

8 OPTIONS FOR FLEXIBILITY IN THE DRAFT DELIVERY PLAN

8.1 Introduction

8.1.1 There are a large number of different factors that affect the scale or nature of potential impacts on the SPA arising from housing development in the region. These factors derive from:

- The nature of the SPA
- The nature of access restrictions on the SPA
- The varying accessibility of the SPA from different parts of the region
- The nature of the residential development
- The nature of the surrounding recreational resource

8.1.2 A number of these factors were identified in the contract specification and to this have been added other factors identified by the Steering Group and the consultancy team. Many of these factors are also referred to in the draft Delivery Plan and have been discussed between stakeholders prior to this review. As a result some have been tested before and this review may only lead to confirmation that whilst attractive in principle, they are not applicable in practice.

8.1.3 The results of this consideration are presented below prior to having been tested against the requirements of the Birds and Habitats Directives. This testing was carried out as part of the legal opinion that is presented in Appendix J. The findings of the legal opinion and how they apply to these options for flexibility are discussed in sections 11, 13 and 14. The overall result of the application of the legal opinion was to emphasise the need for an evidence base to be provided to support any specific application that sought flexibility in consideration of its specific circumstances.

8.1.4 The factors have been ordered into the five categories above and the effects that they may have on the setting of zoning, mitigation standards and in determining individual planning applications are discussed.

8.2 Flexibility in applying the standards due to the nature of the SPA

8.2.1 In this section we consider whether there could be more flexibility in applying the standards depending on the intrinsic nature of the SPA, the habitats present and its bird populations.

Forestry Plantations

8.2.2 Where forestry plantations are included in the SPA, the expectation must be that these plantations have the potential to provide habitat for the species for which the

SPA is important. This is because the basis for the classification of the SPA is populations of breeding Annex I heathland bird species. Where there are plans for clearance of plantations to reinstate heathland, then habitat for all three species could be provided. Where the intention is for the tree crop to be clear felled and replanted on a rotational basis then suitable habitat would be created temporarily for Woodlark in the very early stages of replanting and Nightjar until canopy closure of the new tree crop. Thus there would be no justification for changing the boundaries of the draft Delivery Plan Zones adjacent to such areas.

8.2.3 However, where there is no prospect of either heathland restoration, or rotational forestry, as may be the case for some MoD land where continuation of tree cover may be important for training purposes, then there may be justification in redrawing the boundaries of the zones based on the nearest part of the SPA where suitable habitat for one or more of the three species exists, or may be created in the future.

8.2.4 We recognise that English Nature has a statutory duty to deliver favourable condition across the SPA, and negotiates with MoD and other third parties in order to achieve this. However, this does not necessarily mean that there will not be areas where retention of tree cover may be necessary.

8.2.5 Such areas should be identified as part of the review of SPA management being carried out by English Nature. The justification for including such areas in the SPA may be questioned. However, it may be that they should be included in order to define clear defensible boundaries. In any event, in determining individual planning applications, proximity to areas that actually support, or have real potential to support, the important species should be a consideration.

Presence of Dartford Warbler only

8.2.6 Dartford Warbler, unlike Woodlark and Nightjar, is not ground-nesting. The strength and nature of the evidence for the effects of recreational disturbance on Dartford Warbler is weaker than that for the ground nesting species. To the extent that parts of the SPA might be proven to be only ever likely to provide habitat for Dartford Warbler, and not for the other two species, then there may be justification in revising the Zone B and C boundaries based on the nearest suitable habitat for Nightjar or Woodlark, or areas where there is the potential for such habitat. This would not affect Zone A since Dartford warbler fledglings are thought to be particularly susceptible to predation by cats.

8.2.7 As explained in an earlier section, English Nature has commissioned research to investigate the relationship between the distribution of the Annex I bird species and recreational use of the SPA that should provide relevant information.

8.3 Flexibility in applying the standards due to access restrictions on the SPA

8.3.1 In this section we consider whether there could be more flexibility in applying the standards where there are access restrictions on certain MoD sites.

