

Thames Basin Heaths Special Protection Area Strategic Solution

Natural England Advice to Local Planning Authorities

- 1.1 This is Natural England's advice based on the best and latest available evidence, caselaw and precedent setting decisions. Our aim is to share this advice with local planning authorities (LPAs), who are competent authorities under the Habitats Regulations, 2017 (as amended), to improve consistency and avoid repeat queries on common themes around the Thames Basin Heaths Special Protection Area (TBH SPA).
- 1.2 This document should be read in conjunction with the [Thames Basin Heaths Delivery Framework](#), [South East Plan Policy NRM6](#) and the latest [NE SANGs Guidelines \(2021\)](#) as well as your relevant Local Plan Policies.
- 1.3 For standard residential planning applications delivering mitigation in line with the agreed strategic solution approach (agreed SANG and SAMM), the [NE Impact Risk Zone \(IRZ\) Tool](#) can be used to access automatic planning responses.
- 1.4 Where competent authorities view that differing approaches would be appropriate, we would be happy to review individual evidence-based proposals. For consultations on unique cases LPAs may seek advice through consultations@naturalengland.org.uk and applicants should come to us directly though our chargeable [Discretionary Advice Service](#).
- 1.5 It is important to bear in mind the level of certainty, beyond reasonable scientific doubt, required by the Habitats Regulations, 2017 (as amended). If there remains uncertainty at the appropriate assessment stage then the precautionary principle must be applied.

2 SANG and In-Perpetuity Management

- 2.1 There should be certainty, beyond reasonable scientific doubt, that any SANG will be effective mitigation and in place for the "lifetime of the development". This in-perpetuity period is usually a minimum of 80-125 years. The SANG should be kept to the required quality SANG standard for that time, as detailed in the SANG Management Plan, ensuring that the SANG criteria are met from first occupation, through the lifetime of the development, to act as a sufficient draw for potential SPA visitors.
- 2.2 The most straightforward approach to secure SANG land is through a change of use planning application to a recreational use class. However, if the green space is already open to the public then this may require different mechanisms, e.g. S106, to secure that the land will remain as SANG for the in-perpetuity period. LPA legal teams should ensure they are satisfied that any SANG land, and its management, is fully secure before being relied on by residential developments.

- 2.3 SANGs should also demonstrate in their Management Plans that they have costed their capital works and ongoing management appropriately and have long-term financial security and appropriate funding mechanisms to maintain the SANG standard over time.
- 2.4 LPAs need to be confident that SANG managers can fulfil their roles in perpetuity and that appropriate enforcement actions can be taken if necessary. Our preference is for LPAs to take on SANGs themselves to reduce risk, but they can also be managed by other responsible public bodies or charities e.g. Parish Councils and the Land Trust. Some SANG are managed by private bodies, who would need to demonstrate to the LPA that they could sufficiently secure and ringfence funding and management to support the site in-perpetuity. NE advise that these third party SANGs also secure Council step-in-rights to add another layer of security against the risk of defaulting. LPA legal teams should ensure they are satisfied that risks are minimised to avoid the Council being liable for rectifying issues without sufficient funding being available.
- 2.5 We note that the SANG catchments should be adhered to, ensuring that developments are allocated to SANGs which are suitably nearby. These are: 400m for sites without car parking, 2km for sites under 12ha, 4km for sites 12-20ha, and 5km for sites above 20ha.

3 Grampian Conditions

- 3.1 Natural England will only support the use of a Grampian Condition to secure a SANG for a development when there is certainty the SANG will come forward and has sufficient capacity available, and we are just awaiting final sign off. If Grampian Conditions were the norm, there is a risk that schemes would get permission quickly, but then experience significant delays in being built, or occupied, whilst waiting for SANG to be delivered.
- 3.2 Examples of types of application we **would not** accept as being sufficiently secure for SANG include:
 - No SANG available.
 - SANG listed does not currently have planning permission in its own right.
 - SANG is currently subject to a legal challenge.
 - A list of SANG options are included, without a resolute choice.
 - Proposed SANG does not meet all of the criteria, or there are uncertainties in its management e.g. costs, funding mechanism, who will manage the site.
 - There is insufficient capacity in the SANG proposed to cover this application.
 - The development is relying on strategic SANG owned by the LPA or other SANG Manager without their permission.

