATTRACTION WHICH IS ACCESSIBLE.”

It should be noted that DC’s environmental assessor has made the following comment regarding access to the west:

“The SANG is located within 400m of the European Site. However, the car park for the SANG is located over 700m from the designated site boundary and the SANG is physically separated from the European Site by the wetland valley associated with Sleep Brook. The applicant therefore considers the SANG unlikely to result in additional visits to the Dorset Heaths from the proposed development.”

That notwithstanding, the map attached at **Appendix 3** shows the land under the control of the applicant. The applicant is willing to deliver a grazing plan for the western extent of land around Sleepbrook that lies outwith the planning application boundary. This broadly aligns with the yellow highlighted area included in Natural England’s response, and once implemented should provide a suitable barrier to public access westwards, as suggested by Natural England. The submission of a suitable grazing strategy for this land can be secured by planning condition or planning obligation, with the detail to be agreed with DC and Natural England.

Dorset Heathlands: SAMM

“THE APPLICANT MAY RELIABLY MAKE USE OF THE DORSET HEATHLANDS PLANNING FRAMEWORK SPD TO SECURE MITIGATION THROUGH A FINANCIAL CONTRIBUTION AND THE AUTHORITY CAN CONCLUDE THAT THERE WOULD BE NO ADVERSE EFFECT.”

This is duly noted.

Transport Assessment: Technical Appendices 7.1 & 7.3

“NATURAL ENGLAND ADVISE THE COUNCIL THAT AT THE TWO APPENDICES 7.1 AND 7.3 MAKE REFERENCE TO THE PROVISION OF ACCESS TO RINGWOOD FOREST AND VIA THAT TO ALDERHOLT (E34/10)..... NATURAL ENGLAND STRONGLY OBJECT TO THIS PROPOSAL WHICH IS CONTRARY TO THE SIGNIFICANT EFFORTS ELSEWHERE IN THE PLAN TO PROVIDE MITIGATION AND AVOIDANCE MEASURES INTENDED TO DEMONSTRATE THAT THERE WILL NOT BE AN ADVERSE EFFECT ON THE DESIGNATED SITES AT CRANBORNE COMMON WHICH IS BISECTED BY THE ROW.”

The transport strategy for the proposed development seeks to promote the use of existing Public Rights of Way (PRoW) to encourage sustainable modes of transport, as identified in the relevant parts of the Transport Assessment highlighted by Natural England in their response. If recreational pressure on the Dorset Heathlands was not at issue, then the aspiration to promote sustainable travel would not be questionable.

However, the strategy set out in the Dorset Heathlands Planning Framework SPD sets out a strategic approach to secure the avoidance of no net increase in recreational pressure on the Dorset Heaths alongside planned development. This strategy is predicated on drawing existing public access pressures away from the sensitive heathlands through the delivery of new areas of SANG, and then managing and monitoring access via SAMM.

In accordance with this strategy, the planning application proposes several new SANGs to mitigate impacts that would otherwise arise from the proposed development, which both Natural England and DC agree provide sufficient mitigation capacity and include acceptable habitat management proposals. Natural England in fact note that *“the Cross Roads Plantation [SANG] compartment is particularly well placed to intercept existing public pressure”*. A contribution towards SAMM is also proposed, which Natural England has agreed may be relied upon by the applicant, and that accordingly a conclusion of ‘no adverse effect’ could be reached by the Council.

The particular references in the TA’s cited by Natural England, if actively taken forward and promoted within detailed planning stage strategies and a future operational development, could act to undermine the project-specific Dorset Heathlands impact avoidance and mitigation strategy proposed. However, this need not be the case if protection of the Dorset Heathlands is regarded as a matter taking precedence over specific components of an aspirational sustainable travel strategy. Active promotion of access to these PRoWs is something that need not be taken forward as part of the detailed transport strategy for the scheme, and the project’s Transport Consultant (Paul Basham Associates) has confirmed that removal of such references from the TAs would not have significant implications for the assessment of potentially significant transport impacts arising from the scheme.

Other Matters

“NATURAL ENGLAND ADVISE THAT THE AUTHORITY WILL NEED TO REQUIRE A LIGHTING STRATEGY THROUGH A PLANNING CONDITION.”

