



## **Habitats Regulations Assessment and Planning Applications**

### **Frequently Asked Questions (FAQs) for the Chilterns Beechwoods Special Area of Conservation (SAC) – Ashridge Commons and Woods SSSI and Tring Woodlands SSSI**

**Detailed Version**

**March 2022**

**Version 1.1**

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The Council has issued this guidance to help applicants and residents understand the implications that the Footprint Ecology Report (and other related work that Dacorum has produced for its emerging Local Plan) has for planning applications between the publication of the Footprint Ecology Report and the date at which a Mitigation Strategy is put in place. We advise you to read the FAQs first, as many questions are likely to be answered here, before getting in touch with Officers to discuss any specific issues.

We have set up a dedicated mailbox for questions which is [SAC@dacorum.gov.uk](mailto:SAC@dacorum.gov.uk) and recommend this as the most appropriate way to seek advice from us on matters relating to the Chilterns Beechwoods SAC.

PLEASE NOTE: These FAQs will remain a live document and will be regularly updated. The following table provides a summary of the versions which have been released and the questions/page numbers where changes have been made:

Version	Published	Changes made	
		Page Number	Question Number
Version 1.1	14 March 2022	-	-

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## 1. GENERAL

Questions covered in this section:

[Q1.1 Why have we issued this FAQ on the Chilterns Beechwoods SAC?](#)

[Q1.2 Has the Council provided any other guidance about the CBSAC?](#)

[Q1.3 Who is this FAQ aimed at?](#)

[Q1.4 Who are our key partners in terms of the HRA process?](#)

### **Q1.1 Why have we issued this FAQ on the Chilterns Beechwoods SAC?**

Dacorum Borough Council has prepared this Frequently Asked Questions (FAQs) as a guide to the Habitats Regulations Assessment (HRA) process, and its implications for the determination of planning applications at the current time.

The FAQs does not address every foreseeable circumstance. They are not intended to be an exhaustive list of all possible answers, but rather it represent a simple overview of key information. The Council will keep this guide under regular review and updates as further information is available to us and matters progress.

Following ongoing on-site evidence work on the HRA process, continual engagement with our key partner organisations, and taking into account advice from Natural England, as the “appropriate conservation body”, we have put in place additional processes when considering planning applications that involve the creation of new homes (and some other forms of development) to ensure no further harm arises to the Chilterns Beechwoods Special Area of Conservation.

This process is pending the need for further technical work on air quality and hydrology affecting the CBSAC and other designated sites (as work to date has focused primarily on recreational pressure matters), on-going discussions with key stakeholders, and future decisions on mitigation measures. Where relevant, the Council will publish new evidence on these matters and ensure applicants and residents are kept informed of progress.

The Council acknowledges that these additional checks will impact on new residential development and in the interim create a period of uncertainty for applicants and developers. We are working hard to resolve and enable development to continue as quickly as possible.

### **Q1.2 Has the Council provided any other guidance about the CBSAC?**

No further guidance has been issued at this time, however there is a range of additional information available on our dedicated webpage at [www.dacorum.gov.uk/sac](http://www.dacorum.gov.uk/sac).

This page will be regularly updated with progress and any further guidance as it emerges. Applicants may be periodically contacted by our Development Management to inform them of the latest position and what this means for their proposal.

### Q1.3 Who is this FAQ aimed at?

This FAQ has been prepared to help provide general guidance to the public, landowners, developers and consultants who have an interest in submitting a planning application to the Council for either new build housing or for a change of use to residential (and some other forms of development). **This document is only relevant to proposals falling within the borough boundary of Dacorum.**

The adjoining authorities of Buckinghamshire, Central Beds, and St Albans City and District are also affected by the outcomes of the HRA process and applicants are advised to speak to the relevant authority if the proposed development is within one of these areas. **Please note that these Councils may produce their own dedicated webpages or FAQs guidance<sup>1</sup>.**

### Q1.4 Who are our key partners in terms of the HRA process?

The HRA affects a larger area beyond the boundaries of Dacorum and also involves a number of key organisations who have an interest in the process including:

Our partner organisations on the CBSAC	
National Trust	Buckinghamshire Council
Natural England	Central Bedfordshire Council
Historic England	St Albans City and District Council
Hertfordshire County Council (Hertfordshire Ecology)	Chilterns Conservation Board (who were established to conserve and enhance the Chilterns AONB)

Natural England is the “appropriate conservation body” for the purposes of the [Conservation of Habitats and Species Regulation 2017 \(as amended\)](#) and [Conservation of Habitats and Species \(EU exit amendment\) Regulations 2019](#). Their advice carries considerable weight and we must have regards to it.