8.3.2 MoD's policy is that there will be a presumption in favour of access to the defence estate wherever this is compatible with its primary military purpose. Where safety and security considerations, and the duty of care to the general public permit, MoD will seek to increase the overall amount, quality and certainty of access to the estate, while taking into account the needs and interests of tenants and environmental issues.

8.3.3 MoD land within the SPA can be divided into two classes:

- Land where there is no public access because it is within a fenced danger area, and there is no realistic prospect of future public access.
- Land where there is public access, whether at all times, or managed access for limited periods when training is not taking place

8.3.4 Where there is no public access to MoD land within the SPA, then consideration should be given to re-drawing the zones round the SPA. Zone A would not be affected by this process since it is logical to assume that the fenced danger areas will continue to be accessed by domestic cats. However Zone B and potentially Zone C could be affected. The effect of the prohibition of public access should also be taken into account in case-by-case assessments.

8.3.5 Where there is access, even if only for limited periods, then the land is available for recreational use and such access could increase should residential development occur in the area. However, given MoD's control of this land, and duties, as a Government Department, with respect to nature conservation, consideration could be given to closure of public access during the breeding season of the Annex I species (February to August inclusive). This could also mean that there could be an adjustment of the zones around land where such restrictions could be imposed and there was certainty that such restrictions would continue to be implemented in the long term.

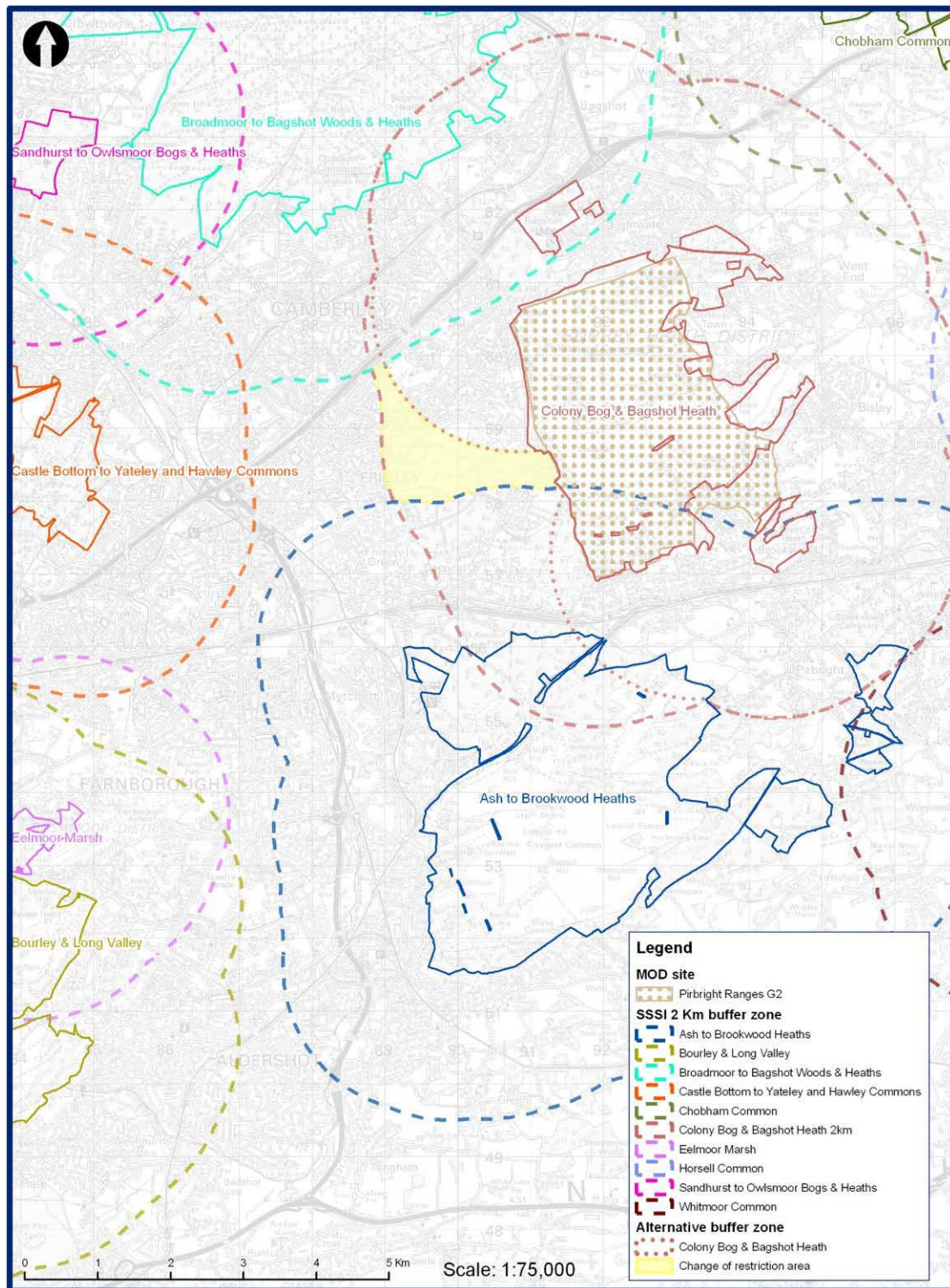
8.3.6 RPS has reviewed public access across the Army Training Estate, including the Training Areas within the area of the Thames Basin Heaths SPA (RPS 2003). Two of the MoD training areas that include land within the Thames Basin Heaths SPA have permanently closed Danger Areas. These are the Pirbright and Sandhurst Ranges. The Pirbright Ranges Danger Area covers most of the Colony Bog and Bagshot Heath SSSI. The Sandhurst Range closed Danger Area covers an area in the south west of the Broadmoor to Bagshot Woods and Heaths SSSI.

