# Knoll House Hotel, Studland, Dorset

## Ecology Proof of Evidence of Dr R Brookbank

Prepared on behalf of

Kingfisher Resorts Studland Ltd.

PINS Reference: APP/D1265/W/24/3348224

LPA Reference: P/FUL/2022/06840

Final Report

18 November 2024

3227-1B

# Knoll House Hotel, Studland, Dorset

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## 1. SUMMARY

1.1 This Appeal was submitted in response to the refusal by Dorset Council (DC) of the planning application (ref: P/FUL/2022/06840) for redevelopment of the existing Knoll House Hotel located on Ferry Road, Studland, Dorset.

1.2 This Proof of Evidence concerns matters relating to ecology and nature conservation raised by DC and has been prepared by Dr Rebecca Brookbank, Technical Director at Ecological Planning & Research Ltd. (EPR), on behalf of Kingfisher Resorts Studland Ltd. ('the Appellant').

1.3 Though I was not involved at the planning application stage, I have worked closely with the Appellant's consultant team to familiarise myself with the proposals. I have reviewed all relevant planning application material, including the Ecology Chapter of the Environmental Statement and the shadow Habitats Regulations Assessment (sHRA) produced by Ecology Solutions, and all correspondence with DC, Natural England, and other stakeholders. I have also visited the site, staying overnight with my dog, to understand the site's context within the wider landscape and how the existing hotel operates.

1.4 In my Proof of Evidence, I have set out the planning and ecological background of relevance to this Appeal, including the survey and assessment work that has been carried out and the mitigation and enhancement strategy that is proposed to ensure compliance with relevant policy and legislation, including in relation to Biodiversity Net Gain (BNG).

1.5 With regards to DC's ecology-related Reasons for Refusal (RfR), which include RfR 2, 4 but also 3, I provide an update on progress towards agreeing common ground with DC. Though some details remain outstanding insofar as RfR 3 and 4 are concerned, in my view the issues should be capable of being overcome.

1.6 Much of my evidence therefore focusses on matters underpinning RfR 2, which concerns the Habitats Regulations Assessment (HRA) of the Appeal Proposal, where discussion between the parties has established that the principal outstanding matter relates to the potential for an increase in recreational pressure on adjacent designated sites - the Dorset Heathlands and Poole Harbour.

1.7 I have reviewed the issues that have been raised by NE and DC both in relation to the planning application that is the subject of this appeal, and the previous planning application, and I have reviewed the nature of the existing Knoll House Hotel operation and have considered the net impacts (positive or negative) that would arise in light of the proposed redevelopment.

1.8 It is agreed that the Appeal Proposal will achieve a quantifiable, controllable, net reduction in overnight occupancy, which is the development component with the greatest potential to contribute material pressure to the designated sites.

1.9 However, DC maintain that there is insufficient certainty regarding future visitor numbers which introduces a requirement for mitigation, and that uncertainty remains regarding the delivery of

mitigation measures, meaning that overall the potential for adverse effects on site integrity to arise cannot be ruled out.

1.10 In my view, the Council's position stems from a failure to understand or accept the context of the hotel's existing operation and the particular way in which the new resort is proposed to operate. I have sought, within my evidence, to demonstrate that the measures proposed by the Appellant will in fact deliver a betterment to the baseline situation - as it relates to visitor access to the surrounding designated sites - in a number of important respects, which will help to support the achievement of the European Site Conservation Objectives rather than hinder.

1.11 On the above basis, it should be possible for likely significant effects from increased recreational pressure to be 'screened out' at the Screening Stage of the HRA process, as was the conclusion reached in the Shadow HRA. However, taking into account the net reduction in overnight occupancy and the suite of additional beneficial controls proposed, in my opinion there can be certainty beyond reasonable scientific doubt as to the absence of adverse effects on the respective International Sites, both as a result of the Appeal Proposal alone and in combination with other plans and projects, in the event that an Appropriate Assessment is undertaken. Therefore, irrespective of the HRA test engaged, as determined by the competent authority, in my view a positive HRA conclusion should be capable of being reached.

1.12 In my view, therefore, the Appeal Proposal can be delivered in full compliance with the Conservation of Habitats and Species Regulations 2017 (as amended), as well as other nature conservation legislation and planning policy, such that there are no valid ecology and nature conservation grounds for this Appeal to be dismissed.

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# 1. INTRODUCTION

## Scope of Evidence

1.1 This Proof of Evidence has been prepared to inform a planning appeal made by the Appellant under Section 78 of the Town and Country Planning Act 1990 and in accordance with the Town and Country Planning (Inquiries Procedure) (England) Rules 2000/1624.

1.2 This Appeal was submitted in response to the refusal by Dorset Council (DC) of the planning application (ref: P/FUL/2022/06840) for redevelopment of the existing Knoll House Hotel located on Ferry Road, Studland, Dorset (hereafter referred to as 'the Site, the location of which is shown on **Map 1**).

1.3 The full description of the proposed development is as follows:

> *"Redevelopment of existing hotel to provide new tourist accommodation including: 30 hotel bedrooms, apartments and villa accommodation and associated leisure and dining facilities."*

1.4 This Proof of Evidence concerns matters relating to ecology and nature conservation raised by DC and has been prepared by Dr Rebecca Brookbank, Technical Director at Ecological Planning & Research Ltd. (EPR), on behalf of Kingfisher Resorts Studland Ltd. ('the Appellant').

## Qualifications and Experience

1.5 I am Dr Rebecca Brookbank, Technical Director at Ecological Planning & Research Ltd (EPR), Consulting Ecologists based in Winchester. I hold the degree of Bachelor of Science with Honours in Biology, and a Doctorate in Plant Community Ecology, at the University of Southampton. I am also a Full Member of the Chartered Institute of Ecology and Environmental Management (CIEEM).

1.6 I have worked in ecological consultancy since 2007. During my career to date, I have carried out Ecological Appraisals and Ecological Impact Assessments (EcIA), completing a variety of protected species surveys (amphibians, reptiles, bats, dormice, badger, holding Class Survey Licences for Great Crested Newt and Dormice) and designing mitigation strategies. Most recently, I have closely followed the evolution of Biodiversity Net Gain (BNG) assessment, having been involved in Natural England's early stakeholder consultation workshops during the development of the Defra biodiversity metric.

1.7 My principal area of expertise is collating bespoke information for project-level Habitats Regulations Assessment (HRA). I have assessed potential effects, chiefly from recreational pressure and air pollution, arising from large residential development proposals on the Wealden Heaths (Phase II) Special Protection Area (SPA) (and component Woolmer Forest Special Area of Conservation (SAC)), the Thames Basin Heaths (TBH) SPA, the Dorset Heath(land)s SAC/SPA/Ramsar, Epping Forest SAC and the Chilterns Beechwoods SAC. I have developed

bespoke Impact Avoidance and Mitigation Strategies (IAMS) in close consultation with Natural England (NE), including the design of bespoke Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring (SAMM) to address recreational pressure effects, as well as air quality mitigation and monitoring.

1.8 I have also carried out strategic HRA work and have contributed towards the evolution of Industry knowledge and guidance on SANG design and Air Quality Assessment. This has included the design of an outline access management strategy for parts of the Wealden Heaths SPA (including Woolmer Forest SAC) on behalf of East Hampshire District Council in 2012; statistical analysis of vegetation data to inform EPR's New Forest Air Quality Ecological Mitigation Plan in 2018; visitor monitoring of the TBH SPA on behalf of NE also in 2018; and in 2020 I reviewed the approach to SANG delivery in the context of the TBH SPA on behalf of Hart, Rushmoor and Surrey Heaths Councils, the results of which helped to inform NE's 2021 update of their SANG Quality Guidelines. In 2020 I also acted as a contributing author to CIEEM's advisory document 'Ecological Assessment of Air Quality Impacts', which was later published in January 2021.

1.9 I have acted as Expert Witness on Ecology and HRA matters in a number of Appeal Inquiries and in relation to a number of different International sites, including:

- 2014 - the successful Magna Business Park Appeal in Poole (APP/Q1255/A/13/2204098) concerning recreational pressure on the Dorset Heath(land)s SAC, SPA and Ramsar site;
- 2017 - the Wisley Airfield Appeal in Guildford Borough (APP/Y3615/W/16/3159894), concerning recreational pressure and air pollution on the TBH SPA. Although this Appeal was dismissed on non-ecological grounds, the Inspector agreed that that the scheme would not result in likely significant effects on the SPA. The Wisley Airfield site was subsequently allocated in the Guildford Borough Local Plan: Strategy and Sites (2015-2034) following Local Plan Examination and subsequent High Court challenge ([2019] EWHC 3242 (Admin)) which drew upon the evidence collated in relation to the Wisley Airfield Appeal proposals;
- 2021 - the successful Epping Forest College Appeal in Epping Forest (APP/J1535/W/20/3258787) concerning air quality effects on Epping Forest SAC;
- 2023 – the successful Brocks Pine Surf Lagoon Appeal in Dorset (APP/D1265/W/23/3325232), concerning recreational pressure, loss of offsite supporting habitat, BNG and Environmental Net Gain on the Dorset Heath(land)s SAC and SPA;
- 2023 – the second Wisley Airfield Appeal in Guildford Borough (APP/Y3615/W/23/3320175), concerning recreational pressure and air pollution on the TBH SPA, in addition to wide ranging EcIA (challenges regarding protected species survey and mitigation) and BNG matters. The appeal was allowed on 24 May 2024; and
- 2024 – the Alderholt Meadows Appeal in Dorset (APP/D1265/W/23/3336518), concerning recreational pressure and impacts on supporting habitat for Nightjar in relation to the Dorset Heath(land)s SAC, SPA and Ramsar site, Phosphate mitigation for the River Avon SAC and Avon Valley Ramsar site to secure nutrient neutrality, and air quality and recreational pressure effects on the New Forest International Sites. Though the Appeal was dismissed, the ecology issues were successfully overcome by the close of the Inquiry.

1.10 With regards to my involvement with this Appeal, EPR was appointed by the Appellant in October 2024 to provide Expert Witness support, to liaise with relevant stakeholders (in particular NE) to agree matters of common ground and to finalise the Biodiversity Plan following feedback from the Dorset Natural Environment Team (NET).

1.11 In familiarising myself with the background to this Appeal I have reviewed all relevant planning application material, including the Ecology Chapter of the Environmental Statement and shadow Habitats Regulations Assessment (sHRA) produced by Ecology Solutions, historic correspondence with NE regarding the current proposal and previous planning application, and DC's Committee Report and Statement of Case.

1.12 Having visited the area numerous times over the years I was already familiar with the Appeal site location prior to my instruction. Nevertheless, I carried out a site visit on 11 November 2024 prior to the deadline for exchange of evidence in order to fully understand the Appeal site context and existing hotel offering, staying overnight with my dog.

## Structure of My Evidence

1.13 The purpose of my evidence is to explain, for the benefit of the Inquiry, why in my professional opinion there are no valid ecological or nature conservation grounds for dismissing this Appeal.

1.14 I will refer to evidence contained within the listed Core Documents (CD), including reports and documents submitted to DC pursuant to the planning application, with CD references provided in **bold text**. CDs that have not, at the time of writing, been assigned a reference number are labelled as '**CDX**'.

1.15 The structure of my evidence is as follows:

- In **Section 2**, I set out the planning and ecological background of relevance to the Appeal Proposal. I explain:
  - the nature conservation legislation and planning policies that have informed the design and assessment of the Appeal Proposal;
  - the survey work that has been carried out to inform ecological assessment;
  - the important ecological features that have been identified on site through survey work, which have been subject to robust assessment; and
  - the comprehensive mitigation and enhancement strategy proposed to ensure compliance with relevant policy and legislation, including in relation to Biodiversity Net Gain (BNG).