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<sup>1</sup> [St Albans City and District Council](#)  
[Buckinghamshire Council](#)  
[Central Bedfordshire Council](#)

Dacorum Borough Council is recognised as a “competent authority” and we are legally obliged to act on the outcomes of the HRA process for plans and proposals that come forward in our area.

Equally, Buckinghamshire Council, Central Bedfordshire Council and St. Albans City and District Council are the “competent authorities” for their own administrative areas.

## **FACTS:**

### **Data published by Natural England**

- [Natural England GIS mapping of SACs in the UK](#)
- Natural England [Chilterns Beechwoods SAC](#), as well as the SSSI documentation for [Ashridge Commons and Woods SSSI known as Ashridge Estate](#) and [Tring Woodlands SSSI](#)

### **Dacorum evidence / work to date**

- Dacorum’s evidence base:
  - Visitor Survey, recreation impact assessment and mitigation requirements for the Chilterns Beechwoods SAC and the Dacorum Local Plan, Footprint Ecology dated March 2022
  - [Topic Paper dated November 2020](#)
- A joint press release has been issued by Dacorum Borough Council, Buckinghamshire Council and the National Trust.
- We have also produced a summary FAQs and other documents that customers may find useful. These are available at: [www.dacorum.gov.uk/sac](http://www.dacorum.gov.uk/sac).

### **Correspondence received**

- Letter received from Natural England dated 14 March 2022 confirming approach going forwards since the release of the Footprint Ecology evidence.

### **Best practice SAC examples**

- Other local examples of this matter: [Thames Basin Heaths](#), [Epping Forest](#) and [Burnham Beeches](#)

## 2. THE HABITATS REGULATIONS ASSESSMENT PROCESS

Questions covered in this section:

[Q2.1 What is the Chilterns Beechwoods Special Area of Conservation?](#)

[Q2.2 What are European sites and why are they so important to the Chilterns Beechwoods SAC?](#)

[Q2.3 Why is a Habitat Regulation Assessment required?](#)

[Q2.4 What is the HRA process telling us so far?](#)

[Q2.5 What is recreational pressure and what damage is occurring?](#)

[Q2.6 How might new development add to recreational pressure?](#)

[Q2.7 What are the implications of the HRA process for planning applications?](#)

[Q2.8 What is a Zone of Influence \(ZOI\) and what is its purpose?](#)

[Q2.9 What is the 500m SAC exclusion zone and what is its purpose?](#)

[Q2.10 What is a Mitigation Strategy and why is it needed?](#)

### Q2.1 What is the Chilterns Beechwoods Special Area of Conservation?

A Special Area of Conservation (SAC) is an internationally recognised designation for sites whose habitats and species have significant ecological importance. Dacorum is home to part of the Chilterns Beechwoods SAC (CBSAC). As a whole, the CBSAC comprises of nine separate sites scattered across the Chiltern Hills, including a number of counties<sup>2</sup>.

Dacorum hosts two of these designated SAC units both of which are also Sites of Special Scientific Interest (SSSIs):

Site Name	Area (Ha)	Comments
<a href="#"><u>Ashridge Commons and Woods SSSI</u></a>	616	Designation broadly corresponds with the extent of the Ashridge Estate. Majority of the SAC land is owned by the National Trust. Approximately 70% falls within Dacorum and the remainder lies in Buckinghamshire Council.
<a href="#"><u>Tring Woodlands SSSI</u></a>	24	Woodlands owned by Hertfordshire County Council and leased to Dacorum. SSSI lies adjacent to Tring Park which is owned by Dacorum and leased to the Woodlands Trust.