As in referenced in Section 5 of TA 9.2, Information for HRA, a Lighting Impact Assessment, which incorporates a Lighting Strategy to reduce obtrusive light spill, has been produced by Designs for Lighting (2022). A detailed lighting strategy prepared at the detailed design stage can be secured by planning condition.

“NATURAL ENGLAND IS CONCERNED THAT IN THE ABSENCE OF ADEQUATE VISITOR MANAGEMENT MEASURES IN THE ADJOINING FORESTRY THERE WILL BE IMPACTS ON PRIORITY HABITATS AND PROTECTED SPECIES”

Notwithstanding the fact that a large quantum of new SANG is proposed by the development to avoid a net increase in recreational pressure on Cranborne Common and other component patches of the Dorset Heathlands, which should by extension also prevent a net increase in public access within other nearby publicly accessible greenspaces, a financial contribution to assist with the management of adjacent forestry land is proposed to be secured by S106. A proportionate sum is to be agreed between the applicant, DC, Forestry England and Natural England.

Appendix 1

Appeal Decision APP/L2630/W/21/3289198

Appeal Decision

Site visit made on 27 May 2022

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 26 October 2022

Appeal Ref: APP/L2630/W/21/3289198

Land to the rear of 75 Bunwell Street, Bunwell, Norwich, NR16 1AB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Ms Sandra Dinneen against the decision of South Norfolk District Council.
 - The application Ref. 2021/1846 dated 12 August 2021, was refused by notice dated 9 November 2021.
 - The development proposed is the erection of a dwelling with associated works, including provision of access, parking and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a dwelling with associated works, including provision of access, parking and landscaping on land to the rear of 75 Bunwell Street, Bunwell, Norwich, NR16 1AB in accordance with the terms of the application, Ref 2021/1846, dated 12 August 2021, subject to the conditions set out in the schedule at the end of this decision.

Main Issue

2. The main issue in this case is the effect of the proposed dwelling on the character and appearance of its immediate location and surroundings in terms of its relationship with the existing dwellings, and its visibility from the street.

Reasons

3. The starting point for consideration of the proposed development is the policies of the development plan. Policy DM 3.5 of the South Norfolk Development Management Policies Document (DMP), adopted in 2015, is the policy that is most germane to the issue. It supports the principle of the sub-division of existing residential plots and gardens, subject to there being no adverse impacts, and that the site is within the settlement limits. The site is within the settlement limits of Bunwell, so that the development is therefore acceptable in principle.
4. Policy DM 3.5 states:

"Within development boundaries the replacement of existing dwellings and sub-division of existing residential plots and gardens to create new dwellings will be permitted provided that it:

a) Incorporates a good quality design which maintains or enhances the character and appearance of existing buildings, street scene and surroundings; and"

Items b), c), d) and e) of the policy are not in contention.

5. In the immediate vicinity of the appeal site there is no well-formed set pattern to development. The donor property (No.75) is part of a pair of semi-detached houses set close to the road. Otherwise, the bungalow to the west, No.73, is set back beyond the rear wall of No.75, and its neighbour is set further back. The next dwelling, 'Rocky Ridge' (No.69) to the west, is sited at the end of a long drive. There then follows 3 dwellings at a more usual distance from the road. Behind these 3 dwellings there is development in depth as part of a small estate called The Barns. To the east of the appeal site is No.79 which is set as far back as the appeal proposal. In fact the proposed dwelling is not materially further back from the road than both No.73 and No.79. The development on the other side of Bunwell Street, to the south, is rather more typical of frontage development, but that does not affect the considerations related to the issue.
6. In terms of the extent to which the proposed bungalow would impinge on the streetscene, it would clearly be visible when viewed immediately in the vicinity of the entrance to the host dwelling and its neighbour at No.73, and when approaching Bunwell Street down North Road, which has a junction almost immediately opposite the appeal site. This situation is somewhat similar to that at Rocky Ridge, mentioned above, where the 2 storey house, further back from the road than the appeal bungalow, can be viewed down its access drive and across the adjoining front garden.
7. Therefore I find that the proposal would not be contrary to the character and appearance of its immediate location and surroundings. Since both the host dwelling and the proposed bungalow would have adequate open space around them, I do not consider that the proposed development would appear cramped. Rather, the development would make effective use of land, in a gap between properties.