  At the end of **Section 2** I set out the ecology-related Reasons for Refusal (RfR) and provide an update on progress towards agreeing common ground with DC, insofar as I am able at the time of writing.
- In **Section 3**, I respond to the Council's RfR 2, giving an overview of the chronology of issues raised by NE and DC which have informed the RfR. Here, I set out my understanding of the issues, and the position reached with NE and DC at the time of writing, making reference to the Topic-specific HRA Statement of Common Ground (SoCG).

I then explain why the issues that DC and NE maintain as being contrary to the requirements of the Habitats Regulations and planning policy arise from a failure to understand or accept the nature of the hotel's existing operation and the particular way in which the new resort is proposed to operate. I demonstrate that the Appeal Proposal will in fact deliver a betterment to the baseline situation in a number of important respects, which will help to support the achievement of the European Site Conservation Objectives, rather than hinder.

- Finally, in **Section 4**, I provide a summary of matters of key relevance to the determination of this Appeal and explain why there can be certainty beyond reasonable scientific doubt as to the absence of adverse effects on International Sites. I also summarise the multitude of beneficial environmental effects that would arise from the proposed hotel redevelopment, and therefore set out my view, which is that there are no valid ecology and nature conservation related reasons for this Appeal to be dismissed.

## Declaration

1.16 The evidence that I have prepared and provide for this Appeal (PINS reference APP/D1265/W/24/3348224) in this Proof of Evidence is true and has been prepared and is given in accordance with the guidance of my professional institution, the Chartered Institute of Ecology and Environmental Management. I confirm that the opinions expressed are my true and professional opinions.

# 2. PLANNING & ECOLOGY BACKGROUND

## Legislation & Policy Context

2.1 Key nature conservation legislation, planning policy and guidance documents of relevance to this Appeal are summarised below:

Nature Conservation Legislation

- The Biodiversity Net Gain (Town and Country Planning) (Modifications and Amendments) (England) Regulations 2024;
- Environment Act 2021;
- The Conservation of Habitats and Species Regulations 2017 (as amended) (the 'Habitats Regulations');
- Wildlife & Countryside Act 1981 (as amended);
- The Countryside and Rights of Way (CROW) Act 2000;
- The Natural Environment and Rural Communities (NERC) Act 2006; and
- The Protection of Badgers Act 1992;

Planning Policy

- National Planning Policy Framework (2023);
- Purbeck Local Plan 2018-2034 (Adopted July 2024)(**CD4.3**);
    - Policy E8 Dorset Heathlands;
    - Policy E9 Poole Harbour;
    - Policy E10 Biodiversity and Geodiversity;
    - Policy I3 Green Infrastructure, Trees and Hedgerows
- The Dorset Heathlands Planning Framework 2020-2025 Supplementary Planning Document (**CD5.6**);
- Poole Harbour Recreation 2018-2024 Supplementary Planning Document (**CDX**);
- The Dorset Heathlands Interim Air Quality Strategy 2020-2025 (**CDX**); and

Guidance

- Government Circular 06/05: Biodiversity and Geological Conservation (2005);
- Planning Practice Guidance (last updated February 2024);
- British Standard BS42020:2013 Biodiversity – Code of practice for planning and development (2013);
- Chartered Institute of Ecology and Environmental Management (CIEEM) Guidelines for Ecological Impact Assessment in the United Kingdom and Ireland: Terrestrial, Freshwater, Coastal and Marine version 1.3 (2024);
- Biodiversity 2020: A Strategy for England's Wildlife and Ecosystem Services (2011);

- The 25 Year Environment Plan (2018);
- Dorset Biodiversity Appraisal Protocol (2023);
- Dorset Biodiversity Strategy (2003);
- NE's Habitat Networks (England) maps, viewed via the Multi-agency Government Information for the Countryside (MAGIC) map and downloaded via NEs Open Data Geoportal; and
- Dorset Ecological Network maps viewed via the interactive Dorset Explorer map (Dorset Local Nature Partnership, 2020).

## Site Description & Physical Environment

2.2 The Appeal Site is located to the west of Ferry Road and to the north of Studland village, Dorset. The site extends to just under 2ha and comprises buildings and hardstanding, with small areas of grassland, shrubs and scattered trees.

2.3 The Appeal Site sits within a 'Wider Study Area', as referenced in the application documents, which includes land managed by the Appellant leased from the National Trust. This 'blue line' land includes a 9-hole 'pitch and putt' golf course and tennis courts set amongst acid grassland and scrub located to the east of Ferry Road, with mixed woodland located to the north and west of the hotel and grassland to the south.

2.4 The Wider Study Area is flanked by the lowland heathland designated sites to the north and west, by Knoll Beach in the centre of Studland Bay to the east, and with Studland Village to the south. The Appeal Site location is shown on **Map 1**.

2.5 The majority of the Appeal Site sits atop a bedrock of Parkstone Sand Member, whilst the outer edges of the site and immediately surrounding area (including the woodland within the Wider Study Area and adjacent mire habitats currently subject to restoration by the National Trust) are underlain by bedrock of the Broadstone Clay Member. These two sand and clay bedrock geologies extend in a mosaic across the surrounding area until the bedrock geology transitions to the Poole Formation comprising sand, silt and clay at the shores of Poole Harbour, and to various Chalk Formations that make up the Purbeck Ridgeway to the south.

2.6 The Appeal Site and almost all of the Wider Study Area fall within Soilscape 15 which is characterised by 'Naturally wet very acid sandy and loamy soils', as defined by LandIS. These soils are of very low fertility and are often associated with 'mixed dry and wet lowland heath communities'.

2.7 In terms of landscape setting, the Appeal Site sits within the Dorset Heaths National Character Area (no.135) and the Dorset Area of Outstanding Natural Beauty (AONB), at the top of Knowl Hill. Knowl Hill and the current Knoll House Hotel, which has been in operation since 1931, overlooks Studland Bay with views of the famous Old Harry Rocks.

2.8 The historic Ordnance Survey maps dating to the late 1800's show Knowl Hill with a complete cover of coniferous woodland prior to the hotel's construction in the early 1900's, with a mosaic of rough pasture, 'furze' (another term for gorse) and marsh across the surrounding land.

## Proposed Development

2.9 The planning application proposed the delivery of the following elements of tourist accommodation:

- 30 bed hotel;
- 16x 2 bed apartments
- 2x 3 bed apartments
- 6x 2 bed villas
- 20x 3 bed villas; and
- Associated dining and leisure facilities, including a spa building.

2.10 The Appeal Proposal, both in terms of its built form, hard and soft landscaping, and proposed operation, is described in more detail in the various planning application documents, including the Design and Access Statement (DAS)(**CD1.40**), technical content within the Environmental Statement (ES) (**CD1.59**) and the Operations Report (**CD1.61**).

2.11 A package of wider measures has been developed, in consultation with key stakeholders and informed by the survey and assessment work carried out, as presented in the ES and summarised below in relation to ecology, to ensure a sensitively designed scheme that will make a positive contribution to the local area. A summary of the measures of relevance to ecology and nature conservation, and the way in which they will be secured in legal or planning terms, is provided in **Table 2.1**. Some of the measures are also illustrated indicatively on **Map 2**.

**Table 2.1: Summary of measures proposed**

| Measure | Detail | Mechanism for Securement | Mitigation/Enhancement |
|---|---|---|---|
| Restriction on use | Further to controls inherent in existing Planning Orders, to restrict operation to the provision of tourist accommodation | S106 | Enhancement - beneficial control over the baseline |
| Dog Permit Scheme | Specifications for the restriction and management of dog numbers on site | S106 | Enhancement - beneficial control over the baseline |
| Spa Membership Scheme | Details for the restriction of access to the Spa for guests and local residents only | S106 | Enhancement - beneficial control over the baseline |
| Travel Plan | Details of green travel initiatives, including EV charging | S106 | Enhancement – beneficial effect on sustainable travel |

| Measure | Detail | Mechanism for Securement | Mitigation/Enhancement |
|---|---|---|---|
| Shuttle Bus Scheme | Details for staff transport provision, including routes, frequency and timing | S106 | Mitigation - to prevent an increase in trip rates during operation |
| Construction Environmental Management Plan (CEMP) | Specifications for the management of environmental impacts during demolition, site clearance and construction | Planning condition | Mitigation - to prevent impacts during construction |
| Landscape Ecological Management Plan (LEMP) | Habitat creation and management specifications for all new and restored biodiversity habitats within the Appeal Site and Wider Study Area, to include specifications for dog walking loop, associated signage and provision of dog bins | Planning condition | Enhancement - compared to the baseline |
| Lighting Strategy | Details of internal and external lighting specifications to manage obtrusive light spill | Planning condition | Mitigation - to prevent impacts during operation |
| Drainage Strategy | Details of measures for surface water attenuation | Planning condition | Enhancement - beneficial control over the baseline |
| Boundary fencing | Specification for fencing to restrict access to the west into protected heathland | Planning condition | Enhancement - beneficial control over the baseline |
| Car Park Management Strategy | Details for the management of car parking on site, including quantum and use | Planning condition | Enhancement - beneficial control over the baseline |
| Visitor Information Packs | To provide information regarding nearby sites and responsible countryside access | Planning condition | Enhancement - improvement to existing information |

## Ecological Survey & Assessment Work

### *Survey Work*

2.12 Ecological assessment of the Appeal Proposals has been informed by baseline surveys carried out over a number of years. Focus Ecology carried out surveys between 2017-2019 to inform the previous planning application, then Ecology Solutions carried out further surveys to inform the most recent planning application (now being considered through appeal) during 2022. A summary of the baseline ecology surveys carried out is provided in **Table 2.2**.

**Table 2.2: Summary of baseline data collection**

| Data Collection | Consultant Lead, Date |
|---|---|
| Preliminary Ecological Appraisal | Focus Ecology, August 2017 |
| Internal/external building assessment for bats | Focus Ecology, August 2017 |
| Bat emergence/re-entry surveys | Focus Ecology, August & September 2017 |
| NVC Survey | Focus Ecology, July 2018 |
| Reptile surveys | Focus Ecology, June 2019 |
| Phase 1 Habitat Survey | Ecology Solutions, 2022 |
| Badger Survey | Ecology Solutions, October 2022 |
| Internal/external building assessment for bats | Ecology Solutions, 2022 |
| Reptile surveys | Ecology Solutions, August & September 2022 |

*Ecological Impact Assessment (EcIA)*

2.13 A comprehensive EcIA was undertaken by Ecology Solutions, as set out in Chapter 7 of the submitted ES and supported by ES Technical Appendix (TA) 7.1 (**CD1.59**). A summary of the important ecological features (IEFs) assessed, the impacts predicted, mitigation and enhancement measures proposed, and residual effects is set out in **Table 2.3** below.

2.14 Consideration of potential effects on designated sites of International importance (hereafter 'International Sites') afforded protection under the 'Habitats Regulations' (Special Areas of Conservation, SACs, and Special Protection Areas, SPAs), or as a matter of national planning policy in the case of Ramsar sites, was undertaken separately in the 'Shadow Habitats Regulations Assessment' (or 'sHRA'), which I turn to further below.

2.15 Overall, the EcIA set out within ES Chapter 7 concluded that there will be no significant negative impacts on Features of Ecological Importance, with many features subject to beneficial impacts.

2.16 In accordance with the Dorset Biodiversity Appraisal Protocol (v3 2023), a Biodiversity Plan has been produced which outlines the mitigation and net gain measures that the proposals will deliver (**CD2.28**).

2.17 The Biodiversity Plan outlines the details of the mitigation required for the loss of existing bat roosts, which includes the acquisition of a European Protected Species (EPS) licence from Natural England, and the installation of permanent replacement roosts on newly constructed buildings. New tree planting will offset the loss of existing trees and foraging/commuting habitats, whilst a sympathetic lighting strategy will maintain 'dark corridors'.

2.18 Impacts to the local bird population will be mitigated via seasonal restrictions for vegetation clearance, and nesting bird checks where this is not possible. New tree and hedgerow planting will offset the loss of nesting habitat.

2.19 Habitat manipulation will prevent accidental injury/death to reptiles during site clearance, and the provision of new neutral grasslands will create additional habitat.

