



Cricklade Court Leet

The Manorial Court for the Hundred and Borough

Joe Richardson
Planning Department
Wiltshire Council
Bythesea Road
Trowbridge
Wiltshire
BA14 8JN

14 September 2026

Dear Mr Richardson,

PL/2026/00347 – Land at Stones Farm, Cricklade - Supplementary HRA Representation – Long-term Delivery, Behavioural Effectiveness and Monitoring of the Habitat Support Area

Cricklade Court Leet Charity has reviewed Newland Homes' latest response to Wiltshire Ecology, the revised HSA management documents and the executed Section 106 Agreement.

We do not repeat our detailed representation of 6 August 2026. A number of matters have subsequently improved, particularly the extension of management and monitoring to a minimum 80-year period and thereafter, the introduction of a formal five-year review mechanism, and Wiltshire Ecology's recognition that monitoring must assess whether the HSA is actually functioning as alternative recreational greenspace. We welcome those changes.

Wiltshire Ecology nevertheless continues to require further information to inform the Appropriate Assessment. Its response records that insufficient information has been submitted to undertake the AA and that further information is required before the Council can complete an AA with a favourable outcome.

In light of Newland's latest response, we consider that the remaining issues can now be expressed as three relatively simple questions:

1. Is there a realistic and financially secure long-term delivery model?
2. Is there sufficient evidence that the HSA will actually divert recreational use from North Meadow, including in combination with neighbouring development and the existing access network?
3. How will underperformance be detected, corrected and funded for the lifetime of the mitigation?

Before addressing those questions, we note the legal standard applying to the Council's Appropriate Assessment. Government guidance states that an Appropriate Assessment must contain complete, precise and definitive findings and conclusions sufficient to ensure that no reasonable scientific doubt remains as to the effects of the project. Any mitigation relied upon to reach that conclusion must be sufficiently secured and likely to work in practice. The Council must therefore be satisfied not simply that legal obligations exist, but that the mitigation upon which it relies can be implemented, monitored and maintained effectively for the required period.

CG Fry & Son Ltd v Secretary of State for Housing, Communities and Local Government [2025] UKSC 35 confirms that Regulation 63 can apply at later stages of a multi-stage planning process where the relevant decision would result in authorisation for the project to proceed. It does not, in our view, provide a basis for leaving unresolved matters which are necessary to the Appropriate Assessment required at the present stage.

1. Is there a realistic and financially secure long-term delivery model?

We do not consider the principal uncertainty to concern the first five years. The Section 106 provides significant security during that period. Schedule 7 requires the Owner to maintain the HSA at its own expense for at least five years and, importantly, to continue doing so until responsibility for management has actually been transferred to the NNR Team, an NGO or, as the final alternative, a Management Company. Our concern is what happens thereafter.

Newland's latest response acknowledges:

"In respect of who will be responsible beyond our stewardship, we are presently unable to answer this."

It nevertheless considers that the Section 106 contains sufficient safeguards to enable the HRA/AA to proceed and states that the long-term management and maintenance will ultimately be funded in perpetuity by future residents through a Management Company.

The Section 106 undoubtedly contains safeguards. It provides a hierarchy of possible managers, annual payments towards HSA maintenance, Council monitoring/default and step-in provisions and, where the Management Company route is used, paragraph 9.5 requires "full and sufficient details" of the company's financial resources, including evidence that adequate resources are available for the remainder of the Maintenance Period.

The unresolved question is how **adequate resources** are to be measured.

We have not identified a site-specific costed operating model establishing the full annual cost of the HSA, including routine land management, grazing and hay cutting, professional ecological and land-management advice, recreational monitoring, public safety and administration, reserves and funding for adaptive or corrective measures. Nor does Schedule 7 itself specify the amount of the annual HSA fee or a minimum reserve, endowment or other provision to meet a future funding shortfall.

An obligation to make an annual payment is an important safeguard, but it does not itself demonstrate that the amount available will be sufficient to deliver the mitigation relied upon by the AA.

Long-term cost and resident funding

The July 2026 LUC Recreation Mitigation Study provides a useful contemporary comparator, although we recognise that a SANG and the Newland HSA are not directly equivalent. LUC calculates 80-year SANG maintenance at £472,040 per hectare. Applied simply as an order-of-magnitude comparator to the approximately 11.2 ha Newland HSA, that would represent approximately **£5.3 million over 80 years, £66,000 per year, or about £470 per dwelling per year (£39 per month)** if divided equally between 140 dwellings.