8.3.7 The western boundary of the Pirbright Ranges closed Danger Area and the SPA, extending around the north west and south west corners, are essentially coincident. To the north east, east and south, there are areas of SSSI outside the

Danger Area. We have considered whether the boundary of Zone B could be redrawn around the western edge of the Colony Bog and Bagshot Heath SSSI. The effect of this is actually very limited because of the need to account for people walking up to 2 km to the nearest accessible part of the SSSI (the new zone boundary curves round to the Danger Area) and the 2 km zones extended from surrounding SSSIs (the Broadmoor to Bagshot Woods and Heaths SSSI and the Ash to Brookwood Heaths SSSI). Most of the land that could potentially be removed from Zone B around the west of Colony Bog and Bagshot Heaths SSSI would remain in Zone B because of the influence of these factors. This is illustrated on Figure 8.1.

- 8.3.8 The Sandhurst Range closed Danger Area does not afford as high a degree of protection to the SSSI, although the boundaries are largely coincident at the western margin of the Danger Area adjacent to Owlsmoor and Broadmoor. However, there is an area of SSSI outside the Danger Area at Wildmoor Heath. Redrawing the boundary of Zone B in this area would have a very limited effect.
- 8.3.9 Whilst the presence of the MoD closed Danger Areas has relatively little effect on the defining of boundaries of zones, they may be significant in the assessment of the potential effects of individual planning applications. Later in this section we describe a possible approach to introducing a degree of flexibility into the draft Delivery Plan to enable site-specific factors to be taken into account.
- 8.3.10 In addition to these permanently closed Danger Areas, MoD owns further extensive areas of land within the SPA at Ash, Sandhurst, and Minley and Aldershot Training Areas. Much of this land is valued as recreation areas by the local population and restrictions on access beyond those commensurate with military requirements would be likely to be strongly resisted. However, where management of access could potentially have a significant effect on the boundaries of the SPA mitigation zones, appropriate measures should be considered. Examples of such areas would be the Minley and Aldershot Dry Training Area, and the northern part of Ash Ranges. MoD would need to be assured, on the basis of information provided by English Nature, that this was necessary in order to avoid conflict with its policy towards public access.

Figure 8.1: Potential zoning around the Pirbright Ranges closed Danger Area



8.4 Flexibility in applying the standards due to differences in accessibility

8.4.1 In this section we consider whether there could be more flexibility in applying the standards depending on accessibility of the SPA from the proposed development e.g. if it was separated by a major motorway or if the travel distance to the SSSI access point/car park exceeds the straight-line distance.