2.20 A precautionary approach regarding potential Badger presence on site will be taken during the construction phase, which will include the implementation of precautionary measures to be included within the Construction Environment Management Plan (CEMP). Should an active sett be identified, suitable exclusion buffers would be implemented as required, and a mitigation licence obtained from Natural England as necessary.

2.21 Further enhancement measures will be included through the provision of new green roofs and walls, the creation of other neutral grasslands and native hedgerow/tree planting. The following wildlife boxes have been recommended to provide additional nesting/roosting opportunities to birds and bats, with indicative locations shown on the Biodiversity Plan map:

- 9x 1FF Bat box;
- 10x 2F Bat Box;
- 5x Open-fronted Bird Box;
- 1x House Sparrow Terrace;
- 4x House Martin Nest box;
- 5x 32mm Bird Box; and
- 6x 26mm Bird box.

2.22 Additionally, two log piles are to be installed on woodland edge habitats, providing shelter and hibernation opportunities for the local reptile population, as well as a habitat for invertebrates which can act as a food source for reptiles, birds, bats and small mammals.

2.23 Although not required from a statutory perspective, a Biodiversity Net Gain (BNG) assessment was carried out using Defra's biodiversity metric (v3.1), as detailed within ES TA 7.1, section 7.6 and at Annex 7.2 (**CD1.59**).

**Table 2.3: Summary of Ecology Solutions EcIA, from Table 7.4 and 7.5 of ES Chapter 7, CD1.59**

| IEF | Development phase | Impact | Mitigation/ Enhancement | Mechanism for securing | Residual effect |
|---|---|---|---|---|---|
| Adjacent statutory sites | Operation | No impacts | Promotion of circular walk; enclosed dog walking area; mire restoration; removal of access point to Godlingston Heath. | Secured via condition | Minor beneficial |
| Amenity grassland and planting | Operation | Loss of habitats | New areas of amenity grassland, wildflower grassland, green roofs, green walls, creation of new heathland in wider study area. | Secured via LEMP | Minor-moderate beneficial |
| Trees | Construction | Potential damage | Tree protection fencing<br>Measures to mitigate dust emissions | Secured via CEMP | Negligible |
| | Operation | Loss of trees | New native tree planting; enhancements to woodland in wider study area | Secured via LEMP | Minor-moderate beneficial |
| Badger | Construction | Risk of injury/entrapment | Implementation of safeguarding measures (e.g ramps in trenches/pits) | Secured via CEMP | Negligible |
| | Operation | Loss of foraging habitats | Wildflower grassland and landscape planting | Secured via LEMP | Minor beneficial |

| IEF | Development phase | Impact | Mitigation/ Enhancement | Mechanism for securing | Residual effect |
|---|---|---|---|---|---|
| Bats | Construction | Disturbance via lighting | Implementation of sensitive lighting strategy | Secured via CEMP | Negligible |
| | Operation | Loss of roosts<br>Loss of foraging/navigational habitat<br>Disturbance via lighting | Provision of new bat boxes; creation of wildflower grassland; green roofs; green walls; implementation of sympathetic lighting strategy; provision of new native trees. | Secured via LEMP | Minor-moderate beneficial |
| Other mammals | Operation | Loss of habitat | Provision of species-rich wildflower grassland, green roofs and green walls. | Secured via LEMP | Minor-moderate beneficial |
| Birds | Construction | Risk of injury/killing during vegetation clearance | Clearance of any suitable vegetation/buildings to be undertaken outside of the bird breeding season | Secured via CEMP | Negligible |
| | Operation | Loss of nesting and foraging habitat | Provision of native trees; wildflower grassland; green roofs; green walls; erection of new bird boxes | Secured via LEMP | Minor beneficial |
| Reptiles | Construction | Risk of injury/killing during vegetation clearance | Habitat manipulation/small-scale in-situ relocation | Secured via CEMP | Negligible |

| IEF | Development phase | Impact | Mitigation/ Enhancement | Mechanism for securing | Residual effect |
|---|---|---|---|---|---|
| | | | exercise prior to vegetation removal | | |
| | Operation | Loss of habitat | Provision of native trees; wildflower grassland; green roofs; green walls; provision of log piles | Secured via LEMP | Minor-moderate beneficial |
| Invertebrates | Operation | Loss of habitat | Provision of native trees; wildflower grassland; green roofs; green walls; provision of log piles | Secured via LEMP | Minor-moderate beneficial |

2.24 A summary of the BNG calculation for the Appeal Proposals is provided at **Table 2.4** below. This demonstrates that significant net gains beyond the statutory 10% can be achieved.

**Table 2.4: Biodiversity Net Gain Calculations**

| Type | Baseline Units | Post-Development Units | Unit Change | % gain/loss |
|---|---|---|---|---|
| Habitats | 18.07 | 25.03 | +6.96 | +36.50 |
| Hedgerows | 0.08 | 0.09 | +0.01 | +17.38 |

2.25 The Appeal Proposal can therefore be delivered in compliance with relevant nature conservation legislation and will make positive contributions towards local biodiversity policy.

*Shadow HRA*

2.26 The Shadow HRA (sHRA) produced by Ecology Solutions (ES TA 7.2, November 2022, **CD1.63**) identified the Appeal Site as being located within 10km of the following International Sites:

- Dorset Heathlands SPA / Ramsar;
- Dorset Heaths (Purbeck and Wareham) and Studland Dunes SAC;
- Isle of Portland to Studland Cliffs SAC;
- Studland to Portland SAC;
- Solent and Dorset Coast SPA;
- Poole Harbour SPA / Ramsar; and
- St Albans Head to Durlston Head SAC.

2.27 SACs and SPAs are protected under the Conservation of Habitats and Species Regulations 2017 (as amended) (the 'Habitats Regulations'), with Ramsar sites afforded the same protection as a matter of national planning policy under the NPPF. The Habitats Regulations require the 'Competent Authority' (formerly DC, but now PINS) to undertake a HRA in relation to any plans or projects which may have a likely significant effect either alone or in combination with other plans and projects. The submitted sHRA report therefore sought to provide information to assist the Competent Authority in discharging their duties under the Habitats Regulations.

2.28 In addition to the legislative requirements set out within the Habitats Regulations (Regulation 63 *et seq*), the approach taken in the sHRA drew on relevant planning policy, HRA guidance and case law, as summarised in Section 2 of the report.

2.29 Accordingly, the shadow assessment considered the potential for the proposals to undermine the European Site Conservation Objectives, which are set out in relation to each International Site in Section 4 of the report. The numerous Annexes of the sHRA provide the SPA/SAC Citations, Natura 2000 Standard Data Forms, European Site Conservation Objectives including NE's Supplementary Advice where available, Ramsar Information Sheets for each International Site, and the SSSI Citations and Condition Assessments for each component SSSI.

2.30 I have summarised various details pertaining to these International Sites, including the qualifying features, in **Table 2.5** below for ease of reference. At **Table 2.6** I have also provided a summary

of the impact pathways that were screened within the sHRA to determine the potential for likely significant effects to arise in respect of each International Site, either from the Appeal Proposal alone and acting in-combination with other plans and projects.

2.31 The sHRA was informed by bespoke survey work to provide a robust evidence base upon which to assess the proposals, including a Staff Questionnaire Survey (August 2021, Annex 45) and Visitor Questionnaire Survey of hotel guests (October 2022, Annex 46).

2.32 Paragraph 7.4 of the sHRA provides a conclusion of the shadow assessment, as follows:

> *"Having considered all of the potential significant effects that could arise from the development proposals, Ecology Solutions conclude that adverse effects on all nearby European sites could be screened out at the first stage of the assessment process such that an Appropriate Assessment (the second stage of the assessment process) is not required. However, proposed enhancement measures detailed within section 5 and 6 provide added certainty of no adverse effects. As such, the Appropriate Assessment process was completed in any event and concluded that the proposals would not result in any adverse effects on the integrity of any nearby European sites (in view of their conservation objectives) either alone or in combination with any other plans or projects (and the same would be true for the component SSSIs)."*

## Reasons for Refusal

2.33 The planning application was refused following presentation to Dorset Council's Eastern Area Planning Committee on 10th January 2024. The Decision Notice was issued on 17th January 2024 (**CD3.45**). The planning application was refused for the following reasons of relevance to ecology:

> 2. The application site is located within 400m of protected heathlands and C3 use is proposed. Mitigation measures have been identified but do not address all matters and have not currently been secured in perpetuity. In this instance there is no overring public interest and as such it cannot be certain, on the evidence presented, that the proposal would not adversely affect the integrity of the Dorset Heathlands European sites and international sites. Or, for that matter the Poole Harbour due to increase recreation in the harbour. The proposals are therefore contrary to Policies DH (Dorset Heathlands) and PH (Poole Harbour) of the Purbeck Loal Plan Part 1 and Dorset Heathlands Planning Framework (2020-2025) SPD, Nitrogen Reduction in Poole Harbour (SPD 2017) and Poole Harbour Recreation Supplementary Planning Document (SPD) and the aims and objectives of the NPPF especially paragraphs 180 and 182.
>
> 3. Insufficient information has been provided regarding surface water management from the development. It has not been demonstrated that the proposed surface water drainage scheme can be viably achieved on site. Contrary to Policy FR of the Purbeck Local Plan, and paragraphs 167 and 169 of the National Planning Policy Framework.
>
> 4. The proposal is not accompanied by a Biodiversity Plan or adequate details regarding the ecological baseline and proposed mitigation and enhancement measures. It therefore fails to provide adequately certainty a Biodiversity Net Gain can be achieved on site, or that proposed mitigation measures are deliverable. The proposed development is therefore

contrary to Policies BIO and GI of the Purbeck Local Plan and paragraphs 174 and 180 of the National Planning Policy Framework.

2.34 Email correspondence relating to RfR 3 is provided at **Appendix 1**, and the further information regarding protected species matters requested by DC is set out within the Ecology SoCG. DC's Lead Senior Ecologist confirmed by email on 15 November 2024 satisfaction with the further information provided, though at the time of writing the Case Officer has yet to formally confirm the status of the RfR.

2.35 The basis for RfR 4 is set out within the Ecology SoCG and within email correspondence provided at **Appendix 2**. Further information has been provided to DC in the form of a revised Biodiversity Plan which specifies the lighting standard for the proposed 'dark corridors', the delivery of which could ultimately be secured by a planning condition requiring the submission of a detailed lighting strategy prior to commencement. A lighting assessment has also been provided to indicate where the proposed standard should be capable of being met (noting that the modelling reflects the 'worst case' and is prior to the application of mitigation measures). The extent of the dark corridors shown on the previous Biodiversity Plan produced by Ecology Solutions has been revised to reflect the light spill modelling undertaken.

2.36 However, DC remains unsatisfied because the modelling did not cover the western boundary, and because the light spill along the northern boundary exceeds 0.5 EHlx. Further information is being prepared by the Appellant to try to address this outstanding issue, including revised modelling that takes account of light-reducing film on windows, but in my view there is sufficient information before the Inquiry to demonstrate that applying a sensitive lighting condition would meet the relevant planning tests and would be capable of being discharged. At this time, I would politely seek to reserve the position to submit further evidence regarding RfR 4, as required.

