

Wiltshire Council Planning Consultation Response

ECOLOGY

Officer name:	Elizabeth Burrows
Date:	09/11/2022, ECO2 14/06/2023, ECO3 11/10/2023 (amendments in blue)
Application number:	PL/2022/03103
Proposal:	Outline Application for up to 32 dwellings with all matters reserved (except access).
Site address:	Land to the East of Wagtails, Southampton Road, Alderbury, SP5 3AF
Case officer:	Lynda King

Recommendations:

☐	No Comment
☐	Support
☐	No objection
☐	Condition (no objection subject to conditions)
☒	Objection - further information required
☐	Objection in principle
☒	HRA required (River Avon: Hampshire catchment).

Further Information Required:

	Issue	Policy/Legislative Compliance	Date information requested & Further information required	Satisfactorily addressed (Document & Date)
1	Baseline information and impacts on biodiversity.	CP50, NPPF	Amended ecological impact assessment to include, but not exclusively: - Assessment of pond. Pond has been removed. - Botanical survey. Yes - Reptile survey (yes) and mitigation strategy (no). - Amended tree impact assessment. - Mitigation and enhancement plan to achieve no net loss of biodiversity. This must align with the EPP. No. - Compensation strategy required.	No
2	Net loss in biodiversity	CP50, NPPF	Evidence of no net loss in biodiversity. Unlocked BNG spreadsheet. Condition assessment sheets used in the site assessment. Plan/s (EPP) demonstrating where proposed for mitigation or for BNG will be provided.	Net loss in biodiversity confirmed.
3	Mitigation	CP50, NPPF	Ecological Parameters Plan (EPP).	No
4	River Avon: Hampshire	Habitat Regulations, CP50, CP69, NPPF	Nutrient calculation. Excel format. SUDS statement.	No

	catchment.			
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The outstanding document(s) listed above are needed to enable the council's ecology team to consider all the relevant impacts and benefits of the proposed scheme. The council's ecologists will provide a further response once all the above information has been submitted via the case officer.

Please Note: When resubmitting a revised document, ALL changes must be highlighted to enable review.

Matters considered:

Thank you for consulting ecology, the following submissions have been reviewed along with other relevant documents:

- Ecological Appraisal. FPCR Environment and Design Ltd (April, 2022).
- Site Layout. Drawing 1215_01. Twelve Fifteen Heritage Homes (21/11/2019).
- Tree Root Protection Area. Drawing WCM/SSR/PSK/HE/WA/FTS/1. Woodland and Countryside Management (24/11/2022).
- Draft Protection Fencing. Drawing WCM/SSR/PSK/HE/WA/FTS/1. Woodland and Countryside Management (24/10/2022).
- Letter to Lynda King. 14th December 2022. Andrew Black Consulting.
- Reptile Survey Report. (Phillips Ecology, April 2023).
- Ecological Constraints Survey Report. (Daniel Ahern Ecology, August 2018).
- Amended Site Plan (Heritage Homes).
- Ecological Parameters Pan.
- Additional Ecology Information for App PL/2022/03103. (Email: Tetra Tech, August 17 2023).
- Ecology Technical Note. (Tetra Tech, 4th August 2023).

Summary

The Amended Site Plan includes two larger areas of Biological Mitigation/ Natural Area and two small areas at the Site entrance. The plan also indicates further mitigation will be provided at the Site boundaries. This narrow strip of land appears to be within private gardens and therefore does not represent deliverable mitigation land. The Technical Note confirms that the development will result in a net loss in biodiversity associated with the confirmed loss of other neutral grassland, scrub and small slow-worm population. The grassland would not qualify as a Habitat of Principal Importance but would be considered of local value.

The development does not consider and makes no attempt to mitigate the additional losses in habitat and functionality associated with the removal of numerous trees prior to the application being made as required by the appeal.

Core Policy (CP) 50 requires that where losses can't be mitigated appropriate compensation measures that ensure 'no net loss of local biodiversity resource' is provided. A compensation package that benefits the local biodiversity resource by seeking to address the specific losses of this Site including, but not exclusively losses of, other neutral grassland, woodland and reptile habitat is required. In line with comments in the Appeal Decision for application 19/11206/OUT the compensation must also address impacts associated with the removal of numerous trees and associated ecological losses prior to this application being submitted.

The Technical Note states the losses could be compensated by the purchase of biodiversity credits from the Wiltshire Habitat Bank managed by the Environment Bank but provides no further detail on how this would benefit the local biodiversity resource specifically.