Other matters

8. The proposed access is directly to the side of the existing house passing two habitable room windows and French doors and the main part of the host dwelling's private amenity space, but this could be mitigated by the provision of fencing.
9. The council has reconsidered its previous view that the extant approval for the host property, which includes a new garage to the rear, would need to be revoked if approval were granted, since it is now accepted that the construction of the appeal development would remove the possibility of also building the garage on the appeal site.
10. I note that a concern has been raised by a commercial operator at the rear of the appeal site, but the curtilage of the appeal bungalow is no closer than the other immediate residential curtilages, so that I do not share the view that there may be additional conflict between the different uses.
11. Paragraph 69 of the National Planning Policy Framework (the Framework) states that small and medium sized sites can make an important contribution

to meeting the housing requirement of an area, and can often be built-out relatively quickly, which is a consideration that stands in support of the appeal.

New matters raised by the council after the submission of the appeal

Nutrient pollution of the Broads Special Area of Conservation (SAC) and the River Wensum SAC.

12. In its statement in response to the appeal, the council has referred to additional material considerations that have arisen since the date of the decision on the application. On 16 March 2022, the government's Chief Planner wrote to local planning authorities affected by nutrient pollution, including South Norfolk Council. This followed advice from Natural England about the adverse effect that nutrient pollution is having on Habitats Sites within the district, namely the Broads Special Area of Conservation (SAC) and the River Wensum SAC. This letter explains that Natural England has issued its advice where Habitats Sites are in an unfavourable conservation status and additional nutrient loads, such as from development, may have an adverse effect. The advice is that planning applications and plans affecting such sites should be carefully considered and mitigation should be used to ensure that there are no adverse effects in order to meet the requirements of the Conservation of Species and Habitats Regulations 2017 (as amended).
13. The appeal site is within the area where adverse effects on the Broads SAC may occur, and accordingly the possibility of additional nutrient loading from the proposed development must be considered along with any necessary mitigations to ensure nutrient neutrality. The council considers that insufficient information has been provided to demonstrate nutrient neutrality with regard to its nitrate and phosphate impact on the Broads SAC. Thus the proposal fails to meet the requirements of the Conservation of Species and Habitats Regulations 2017 (as amended) and the aims of Policy DM4.4.

The Norfolk Green Infrastructure and Recreational impact Avoidance and Mitigation Strategy

14. In addition to the above, since the appeal application was determined, South Norfolk and Broadland Councils have resolved to adopt the Norfolk Green Infrastructure and Recreational impact Avoidance and Mitigation Strategy (GIRAMS) and to begin collecting contributions from development in accordance with the requirements of Policy 3 of the emerging Greater Norwich Local Plan. These contributions will be sought from 1 April 2022 and comprise payment of the Recreational Avoidance Mitigation tariff of £185.93 per dwelling. The collection of these contributions enable the Council to conclude through a Habitat Regulation Assessment (HRA) that a development will not have any adverse impact on the integrity of a Habitats Site as a result of increased recreational usage. In such cases the council requires entry into a unilateral undertaking to secure the required payment.
15. I have sought the views of the appellant on this, and the council's response to those views. Having taken account of both, I deal with recreation impact avoidance first. I note that the GIRAMS would not require refusal of the application as the council policy allows for financial contributions to address the impacts. Whilst the council uses unilateral undertakings to collect

payment for this requirement, the appellant asks for the matter to be dealt with by a condition. Government guidance includes the statement that it may be possible to use a negatively worded condition to prohibit development authorised by the planning permission until a specified action has been taken (for example, entering into a planning obligation requiring the payment of a financial contribution [Paragraph: 005 Reference ID: 21a-005-20190723]).