2.37 Regarding RfR 2, email correspondence from DC dated 29 October 2024 (provided at **Appendix 3**) stated:

> *"If what is being sought (particularly the villa element of the proposal) were to be amended to holiday/tourist accommodation and such an amendment is allowed by the Inspector, and subject to appropriate controls being proposed on that use – for example including restricting the letting of the villas to a certain number of days etc - which would be legally effective and enforceable, then from my perspective it is likely that we can come to an agreement on the HRA issue and this matter may be resolved. I would need to see clear information on how you propose to clarify that the application is actually for holiday accommodation and the precise wording which describes that, and what controls you propose and how you suggest those controls will be imposed (eg condition or planning obligation)."* [my emphases]

2.38 A further email from the Case Officer on 6 November 2024 then outlined the following:

> *"….for the purposes of the HRA issue, the Council is content to proceed on the following basis (which can be reflected in any statement of common ground on the protected heathlands):*
>
> 1. *The parties agree that if any or all of the elements of the proposal were to be in C3 use without any form of occupancy restrictions, that is likely to adversely affect the European protected sites in issue;*

2. *The appellant is proposing a C1 use in respect of all elements of the proposal including the villas and apartments (how exactly this is to be achieved, whether by condition or s.106 or a combination of both can be discussed).*

3. *A C1 use, subject to appropriate occupancy restrictions, additional controls in respect of dogs etc (and we note further work is needed on these), and other appropriate mitigation, is unlikely to adversely affect the European protected sites.*

*Until the detail of the wording in any section 106 obligation in (2) and (3) is provided, the Council is not in a position to formally withdraw RfR 2. If you can provide that wording as soon as possible, that would greatly assist in helping to narrow the issues down and remove the need for evidence on this issue."*

2.39 The above suggested that DC could reach a position where RfR 2 could be withdrawn, such that the HRA issue was not insurmountable, however as detailed within the HRA SoCG, DC continues to assert uncertainty with regards to the operation of the development, potential visitor numbers and the ability to secure the measures proposed.

2.40 I therefore focus on RfR 2 for the remainder of this Proof of Evidence.

**Table 2.5: Summary of International Sites located within the ZOI**

| Site Name | Type | Area (ha) | Qualifying Features* | Closest Component SSSI | SSSI Condition |
|---|---|---|---|---|---|
| Dorset Heathlands SPA | Suite of heathland sites | 8,185 | Annex I species:<br>• A302 Dartford warbler *Sylvia undata**;<br>• A224 Nightjar *Caprimulgus europaeus**;<br>• A246 Woodlark *Lullula arborea**;<br>• A082 Hen harrier *Circus cyaneus**; and<br>• A098 Merlin *Falco columbarius**. | Studland and Godlingston Heaths SSSI | • Favourable – 51.04%;<br>• Unfavourable, recovering – 44.82%;<br>• Unfavourable, declining – 4.18% |
| Dorset Heathlands Ramsar | Suite of heathland sites | 6,730 | • Ramsar criterion 1a – Contains particularly good examples of (i) northern Atlantic wet heaths with cross-leaved heath *Erica tetralix* and (ii) acid mire with *Rhynchosporion;*<br>• Ramsar criterion 1d – Contains largest example in Britain of the southern Atlantic wet heaths with Dorset heath *Erica ciliaris* and cross-leaved heath *Erica tretralix;*<br>• Ramsar criterion 2a - Supports 1 nationally rare and 13 nationally scarce wetland plant species and at least 28 nationally rarer wetland invertebrate species; and<br>• Ramsar criterion 2b – Has a high species richness and high ecological diversity of wetland habitat types and transitions, and lies in one of the most biologically rich wetland area of lowland Britain being continuous with three other Ramsar sites: Poole Harbour, Avon Valley and the New Forest. | Studland and Godlingston Heaths SSSI | • Favourable – 51.04%;<br>• Unfavourable, recovering – 44.82%;<br>• Unfavourable, declining – 4.18% |
| Dorset Heaths (Purbeck & Wareham) & Studland Dunes SAC | | 2,230 | Annex I habitats:<br>• 2110 Embryonic shifting dunes<br>• 2120 “Shifting dunes along the shoreline with *Ammophilia arenaria* (“White dunes”)” | Studland and Godlingston Heaths SSSI | • Favourable – 51.04%;<br>• Unfavourable, recovering – 44.82%; |

| Site Name | Type | Area (ha) | Qualifying Features* | Closest Component SSSI | SSSI Condition |
|---|---|---|---|---|---|
| | | | • 2150 Atlantic decalcified fixed dunes (*Calluno-ulicetea*)<br>• 2190 Humid dune slacks<br>• 3110 Oligotrophic waters containing very few minerals of sandy plains (*Littorellaetlia uniflorae*)<br>• 4010 Northern Atlantic wet heaths with *Erica tetralix*<br>• 4020 Temperate Atlantic wet heaths with *Erica ciliaris* and *Erica tetralix*<br>• 4030 European dry heaths<br>• 7150 Depressions on peat substrates of the Rhynchosporion<br>• 91D0 Bog woodland<br>Annex II species:<br>• 1166 Great Crested Newt *Triturus cristatus* | | • Unfavourable, declining – 4.18% |
| Isle of Portland to Studland Cliffs SAC | | 1,441 | Annex I habitats:<br>• 6210 Semi-natural dry grassland and scrubland facies: on calcareous substances (*Festuco-Brometalia*)<br>• 1230 Vegetated sea cliffs of the Atlantic and Baltic coasts<br>Annex II species:<br>• 1654 Early Gentian *Gentianella anglica* | Studland Cliffs SSSI | • Favourable – 100% |
| Studland to Portland SAC | | 33,184 | Annex I habitats:<br>• 1170 Reefs | N/A | |
| Solent and Dorset Coast SPA | | 88,980 | Annex I species:<br>• Little Tern *Sterna albifrons*<br>• Common Tern *Sterna hirundo* | Poole Harbour SSSI | • Favourable – 21.53%;<br>• Unfavourable, recovering – 10.89%; |

| Site Name | Type | Area (ha) | Qualifying Features* | Closest Component SSSI | SSSI Condition |
|---|---|---|---|---|---|
| | | | • Sandwich Tern *Sterna sandvicensis* | | • Unfavourable, no change – 0.22%<br>• Unfavourable, declining – 67.35%<br>• |
| Poole Harbour SPA | | 4,157 | Annex I species:<br>• Common Tern *Sterna hirundo*<br>• Sandwich Tern *Sterna sandvicensis*<br>• Mediterranean Gull *Larus melanocephalus*<br>• Little Egret *Egretta garzetta*<br>• Eurasian Spoonbill *Platalea leucorodia*<br>• Pied Avocet *Recurvirostra avosetta*<br>• Shelduck *Tadorna tadorna*<br>• Icelandic-race black-tailed Godwit *Limosa limosa islandica* | Poole Harbour SSSI | • Favourable – 21.53%;<br>• Unfavourable, recovering – 10.89%;<br>• Unfavourable, no change – 0.22%<br>• Unfavourable, declining – 67.35% |
| Poole Harbour Ramsar | | 2,439 | • Ramsar criterion 1 – the largest and best example of a bar-built estuary with lagoonal characteristics;<br>• Ramsar criterion 2 – supports two species of nationally rare plant and one species of nationally rare algae. There are at least three British red book invertebrate species;<br>• Ramsar criterion 3 - includes examples of natural habitat types of community interest - Mediterranean and thermo *Atlantic halophilous* scrubs, in this case dominated by *Suaeda vera*, as well as calcareous fens with *Cladium mariscus*. Supports nationally important populations of breeding waterfowl including | Poole Harbour SSSI | • Favourable – 21.53%;<br>• Unfavourable, recovering – 10.89%;<br>• Unfavourable, no change – 0.22%<br>• Unfavourable, declining – 67.35% |

| Site Name | Type | Area (ha) | Qualifying Features* | Closest Component SSSI | SSSI Condition |
|---|---|---|---|---|---|
| | | | Common tern *Sterna hirundo* and Mediterranean gull *Larus melanocephalus* and overwinterinf Avocet *Recurvirostra avosetta*;<br>• Ramsar criterion 5 – supports internationally important assemblages of overwintering waterfowl; and<br>• Ramsar criterion 6 – species/populations occurring at levels of international importance: Common Shelduck *Tadorna tadorna*; and Black-tailed Godwit *Limosa limosa islandica*. | | |
| St Albans Head to Durlston Head SAC | | 283 | Annex I habitats:<br>• 1230 Vegetated sea cliffs of the Atlantic and Baltic coasts<br>• 6210 Semi-natural dry grasslands and scrubland facies on calcareous substrates (*Festuco-brometalia*) | Townsend SSSI | • Favourable, 6.97%;<br>• Unfavourable – recovering, 92.47%;<br>• Unfavourable – declining, 0.56% |

**Table 2.6: Summary of Ecology Solutions Shadow HRA Screening**

| Impact Pathway | Initial Scoping of Impact Pathways | | | Screening Stage Conclusion (ex. mitigation) | Rationale |
|---|---|---|---|---|---|
| | **Dorset Heathlands SPA/Ramsar & Dorset Heaths (Purbeck and Wareham) and Studland Dunes SAC** | **Isle of Portland to Studland Cliffs SAC / Studland to Portland SAC / St Albans Head to Durlston Head SAC** | **Poole Harbour SPA / Ramsar / Solent and Dorset Coast SPA** | | |
| Habitat loss | Out | Out | Out | - | - |
| Loss supporting habitat/functionally linked land | Out | Out | Out | - | - |
| Noise | Out | Out | Out | - | - |
| Lighting | IN | Out | Out | No LSE | Lighting strategy to address AONB |
| Cat predation | Out | Out | Out | - | - |
| Hydrological change – surface water quantity/ quality | IN | Out | Out | No LSE | Drainage strategy |
| Nutrification from foul water | Out | Out | IN | No LSE | Decrease in occupancy compared to baseline, so decrease in nutrient loading |
| Air pollution | Out | Out | Out | No LSE | Decrease in parking and trip rates compared to baseline |
| Recreational pressure | IN | IN | IN | No LSE | Decrease in occupancy compared to baseline |

# 3. REASON FOR REFUSAL 2

## Background & Scope

3.1 Reason (2) set out in DC's decision notice of 17 January 2023 (**CD3.45**) states:

> *"The application site is located within 400m of protected heathlands and C3 use is proposed. Mitigation measures have been identified but do not address all matters and have not currently been secured in perpetuity. In this instance there is no overring public interest and as such it cannot be certain, on the evidence presented, that the proposal would not adversely affect the integrity of the Dorset Heathlands European sites and international sites. Or, for that matter the Poole Harbour due to increase recreation in the harbour. The proposals are therefore contrary to Policies DH (Dorset Heathlands) and PH (Poole Harbour) of the Purbeck Loal Plan Part 1 and Dorset Heathlands Planning Framework (2020-2025) SPD, Nitrogen Reduction in Poole Harbour (SPD 2017) and Poole Harbour Recreation Supplementary Planning Document (SPD) and the aims and objectives of the NPPF especially paragraphs 180 and 182."*

3.2 DC's RfR 2 has arisen following a long history of engagement with NE and DC, in relation to this planning application (now appeal) and the previous refused planning application (Ref: 6/2018/0566). The timing and substance of key consultation responses, correspondence and application chronology is summarised in **Table 3.1**.