To be in accordance with the NPPF 180. (a) and CP50 compensation must only be used as last resort after all options for avoidance and mitigation have been fully explored. The development must first seek to mitigate for the confirmed losses on-site. As suggested in my initial comments

this might be achieved through the provision of a larger corridor of habitat to benefit biodiversity and within the public domain at the north and along the eastern boundary.

Where it has been fully justified that harmful impacts can't be mitigated a compensation package that will benefit the local biodiversity resource will be required. **In order to demonstrate compliance with Core Policy 50 and deliver 'no net loss of the local biodiversity resource, and secure the integrity of local ecological networks' details of a compensation package that benefits local biodiversity resource is required.**

Baseline

It is reported that the Site measures 1.25 hectares comprising bare ground, bracken and bramble scrub, mature oak trees on the northern boundary and 'other neutral grassland' which is reported to cover the majority of the Site. The habitat survey was conducted in February 2022 which is outside the optimum season for habitat survey. **As species indicative of neutral grassland were present a botanical survey carried out in the optimum season is required to accurately determine the status and diversity of the grassland unless justification of otherwise is provided.**

In a Letter to Lynda King from Andrew Black Consulting (14th December, 2022) the applicant suggests that the information provided in the Ecological Constraints Survey Report (Daniel Ahern Ecology, August 2018) provides adequate assessment of the grassland. The 2018 report can't be relied upon for providing a baseline for the status of the grassland for the following reasons:

- Although survey to inform this 2018 report was carried out within the optimum season for botanical survey the methodology does not seek to and does not provide a detailed botanical assessment.
- The Site had been subject to significant disturbance immediately prior to the 2018 survey.
- The survey was carried out 4 years ago and changes to the vegetation are expected.

It is agreed that the grassland comprises 'other neutral grassland' as stated in the Technical Note. The survey also confirms the grassland supports a reasonably diverse sward of plants (flowers and rushes) indicative of impeded drainage. The report does not include enough information to confirm the accuracy of the condition assessment. Specifically, but not exclusively, the area of grassland and scrub/ bracken were previously mapped as separate habitat units but are considered together in the condition assessment and I believe incorrectly used to justify the grassland not meeting criteria. This is a matter that is likely to come down to professional judgment.

The species listed in Appendix A of Technical Note strongly indicate that the grassland would not qualify as a Habitat of Principal Importance but would be considered of local value.

It is reported in the Ecology Appraisal that the Site is suitable for use by reptiles. The results of the detailed reptile survey and mitigation strategy mentioned in Section 6.41 of the Ecology Appraisal have not been submitted. **If reptiles are present the layout does not include any space to accommodate them. The results of the survey are required to determine if impacts on reptiles can be mitigated.**

The submitted Phase 2 Ecological Survey Report confirms a low population of breeding slow-worm are present. The population is reported to be concentrated at the western boundary with one individual at the eastern area. The report recognises a net loss in reptile habitat and recommended sensitive works measures to displace reptiles out of harms way during construction and the provision of retained habitat, 2 no hibernation features and 3 x shelter opportunities as mitigation.

There are records of other reptile species in close proximity to the Site and local representations indicate grass snake and adder are present in adjacent gardens. Habitat suitable for these species is also present in close proximity particularly within Alderbury Canals CWS to the east. Grass snake and adder are highly mobile species and if present likely to be displaced by the reported continued mechanical disturbance on Site reducing the effectiveness of survey to confirm their presence/ absence. Slow-worm, grass snake and adder are Priority Species (Species of Principal Importance) and therefore impacts on them must be fully mitigated. The current layout does not fully mitigate the loss of habitat for these species.

The submitted information does not address the concerns raised above. The development would result in a loss of reptile habitat considered to be of local value. Due to the small size and separation of the mitigation areas combined with the likely high levels of recreational pressure on them they are considered unlikely to provide suitable replacement habitat for reptiles.

The Tree Root Protection Area drawing shows a pond at the western boundary however there is no pond shown on or mentioned in the Ecological Appraisal. **Clarification of the presence of the pond is required.**

Information relating to a pond on Site is conflicting. Comments from local representation state a pond was present but has been destroyed whereas the Letter to Lynda King (14th December 2022 from Andrew Black Consulting) states a pond is not present on Site.

The Technical Note confirms an ornamental pond was present on Site and states that it was removed prior to the Site being considered for development.

Impacts

The requested further botanical survey has not been submitted and local representations strongly indicate the Site continues to be subject to disturbance. The current biodiversity value of the Site can't be determined therefore it is not possible to determine if the suggested measures will satisfactorily mitigate the impacts of this development.