M3 Motorway

8.4.2 The M3 motorway is an effective barrier to the movement of people and their pets (notably dogs, and to a large extent cats). Where the motorway is adjacent to the SPA then potentially the boundaries of all three Zones could be modified.

8.4.3 The motorway dissects the Chobham Common SSSI. Since the SPA thus straddles the motorway, there is no effect on the Zones. The motorway passes to the north of the Lightwater Country Park section of the Colony Bog and Bagshot Heath SSSI. There is a footbridge over the motorway providing access to the Country Park from Bagshot. Since there is no other access over the motorway in this area, the boundary of Zone A could be redrawn based on a 400m radius from the footbridge. Whilst this would take a small part of Bagshot out of Zone A into Zone B, the effect is very limited and would be best considered in relation to individual planning applications rather than through any redrawing of the zones in this area.

8.4.4 Although the effect of the M3 on defining zones is limited, it may be a significant consideration for individual planning applications. In practice, this will usually be reflected in the travel distance to the SPA. In assessing travel distance, the likelihood of any future changes, so far as these are foreseeable, could be taken into account.

Dual carriageways and other main roads

8.4.5 The effectiveness of these other roads as barriers will depend on the level of traffic and the availability of crossing points. Since it is difficult to generalise, this could be considered in relation to individual planning applications rather than in the establishment of the general zonation. As for the M3 motorway, in practice, this will usually be reflected in the travel distance to the SPA.

Railways

8.4.6 Railways are an effective barrier to the movement of people and their dogs. However, they are likely to be less effective as a barrier to movement of cats than motorways; the movements of trains being relatively infrequent, in comparison to motorway traffic.

- 8.4.7 To the extent that the 400m buffer zone is intended to protect against predation by cats, it would probably not be appropriate to remove Zone A where railways bound the SPA. However, the presence of railways could be considered in the assessment of individual planning applications. As for major roads, in practice, this will usually be reflected in the travel distance to the SPA.

Basingstoke Canal

- 8.4.8 The Basingstoke Canal runs through the area of the Thames Basin Heaths SPA from West Byfleet in the east, through Woking, Frimley, Aldershot and Crookham towards Basingstoke to the west. The canal runs close to the western edge of Colony Bog and Bagshot Heaths SSSI, and close to and between Bourley and Long Valley SSSI and Eelmoor Marsh SSSI. As for roads and railways, the presence of the canal could be considered in the assessment of individual planning applications. Again, this will usually be reflected in the travel distance to the SPA.

Straight-line distance versus actual travel distance

- 8.4.9 The draft Delivery Plan zone boundaries are based on ‘as the crow flies’ distances from the SPA boundary, rather than, for example, from access points (draft Delivery Plan paragraph 3.4.4). This is because, English Nature states, access points can and will change, as will accessible routes to the site. Visitor survey information has been based on straight-line distances from the SPA. Thus actual distances travelled by visitors will, in some instances, be further than the straight-line distance.

- 8.4.10 Thus it is reasonable in setting generic zones to base these on straight-line distances. However, in considering the potential effects of individual developments on the SPA, then the actual travel distance from the development site to the SPA could be considered, together with the likelihood of any future changes to access arrangements to the SPA. Later in this section we describe a possible approach to introducing a degree of flexibility into the draft Delivery Plan to enable such site-specific factors to be taken into account.

Existing urban development adjacent to the SPA

- 8.4.11 In some places existing urban development directly abuts the SPA and any new residential development would be placed further from the SPA than that existing development. The existing development may be giving rise to adverse effects on the SPA, eg recreational access, cat predation, fly tipping and arson (Rose and Clark 2005). What is not clear is the scale and significance of any additional effect arising from further dwellings within 400m of the SPA, but further from the SPA. Several effects could be argued that are logical but not at this stage backed by conclusive evidence. These are:

- Any additional cats introduced by such development would find themselves in an area where the existing cat population has established territories closer to the SPA. The movement of the ‘new development’ cats towards the SPA is

likely to be restricted by the presence of those existing, intervening territories. The result is that the ‘new development’ cats would not lead to any new or additional impact on the SPA.