16. Thus the condition suggested on behalf of the appellant would ensure that, for the development to proceed, the council's preferred unilateral undertaking would have to be entered into. I am satisfied that this would deal with the matter, such that, as the competent authority, the council would be able to satisfy itself that the duty upon the local planning authority to ensure that sufficient mitigation is provided against any impacts which might arise upon the designated sites has been met, having had regard to Regulation 63 of the Conservation of Habitats and Species Regulations 2017. I am also satisfied that this condition would meet all 6 tests set out in paragraph 55 of the Framework, including test 6 – reasonable in all other respects.
17. Turning to nutrient neutrality, the council dismisses a condition, as suggested by the appellant, on the basis that imposition of a condition without sufficient information/mitigation upfront would not meet the requirements of the regulations based on current understanding because insufficient information would be available to make the decision.
18. However, Regulation 63(6) states "*In considering whether a plan or project will adversely affect the integrity of the site, the competent authority must have regard to the manner in which it is proposed to be carried out or to any conditions or restrictions subject to which it proposes that the consent, permission or other authorisation should be given*". And Regulation 70(2) states "*Where the assessment provisions apply, the competent authority may, if it considers that any adverse effects of the plan or project on the integrity of a European site or a European offshore marine site would be avoided if the planning permission were subject to conditions or limitations, grant planning permission, or, as the case may be, take action which results in planning permission being granted or deemed to be granted, subject to those conditions or limitations*".
19. Bearing in mind these regulations, a pre-commencement condition requiring the submission of a water efficiency calculation, and a mitigation package addressing the additional nutrient input from the development, together with a requirement for its implementation would ensure that no permitted development could take place in the absence of a satisfactory scheme and its implementation. It would be for the council as appropriate authority to determine whether or not the mitigation package would meet the requirements of the regulations. In the event that was considered that it did not meet the regulation's requirements, the permission would be of no effect unless and until an alternative scheme was put forward.

Conclusions

20. For the reason that I have set out in paragraphs 3 to 7 above, I find that the reason given by the council in its decision notice does not justify the refusal of planning permission. Further, the matters that were raised by the council

after the appeal was made have been considered. For the reasons that I have given in paragraphs 15 to 19, I have decided that they can be dealt with by conditions. Thus there would be no harmful effect of the proposed dwelling on the character and appearance of its immediate location and surroundings in terms of its relationship with the existing dwellings, and its visibility from the street, and measures can be taken to ensure no adverse effect would arise of nutrient pollution, nor from recreational inputs, from the development on Habitats Sites within the district, by way of conditions.

Conditions

21. In addition to the conditions mentioned above, the Council has suggested a number of conditions in the event that the appeal is upheld. I have considered these in the light of Planning Practice Guidance (PPG). For clarity and to ensure compliance with the PPG I have amended some of the text.
22. I consider that conditions should be imposed for the following reasons: condition 2 is required for certainty and avoidance of doubt as to the development permitted; condition 3 is to ensure that the appearance of the development permitted integrates with the existing in a visually satisfactory manner; condition 4 is to ensure adequate screening to the development and privacy of neighbours; condition 5 is to ensure adequate surface water drainage is provided to avoid any risk of flooding; condition 6 is to ensure that there is adequate foul drainage to the development to prevent pollution; condition 7 is to ensure adequate parking facilities are provided to safeguard the safety and convenience of users of the highway; condition 8 is to ensure that the local planning authority has control over development that would otherwise be permitted under the Town and Country Planning (General Permitted Development) (England) Order 2015 in view of the limited extent of the site and the possibility of harmful effects on the living conditions of residential occupiers in the vicinity; and conditions 9 and 10 are necessary for the reasons given in paragraphs 15 to 19 above.
23. Conditions 9 and 10 are 'pre-commencement' conditions which can only be imposed with the consent of the applicant/appellant, as the case may be. Since the conditions were proposed by the appellant, such agreement is implied without any reason for doubt.