The Amended Site Plan includes Biological Mitigation/ Natural Areas reported to collectively measure 1229 m² however as stated in the Technical Note the development will result in a net loss in biodiversity. This loss is largely associated with the confirmed loss of habitats including other neutral grassland and scrub and small slow-worm population.

To re-iterate the Site has been subject to significant vegetation clearance, most notably the removal of numerous trees. The actual biodiversity losses can't be accurately determined but is likely to be greater than stated or recognised in the reports and technical notes. The Site is located between numerous wildlife sites (including but not exclusively Ivychurch Copse CWS, Hightrees Wood CWS and Alderbury Canal CWS) and likely to form part of the local ecological network as a steppingstone used by mobile species including bats, birds and invertebrates. The development does not consider this additional impact and makes no provision for the additional losses in habitat and functionality as required by the Appeal Decision.

Core Policy 50 requires that where losses can't be mitigated appropriate compensation measures that ensure 'no net loss of local biodiversity resource' will be required. As a result a compensation package that benefits the local biodiversity resource and seeks to address the specific losses of this Site including, but not exclusively; neutral grassland, reptiles and woodland is required.

The Technical Note states the losses could be compensated by the purchase of biodiversity credits from the Wiltshire Habitat Bank managed by the Environment Bank but provides no further detail on how this would benefit the local biodiversity resource specifically.

However, the development footprint would encroach into and result in adverse impacts on known features of ecological value such as the mature trees and vegetated boundaries. Specifically, the development footprint does not comply with the RPZ of numerous existing trees, including a mature oak at the north-eastern corner, of the Site (tree report reference 18A). I note the Tree Officer has requested a no development 15m buffer around this tree which should be adhered to but is not achievable in the current layout. Section 6.23 of the Ecological Appraisal incorrectly states that this tree and adjacent trees will be retained within green infrastructure and buffered from effects of the development. Finally, the layout doesn't provide any space for ecological mitigation or to achieve no net loss in biodiversity.

Section 6 of the Ecological Assessment refers to green infrastructure however there does not appear to be any meaningful areas of green infrastructure or space for it on the submitted drawings. Figure 4 the Post-intervention Biodiversity Net Gain Plan does show a narrow strip of amenity grassland at the boundary however due to its narrow width, inaccessibility for management and combined use for amenity or play areas this is completely inadequate as mitigation for the ecological losses. This is confirmed by the BNG calculation that predicts a shortfall of -2.53 habitat units.

In order for the development to be compliant with CP50 it must demonstrate that features of nature conservation value can be retained, buffered and managed favourably in order to maintain their ecological value and functionality.

Biodiversity Net Gain

Core Policy 50 of the Wiltshire Core Strategy requires all development to demonstrate no net loss of biodiversity and for major applications the expectation is that development will deliver a net gain. The NPPF also encourages applications to deliver measurable net gains (para 174 d) and the government has signalled its intention to bring forward legislation to require development to deliver 10% net biodiversity gain. At the current time therefore, the Council expects all applications to demonstrate no net loss of biodiversity and where appropriate to deliver a net gain.

The Ecological Appraisal includes a summary of a BNG assessment that predicts a shortfall in habitat units of -2.53 confirming the development would result in a net loss in biodiversity and therefore be contrary to CP50. In order to be policy compliant, the development must, as an absolute minimum, demonstrate no net loss is achievable. The BNG assessment must be amended and re-submitted, with the unlocked spreadsheet, once the concerns raised in these comments have been addressed.

A completed metric 3.0 has now been submitted and confirms unacceptable losses in biodiversity are likely. The predicted losses are largely associated with the loss of 'other neutral grassland' in 'Poor' condition. Justification of this condition is required. It is strongly suggested this is provided by submission of the metric condition assessments and botanical survey as previously requested. It is not possible to determine which layout the metric is based on. The calculation must use the most up to date layout.

In order to provide biodiversity net gain development must demonstrate that the the 10 Good Practice Principals for Biodiversity Net Gain have been complied with. Currently the proposals do not comply with a number of these good practice principals including, but not exclusively, adherence to the mitigation hierarchy and achieving the best outcomes for biodiversity.

There are some outstanding concerns regarding the accuracy of the BNG calculation however further comment on these are unlikely to significantly change the conclusion that the development will result in a net loss in biodiversity.

The Ecological Appraisal recommends integral features for use by nesting birds and roosting bats are included on the dwellings along with corridors for the movement of hedgehogs. Such features are welcomed and should be provided on the majority of dwellings.

In summary the delivery of 32 houses appears to necessitate a layout unable to comply with CP50 therefore it seems a reduction in dwelling number should be considered. Given the constraints at the northern boundary and layout of the adjacent approved development, which includes a corridor of wildflower meadow and tree planting in this location, meaningful biodiversity mitigation in this location such as a broad wildlife corridor would be welcomed.