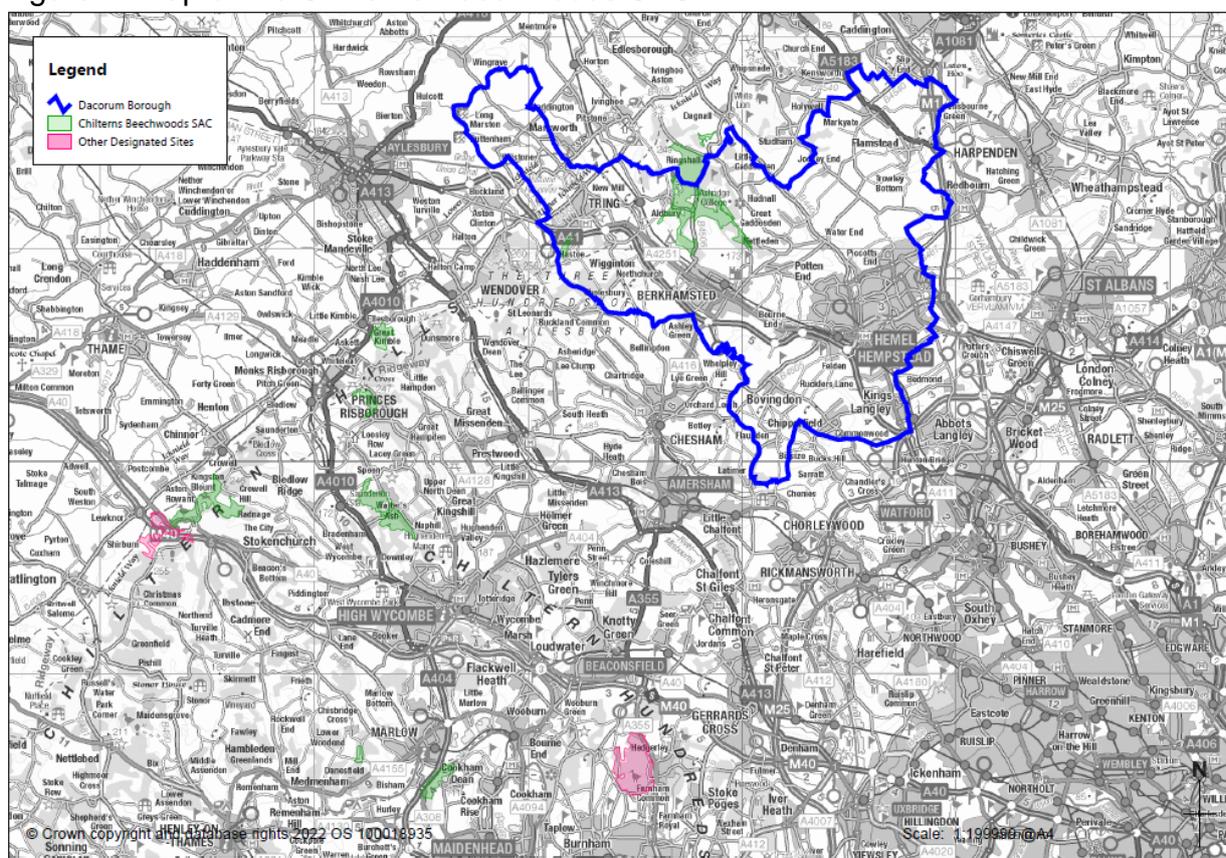
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<sup>2</sup> The CBSAC is located within Buckinghamshire, Royal Borough of Windsor and Maidenhead, South Oxfordshire and Dacorum and its total area is 1,284Ha.

The location of the two SAC units is set out in Figure 1 and they have three main “qualifying” (or protected) features which are:

- | CBSAC Qualifying features                          |
|--|
| 1. Beech forests on neutral to rich soils.         |
| 2. Semi-natural dry grasslands and scrub on chalk. |
| 3. Stag beetles population.                        |

Figure 1: Map of the Chilterns Beechwoods SAC



Please use this link to make use of our online mapping search platform:  
<https://arcg.is/1uv1040>

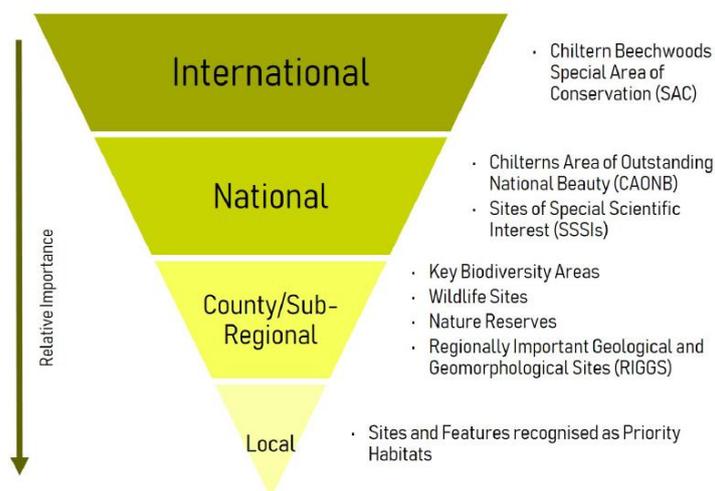
The beechwood forests form part of the most extensive area of native beech woodland in England and contain a number of notable and rare plants. The Stag Beetle is the country’s largest terrestrial beetle and is of international importance. The CBSAC also has a unique character and draw which can be difficult to replicate, thus the designation guarantees a high level of protection to ensure the integrity of the site is protected.