Terrence Kemmann-Lane

INSPECTOR

Schedule of CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development shall be carried out in accordance with the details shown on drawing reference PL03 REV K – Proposed Plans and Site Location.
- 3) Development shall not progress above slab level until details, including samples and colours, of the materials used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The materials to be used in the development shall be in accordance with the approved details and retained in perpetuity unless otherwise agreed in writing with the local planning authority.
- 4) Development shall not progress above slab level until details of the boundary treatments proposed for the external boundaries of the site have been submitted to and approved in writing by the local planning authority. The treatments shall then be installed in accordance with the approved details prior to the first occupation of the development and retained as such.
- 5) The development hereby permitted shall not proceed beyond excavation of foundation stage until full details of the means of sustainable surface water drainage being submitted to and agreed in writing by the local planning authority. The details should include the results from percolation tests if appropriate and incorporate installation of water efficiency and water saving devices such as rain saver systems. The development shall be carried out in accordance with the agreed details prior to its first occupation and shall be retained as such thereafter.
- 6) No foul drainage from the development hereby approved shall be discharged other than to the main sewer. The foul water disposal shall be implemented prior to the first occupation and retained as such thereafter.
- 7) Prior to the first occupation of the development hereby permitted the proposed on-site car parking and turning area shall be laid out in accordance with the approved plan and retained thereafter available for that specific use.
- 8) No enlargement, improvement or other alterations of the dwelling/s [Class A]; no additions or alterations to the roof/s [Class B & C]; or any other works as defined by Classes A, B and C of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) (with or without modification), shall be erected or brought onto the land unless an appropriate planning application is first submitted to and approved by the local planning authority.
- 9) The development hereby permitted shall not be commenced until:
 - (i) A water efficiency calculation in accordance with the Government's National Calculation Methodology for assessing water efficiency in new dwellings has been undertaken which demonstrates that no more than 110 litres of water per person per day shall be consumed within the development, and this calculation has been submitted to, and approved

in writing by, the local planning authority; all measures necessary to meet the agreed waste water efficiency calculation must be installed before first occupation and retained thereafter; and

(ii) A mitigation package addressing the additional nutrient input arising from the development has been submitted to, and approved in writing by the local planning authority. Such mitigation package shall address all of the additional nutrient load imposed on protected European Sites by the development when fully occupied and shall allow the local planning authority to ascertain on the basis of the best available scientific evidence that such additional nutrient loading will not have an adverse effect on the integrity of the protected European Sites, having regard to the conservation objectives for those sites; and

(iii) The mitigation package shall be implemented prior to the first occupation of the development hereby permitted and the mitigation package shall be retained and maintained thereafter.

- 10) The development hereby permitted shall not be commenced until proposals for the mitigation of the impact of the development on protected Norfolk European Sites have been submitted to and approved in writing by the local planning authority, which shall include evidence of completion of the required legal agreement to secure the proposed mitigation. Such proposals must provide for mitigation in accordance with the Norfolk Green Infrastructure and Recreational impact Avoidance and Mitigation Strategy, or for mitigation to at least an equivalent effect.