4 C2 / C3 Nursing Care Homes, Older Person Accommodation, Extra Care Facilities

- 4.1 The key factor when assessing any care facility is the mobility of the residents. The Use Class of C2 does not necessarily indicate the level of potential impact but C3 developments are likely to require mitigation. The assessment is whether there is any risk of the residents of the facility recreating, and therefore causing adverse impacts, on the SPA.
- 4.2 Facilities that provide accommodation for residents that will never visit the SPA would not require any mitigation. This may include facilities where residents are bed-bound or of such limited mobility that they cannot walk over 400m, or leave at all. These tend to include nursing care homes with individual bedrooms only, limited car parking (for visitors and staff only) and facilities suitable for limited mobility residents. These types of accommodation could even be within 400m of the SPA if car parking is restricted.
- 4.3 Conditions for this accommodation may include wording such as:
- *The use of the property is to be restricted to C2 nursing care home only.*
 - *The care home shall not be occupied other than by persons of limited mobility who require a high level of care. Such conditions shall first be verified by the Care Home Operator by means of assessment from an Independent Healthcare Professional prior to the occupation of the Care Home by any potential resident.*
 - *No residential staff accommodation will be provided on site.*
 - *Car parking will be restricted to staff and visitors only.*
- 4.4 Where self-contained accommodation is provided it is viewed that residents could live relatively independently, even if some level of care is provided. These residents could potentially recreate, therefore mitigation should be secured.
- 4.5 We would consider the likely occupancy of older-person accommodation as lower than the standard 2.4 person per unit. The rule of thumb is often 1 person per bedroom for older person accommodation where age limits are conditioned. Where there is uncertainty a precautionary approach should be taken.
- 4.6 If permanent staff accommodation is provided on-site, then this may require full mitigation.

5 Short-Term Accommodation – Hotels, Holidays and Staff

- 5.1 Short-term accommodation may need a case-by-case approach depending on the type, size and location of the development. Standard hotels/holiday accommodation for short-term guests in urban areas may be highly unlikely to attract SPA visitors and so may be unlikely to require any mitigation. More rural hotels/holiday accommodation close to the SPA, or those offering longer stays such as apart-hotels, could attract visitors who stay there particularly to enjoy walking in the area, or live there for long periods of time more akin to a resident, and so would be more likely to cause recreational disturbance impacts which may require mitigation.
- 5.2 Staff accommodation for short-term seasonal staff may be acceptable without mitigation depending on the size, location and duration of the development. If the accommodation will be the staff's primary address for most of the year then this would be considered a net increase in residential accommodation. We are aware that there have been some larger applications recently which may trigger a potential in-combination effect to consider.
- 5.3 In some locations, particularly very close to the SPA, these types of short-term accommodation development may be unsuitable if they cannot be mitigated.
- 5.4 If accommodation will be someone's permanent, full-time address then this would be considered as a net new dwelling and require full mitigation.

6 Student Accommodation

- 6.1 We would consider the likely occupancy of student accommodation as lower than the standard 2.4 person per unit, if the LPA is satisfied that they can secure that the development will be for students only for its lifetime (it cannot be sold on as open-market housing in future).
- 6.2 Some LPAs have their own occupancy rates but if the accommodation provides standard single-occupancy rooms, and the LPA is satisfied that it can effectively condition this, then we would agree 1 person per bedroom occupancy. If the LPA and developer also agree to effectively condition that the accommodation will not be occupied for certain times of the year, e.g. over July & August, then this could also reduce the occupancy and therefore affect the mitigation required. Where there is uncertainty a precautionary occupancy figure should be applied.

7 400m Impact Risk Zone

- 7.1 Within 400m of the TBH SPA, as the crow flies, it is unlikely that additional residential development can be mitigated unless there are exceptional circumstances. We note that roads, railways and canals alone are usually not accepted as sufficient barriers to access for people and pets in perpetuity.

8 5-7km Impact Risk Zone

- 8.1 Within 5-7km there is potential for larger developments to have adverse impacts on the TBH SPA from recreation. This often includes developments of 50 dwellings and over (or equivalent occupancy), which may require mitigation. The mitigation approach should be agreed with the LPA and Natural England. This is often accepted as a ¼ SAMM payment and 2ha SANG per 1,000 new residents.

9 Car Parking

- 9.1 Where any type of development establishes a new car parking facility close to the SPA there may be concerns if it is accessible to the general public and could therefore support more people accessing the SPA. Particularly for parking adjacent, or very close to, the SPA mitigation measures should be secured to avoid this impact e.g. through barrier-controlled parking.