There is also an opportunity to provide a connecting wildlife corridor along the eastern boundary that would link to existing gardens and the Alberbury Canal CWS to the west. In order for biodiversity features/ habitats to be secured and appropriately managed they must be provided in the public domain and represented on the requested Ecological Parameters Plan.

The development will result in a net loss in biodiversity.

Ecological Parameters Plan

An Ecological Parameters Plan (EPP) is required to demonstrate no net loss in biodiversity can be achieved. The EPP must clearly map and identify those areas required for the purposes of protecting and enhancing biodiversity in line with the amended ecology documents, including the Biodiversity Net Gain Calculator spreadsheet. The EPP will become an 'approved document' of any outline permission granted and any reserved matters application must be in compliance with the plan.

The information requested above must be submitted to and reviewed by the LPA's ecology team prior to determination of the application. It would be beneficial if, once the further surveys have been completed, the Ecological Assessment was amended and re-submitted. The EPP layout must demonstrate that all the mitigation and enhancement measures required to address these comments can be provided.

An Ecological Parameters Plan has now been submitted but its layout does not comply with the Amended Site Plan (Heritage Homes). As both drawings are of poor quality it is not possible to read essential details such as area measurements, drawing titles and drawing numbers. **The EPP is still required and must demonstrate all the concerns raised in these comments have been addressed.**

Mitigation

The removal of two dwellings in the northwest and the resulting provision of a Biological Mitigation Natural Area is welcomed particularly because of its location adjacent to a retained and established corridor. As part of the mitigation strategy the extension of this area to provide a larger Biological Mitigation Natural Area with connectivity to a corridor extending south would be welcomed.

Despite this the remaining Biological Mitigation Natural Areas are considered inadequate to fully mitigate the known impacts which currently include the loss of reptile and grassland habitat (as indicated by the BNG metric) and significant tree removal. In line with comments in the Appeal Decision for application 19/11206/OUT the expectation that the removal of numerous trees and associated ecological losses prior to this application being submitted is considered has not been fulfilled.

With the exception of the northwestern boundary all boundaries would be within residential gardens therefore all ecological value and function associated with them must be considered as lost.

The Biological Mitigation Natural Areas in the centre and to the west are small, isolated from retained vegetation and likely to be subject to regular recreational disturbance limiting their likely ecological value in the long term.

The development does not fulfil its obligations to adhere to the mitigation hierarchy. The Letter to Lynda King (14th December 2022 from Andrew Black Consulting) argues that impacts for the development can't be mitigated on Site however this incorrectly assumes there is a requirement for 32/30 houses on the Site. Adverse impacts could be reduced by a further reduction of housing density to enable larger area/s to be made available for ecological mitigation. This would enable larger and more coherent Biological Mitigation Natural Areas to be provided for the purposes of protecting and enhancing biodiversity and would certainly enable a better ecological outcome to be achieved.

Habitat Regulations Assessment

The application site is within a consultation zone for The New Forest SPA, SAC and RAMSAR, Solent designated sites (Solent Maritime SAC, Solent and Southampton Water Special Protection Area (SPA)) and River Avon SAC (Hampshire catchment) and therefore has potential to result in significant adverse impact on the special features of that site. Habitats Regulations Assessment has been carried out by the relevant Competent Authority (the LPA) to determine the potential significant effects and the suitability of any measures proposed to avoid or mitigate those effects.

New Forest Protected Sites

The development lies within the zone of influence for the New Forest protected sites which includes the New Forest SPA, New Forest SAC and New Forest Ramsar site. It is screened into appropriate assessment under the Habitats Regulations 2017 (as amended) on account of its potential to cause adverse effects through increased recreational pressure, which may occur alone and in-combination with other plans and projects. Many of the special features afforded protection are vulnerable to increased recreation as demonstrated in Natural England's supplementary advice issued for the SPA on 19 March 2019 and for the SAC on 18 March 2019. The Council has prepared an "Interim recreation mitigation strategy for the New Forest internationally protected sites" (Version 1, 25 March 2022) which identifies the zones of influence within which residential and tourism development have the potential to generate additional recreation pressure. The strategy details mitigation required to avoid and reduce impacts. Provision of Suitable Areas of Natural Greenspace (SANGs) will be provided to reduce visitor numbers at protected sites and where visits are unavoidable, strategic access management and monitoring (SAMM) methods will be used to control people's behaviour. The strategy explains that residential developments of 50 or more homes will be required to directly provide high quality open space while other development will contribute indirectly through allocation of funds from the Community Infrastructure Levy. Together this package of measures has been endorsed by Natural England on 24 March 2022 who consider the strategy to be sufficient to mitigate for development coming forward through the Wiltshire Core Strategy.