End of Schedule

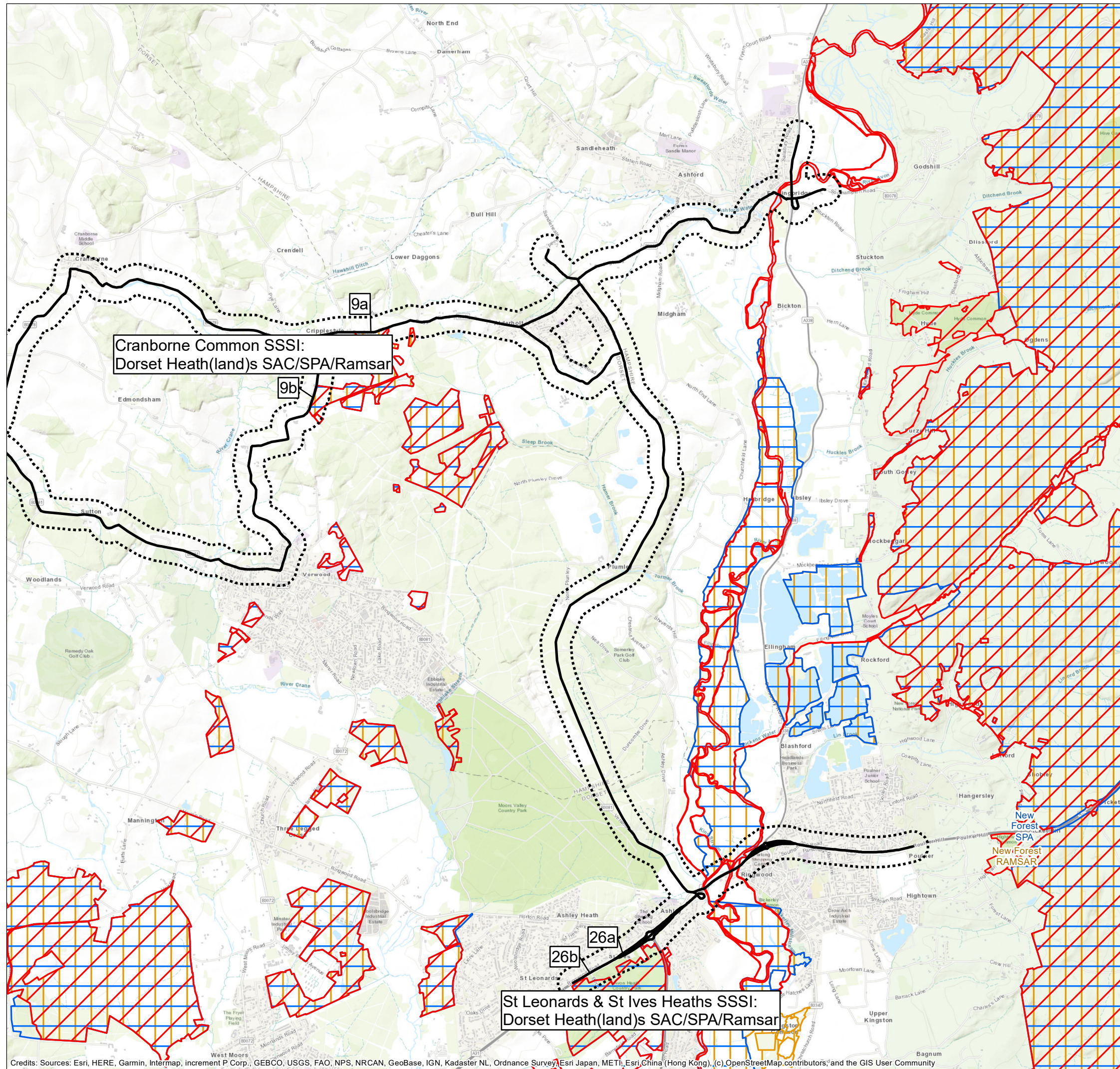
Appendix 2

Revised Map 6 from TA 9.2 Information for HRA

MAP 6 International Sites within 200m of ARN Subject to Detailed Air Quality

KEY

-  ADMS roads
-  ADMS roads 200m buffer
- Statutory Sites**
-  Special Protection Areas (SPA)
-  Special Areas of Conservation (SAC)
-  Ramsar



SCALE: 1:50,000 at A3

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



CLIENT: Dudsbury Homes (Southern)