The SAC also fall within the Chilterns Area of Outstanding Natural Beauty (AONB) and has historic interest too.

## Q2.2 What are European sites and why are they so important to the Chilterns Beechwoods SAC?

European Sites are protected wildlife sites designated under the Habitats Directive. Prior to the UK's departure from the European Union these sites formed part of a wider network of important nature conservation areas across Europe known as Natura 2000 sites<sup>3</sup>.

Figure 2: the hierarchy of biodiversity and geodiversity designations.



Since the UK departed the European Union, all relevant legislation was copied into UK law. Therefore all such sites in England are still given the same level of protection and status. The only notable difference is that they are no longer referred to as part of Natura 2000 and are now referred to as being part of the National Site Network.

Such sites are within the top-tier of nature conservation sites, and their special habitats and species warrant the highest level protection under national and EU Law (as amended) and UK planning policy.

There is a legal requirement to designate, protect and manage all of these sites to maintain their habitats and species (known as “qualifying features”) that they contain in a healthy condition for future generations. The Council has a legal duty to ensure the CBSAC is correctly protected and managed. Tring Woodlands SSSI is currently maintained by Dacorum.

The CBSAC is subject to strict legal protection which conveys specific duties and stringent tests to be met before Local Plans can be adopted and projects (including planning applications) can be permitted. A precautionary approach is embedded in the Habitats Regulations that includes a necessity to demonstrate that significant impacts are unlikely to occur<sup>4</sup>, rather than definitive proof that they will (based upon existing experiences and evidence collected on-site).

<sup>3</sup> These are now called National Sites Network following withdrawal from the E.U.

<sup>4</sup> Sufficient to remove reasonable scientific doubt

### Q2.3 Why is a Habitat Regulation Assessment required?

It is the Conservation of Habitats and Species Regulations 2017 (the 'Habitats Regulations') as amended<sup>5</sup> that affects the designation, protection and restoration of these sites. Consequently, an assessment, known as a Habitats Regulations Assessment (HRA), is required for any development plan or proposal to determine whether it will have a likely significant effect on the site.

The Council, as the 'competent authority', is legally required under the Habitats Regulations to undertake a HRA to look at the impact of growth proposed in the Local Plan on designated sites, such as the CBSAC. The Council must test if a plan or project (including planning applications) could significantly harm<sup>6</sup> the designated features of the CBSAC for those proposals located within and near to the SAC, or which may result in impacts that affect it.

The HRA process helps us understand if sites such as the CBSAC are being damaged and if their condition is worsening. This includes the site's integrity to cope with such pressures from development, both alone (i.e. a single planning application or Local Plan) and in combination with other plans and projects (i.e. other neighbouring authority Local Plans, nationally significant projects or applications that are likely to have similar significant effects on the designated site).

Under the Habitats Regulations we must demonstrate that our future housing growth and changes in the patterns of development will not adversely affect the site's integrity.

Where we cannot rule out the potential for likely significant effects, we must undertake an appropriate assessment of the implications of the plan or project for that site, in view of the site's conservation objectives (i.e. Stage 2 of the HRA process).

**The Council is only legally able to finalise a Local Plan, or grant planning permission for development where it can rule that there will be no significant adverse effects on the integrity of the European Sites, either alone or in combination with other plans or projects.**

Where an adverse effect on the site's integrity cannot be ruled out, and where there are no alternative solutions (the assessment of which must be clearly documented), the plan or project can only proceed under a very limited set of circumstances. There must be imperative reasons of over-riding public interest (known as 'IROPI') for this and if the necessary compensatory measures can be secured (i.e. Stage 3 of the HRA process).

To date, the Council is not aware of a proposal for new housing development that has appropriately satisfied the "Stage 3" test above.

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<sup>5</sup> The latest changes being made through [The Conservation of Habitats and Species \(amendment\) \(EU Exit\) Regulations 2019](#)

<sup>6</sup> The Regulations test there is likely to be significant effects on the SAC at screening stage and whether there is no adverse effects on the integrity of the SAC at appropriate assessment stage.