**Table 3.1: Summary of key consultation responses**

| Date | Type | Location in Core Docs | Summary of comments |
|---|---|---|---|
| *Previous Application (6/2018/0566)* | | | |
| 15 Feb 2019 | NE consultation response to original application | sHRA (**CD1.63**) para 1.4.1 *et seq* & Annex 2 | Objection, subject to further information. Concern around change of use from hotel to residential and inclusion of 'market housing', self-catering accommodation and public amenities adjacent to heathland designations with potential to increase recreational pressure. Uncertainty regarding projected visitor numbers and immediate access to designated sites. Surface and foul water pollution, and pressure on Poole Harbour cited. |
| 17 Feb 2020 | NE consultation response to 2019 ES Addendum | sHRA (**CD1.63**) para 1.4.13 *et seq* & Annex 3 | Objection, subject to further information.<br>Previous concerns maintained, in particular additional dwellings in C3 use class. Continued uncertainty around operation, increased occupancy and recreational pressure. Concern regarding deliverability of mitigation measures. |
| 11 May 2020 | Black Box Planning response to DC | sHRA (**CD1.63**) para 1.4.14 & Annex 4 | Response to Annexe 1 of NE's 17 Feb 2020 response to clarify proposed use, operation and occupancy of development. |
| 22 Jan 2021 | NE consultation response following Black Box comments dated 11 May 2020 | sHRA (**CD1.63**) para 1.4.1 *et seq* & Annex 5 | NE view that proposal would result in an adverse effect due to increased recreational pressure. Greater effect of C3 apartments with self-catering facilities compared to existing hotel. Lack of information regarding mitigation measures. Increase in basic levels of tourist occupancy as well as capacity for other visitors who will use enhanced facilities. |
| 6 April 2021 | NE meeting | sHRA (**CD1.63**) Annex 6 (meeting minutes) | Agreed staff questionnaire survey. |
| 29 Oct 2021 | NE comments to DC following staff questionnaire | sHRA (**CD1.63**) Annex 7 | Comments regarding analysis of staff survey results, and description of measures sought by NE. |
| 8 Nov 2021 | Black Box Planning response to DC | sHRA (**CD1.63**) Annex 7 | Comments regarding analysis of staff survey results and on measures sought by NE, plus confirmation of additional measures proposed by the applicant. |

| | | | |
|---|---|---|---|
| 14 Dec 2021 | NE letter of objection | sHRA (**CD1.63**) Annex 8 | Objection. Increase of C3 units within 400m of heaths is contrary to policy and would lead to a net increase in recreational pressure. Occupation rates uncertain. Mitigation measures not secured. |
| 9 Feb 2022 | Decision notice: application refused | **CD8.6** | RfR – C3 use within 400m protected heathlands. Mitigation not secured. Cannot be certain no adverse effects on integrity of Dorset Heathlands (and Poole Harbour) due to recreation. |
| *Current Application (P/FUL/2022/06840)* | | | |
| 28 June 2022 | NE meeting | | Main concern C3 use component. Recommendation to update guest and staff surveys. |
| 15 Dec 2022 | DC NET, Heathland Mitigation Coordinator comments | **CD3.6** | More information required.<br>Accommodation within C3 use class should not be permitted. Need for condition to restrict C3 use to holiday accommodation only.<br>Need to include staff in assessment of recreational impacts.<br>Feedback on measures proposed. |
| 9 May 2023 | NE consultation response to new application | **CD3.18** | Objection further information required. Change in use class from C1 to C1/C3 is contrary to policy. Proposal increases guest capacity and staff numbers. Mitigation is uncertain. Insufficient detail regarding surface water impacts. Adverse effects cannot be excluded. |
| 28 Sept 2023 | DC NET, Heathland Mitigation Coordinator comments | **CD3.20** | Maintained objection. Deferral to NE. |
| 22 Dec 2023 | NE consultation response to revised (reduced quantum) application | **CD3.30** | Objection sustained. Reduced capacity, but still significant number of C3 dwellings in sensitive location where recreational access to designated sites will cause harm. Unclear if mitigation can be suitably secured. Whilst capacity is a factor, more important how the facilities operate. Nature of use of C3 units will give rise to greater risk and increased harm. Can't discount staff access. Requirement for lighting strategy prior to commencement. |
| 28 Dec 2023 | DC NET, comments from Lead Senior Ecologist | **CD3.31** | Comments regarding ecology and lack of Biodiversity Plan. |
| Dec 2023 – Jan 2024 | Correspondence between Appellant and LPA | **CD3.34 – CD3.41** | Correspondence regarding DC Appropriate Assessment, request for EoT and Committee Deferral. |

| | | | |
|---|---|---|---|
| 9 and 16 Jan 2024 | DC NET, comments from Lead Senior Ecologist | **CD3.42 & 3.44** | Comments regarding Biodiversity Plan. |
| 10 Jan 2024 | Officer Report to Committee and Appropriate Assessment | **CD3.46** | |
| 17 Jan 2024 | Decision notice: application refused | **CD3.45** | |

3.3 The HRA issues falling to be considered as part of RfR 2 in light of the relevant most recent consultation responses received are summarised in **Table 3.2** below.

**Table 3.2: International Sites within the zone of influence and relevant impact pathways**

| International Sites | Relevant Impact Pathways |
|---|---|
| The 'Dorset Heathlands' comprising: Dorset Heathlands SPA and Ramsar; Dorset Heaths (Purbeck and Wareham) and Studland Dunes SAC | • Recreational pressure (disturbance, trampling, eutrophication (dog fouling, littering), fire risk)<br>• Urban edge effects (cat predation, fire risk, lighting)<br>• Hydrological change (surface water)<br>• Air pollution |
| Poole Harbour SPA and Ramsar | • Recreational pressure<br>• Nitrogen pollution (nutrient neutrality) |

## Outstanding Issues – DC's Latest Position

3.4 On behalf of the Appellant, I met with DC (Mr Oliver Rendle and Mr Sam Williams) and NE (Mr Nick Squirrell), alongside representatives from Black Box Planning, on the 7 and 8 of November 2024. The aim of these meetings, from my perspective, was to understand key concerns, to identify matters capable of being agreed and to identify those that remain in dispute between the parties. The meetings covered both ecology (as relevant to RfR 3 and 4) and HRA (RfR 2). A V1 draft of the two topic-specific Statements of Common Ground (SoCGs) were discussed, and a number of document iterations have subsequently been made.

3.5 During these meetings we were able to successfully narrow the issues between parties, reaching broad agreement on the following matters:

- As already touched upon at the end of **Section 2** of this Proof of Evidence, regarding RfR 3, the revised drainage solution to the south of the Appeal Site is supported and DC has confirmed that they are satisfied that Water Vole and Otter would not be affected by the installation of the required headwall. This is covered further in the Ecology SoCG.
- As per the update provided at the end of **Section 2**, regarding RfR 4, details of a sensitive lighting strategy (to reduce obtrusive light spill with regards to the Dorset AONB and bats) can be secured by planning condition. Submission of a lighting assessment, description of the scope of controls and definition of the 'dark corridors' for bats referenced in the Biodiversity Plan (**CD2.28**) should enable the Biodiversity Plan to be finalised. If lighting concerns regarding bats are satisfactorily addressed, then this would also ensure suitable lighting is in place with respect to Nightjar. This is covered further in the Ecology SoCG.
- Both NE and DC agreed that cat predation is not a realistic risk if the proposal operates as a hotel resort, though NE commented that restriction could still be written into the S106 agreement to avoid any doubt.

- It is also agreed that air pollution can be excluded as a potential issue due to a reduction in agreed trip rates (and therefore road traffic emissions resulting in airborne and deposited Nitrogen pollution) over the baseline, and that the nutrient budget calculation (**CD1.58**) has demonstrated that nutrient neutrality in relation to foul water discharges to Poole Harbour can be achieved due to the decrease in overnight occupation.

3.6 The discussion during the aforementioned meetings therefore focussed on the outstanding matter of recreational pressure, which relates to RfR 2 and potential effects on both the Dorset Heathlands and Poole Harbour, specifically:

- Issue 1) the proposed Use Class, development operation and the potential for conflict with relevant planning policy and supplementary guidance, and
- Issue 2) an asserted lack of certainty regarding visitor potential and recreational pressure effects arising from the proposed development.
- In my view, issue number 2 has arisen, in part, because of Issue 3) a failure to understand or accept the basis for the hotel's *existing use*, and therefore whether changes between the pre-development and post-development operation represent net impacts or net benefits; and this has resulted in,
- Issue 4) disagreement over the nature of the measures and controls proposed, in terms of whether they represent mitigation that would (in light of case law) fall to be considered as part of an Appropriate Assessment, which ultimately affects the HRA test that should be engaged and therefore the level of certainty necessary to reach the conclusion that the proposals are in accordance with the requirements of the Habitats Regulations.

3.7 I respond to these issues in turn below in my response to the outstanding matters underpinning RfR 2, but first review the overarching context for concerns regarding recreational pressure in this location, and for this development type.

3.8 For simplicity, my analysis has focussed on recreational pressure as it relates to the most proximate International Site – the Dorset Heathlands – however, given the same impact pathway relates to the Poole Harbour designations, in the event that recreational pressure effects can be satisfactorily addressed for the Dorset Heathlands then the same conclusion would apply for the more distant Poole Harbour sites.

## Baseline Context for Recreational Pressure

### *Patterns of Access to the Dorset Heathlands*

3.9 The Dorset Heaths 2019 Visitor Survey (**CDX**) found that the most common activity pursued across the heaths was dog walking (74% of interviewees), with around two-thirds of people walking dogs off the lead. Walking was the next most common activity, though at a much lower percentage of 15% of interviewees.

3.10 Across the survey as a whole 92% of interviewees were visiting directly from home, with only 6% on holiday in the area. This was markedly different for the access point surveyed at Studland (access point 1, located at a 'cross roads' on Godlingston Heath, as shown on Map 2 of **CDX**),

with around half of interviewees reporting that they were on holiday in the area (refer to Figure 6 of **CDX**). Map 7 of **CDX** shows visitor routes to/from or through the Wider Study Area at Knoll House Hotel.

3.11 With reference to Map 3 of **CDX**, the access point at Godlingston Heath was amongst some of the quieter access points surveyed, with the urban heaths experiencing significantly greater recreational pressure.

*The Dorset Heathlands Planning Framework SPD*

3.12 The Dorset Heathlands Planning Framework 2020 – 2025 Supplementary Planning Document (SPD) (**CD5.6**) provides a strategy for the avoidance and mitigation of impacts of residential development, including recreational pressure and other urban effects, upon the Dorset Heathlands.

3.13 The evidence underpinning the strategy is summarised at paragraph 3.1:

> *"Natural England has advised the authorities of concerns arising from the increase in residential development across South East Dorset and the resultant pressures placed upon protected heathland by new occupants of these developments living in close proximity to the heathlands. Various studies, have found that public access to lowland heathland, from nearby development, has led to an increase in wild fires, damaging recreational uses, the introduction of incompatible plants and animals, loss of vegetation and soil erosion and disturbance by humans and their pets amongst other factors have an adverse effect on the heathland ecology."* [my emphases]

3.14 The strategy that has been in place since 2007 consists of two mutually dependent and supporting policy mechanisms:

- Restrictions on certain types of development within the 400 metres heathland area; and
- Mitigation associated with some types of development within the 400 metres to 5km heathland area.

3.15 Restrictions on development within the 400m zone are summarised as follows:

> *"Although this SPD focusses on residential development there are other uses and forms of residential development that have differing impacts upon the Dorset Heathlands. These uses are set out in Figure 3 and are intended to sign post applicants to the likely council position from the local plan policies. This figure is indicative rather than definitive and each proposal will need to be assessed on a case by case basis. Further detail on each use is set out in Appendix B."* [my emphasis]

3.16 The mitigation element of the strategy is in two parts:

Part 1: Strategic Access, Management and Monitoring (SAMM); and

Part 2: Heathland Infrastructure Projects (HIPs).

3.17 The SPD explains that:

> *"SAMMs contributions secure the day to day costs of helping local people to behave in ways less harmful to the local heathlands they access…..HIPs are physical infrastructure projects that provide facilities to attract people away from the protected heathland sites."*

3.18 Such mitigation measures manage impacts arising from new development, but also impacts generated by the existing population.

3.19 Since dog walkers represent the predominant user group of heathland sites, and research has found that dogs add additional pressures over human access alone, this has driven the specific design requirements for alternative open space provision (see Appendix D of **CD5.6** for Suitable Alternative Natural Greenspace (SANG - one type of 'HIP') quality standards); dogs are perceived as predators by the qualifying SPA ground nesting bird species, and dogs walked off the lead also roam over greater distances, causing more disturbance and greater mortality. Dogs (or rather their faeces when not collected by owners) also cause eutrophication, with adverse effects on SAC habitats.

*Heathland Monitoring*

3.20 The 2023 annual monitoring report provided by the Dorset Heaths Partnership (**CDX**), as funded by the SPD's SAMM contributions, includes a useful graphic highlighting figures and trends for SPA bird numbers, visitor numbers, housing numbers, alternative site provision (SANG/HIP sites) and records of wardening and other public engagement, recorded over a three- or five-year period. This graphic has been extracted at **Figure 1** below. Overall it provides support for the ongoing mitigation strategy, with a downward trend in visitor numbers and an upwards trend (or at least stable, insofar as Dartford Warbler are concerned) in bird numbers.