PROJECT: Alderholt Meadows, Fordingbridge

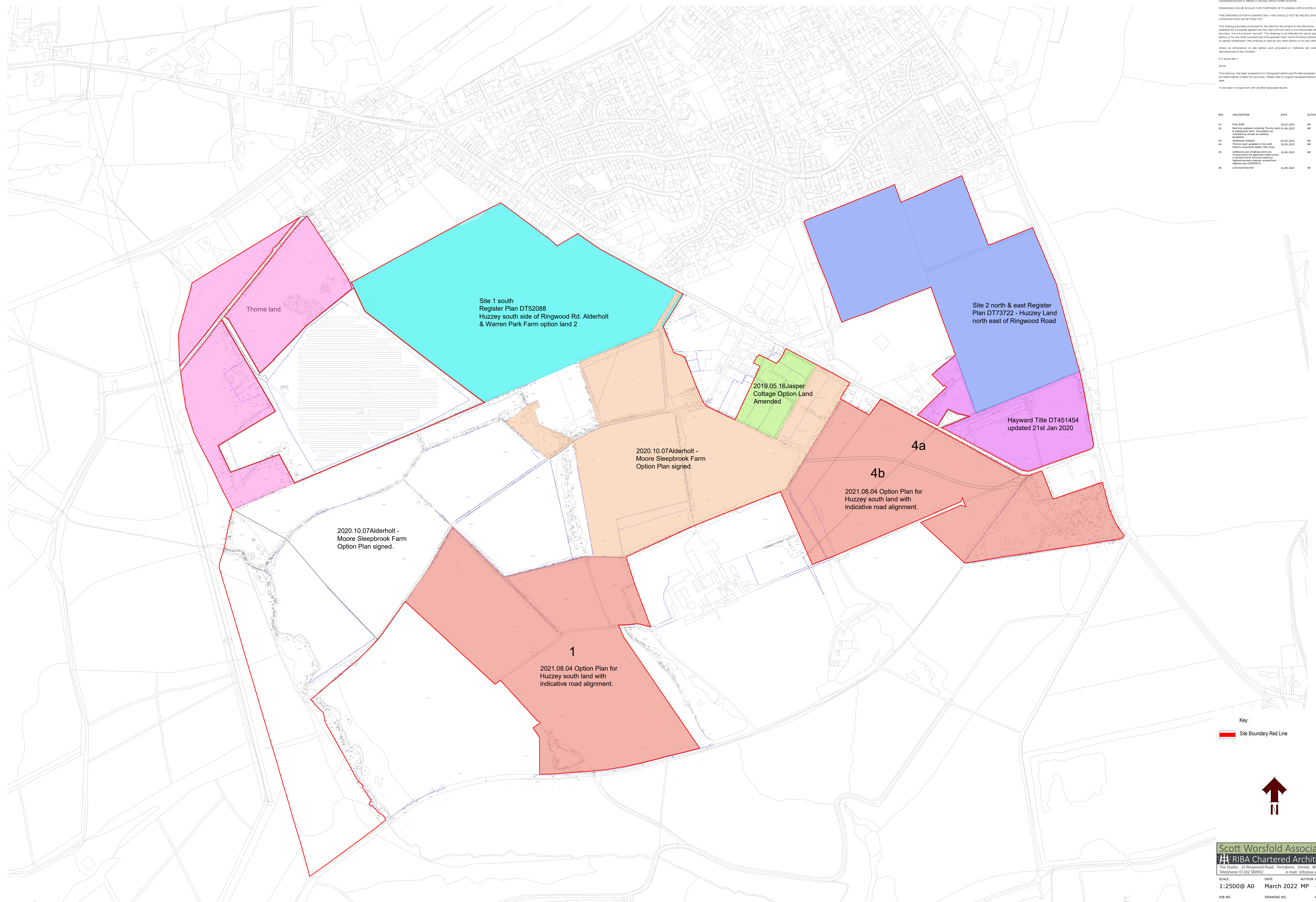
DATE: 23 May 2023

Appendix 3

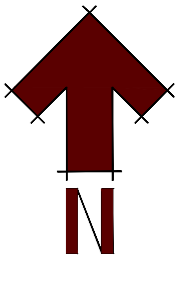
Dudsbury Homes Landownership Plan

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REV	DESCRIPTION	DATE	AUTHOR	CHKD
P1	First draft	30.03.2022	MP	-
P2	Red line updated including Thorne Land 01.04.2022 & Sleepbrook Farm. Amendment for maintaining access to existing boundaries.	01.04.2022	MP	-
P3	Additional clarification	04.04.2022	MP	-
P4	Thorne Land updated in line with client's comments dated 14th June	16.06.2022	MP	-
P5	Additional areas of highway cut to be included within the highway option shown in red dash line for discussion based on highway boundary mapping provided from highway engineering consultant dated 16/06/2022	16.06.2022	MP	-
P6	Land ownership plan	16.09.2022	MP	-



Key:
 Site Boundary Red Line



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SCALE	DATE	AUTHOR	CHKD
1:2500@ A0	March 2022	MP	-
JOB NO.	DRAWING NO.	REV	
22-1126	LOP.01	P6	

File Location
 C:\Users\jworsfold\Documents\Projects\22-1126 - Alderholt - Land Ownership Plan\Drawings\LOP\22-1126 LOP 01 Rev P6 - Land Ownership Plan.dwg
 Job: 22-1126 Date: 16/09/2022