The Council therefore concludes that, provided the necessary mitigation is secured by condition or S106 as appropriate, the current application alone and in-combination with other plans and projects will not lead to adverse effects on the New Forest protected sites.

The necessary mitigation for this development is:

- 1. contributions through CIL towards SAMM.**

River Avon Hampshire Avon catchment

The Site is located within the River Test Catchment but will connect to main sewer which drains into the Petersfinger WWTW within the River Avon SAC (Hampshire catchment). I can confirm that this application would be classed as planned development given the adjacent development and appeal decision that the site would be classed as infill development.

The Council has agreed through a Memorandum of Understanding with Natural England and others that measures will be put in place to ensure all developments permitted between March 2018 and March 2026 are phosphorus neutral in perpetuity. To this end it is currently implementing a phosphorus mitigation strategy to offset all planned residential development, both sewered and non sewered, permitted during this period. The strategy also covers non-residential development with the following exceptions:

- Development which generates wastewater as part of its commercial processes other than those associated directly with employees (e.g. vehicle wash, agricultural buildings for livestock, fish farms, laundries etc)
- Development which provides overnight accommodation for people whose main address is outside the catchment (e.g. tourist, business or student accommodation, etc)

Following the cabinets resolution on 5th January 2021, which secured a funding mechanism and strategic approach to mitigation, the Council has favourably concluded a strategic appropriate assessment under the Conservation of Habitats and Species Regulations 2017 (as amended). This was endorsed by Natural England on 7 January 2021. As this application falls within the scope of the mitigation strategy and strategic appropriate assessment, I conclude it will not lead to adverse impacts alone and in-combination with other plans and projects on the River Avon SAC. – The above AA can no longer be relied upon. Please refer to text below.

This development falls within the catchment of the River Avon SAC and has potential to cause adverse effects alone or in combination with other developments through discharge of phosphorus in wastewater. Appropriate Assessment (AA) under Section 63 of the Habitats Regulations must be carried out by the relevant Competent Authority (the LPA) to determine the potential significant effects and the suitability of any measures proposed to avoid or mitigate those effects. Insufficient information has so far been submitted to enable the AA to be undertaken, which must be completed prior to the application being determined.

In line with the Council's Strategic Appropriate Assessment of Developments in Wiltshire Occurring in the River Avon SAC Catchment (16/03/2023) all planned major and non-sewered applications are required to submit a nutrient calculation and statement confirming how sustainable urban drainage systems (SuDS) and other measures have been adopted on Site to avoid and mitigate phosphorus burdens.

The River Avon Water Usage Condition (majors) must be applied to any approval.

Solent Maritime Special Area of Conservation (SAC), Chichester and Langstone Harbours Special Protection Area (SPA) and Ramsar site, Portsmouth Harbour SPA and Ramsar site, Solent and Southampton Water SPA and Ramsar site.

WCS policy CP50 (Biodiversity and Geodiversity) and the NPPF requires the Local Planning Authority to ensure protection of important habitats and species in relation to development and seeks enhancement for the benefit of biodiversity through the planning system. Whilst the application site is not adjacent to any rivers or in any respective flood zones, it is situated within the River Test catchment which drains into the Solent. This region is protected by a number of international designations including the Solent Maritime Special Area of Conservation (SAC), Chichester and Langstone Harbours Special Protection Area (SPA) and Ramsar site, Portsmouth

Harbour SPA and Ramsar site, Solent and Southampton Water SPA and Ramsar site; as well as the nationally designated Sites of Special Scientific Interest (SSSIs) that underpin these international designations.

Natural England currently advises that every permission for new dwellings in the River Test Catchment Area could result in increased nutrients entering the Solent area from the increase in waste water and land use change. The wastewater from this development will be discharging to the River Avon catchment (via the Petersfinger WWTW) and not into the River Test catchment. Given the existing use of the site is already residential (garden), there is no change in land use and no likely significant effect on the Solent protected sites.

A test of likely significance has been carried out by the relevant Competent Authority (Wiltshire Council) as required by Regulation 63 Conservation of Habitats and Species Regulations. This concluded that given the development discharges outside the catchment and there is no land use change there is no mechanism for adverse effect. **The HRA has concluded that the application is not likely to have significant impacts on the SAC and Appropriate Assessment is not required.**

Conditions:

To follow.

Final sign off – all matters addressed:

Ecologist	Date
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