We do not suggest that these are the actual costs of the Newland HSA. The significance of the comparison is that it illustrates why the site-specific cost needs to be established. The Newland HSA also has significant site-specific complexity, as it must reconcile recreational use with specialist grassland establishment, grazing, hay cutting, ecological management and floodplain conditions.

The potential household implications are relevant because Newland states that long-term management will be funded by future residents. **With 40% of the development comprising affordable housing**, the Council should understand how HSA costs would be apportioned across the different housing tenures, how and to what extent all 140 dwellings are assumed to contribute, and how any HSA charge would interact with other estate or service charges.

If some properties contribute through a different mechanism, at a reduced level or not at all, the amount recoverable from the remaining properties would correspondingly increase. It would also be helpful to identify the legal mechanism by which any resident contribution towards the Schedule 7 HSA costs will be secured and collected, and how this relates to the separate Management Charge/Rent Charge provisions applying to ordinary estate open space, and how the proposed arrangement will operate across the different affordable housing tenures.

The appropriate sequence should therefore be to establish what management is necessary to make the HSA effective, cost that management realistically, and then demonstrate a secure funding mechanism capable of meeting that cost. **The mitigation requirements should determine the level of funding required; the level of funding available should not determine the standard of mitigation delivered.**

Is a Year-5 handover realistically achievable?

There is also increasing uncertainty over whether the intended transfer after the initial five years will in practice be achievable. We recognise that the Inspector considered this issue at outline appeal and, on the evidence then available, found no reason to doubt the deliverability of the NGO or Management Company alternatives. Our present concern arises from the position now emerging at Reserved Matters stage.

Natural England's NNR team has not agreed to undertake the role, and no willing NGO has been identified. Other potential local bodies approached have also been unwilling or unable to assume responsibility. Cricklade Town Council has separately recorded that *"CTC will not be seeking to take ownership and maintenance of the public open space at any time in the first 80 years."*

Newland itself is presently unable to identify the eventual recipient.

Continued management by Newland/the Owner for substantially longer than five years must therefore be regarded as a realistic possibility. If continued owner stewardship is the practical

fallback relied upon by the AA, its long-term operating costs, professional delivery arrangements and financial sustainability should themselves be demonstrated.

This is important because the AA should assess the management arrangement realistically expected to operate rather than simply assume that one of a hierarchy of possible future recipients will eventually become available.

Ownership and transfer of liability

There are also related uncertainties over land ownership and management responsibility.

Schedule 7 principally provides for transfer of **responsibility for management**. The revised management documents, however, refer to the “successful transfer of the HSA Land”. It is not clear whether the eventual management body is intended to receive the freehold, some other legal interest or simply responsibility for management.

The general change-of-ownership provisions in the Section 106 also appear to require notification to the Council when ownership changes rather than prior Council approval of the purchaser. We have not identified an equivalent provision requiring a successor freeholder to demonstrate the financial resources and professional capability which paragraph 9.5 requires where the formal Management Company route is used.

We therefore ask the Council to clarify whether the HSA freehold can be transferred independently of the Schedule 7 management-transfer procedure and, if so, what mechanism ensures that a successor owner has the resources and capability necessary to discharge the HSA obligations.

This is potentially material to the security of the mitigation. A site subject to substantial long-term management and public-liability obligations may have limited commercial value unless sufficient continuing income or other financial provision accompanies it. The fact that the planning obligations bind the land does not in itself demonstrate that a future owner will possess the financial and operational capacity to deliver them.

The HSA Bond provides an additional safeguard against default, but it is not long-term operating income. Subject to the requirements of the deed, substantial portions may be released during the first five years and the remainder subsequently. The long-term scheme must therefore ultimately be capable of operating from a sustainable funding source rather than reliance upon the bond.

In our view the central financial question for the AA is consequently:

What objective financial benchmark will Wiltshire Council use to determine that the resources available to the long-term owner or Management Company are adequate if the full cost of delivering the approved HSA management arrangements has not first been quantified?

We do not suggest that the identity of every future contractor or even the eventual Management Company must necessarily be fixed now. We do suggest that the essential **operational, financial and legal parameters** by which any future arrangement will be judged should be established before the AA relies upon it.

Otherwise, the adequacy of a fundamental part of the HRA mitigation would first be tested after the development has been constructed and occupied, when refusal of the development would no longer be an available means of avoiding an adverse effect.

2. Is there sufficient evidence that the HSA will actually divert recreational use from North Meadow?

The latest documents provide considerable additional detail about the physical design and management of the HSA. We have still not identified a substantive behavioural assessment explaining **why the final HSA is expected to divert Stones Farm residents from North Meadow.**

That is the fundamental recreational purpose of the HSA.