## Q2.4 What is the HRA process telling us so far?

The HRA process is made up of four distinct stages.

The Council commissioned Lepus to carry out a **screening** exercise (Stage 1 of the HRA) to identify whether our emerging Local Plan might generate the potential for likely significant effects on the CBSAC. This has also considered the possibility of any cumulative (which is termed 'in-combination') effects of other plans or projects.

The screening exercise concludes that it is not possible to rule out likely significant effects of planned growth and so the precautionary principle needs to be applied (see Q2.2 What are European sites and why are they so important to the Chilterns Beechwoods SAC?). The exercise identified three potential environmental impacts:

- Public access and disturbance impacts (i.e. recreational pressure) on the Chilterns Beechwoods SAC;
- Air Quality impacts on the Chilterns Beechwoods SAC; and
- Hydrology impacts on the [South West London Waterbodies SPA](#) and [Ramsar](#) sites.

As a result, the Council is now at the **appropriate assessment** stage ([Stage 2](#)) of the HRA process. This will determine whether or not the Local Plan or other projects will significantly affect the integrity of the sites listed above in view of its qualifying features and conservation objectives.

Following discussions with Natural England and others it was agreed that the appropriate assessment should first focus on understanding the impacts associated with recreational pressures. The Council commissioned Footprint Ecology to prepare detailed baseline recreational and ecological surveys of the CBSAC at Ashridge Commons and Woods SSSI (Ashridge Estate), Tring Woodlands SSSI and surrounding areas. These were undertaken throughout 2021 and consisted of:

- Visitor surveys
- Ecological condition surveying
- Parking transects surveying

This has helped further inform the HRA of the emerging Local Plan and will also inform planning applications in the short term.

Their report identified a number of recreational pressures and risks on the qualifying features of the CBSAC, including evidence of severe damage occurring over many areas. The precautionary approach to preparing HRAs means that any future housing growth will likely result in increased recreational pressure on the CBSAC and its qualifying features. The visitor surveys highlighted that Ashridge Estate is an attractive 'honey-pot site' and draws visitors from a particularly wide area, primarily by car.

For Tring Woodlands, the draw is much more localised to the market town of Tring and the immediate area around it and therefore has a large proportion of visitors walking to the site. The report also identifies the area where the majority of visitors to

the SAC travel from (referred to as a “Zone of Influence”). Other outcomes are discussed in the questions below.

The report takes on board comments where relevant from: Natural England, National Trust, Historic England, Chilterns AONB Conservation Board and Hertfordshire Ecology.

## **Q2.5 What is recreational pressure and what damage is occurring?**

Recreational pressure relates to the impact public usage has on the sensitive features of the CBSAC and this would include (but is not limited to):

- the use of sites for recreational activities which are not compatible with the designation of the site; or
- the use of European sites by a greater number of people (either as groups, or across prolonged periods of time), than the site has previously supported (i.e. large numbers of new residents to an area proximate to a European site).

Damage to the qualifying features of the protected sites comes in many forms. Evidence gathered to date has identified damage to the CBSAC from soil compaction and root exposure, erosion of footpaths by people, horses and bikes, den building, trampling of rare plants by walkers, visitor parking, littering, fires from barbeques, vandalism and enrichment of nutrients from dog fouling.

Evidence gathered on-site by Footprint Ecology identifies almost 500 examples of damage and other impacts to the CBSAC. The majority of these are at Ashridge Estate where damage is widespread and is severe in places. There is some evidence of damage at Tring Woodlands also, including some localised damage that is severe.

## **Q2.6 How might new development add to recreational pressure?**

Evidence gathered through the visitor surveys demonstrates that people travel regularly to CBSAC at Ashridge Estate from all across the borough and from some neighbouring areas. The vast majority of visitors are residents in the local area who use the site for recreation and other purposes.

Continued growth in housing and the creation of new communities can lead to more people living near to (or being made aware of) and therefore using the CBSAC. Simply put, more people living in the area is likely to add to the damage and further deterioration of the special features of these protected sites.

Therefore, we must consider effective ways of positively influencing or changing patterns of recreational use and successful ways to monitor and mitigate the increasing recreational pressure stemming from planning applications submitted to us and from new growth proposed when preparing the new Local Plan.