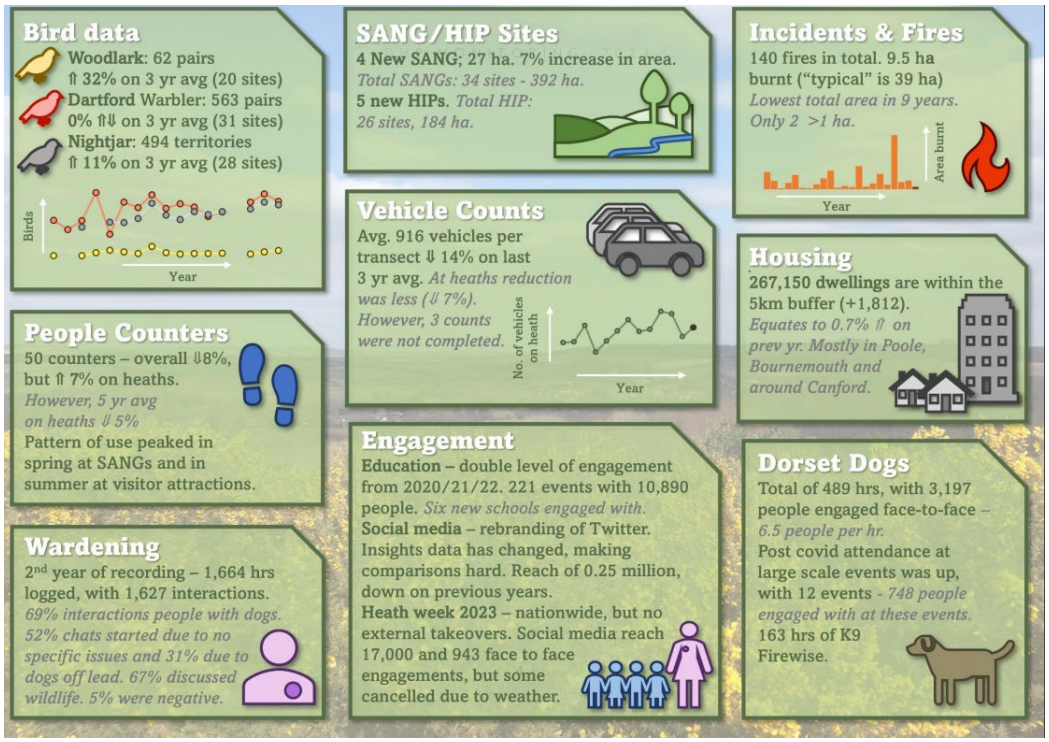


**Figure 1: Summary statistics from DHP 2023 annual monitoring report**

## Response to DC on Recreational Pressure

*Issue 1) Use Class*

3.21 Having reviewed the extensive DC and NE correspondence regarding this redevelopment proposal, and having recently met to understand the most up to date views, it seems to me that there has unfortunately been terminal confusion over what is proposed in terms of Use Class, restrictions and operation, despite the proposals remaining consistent (apart from minor changes in the quantum of villas/apartments) from the outset. The description of development and breakdown of development components remains largely unchanged since the previous planning application.

3.22 There has been extensive debate between the parties over the implications of the Use Class, which is covered in detail in the Planning Proof of Evidence of Mr Ben Read and to whom I defer in relation to this matter in terms of planning policy. However, during the most recent SoCG meetings, NE stated that its concern is more about the nature of use and related risk of harm than the defined Use Class itself. Though I would entirely agree from an HRA impact assessment perspective, discussion seems to revert to Use Class, related harms and conflict with the Dorset Heathlands SPD.

3.23 NE's latest consultation response made in response to the reduction in development quantum (number of villas/apartments) dated 22 December 2023 (**CD3.30**) states:

> *"I advise that whilst the numbers of residents (capacity) is a factor in the consideration (it is still the case that there is an increase in visitor numbers) it is more important how the facilities operate. It is my view that the current policy position with regard to additional C3 units is robust. Visitors occupying the 44 apartments/villas (on the basis of frequent return visits) are likely to make more frequent and intensive use of the nationally important landscapes and designated sites on their door step. The nature of the uses made by occupants in the proposed C3 units will be different from those in the current facilities giving rise to a greater risk and an increased level of harm due to recreational access."* [my emphases]

3.24 Therefore, a C3 Use Class, akin to a residential dwelling house, reflects a more permanent form of occupancy, with the potential for (to use NE's words) more frequent, more intense use, with a greater risk and increased level of harm, in comparison to a C1 Use. This is precisely why the SPDs (both the Dorset Heathlands and Poole Harbour recreation strategies) have focussed on forms of C3 residential dwellings associated with long-term habitation.

3.25 However, an unrestricted C3 use has never been proposed. As explained in the evidence of Mr Read, the Appellant has stated that a restricted C3 Use Class is preferable from a funding perspective, but that the resort will operate in exactly the same way irrespective of whether the villas/apartments are defined as C1 or C3 (restricted).

3.26 The Operations Report (**CD1.61**) explains that the proposed boutique resort would provide a range of accommodation types to meet guest requirements for space and privacy, with guests staying in a villa or apartment integral to the resort in every way: access to five-star concierge service, daily servicing and linen changes, access to dining and leisure facilities. The proposed apartments are also physically integrated into the hotel, enabling them to be serviced internally.

3.27 Ultimately the question of Use Class is a planning matter or a matter for legal submissions. From an HRA perspective, assessment should focus on potential impacts arising from the operation of the development and specifically the net impacts that could arise in the absence of the proposed development (or under the 'do nothing' scenario).

3.28 The above notwithstanding, DC has confirmed, as per the HRA SoCG, that *"A C1 Use Class for the villas/apartments could be acceptable, subject to the right controls and with strict operation as an integral component of the resort and subject to those controls being enforceable"*. NE commented that a C1 use provides a level of control over the nature of use, since planning permission would be required to subsequently change to alternative uses.

3.29 However, DC's position is that there is uncertainty regarding post-development visitor numbers and related recreational pressure, which warrants the application of mitigation measures. As highlighted at the end of **Section 2** of this Proof of Evidence, DC had indicated that subject to a C1 use and the measures proposed being sufficiently defined and adequately secured, that they would likely be able to reach the view that adverse effects on site integrity would not arise. I consider these separate issues further below.

### *Issue 2) Visitor Potential*

#### *Introduction*

3.30 The potential for a net increase or net reduction in the number of potential heathland visitors to be generated by the Appeal Proposal is underpinned by the following quantitative variables:

- The capacity of overnight accommodation (guests and staff);
- The number of potential dogs permitted;
- The number of staff present during the day; and
- The number of other daytime visitors.

3.31 The likelihood of additional visits *actually being made* to the designated sites (and therefore for impacts to actually arise), irrespective of the above quantitative considerations, is further influenced by a number of qualitative variables that include:

- User group drawn to hotel/resort;
- Restrictions to immediate offsite access;
- The availability of alternative onsite recreational provision (for walking and other activities);
- The provision of information to influence site selection and ensure responsible recreation.

3.32 **Table 3.3** below sets out an analysis of the above quantitative and qualitative considerations relating to the potential for the proposal to result in net impacts or net benefits to recreational pressures exerted on the designated sites, all of which must be considered in light of the pre- and post-development operational scenarios. I explore matters further below.

**Table 3.3: Summary of quantitative and qualitative variables influencing net change in recreational pressure and related effects**

| Type | Variable | Existing | Proposed | Net Impact | Summary of Effect |
|---|---|---|---|---|---|
| Quantitative | Occupancy – keys (as per Officers Report **CD3.46**, Appellant SoC and Planning SoCG) | 163 (106 guest, 57 staff) | 74 (30x hotel, 44x villas/apartments) | -89 keys | Beneficial effect on occupancy, visitor potential and associated recreational pressure |
| Quantitative | Occupancy – number of people present overnight as per Appellant SoC, based on max occupancy | Max occupancy:<br>339 (273 guest, 66 staff) | 280 (guest) | -59 people | Beneficial effect on occupancy, visitor potential and associated recreational pressure. |
| Quantitative | Occupancy – number of people present overnight as per Officers Report, based on SPD occupancy rates for flats/houses **CD3.46** | 269 | 140 | -129 people | Beneficial effect on occupancy, visitor potential and associated recreational pressure. |
| Quantitative | Dogs | Dog friendly hotel, management control max 2 dogs per guest room: 212 | Dog friendly offering maintained, with control on numbers proposed via Dog Permit Scheme (limited to 40), secured by S106 and controlled via booking system. | -172 dogs | Beneficial effect on dog numbers potentially present on site and associated impacts from dog walking. |
| Quantitative | Staff | 66 (48 FTE) – resident on site. | 146 (112 FTE) – but resident in local area. | +64 FTE but non-resident. | No staff accommodation to be provided on site. Staff to be employed from local area, meaning related recreation linked to existing residential dwellings already |

| Type | Variable | Existing | Proposed | Net Impact | Summary of Effect |
|---|---|---|---|---|---|
| | | | | | mitigated via SPDs. Beneficial effect on visitor potential and associated recreational pressure. |
| Quantitative | Daytime visitors | Daytime use unrestricted, 'Day Retreats' advertised. Restaurant available to the public. | Spa to be restricted to guest use, plus local membership. Restaurant available to the public. | Number unquantified | Quantitatively neutral effect on visitor potential, or beneficial given restricted Spa access. |
| Quantitative | Parking | 86 spaces, unrestricted. | 75 spaces – restricted to guests. No staff parking. | -11 spaces | Decrease in availability of parking, with no parking for staff, with beneficial effect on visitor potential and associated recreational pressure. |

| Type | Variable | Existing | Proposed | Net Impact | Summary of Effect |
|---|---|---|---|---|---|
| Qualitative | Operation Strategy (see Operations Report **CD1.61**) & User Group | C1 dog friendly hotel.<br>Indoor & outdoor pool/sauna/steam room, lounges, games room, restaurant.<br>Focus on B&B and dinner service.<br>Guest surveys show extensive use of offsite areas for recreation, especially with dogs.<br>Price point: £79-199/night. | Boutique Resort. Restrict to C1 Use Class or Tourism Accommodation aligned to a restricted C3 Use, via S106.<br>Comprised of hotel rooms and villas/apartments for diversified tourist accommodation offering.<br>All keys integral to resort with single housekeeping service. No market housing.<br>Luxury facilities – Spa including pool, 5* dining, private dining. Strategy to maintain onsite guest presence and spending.<br>Price point: £300-650/night. | | Proposal is a luxury service offering with the potential to increase dwell time onsite and reduce offsite visitation (frequency/duration).<br>This would have a beneficial effect on recreational pressure. |
| Qualitative | Accessibility to surrounding designated sites – boundary treatment | Permeable site boundaries, immediate offsite access to designated sites unrestricted (and is actually promoted). | Boundaries to be secured to restrict immediate offsite access to designated sites, location/ specification of fencing to be secured by planning condition. | Net increase in boundary fencing. | Beneficial effect on offsite access, visitor potential and associated recreational pressure. |
| Qualitative | Accessibility to surrounding designated sites – Staff travel (see Staff Development Strategy **CD1.59** | Staff resident onsite. | Staff resident in local area not onsite. No staff parking, contractual requirement to travel via private e-bus service to | Net decrease in availability of staff parking, car travel and associated mobility. | Beneficial effect on staff visitor potential and associated recreational pressure. |

| Type | Variable | Existing | Proposed | Net Impact | Summary of Effect |
|---|---|---|---|---|---|
| | Appendix 5.1 and Framework Travel Plan **CD1.49**) | | avoid operational conflict with highways/adjacent landowners. | | |
| Qualitative | Alternative onsite recreational provision | Permissive access possible across Pitch & Putt/around Tennis Courts. | Circular route proposed for dog walking around restored semi-natural habitats. | Net increase in alternative onsite open space suitable for dog walking. | Beneficial effect on offsite access, visitor potential and associated recreational pressure. |
| Qualitative | Visitor information | Information provided on walking routes, which include routes within designated sites. No information on responsible countryside access. | Opportunity to provide improved education through visitor information packs. Positive messaging regarding site selection and responsible countryside access. | Improvement to visitor information and education. | Beneficial effect on recreational pressure – either through influence on site selection or visitor behaviour. |

*Quantitative Variables*

Capacity of Overnight Accommodation

3.33 The 2022 visitor survey carried out by Ecology Solutions (**CD1.63**, Annex 46) found that 98.7% of guest respondents visited Knoll Beach at Studland for recreation, with 54.7% visiting the local heathland designated sites and 24% visiting Poole Harbour. The routes used in the local area are shown on Plan VQ1 of this report, which show use of most of the paths in proximity to the hotel.