We recognise that at outline appeal the Inspector accepted the principle that the HSA could provide a realistic recreational alternative to North Meadow. The present question is narrower: whether the final Reserved Matters design and management arrangements provide a sufficient evidential basis for the Council to conclude that the HSA, as now proposed, will perform that function effectively.

Post-occupation monitoring will be important, but it cannot substitute for the evidence required at Appropriate Assessment stage to explain why the mitigation is expected to work.

In particular, the assessment should explain why residents, especially regular dog walkers, are expected to choose the HSA rather than North Meadow; the recreational outcome the HSA is expected to achieve; how the Recreational and Biodiversity HSA components will function together; and how grazing, hay cutting, seasonal wetness and other management requirements may affect its attractiveness and year-round availability.

Without a defined expected outcome there is also no objective benchmark against which subsequent monitoring can determine whether the mitigation is succeeding.

Interaction with Mac Mic and the existing recreational network

The behavioural question cannot now sensibly be considered solely within the Newland site boundary.

Natural England's response of 14 August 2026 to the Mac Mic application expressly seeks consideration of the effectiveness of that SANG in the context of other proposals and existing public access routes, identifying Sustrans Route 45, Bridleway Cric 34, Footpaths Cric 35 and 36 and the Thames Path. Natural England states that it is presently unable to confirm that there will not be an adverse effect on North Meadow either alone or in combination with other projects.

The same recreational network is relevant to Newland.

Potential interaction includes cross-use between the HSA and neighbouring SANG areas, shared rights of way, route choice towards North Meadow, movement between developments and the combined recreational capacity and attractiveness of the mitigation areas.

It would therefore not be sufficient merely to assume that, because each development provides its own mitigation, no adverse in-combination effect can arise. That establishes that each development

proposes mitigation; it does not establish how those mitigation measures will perform as an interacting recreational system.

Before completing the AA, we therefore consider that the Council should have sufficient information to explain both:

- **why the final Newland HSA is expected to achieve the necessary recreational diversion; and**
- **whether Mac Mic and other relevant plans or projects, together with the connecting rights-of-way network, could alter the visitor-behaviour assumptions upon which that conclusion depends.**

The AA should identify transparently the relevant plans and projects considered and the evidence relied upon in concluding that those interactions will not undermine the effectiveness of the mitigation.

3. How will underperformance be detected, corrected and funded?

Wiltshire Ecology's latest response makes an important advance by recognising that the developer must monitor the **effectiveness of the HSA as recreational mitigation**, rather than simply its habitat condition.

The proposed independent oversight includes review of annual monitoring reports, site inspections, participation in Management Steering Group/Committee arrangements and periodic visitor surveys to assess whether the HSA is functioning effectively as alternative recreational greenspace for Stones Farm residents. A one-off **£13,143 HSA Monitoring Fee** is proposed to fund the Council's involvement.

We welcome that approach, but two different monitoring requirements should be distinguished.

The £13,143 appears to fund **Wiltshire Council's independent oversight**. The HSA itself also requires an enduring operational monitoring programme, including professional ecological and recreational-effectiveness monitoring and analysis. Those costs should form part of the long-term costed HSA operating model.

It would therefore be helpful for Wiltshire Council to identify what duration and programme of independent oversight the £13,143 calculation is intended to support, including the assumed frequency of inspections, Steering Group involvement and visitor surveys, and what provision will apply thereafter.

We also suggest consideration of permanent automated visitor counters at the principal HSA entrances from before occupation, providing continuous data capable of comparison with existing visitor counters at North Meadow. These would complement, rather than replace, periodic visitor questionnaires needed to understand visitor origin, dog walking and route choice.

Most importantly, monitoring must lead to a defined and funded response.

monitor → identify underperformance → determine corrective action → implement it → fund it

The revised five-year review mechanism is welcome, but recreational behaviour will begin to develop from first occupation. The monitoring and corrective mechanism should therefore operate from that point rather than waiting until the formal five-year review.

The approved arrangements should identify the recreational outcome expected of the HSA; the indicators which would suggest that diversion is inadequate; who determines whether corrective action is required; the range and timescale of available measures; and the financial provision available to implement them.

Conclusion and requested action

The Court Leet acknowledges the substantial work undertaken since our August representation. The Section 106 provides a significant legal framework and our concern is not that safeguards are absent.