Tourism also contributes to recreation pressure, however the evidence gathered to date suggests the majority of the impacts are as a result of visitors from the local area and this work will also consider how tourism impacts can be managed.

## **Q2.7 What are the implications of the HRA process for planning applications?**

The Footprint Ecology report concludes that recreational activity is currently harming the integrity of the CBSAC at Ashridge Commons and Woods SSSI and Tring Woodlands SSSI, including its conservation objectives. There is also potential for further deterioration through increased recreational activity arising from new development.

It is the Council's legal duty to protect the CBSAC from the effects of new development. Therefore, **an Appropriate Assessment must be undertaken for each planning application involving new residential development (of one net dwelling or more). The Appropriate Assessment needs to assess the impact of the proposal on recreational pressures, alone and in-combination with other development proposals.** When an assessment concludes a plan or project is likely to contribute towards increased recreational pressure (or if the likelihood of negative impacts cannot be excluded on the basis of objective information), these impacts must be reduced (mitigated for). With the additional mitigation in place, the assessment must be able to determine that there is no longer any potential for an adverse effect on the integrity of the designated site. **These measures are necessary so that the Council can legally grant planning permission for development.**

The Council is currently in an interim period whereby there is evidence of harm to the integrity and conservation objectives of the CBSAC, but no mitigation strategy is yet in place to address the identified impacts. For this reason, the Council is unable to complete the Appropriate Assessment stage for planning applications with any certainty that suggested mitigation packages are comprehensive enough to avoid any further significant effects on the SAC. Therefore the Council cannot grant planning permission for relevant proposals.

The Council can request applicants to submit relevant information for consideration as part of the Appropriate Assessment. This is often referred to as a "Shadow HRA" or "Project Level HRA" which the Council could choose to adopt. Experience from other local authorities in a similar position suggest it is unlikely that any such evidence provided will satisfy the requirements of the HRA enough for the Council to grant planning permission during this interim period (as a strategic enough solution for the identified pressures cannot be achieved by small piecemeal mitigation solutions).

**The Council's preferred approach during this interim period is to request an extension of time on applications submitted to allow for a mitigation strategy to be developed and adopted by the Council.** Once this is completed, there should be sufficient clarity on what steps are needed to protect the special features of the CBSAC. It should also mean that the majority of affected applications will not be required to undertake any "Shadow HRA" or detailed assessments.

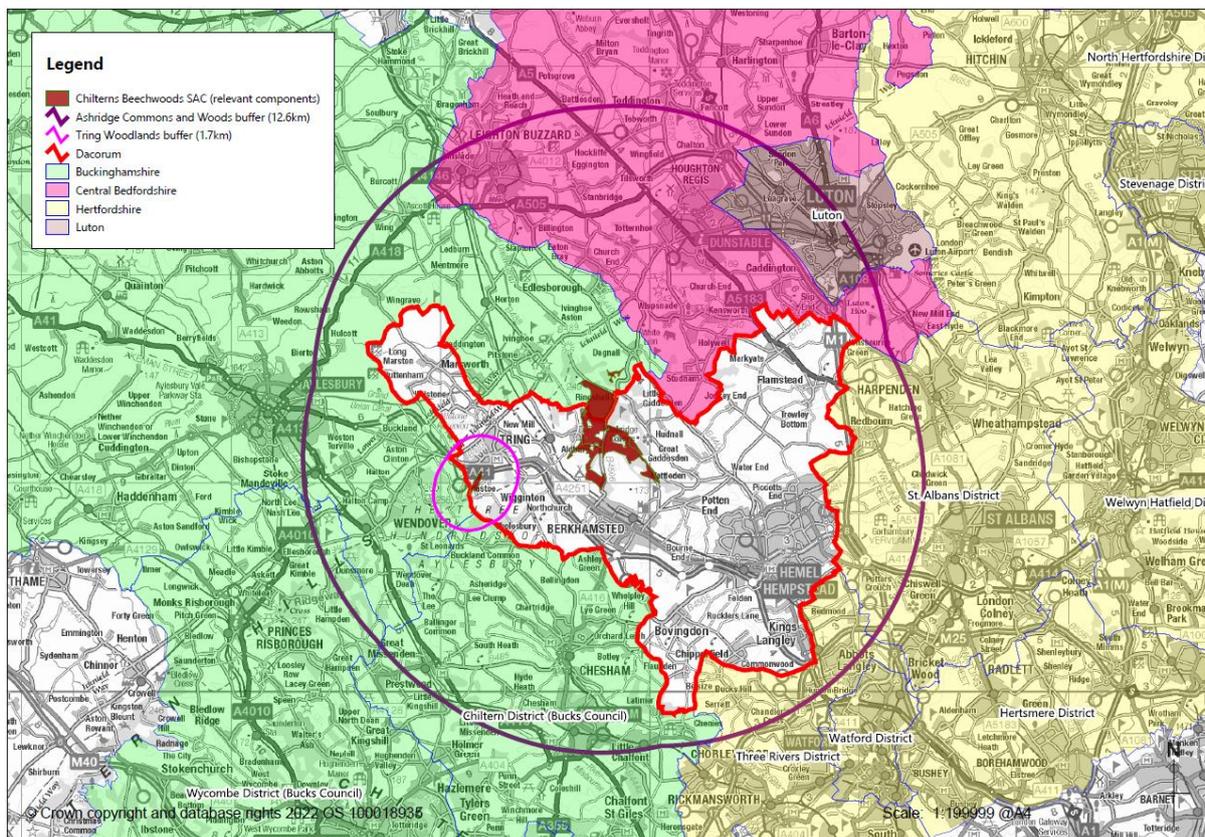
## Q2.8 What is a Zone of Influence (ZOI) and what is its purpose?