- New residents in such situations will generally find that there is no direct route to the SPA and that if the SPA is to be visited this involves walking through a network of residential roads. The longer is their travel time on foot to the SPA, the more likely they are to resort to a car journey to a more accessible recreation area. Whilst this may still be part of the SPA, it would be more appropriate to treat such development as requiring mitigation, that is within Zone B, rather than to preclude it altogether.
- The existing development may give rise to such significant impacts to the SPA (disturbance, predation, degradation of habitats) that the Annex I species are deterred from using the adjacent heathland. In such some circumstances additional development will not cause further impact, a threshold having been passed.

8.4.12 Whilst evidence is currently lacking, if such factors can be demonstrated to be true then this would be an argument for a reduction in width, or complete removal, of Zone A in such localities where there is existing urban development abutting the SPA. Instead of a presumption of no further residential development within 400m, the proposed development should be treated as if it is in Zone B. The outer limit of Zone B would not be affected in such cases.

8.5 Flexibility in applying the standards due to the nature of the residential development

8.5.1 In this section we consider whether there could be more flexibility in applying the standards depending on the nature of the residential development e.g. if specific restrictions were to be placed on the occupation of the dwelling or if for cultural reasons it would only attract a certain sector of the community. English Nature has had regard to some such potential for flexibility, both within the Delivery Plan, and also in the course of its work with individual LPAs.

8.5.2 Features of proposed residential developments which may be important in consideration of their potential for giving rise to adverse effects on the SPA include whether they consist of apartments rather than houses, whether there are parking restrictions for the proposed dwellings, and developments comprising retirement homes.

Flats rather than houses

8.5.3 It is possible that dog ownership may be less prevalent in developments of apartments rather than houses. However, we have not identified any evidence that confirms this.

Restrictions on car parking spaces in town centre developments

- 8.5.4 No evidence has been located to confirm that that restrictions on parking would necessarily preclude visits to the SPA. Visits could still be made on foot or using public transport, and it may be possible for a resident to find parking places in the locality outside the development itself.

Residences for the elderly

- 8.5.5 English Nature acknowledge in the draft Delivery Plan (paragraph 2.2.6) that developments within the C2 Use Class (Residential Institutions comprising residential care homes, hospitals, nursing homes, boarding schools, residential colleges and training centres) should be considered on a case-by-case basis. The Delivery Plan recognises that, in general, developments such as hospitals and nursing homes would not be considered to have a likely significant effect on the SPA. Residential care homes, where the residents have limited mobility or are considered unlikely to visit because of case specific circumstances, for example where the site is beyond walking distance and the proposed development has no residents' parking, are also unlikely to have an impact. If such developments include accommodation for staff, the draft Delivery Plan standards would have to be applied to the residential staff complement. However, sheltered accommodation falling within Use Class C3 where residents may still be active, and thus likely to use the SPA, would be covered by the draft Delivery Plan.

- 8.5.6 Such classification of the residents is based upon their degree of mobility and can be directly related to the likelihood of accessing the SPA. Classification based on age is a much less reliable measure of likelihood to access the SPA. Different treatment within zoning would not be sensible based on a definition relating to 'retired' or 'eligible for a state pension' since many people of retired status or pensionable age are still very active. Such people are actively being encouraged to take part in walks in the countryside through programmes such as the Countryside Agency and British Heart Foundation's 'Walking the Way to Health'.

Pet prohibition covenants

- 8.5.7 A number of applicants have proposed pet prohibition covenants to prevent occupants of new dwellings from owning cats and dogs. Covenants preventing ownership of cats would only be relevant were development to be permitted within Zone A (i.e. within 400m of the SPA). Prohibition of dog ownership would be relevant for development within all zones since dog walking is a major reason for visits to the SPA. Taken overall the visitor surveys indicate that a very high proportion of visits to the SPA are for dog walking.