The remaining issue is whether those safeguards have yet been shown to produce an effective and realistically deliverable mitigation scheme. Their long-term effectiveness depends upon matters which remain uncertain: the actual cost of operating the HSA; the sustainability of the proposed household funding mechanism; the viability and resources of the eventual delivery body or successor owner; the behavioural effectiveness of the HSA; its interaction with neighbouring development and the access network; and an enduring monitoring and corrective-action mechanism.

The HSA is not simply general estate open space. It is mitigation relied upon to enable the Council to conclude that the development will not adversely affect the integrity of North Meadow and Clattinger Farm SAC. We therefore consider that the essential delivery and effectiveness parameters upon which the AA relies should be established with sufficient certainty before the Council reaches a favourable conclusion in the Appropriate Assessment, rather than left for substantive resolution once the development is substantially built and occupied.

Before reaching a favourable conclusion in the Appropriate Assessment, we respectfully ask the Council to:

1. obtain sufficient information to establish a site-specific costed HSA operating model and the objective financial basis upon which the adequacy of any long-term owner or Management Company's resources will be assessed;
2. obtain sufficient behavioural evidence to demonstrate why the final HSA is expected to achieve the necessary recreational diversion, including consideration of Mac Mic and the connected recreational/access network insofar as relevant to the in-combination assessment;
3. secure a monitoring and corrective-action mechanism operating from first occupation, identifying success criteria, responsibilities, independent Council oversight and funding for necessary corrective measures; and
4. ensure that these matters and this representation are expressly taken into account in the Appropriate Assessment and associated decision record, and that Natural England is consulted on any materially revised assessment or mitigation information relevant to the Appropriate Assessment.

The Court Leet does not repeat here its earlier representations on hydrology or other matters which remain relevant to the final Appropriate Assessment insofar as they remain unresolved at the time it is undertaken.

Given Natural England's role as statutory consultee on the outstanding HRA matters, we are copying this representation to Natural England.

Yours sincerely,

The image shows two handwritten signatures in black ink. The signature on the left is 'Clive Smith' and the signature on the right is 'John Barratt'.

Clive Smith B.Ed (Hons), C.Ed.
High Bailiff

John Barratt BSc (Hons) Env Sci
Court Hayward

Copies To:

Niall Machin - Ecology Manager, Wiltshire Council

Cllr Adrian Foster – Cabinet Member for Strategic Planning, Development Management and Housing, Wiltshire Council

Cllr Mark Clarke - Chairman Cricklade Town Council

Cllr Nick Dye - Wiltshire Councillor for Cricklade & Latton and Portfolio Holder for Flooding and Water Quality

Dr Roz Savage MP - South Cotswolds constituency (Case Ref: RS6167)

Nick Squirrell - Senior Officer Conservation and Planning Natural England

Charlotte Targett - Senior Reserve Manager Natural England

Cricklade Court Leet Charity, a Charitable Incorporated Organisation registered in England,

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The Manorial Court of the Hundred and Borough of Cricklade

www.crickladecourtleet.org.uk

Appendices:

1. LUC (July 2026), Draft Cotswold Recreation Mitigation Study, prepared for Cotswold District Council, Supporting Document 42 to the Cotswold Local Plan, Cabinet 6 August 2026. Copy attached.

References:

1. Natural England's response of 14 August 2026 to the Mac Mic application
<https://development.wiltshire.gov.uk/pr3/sfc/servlet.shepherd/version/download/068Q300000T5K2LIAV> Accessed 9/9/26
2. Section 106
<https://development.wiltshire.gov.uk/pr3/sfc/servlet.shepherd/version/download/068Q300000C8XSwIAN> Accessed 9/9/26
3. Wiltshire Ecology consultation response, 24 August 2026
<https://development.wiltshire.gov.uk/pr3/sfc/servlet.shepherd/version/download/068Q300000TqkXXIAZ> Accessed 9/9/26
4. GOV.UK, Appropriate assessment / HRA guidance
<https://www.gov.uk/guidance/appropriate-assessment> Accessed 9/9/26
5. C G Fry & Son Ltd [2025] UKSC 35 <https://www.supremecourt.uk/cases/uksc-2024-0108>
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6. Cricklade Town Council, Minutes of Extraordinary Planning Meeting, 10 August 2026.
<https://www.crickladetowncouncil.gov.uk/wp-content/uploads/sites/115/2026/08/Final-PCT-Minutes-10th-August-2026.pdf> Accessed 9/9/26
7. Planning Inspectorate, Appeal Decision APP/Y3940/W/24/3351265, 23 January 2025
<https://development.wiltshire.gov.uk/pr3/sfc/servlet.shepherd/version/download/068Q300000CtR36IAF> Accessed 9/9/26

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