The recreational 'Zone of Influence' (ZOI) is an area across which 75% of people will travel to use a designated site for recreational purposes. The process for establishing this ZOI is calculated using an industry standard approach.

Footprint Ecology have identified a ZOI around the CBSAC which highlights where new growth will potentially result in an increase in visitors and use of those sites. This could then result in increasing recreational disturbance and adversely affect the species and habitats of the protected sites.

The ZOI extends for a distance of 12.6km from Ashridge Estate. Tring Park experiences somewhat fewer visitors and has a more local draw. Its ZOI is much smaller with a radius of 1.7km.

**Figure 3 Zone of Influence around the CBSAC**



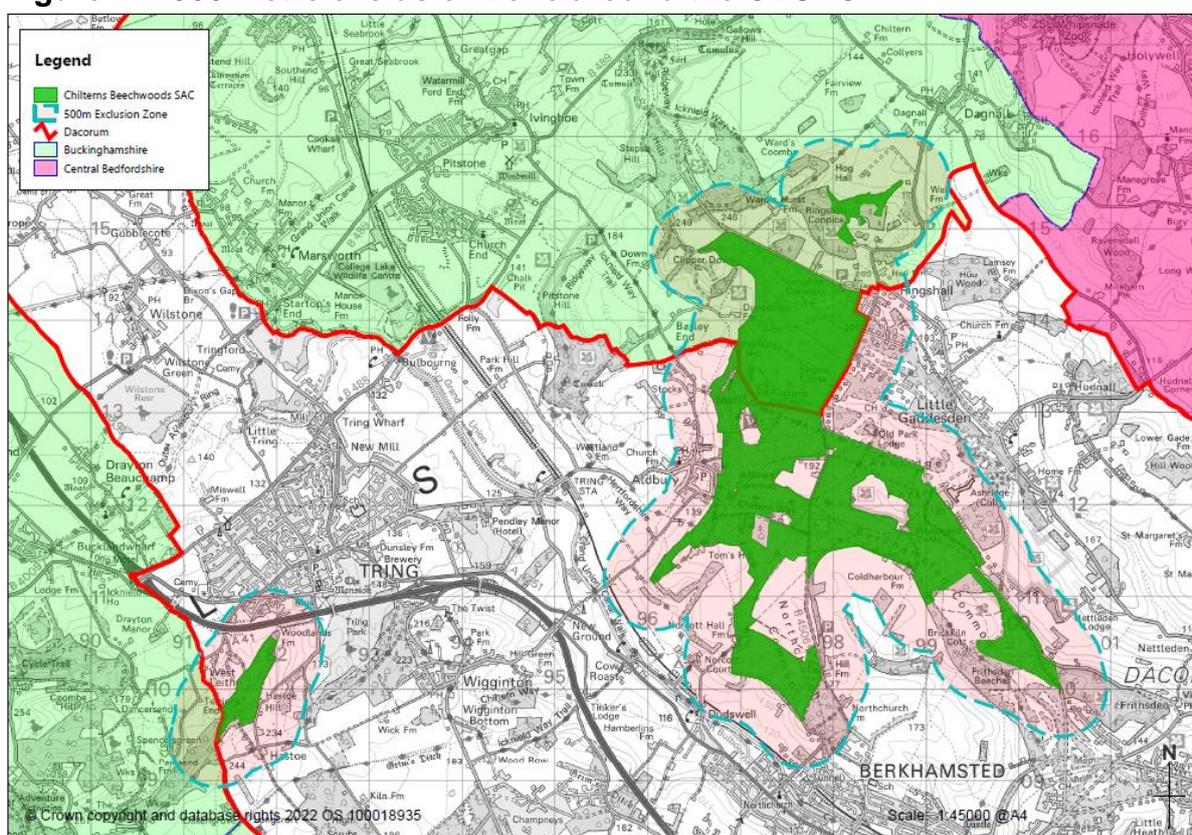
Please note that a higher quality map is available to view and download at [www.dacorum.gov.uk/sac](http://www.dacorum.gov.uk/sac)