- 8.5.8 The enforceability of such covenants has been questioned. There have been cases where Planning Inspectors have permitted development where such covenants have been proposed for a development that would comprise managed apartments. The management company would be responsible for ensuring, and have the power to enforce, compliance with the covenant. To some degree enforceability of such covenants would be expected to be aided by the residents themselves.

Enforceability of covenants would be expected to be much easier to achieve for dogs than cats. In the case of cats, ownership can be very uncertain.

- 8.5.9 Thus the proposal of a covenant precluding ownership of dogs should be an important consideration for planning applications for apartments, controlled by a management company with the necessary authority, within Zones B and C.

8.6 Flexibility in applying the standards due to the nature of the surrounding recreational resource

- 8.6.1 In this section we consider whether there could be more flexibility in applying the standards depending on the nature of the recreational resource surrounding any proposed new residential development.

Availability of non-SPA recreation areas with spare capacity for access nearer than SPA

- 8.6.2 The presence of alternative recreation space more conveniently situated with respect to proposed development than the SPA is clearly an important consideration, particularly since the basis of the draft Delivery Plan is to provide such alternative open space to attract new residents away from the SPA. It is difficult to assess the degree to which existing open space has spare capacity. The ability of such open space to absorb additional visitors depends on many factors in addition to the size of the open space and the number of existing users, including the presence of paths providing a range of walking routes in a varied landscape, the ability to allow dogs off the lead, and the availability of car parking.

- 8.6.3 The availability of open space of a suitable size and character, more conveniently situated in relation to new development than the SPA, should be considered in assessing individual planning applications.

8.7 Consideration of individual planning applications.

- 8.7.1 Some of the factors considered above could have potentially affected the definition of the Planning Zones around the SPA. As indicated (together with other factors referred to) they are also potentially relevant in the consideration of individual planning applications. In this section we consider how some flexibility could be introduced into the draft Delivery Plan to enable site-specific factors to be taken into account.

- 8.7.2 English Nature's draft Delivery Plan is a response to the difficulties of making case-by-case assessments for a large number of planning applications for residential development across the area where there may be adverse effects of such development on the SPA (draft Delivery Plan paragraph 2.1.3). The lack of a consistent approach between local planning authorities, or a clear methodology for assessing in-combination effects, results in uncertainty for developers over information requirements and planning outcomes.

8.7.3 Decisions by Planning Inspectors on appeal have also appeared to lack consistency. For example some Inspectors have accepted that where the travel distance to the SPA is more than 5km, then it could be concluded that there would be no likely significant effect. Others have considered only the straight-line distance. Some Inspectors have accepted the efficacy of pet prohibition covenants in managed apartments, whilst others have not. Some Inspectors have acknowledged that the existence of alternative open space more conveniently located with respect to the development is a significant consideration, whilst others have not. We accept that each decision is made on the basis of the evidence presented and each case is decided on its merits. However, there is a perception that decisions have been inconsistent.

8.7.4 Whilst the draft Delivery Plan provides a mechanism for delivery of housing, it has been criticised for being too rigid, and not allowing site-specific considerations to be taken into account. English Nature responds to such criticism by pointing out that (draft Delivery Plan paragraph 3.4.6)

“It will be open to any applicant to provide the information to enable a planning authority to carry out an appropriate assessment and demonstrate, for example, that in a particular instance the obstacles between the development and the SPA are such that there is no short or long-term risk of recreational disturbance or other impacts resulting from access by the developments future occupants. In such a case it could be argued that the development should be treated as if it was located within a different Zone or, in exceptional cases, to not require mitigation for recreational impacts at all...”

8.7.5 However, English Nature go on to say in the same paragraph that:

“...It should be noted however that such assessment is likely to be onerous and would require assessment in combination with other plans or projects around the whole SPA.”

8.7.6 Since the draft Delivery Plan presents no means of carrying out such an assessment, this effectively renders such site-specific considerations impractical.

8.8 An alternative mechanism

8.8.1 We suggest that there is a need for a mechanism for introducing flexibility into the consideration of individual planning applications through the draft Delivery Plan, allowing site specific considerations to be taken into account, whilst at the same time retaining certainty regarding information requirements and outcomes which the draft Delivery Plan seeks to deliver. A suggested framework for such a methodology is set out at Appendix G.