3.34 Guest occupancy data provided by the Appellant, extracted via the 'Hotel Perfect' system which tracks keys sold, shows that average occupancy over the last 3 years has hovered at around 70%. In the hotel industry I understand that this would be regarded as 'good'. The existing hotel has 106 guest keys with capacity for up to 273 guests (plus a further 57 keys for staff accommodation). 54.7% of 273 guests making visits to the adjacent heathland equates to 149 guests. Most guests stayed at the hotel for two nights (43.4%) with the remainder staying for less than 5 nights.

3.35 The Staff Visitor Survey carried out by Ecology Solutions (**CD1.63** Annex 45) found that 84.6% of resident staff visited Knoll Beach for recreation, with 53.8% visiting local heathland designations and 34.6% visiting Poole Harbour. 50% of staff visiting local heathland sites did so at least 1-3 times a week, with a further 26% visiting once a month, and with visits spread equally over weekdays and weekends, most likely linked to shift patterns. 52.4% of heathland visits lasted 1-2 hours with a further 33.3% lasting 2-3 hours.

3.36 Hotel staff generally work 12-hour shifts, with short breaks during the working day. The information regarding visit duration strongly suggests that offsite visits were made on days-off, making them associated with the staff residential accommodation as opposed to employment location. This would support the residential focus for the Dorset Heathlands SPD mitigation strategy, as described above, and as acknowledged within the Officers Report (**CD3.46**) at epg. 39:

> *"In general, the development of employment uses is not restricted within the 400m zone and does not form part of the strategy for avoidance of in-combination effects on the heathland."*

3.37 If one assumes visits across 365 days a year (for the purposes of this exercise), **Figure 2** below sets out an estimate of visits made to the heathland by guests and staff each year. This is not intended to convey a highly accurate figure, just a broad estimate to indicate the approximate use of the heathlands by existing guests and staff, linked to the existing capacity of overnight accommodation, and therefore the baseline of pressure potentially associated with the hotel's existing operation.

3.38 DC has agreed that the calculated guest and staff occupancy figures pre- and post-development, as set out in the Officers Report (**CD3.46**) and Appellant SoC/Planning SoCG, result in a net decrease in accommodation capacity and therefore the number of people present overnight.

3.39 A quantifiable and controllable reduction in accommodation provision as a result of the Appeal Proposal would have a positive effect on the number of people present onsite with the potential

to visit the surrounding heathlands, resulting in a beneficial effect on associated recreational pressure.

| | |
|---|---|
| Number of guests who visit the heathland (assume at least once during stay) | = 149 |
| Number of guests staying for 2 nights | = 65 |
| Number of guests staying less than 5 nights | = 84 |
| Number of visits made by guests staying for 2 nights (365/2 x 65) | = 11,863 |
| Number of visits made by guests staying less than 5 nights (365/5 x 84) | = 6,132 |
| Estimate of visits made to the heathland by guests each year | = 17,995 |
| Number of staff who visit the heathland | = 35 |
| Estimate of visits made to the heathland by staff each year* | = 2,540 |
| ***Estimate of visits made to the heathland each year by guests and staff*** | ***= 20,535*** |

**Figure 2: Estimate of visits made to the heathland by guests and staff each year**
***** Based on the frequency of visitation data presented in Table 2 of Annex 45, **CD1.63**.*

3.40 However, DC explained during the SoCG meetings that the 'uncertainty' referred to regarding visitor numbers and recreational pressure relates to staff visitation and the potential for an increase in daytime visits associated with the draw of enhanced facilities. I consider each in turn below.

Staff Visits

3.41 As set out within the Staff Development Strategy (**CD1.59** ES TA 5.1), under the operation of the Appeal Proposal staff would be employed from the local area rather than being resident on site. There would be no staff parking, with bus transport provided, making staff travel to work via car the exception not the norm. Without private transport staff would have a limited ability to make offsite visits during the working day, with short-duration staff amenity needs more likely being met by the enhanced onsite open space.

3.42 The limited potential for staff trip generation in a non-residential situation was previously acknowledged by NE in the email of 29 October 2021 (**CD1.63** Annex 7, e-pg. 105). NE advised that a 20% allowance for staff visiting during/before/after work, based on the results of the Staff Visitor Survey, would be suitably precautionary. This would result in 22 staff (of the 112 FTE) with the potential to be heathland visitors, which given the agreed reduction in overnight accommodation would still result in a decrease in the number of potential heathland visitors associated with the proposed resort operation, with a beneficial effect on recreational pressure. NE in fact identified a lower figure for staff trip generation in their objection letter of 14 December 2021 (**CD1.63** Annex 8, pg. 3 of the letter) stating *"it is considered that a reasonable rate of*

*heath use would be the 14.3% figure provided in the staff survey for staff using the area for up to 1 hour."*

3.43 The change in staffing strategy would also mean that heathland visits made by staff living in the local Dorset area would, insofar as the Dorset Heathlands strategy is concerned, be assigned to the existing baseline of recreational pressure being mitigated by the measures secured by the SPD (**CD5.6**).

Dog Numbers

3.44 Dog numbers at the hotel are not currently restricted by any legal or planning mechanism, although the hotel booking system limits dog numbers to 2 per room. This results in a maximum dog occupancy on site of 212 dogs (106 guest keys x2).

3.45 A Dog Permit Scheme is proposed by the Appellant as a beneficial measure to control dog numbers on site to a maximum of 40 at any one time. This would be secured by S106 and would be administered and monitored by way of the booking system. This would thereby limit the number of guests on site able to visit the heaths for the purpose of dog walking, resulting in a beneficial effect on related recreational pressures.

Daytime Visitors

3.46 The potential number of daytime visitors in the baseline and post-development scenarios cannot readily be quantified, however, there are a number of important considerations that in my view provide confidence that visitor numbers would be more likely to decrease than increase, both in terms of absolute numbers and the numbers of daytime visitors that would make 'novel' visits to the nearby designated sites – those visits strictly arising solely due to their daytime visit to the hotel/resort.

3.47 Daytime visitors to an establishment (which are unrelated to the overnight guest cohort) originate either in an incidental or targeted manner.

3.48 Incidental daytime visits arise where people are already present in the local area (resident in a dwelling house or other tourist accommodation) and are intercepted by local advertising or signage. For example, the existing hotel advertises day retreats with lunch via signage placed on Ferry Road (**Photo 1**). The presence of such incidental daytime visitors onsite would not, in my opinion, increase the risk of visits being made to the heath - such visitors are already present in the area and stopping at the hotel for whatever purpose would not, in my view, influence the nature of any activity undertaken before or after that hotel visit.

3.49 Targeted daytime visits arise where people have specifically sought out the venue for a particular purpose, such as a visit to a spa or an award-winning/celebrity chef dining experience. In that event the focus would, in my experience, be on the hotel/resort venue, as opposed to the offsite areas.

3.50 Nevertheless, the number of daytime visitors originating from outside of the local area who could be present on site would be limited as part of the proposals for two reasons:

- The spa would only be available to overnight guests, with a limited number of memberships offered to local residents (currently envisaged as residents with a very local

postcode, who would in all likelihood not represent net additional visitors to the heaths); and

- The car park has a limited number of parking spaces, closely aligned with the maximum number of keys, with a reduction of 11 spaces compared to the baseline. The 2022 Visitor Survey (**CD1.63** Annex 46) found that all respondents (bar one group) travelled to the hotel via car, most likely given the relatively remote location of the Studland peninsula. The number of visitors on site arriving by car, either overnight guests or daytime visitors, would therefore be restricted in line with the maximum overnight accommodation capacity – which as agreed would be reduced in comparison to the baseline.


**Photo 1: Advertisement of Day Retreats on Ferry Road**

*Qualitative Variables*

User Group

3.51 Having stayed at the hotel and also frequented other high-end spa resorts, in my view there is a reasonable prospect that the type of user group currently attracted to the hotel will change under the proposed boutique resort operation. The current users include largely retired couples and groups, and also families, with and without dogs, staying at the hotel in order to visit the local area. The shift in price-point and luxury spa, gym and bistro offering is likely to make the resort more exclusive. The operations report identifies a target for increased internalisation, spending and therefore dwell time. This would have a positive effect on offsite visitation, either in terms of the likelihood of visits being made or the duration of visits that are made, all of which would have a consequent reduction in the amount of recreational pressure exerted on the designated sites.

Alternative Onsite Recreational Provision

3.52 At present there is land within the Wider Study Area available to guests for recreation, but this is not formalised, readily accessible, attractive nor advertised. The habitats are subject to limited management, the ground conditions comprise of uneven terrain and poor surfacing, and the route is not signposted. The land to the east of Ferry Road, whilst available to guests for walking, is used for pitch and putt. As far as I was able to establish during my visit, guests seeking a short walk with their dogs (for example before breakfast, after dinner etc) currently walk around the immediate grounds, comprising the car park and front lawn area, or walk across the pitch and putt course to access Knoll Beach. Given the lack of suitable open space on site providing a circular walk, access to the nearby heathland is also likely.

3.53 As part of the Appeal Proposal, the woodland habitat to the west of the Application Site and the pitch and putt area is proposed to be restored, with a c.2 km circular route provided (as shown on **Map 2** – note that the circular route has been revised from that previously shown in the sHRA to better align with existing site habitats and topography). This would be advertised to guests but also be available to local residents and would be clearly signposted and secured by fencing (described further below) and gated access points. Visitor interpretation boards would be provided to complement the information provided to guests, as described further below.

3.54 Whilst not equivalent to a SANG, as described within the SPD (**CD5.6**), access to a variety of semi-natural habitats (woodland, acid grassland, neutral grassland and heathland) would be provided, with varied topography, seating and views to the east towards Studland Bay and Old Harry Rocks. Dog agility features could also be provided (an indicative trail is shown on **Map 2**), as described within the Proof of Evidence of Mr Stephen Jenkinson. This would provide an attractive, extremely convenient space for people to exercise their dogs before/after meals, or between uses of the facilities at the resort, and in my view, would further reduce the potential for offsite visitation arising from the operation of the enhanced resort. It would also provide an alternative recreational resource for local residents, helping to relieve pressure on surrounding sites.

Restrictions to Offsite Access

3.55 In combination with the provision of the circular walking route described above, the western and northern woodland boundaries of the Wider Study Area to the west of Ferry Road under the management of the Appellant would be secured as part of the Appeal Proposal by suitable boundary fencing (see **Map 2**), the specification for which could be secured by planning condition. This would include robust fencing where required to prevent immediate offsite access to the designated sites, taking into account the surrounding terrain and the presence of other natural barriers to movement. This would be a notable benefit over the baseline situation, where people are able to walk directly from the hotel into the immediately adjacent designated heathland to the west. Habitat management to the east of Ferry Road could also be undertaken to dissuade informal access to Knoll Beach, helping to retain visitors within the onsite open space.

Visitor Information

3.56 During my visit to the hotel I found that a leaflet is provided at reception which identifies nine walks that can be taken from the hotel. A copy of the leaflet is provided at **Appendix 4**. Several of these walks start at the hotel and exit through the woodland to the west directly into

Godlingston Heath, whereafter various circular routes can be made. This western access and route into the heath was identified by guests during the Visitor Survey carried out by Ecology Solutions (**CD1.63** Annex 46, Plan VQ1) and by visitors surveyed as part of the Dorset Heaths Visitor Survey in 2019 (Map 7 of **CDX**). The leaflet provides no information regarding the sensitivity of the heathland habitats nor expected behaviours for responsible countryside access.

3.57 There is therefore an opportunity as part of the Appeal Proposal to improve the education of guests through the provision of visitor information packs, developed into consultation with NE, the Urban Heaths Partnership and the National Trust to ensure consistent messaging in the local area. This would feature positive messaging regarding responsible countryside access, information to influence site selection, guidance on lead/off lead walking, and information about the Urban Heaths Partnership and Dorset Dogs. This would have a beneficial effect on recreational pressure – either by influencing site selection or by promoting improved visitor behaviour when on site. This is covered in more detail in the Proof of Evidence of Mr Stephen Jenkinson.

*Issue 3) Net Impacts or Net Benefits*

3.58 Both NE and DC's misconception regarding what is proposed, from an operational perspective, has infected their appraisal of credible risks presented by the proposals (for example, risk of cat predation has been raised, however, in my opinion, there is no realistic prospect of unrestricted cat access to the surrounding heathland arising from the operation of a hotel resort).

3.59 The Council and NE seem to have approached this proposal in the abstract in a number of respects, rather than fully considering and accepting the baseline context – the proposal under consideration is not a new development. Though it is common ground that the HRA must consider net impacts, the Council and NE have, in my opinion, failed to give due recognition to a lack of existing controls, resulting in them prescribing measures as mitigation rather than as enhancements.

3.60 This has consequently resulted in a failure to recognise the numerous opportunities presented by the redevelopment proposals to introduce beneficial control measures that would aid in managing baseline recreational pressure.

3.61 DC's position is that the asserted uncertainty regarding post-development visitor numbers and related recreational pressure warrants the application of mitigation measures, including the boundary fencing, dog walking area and dog permit scheme, but that subject to such measures being sufficiently defined and adequately secured, that they would likely be able to reach the view that adverse effects on site integrity would not arise.

3.62 Having carried out my own analysis of pre- and post-development operation (as per **Table 3.2**), as described above, I disagree with DC that there is uncertainty regarding the potential for there to be a material increase in visitor pressure arising from the Appeal Proposals. I therefore also disagree that the measures requested by DC and NE as 'mitigation' in fact represent mitigation measures, as opposed to enhancements, insofar as they relate to recreational pressure. As per the sHRA and the conclusion that I have cited in **Section 2** of this Proof of Evidence, the same view was evidently held by the previously appointed ecologist.

*Issue 4) Implications for HRA*

3.63 Regulation 63 of the Habitats Regulations requires the following:

> *"(1) A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which—*
>
> *(a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and*
>
> *(b) is not directly connected with or necessary to the management of that site,*
>
> *must make an appropriate assessment of the implications of the plan or project for that site in view of that site's conservation objectives.*
>
> *……..*
>
> *(5) In the light of the conclusions of the assessment, and subject to regulation 64, the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be).*
>
> *(6) 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."* [my emphases]

3.64 It is clear from the above, that the HRA process is divided into the following key stages, that must be applied in sequence to determine whether a plan or project may be granted consent:

1. Screening the need for Appropriate Assessment;
2. The 'Appropriate Assessment';
3. The Assessment of Alternative Solutions; and
4. Assessment where no alternative solutions exist and where adverse impacts remain (also known as the test for 'Imperative Reasons of Overriding Public Interest' or IROPI).

3.65 At the 'Screening Stage' it is only necessary for the competent authority to decide to proceed to undertaking an Appropriate Assessment if a significant effect is considered likely.

3.66 The level of confidence needed at the 'Screening Stage' of HRA has been tested in the European Court of Justice (ECJ) in *Waddenzee* (Case C-127/02), which ruled (at paragraphs 43 *et seq*):

> *"It follows that the first sentence of Article 6(3) of the Habitats Directive subordinates the requirement for an appropriate assessment of the implications of a plan or project to the condition that there be a probability or a risk that the latter will have significant effects on the site concerned.*

*….such a risk exists if it cannot be excluded on the basis of objective information….*

*''…where such a plan or project has an effect on that site but is not likely to undermine its conservation objectives, it cannot be considered likely to have a significant effect on the site concerned."* [my emphases]

3.67 Further, in R (on the application of Boggis) v Natural England [2009] EWCA Civ 1061, the Appeal Court found that:

*"a claimant who alleges that there was a risk which should have been considered by the authorising authority so that it could decide whether that risk could be "excluded on the basis of objective information", must produce credible evidence that there was a real, rather than a hypothetical, risk which should have been considered."* (paragraph 37) [my emphasis]

3.68 Whilst Regulation 63(6) directs the competent authority to have regard to the manner in which a development is proposed to be carried out or to any conditions or restrictions imposed upon it, the ECJ has ruled (in case C-323/17 referred to as 'People over Wind') that it is not appropriate to take account of *"…measures intended to avoid or reduce the harmful effects of the plan or project…"* at the Screening stage of the HRA process. Mitigation measures necessary to ensure no adverse effect on site integrity must therefore be considered as part of an Appropriate Assessment.

3.69 Once Appropriate Assessment has been triggered, the ECJ in *Waddenzee* (Case C-127/02) ruled that a plan or project can only be authorised under Regulation 63 "where no reasonable scientific doubt remains as to the absence of such effects".

3.70 *R. (Champion) v North Norfolk DC* [2015] 1 WLR 3710 highlights the Advocate General's Opinion in *Waddenzee*:

*"107. … the necessary certainty cannot be construed as meaning absolute certainty since that is almost impossible to attain. Instead, it is clear from the second sentence of article 6(3) of the Habitats Directive that the competent authorities must take a decision having assessed all the relevant information which is set out in particular in the appropriate assessment. The conclusion of this assessment is, of necessity, subjective in nature. Therefore, the competent authorities can, from their point of view, be certain that there will be no adverse effects even though, from an objective point of view, there is no absolute certainty."* [Para 47] [my emphases]

3.71 The Habitats Regulations impose a high standard of investigation, as recently reaffirmed in *Wyatt v Fareham* [2023] Env LR 14 at 9(6)-(10). Though in carrying out a fundamentally subjective assessment, the competent authority must make a judgement as to when enough environmental information has been collated to enable a robust assessment to be undertaken, and when sufficient certainty as to the absence of adverse effects has been acquired, taking into account the manner in which the development is proposed to be carried out, including any conditions or restrictions imposed on a consent.

3.72 **Table 3.3** demonstrates that there are extensive beneficial measures that can be introduced to the operation of the hotel/resort which would further reduce the potential for visits to be made to the heaths beyond the quantitative reduction in visitors present on site. In my view this can only

be seen as making a positive contribution to the achievement of the European Site conservation objectives by helping to reduce existing recreational pressures exerted on the heaths from the baseline operation. Therefore, my opinion is that the 'measures' referred to by DC and NE should be viewed as enhancements, rather than mitigation measures necessary to prevent an adverse effect on site integrity that would fall to be assessed as part of an Appropriate Assessment.

3.73 Ultimately it is for the Inspector as the competent authority responsible for carrying out the HRA of the Appeal Proposals to decide whether Appropriate Assessment is required and what the scope of that Appropriate Assessment should be.

3.74 However, in my opinion, if the proposals were to be subject to Appropriate Assessment, the above analysis regarding the ability of the Appeal Proposals to support the Site Conservation Objectives rather than to undermine them should provide sufficient certainty that an adverse effect on site integrity will not arise.

# 4. SUMMARY AND CONCLUSION

## Summary

4.1 In this Proof of Evidence relating to ecology and nature conservation, I have set out the planning and ecological background of relevance to the assessment of the Appeal Proposal. I have reviewed the nature of the existing Knoll House Hotel operation and have considered the net impacts (positive or negative) that would arise in light of the proposed redevelopment.

4.2 In relation to RfR 2 (International Sites), discussion between the parties has established that the principal outstanding matter relates to the potential for an increase in recreational pressure on adjacent designated sites.

4.3 It is agreed that the Appeal Proposal will achieve a quantifiable, controllable, net reduction in overnight occupancy, the development component with the greatest potential to contribute material pressure to the designated sites. This, considered alongside a number of beneficial measures and controls to influence the frequency, duration and nature of visitation to the designated sites can only be seen as supporting the achievement of the European Site Conservation Objectives, not to undermine them. Consequently, these measures should be regarded as enhancements in relation to the baseline operation, not as mitigation measures necessary to ensure no adverse effect.

4.4 On the above basis, it should be possible for likely significant effects from increased recreational pressure to be 'screened out' at the Screening Stage of the HRA process, as was the conclusion reached in the Shadow HRA. However, taking into account the net reduction in overnight occupancy and the suite of additional beneficial controls proposed, in my opinion there can be certainty beyond reasonable scientific doubt as to the absence of adverse effects on the integrity of the respective International Sites, both as a result of the Appeal Proposal alone and in combination with other plans and projects, in the event that an Appropriate Assessment is undertaken. Therefore, irrespective of the HRA test engaged, as determined by the competent authority, in my view a positive HRA conclusion should be capable of being reached.

4.5 In this Proof of Evidence I have also addressed the other ecology-related issues underpinning RfR 3 (Drainage) and RfR 4 (Biodiversity Plan), which in my view should be capable of being withdrawn. Indeed, in addition to the beneficial effect on offsite recreational pressure highlighted above, the Appeal Proposals will also deliver a number of other important beneficial effects for the local environment, as summarised below at **Table 4.1**.

4.6 Therefore I am confident that the Appeal Proposals will comply with all relevant nature conservation legislation and biodiversity planning policy, and will make positive contributions to local nature conservation and biodiversity.

## Conclusion

4.7 I have, within this Proof of Evidence, reviewed the nature of the existing Knoll House Hotel operation and have considered the net impacts (positive or negative) that would arise in light of the proposed redevelopment, taking into account the manner it which it is proposed to operate.

4.8 In my view, the Appeal Proposal can be delivered in full compliance with the Conservation of Habitats and Species Regulations 2017 (as amended), as well as other nature conservation

legislation and planning policy, such that there are no valid ecology and nature conservation grounds for this Appeal to be dismissed.

**Table 4.1: Summary of beneficial environmental effects of the Appeal Proposals**

| Development Component | Net Effect | Conclusion |
|---|---|---|
| Occupancy numbers & visitor potential | Decrease in visitor potential, influenced by a number of quantitative and qualitative variables. | Beneficial effect on offsite recreational pressure. |
| Surface water drainage | Shift from uncontrolled overland flow to west towards designated sites, to controlled discharge via SuDS treatment train to south away from designated sites. | Beneficial effect on water quantity and quality within designated sites. |
| Foul water drainage | Net reduction in foul water discharge and Nitrogen output, due to reduced occupancy, resulting in nutrient credit as demonstrated via nutrient budget calculation. | Beneficial effect on nutrient status within designated site. |
| Air quality | Net decrease in trip rates across development due to reduced occupancy. Green Travel Plan with e-bus for staff and EV charging facilities. | Beneficial effect on local air quality. |
| Fire safety | Re-developed buildings will adhere to all current Building Regulations and fire safety standards. | Beneficial effect on fire control measures and reduced fire risk to designated sites. |
| Sustainability | Energy supply to shift from electricity/oil to renewable energy production and community heating system, resulting in decrease in operational carbon use.<br>Other sustainability benefits delivered in line with modern Building Regulations. | Beneficial effect on environmental performance and sustainability. |
| Biodiversity | Biodiversity Net Gain (non-statutory) calculation for Appeal Site shows significant net gains of 38% (habitats) and 17% (hedgerows), well above the statutory 10% requirement.<br>Additional biodiversity enhancements to be delivered through habitat restoration and management carried out within the Wider Study Area. | Beneficial effect on local biodiversity. |