8.8.2 The proposed mechanism takes account of a range of factors that have been suggested as important in considering residential planning applications in the areas affected by the SPA. English Nature’s Delivery Plan only takes into account one factor; the straight-line distance of the residential development site from the SPA.

We have attempted to introduce consideration of other factors which are of relevance, and which modify the risk that a development at a given distance from the SPA will have an adverse effect.

- 8.8.3 It is only a first draft of a methodology. It has not been subject to any consultation, other than review by the project Steering Group, and would benefit from such consultation and refinement. However, it is put forward as the basis of an approach that we believe has merit. It cannot be implemented in its current form by a LPA because it is not supported, at present, by a sufficient evidence base. The need for such an evidence base to support any alternative decision making process has been clearly stated in the legal opinion provided as part of this report (Appendix J).
- 8.8.4 In considering whether such a mechanism should be applied, it is important to consider the potential harm if a planning application was permitted which might have an adverse effect on the SPA.
- 8.8.5 The housing allocation for the area within 5km of the SPA is some 40,000 dwellings. Assuming an occupancy rate of 2.4, this gives a 'new' population of 96,000 people.
- 8.8.6 The existing population of the local authority wards within this same area, based on the 2001 census data, is some 688,000. Thus, assuming all the residents of the new dwellings are new to the area, there would be an increase in population of some 14% over some 10 years. Assuming the rate of pet ownership, and the recreation patterns of the 'new' population, are the same as the existing population, then the percentage increase in recreational use of the SPA would be expected to be the same.
- 8.8.7 In the absence of any specific mitigation measures for the new dwellings, in order for there to be no effect of the new population on the SPA, the access management prong of the draft Delivery Plan must result in 14% of the existing residents changing their behaviour in such a way as to avoid adverse effects on the SPA. This is the worst case where no mitigation at all is provided for the new dwellings. In practice, mitigation would be provided in accordance with the draft Delivery Plan, modified to take account of site-specific factors as set out in Appendix G. The expectation would be that these measures would be effective. The methodology would be kept under review and modified as required to take account of experience and research. Revisions of the methodology would be publicised and would apply to all planning applications submitted after the date of publication. Applications already submitted would continue to follow the methodology as it applied at the date of submission. It would be open for the applicant to withdraw the application and re-apply if the revised methodology was more advantageous.
- 8.8.8 The delivery of 40,000 homes is projected over a period of some 10 years. Thus the annual incremental growth of population, and thus recreational use of the SPA, assuming that these are all new residents to the area, would be only some 1.4%.

As we have suggested in an earlier section, development of a number of small sites could be permitted without the likelihood of adverse effects on the SPA. We have suggested a threshold of 1% as a suitable level but are aware that the setting of such a threshold, without the necessary evidence base, will fail the tests of the Directive (Appendix J).

8.9 Conclusions

- 8.9.1 A number of factors have been identified which may affect the setting of zoning, mitigation standards and determination of individual planning applications. In the identification of such factors there has yet to be a test of their conformity, or not, with the Birds and Habitats Directives.

Flexibility in applying the standards due to the nature of the SPA

- 8.9.2 Where the SPA includes forestry plantations and there is no prospect of either heathland restoration, or rotational forestry, then there may be justification in redrawing the boundaries of the zones. To the extent that parts of the SPA might be proven to be only ever likely to provide habitat for Dartford Warbler, and not for the other two species, then there may be justification in revising the Zone B and C boundaries based on the nearest suitable habitat for Nightjar or Woodlark.

Flexibility in applying the standards due to access restrictions on the SPA

- 8.9.3 The western boundary of the Pirbright Ranges closed Danger Area and the Colony Bog and Bagshot Heath SSSI are essentially coincident. To the north east, east and south, there are areas of SSSI outside the Danger Area. We have considered whether the boundary of Zone B could be redrawn here. The effect of this is actually very limited because of the location of this SSSI in relation to the Broadmoor to Bagshot Woods and Heaths SSSI and the Ash to Brookwood Heaths SSSI. Most of the land that could potentially be removed from Zone B around the Colony Bog and Bagshot Heaths SSSI would remain in Zone B because of one or other of the other two SSSIs.

- 8.9.4 In addition to these permanently closed Danger Areas, MoD owns further extensive areas of land within the SPA at Ash, Sandhurst, and Minley and Aldershot Training Areas. Where management of access could potentially have a significant effect on the boundaries of the SPA mitigation zones, appropriate measures should be considered. Examples of such areas would be the Minley and Aldershot Dry Training Area, and the northern part of Ash Ranges. MoD would need to be assured, on the basis of information provided by English Nature, that this was necessary in order to avoid conflict with its policy towards public access.

Flexibility in applying the standards due to differences in accessibility

- 8.9.5 The M3 motorway passes to the north of the Lightwater Country Park section of the Colony Bog and Bagshot Heath SSSI. There is a footbridge over the motorway providing access to the Country Park from Bagshot. Since there is no other access

over the motorway in this area, the boundary of Zone A could be redrawn based on a 400m radius from the footbridge. Whilst this would take a small part of Bagshot out of Zone A into Zone B, the effect is very limited and would be best considered in relation to individual planning applications rather than through any redrawing of the zones in this area.

- 8.9.6 The effectiveness of other roads as barriers will depend on the level of traffic and the availability of crossing points. These are matters that could be considered in relation to individual planning applications. This will usually be reflected in the travel distance to the SPA. The presence of railways and the Basingstoke Canal should be considered in the assessment of individual planning applications, and as for major roads this will usually be reflected in the travel distance to the SPA.
- 8.9.7 It is reasonable in setting generic zones to base these on straight-line distances. However, in considering the potential effects of individual developments on the SPA, then the actual travel distance from the development site to the SPA could be considered.
- 8.9.8 If the effects of existing urban development between proposed development sites and the SPA can be demonstrated to reduce the likelihood of potential impacts on the SPA then this is an argument for a reduction in width or complete removal of Zone A in such localities where there is existing urban development abutting the SPA. Instead of a presumption of no further residential development within 400m, the proposed development should be treated as if it is in Zone B. The outer limit of Zone B would not be affected in such cases.

Flexibility in applying the standards due to the nature of the residential development

- 8.9.9 It is possible that dog ownership may be less prevalent in developments of apartments rather than houses. However, we have not identified any evidence that confirms this. No evidence has been located to confirm that that no parking provision on residential developments would necessarily preclude visits to the SPA.
- 8.9.10 In general, developments such as hospitals and nursing homes would not be considered to have a likely significant effect on the SPA. Residential care homes, where the residents have limited mobility or are considered unlikely to visit because of case specific circumstances, for example where the site is beyond walking distance and the proposed development has no residents' parking, are also unlikely to have an impact. If such developments include accommodation for staff, the draft Delivery Plan standards would have to be applied to the residential staff component.
- 8.9.11 The proposal of a covenant precluding ownership of dogs should be an important consideration for planning applications within Zones B and C for apartments controlled by a management company with a power to enforce the covenant.

Flexibility in applying the standards due to the nature of the surrounding recreational resource

- 8.9.12 The availability of open space of a suitable size and character, more conveniently situated in relation to new development than the SPA, should be considered in assessing individual planning applications.

Consideration of individual planning applications

- 8.9.13 We suggest that there is a need for a mechanism for introducing flexibility into the consideration of individual planning applications through the draft Delivery Plan, allowing site specific considerations to be taken into account, whilst at the same time retaining certainty regarding information requirements and outcomes which the draft Delivery Plan seeks to deliver. We suggest a methodology that takes account of a range of factors that have been identified as important in considering residential planning applications in the areas affected by the SPA.

A note of caution

- 8.9.14 These conclusions are presented in this section of the report prior to having been tested against the requirements of the Birds and Habitats Directives and they represent a record of the breadth of consideration of complementary approaches. The testing against the Directives was carried out as part of the legal opinion that is presented in Appendix J. The findings of the legal opinion and how they apply to these options for flexibility are discussed in sections 11, 13 and 14.