## Q2.9 What is the 500m SAC exclusion zone and what is its purpose?

The Footprint Ecology Report recommends a 500 metre exclusion zone for residential development around Ashridge Commons and Woods SSSI and Tring Woodlands SSSI and points to similar types of control being implemented at other European sites. Within the zone there is a presumption against development, i.e. ensuring no increase in the number of dwellings there.

Footprint Ecology point to the heightened risks to designated sites (such as the CBSAC) from development that is in such close proximity to them. Recreational use is much higher from homes that are in easy walking distance of the site, and it is considered very difficult to deflect such access with alternative greenspace. Fire risk, fly-tipping, light and noise and other urban effects are also more acute close to their boundary. Furthermore, mitigation approaches, such as access management and warden control, are less effective.

**Figure 4 A 500 metre exclusion zone around the CBSAC**



Please note that a higher quality map is available to view and download at [www.dacorum.gov.uk/sac](http://www.dacorum.gov.uk/sac)

## Q2.10 What is a Mitigation Strategy and why is it needed?

A Mitigation Strategy allows the Council to meet its legal duties under the Habitats Regulations. It sets out the various steps and interventions that are necessary to ensure that no significant impacts arise from new developments at designated sites such as the CBSAC.

A mitigation strategy provides robust and appropriate protection of, and agreed mitigation measures for, designated sites. The strategy will determine the pressures and threats affecting the wellbeing of the important habitats and species of these sites and identify all the management actions required to address these issues. It will put in place actions to address these issues, where relevant, in cooperation with landowners/managers. The strategy will also include the prioritising and costing of actions, identifying available funding sources and explaining how measures will be monitored and reviewed.

Natural England expects local authorities and relevant landowners to collaborate and deliver an effective solution (Mitigation Strategy) to issues across the ZOI as this can deliver the best possible outcomes. They also expect a clear commitment and timetable to implement the strategy within, and ensure certainty that it will be delivered.

Importantly, an agreed mitigation strategy will open the door and enable some residential development to proceed. Although such a strategy may not resolve all recreational pressures at these sites in one go, it is expected to assist with smaller to medium sized proposals. We are committed to finding the solutions necessary to enable larger schemes to proceed, but expect these off-site mitigation proposals to be more complex to identify and bring forward.

#### **FACTS:**

- Letter received from Natural England dated 14 March 2022 confirming approach going forwards since the release of the Footprint Ecology evidence.
- Dacorum's evidence base:
  - Visitor Survey, recreation impact assessment and mitigation requirements for the Chilterns Beechwoods SAC and the Dacorum Local Plan, Footprint Ecology (March 2022)
- Other local examples of this matter: [Thames Basin Heaths](#), [Epping Forest](#) and [Burnham Beeches](#)

### 3. THE PROCESS FOR DEALING WITH APPLICATIONS WHERE FURTHER CHECKS / EVIDENCE IS REQUIRED

Questions covered in this section:

[Q3.1 Why are decisions on my planning application being delayed at the current time?](#)

[Q3.2 Which applications are affected by the guidance?](#)

[Q3.3 Will these restrictions affect other types of applications?](#)

[Q3.4 How will we screen applications?](#)

[Q3.5 When will the Council be able to issue a decision on my application?](#)

[Q3.6 Where in Dacorum will these further checks to applications apply to?](#)

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[Q3.8 Can I appeal against the non-determination of my application because of the restrictions?](#)

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[Q3.10 Will I have to pay contributions to mitigation measures for the CBSAC?](#)

[Q3.11 What will these contributions be spent on?](#)

[Q3.12 How will these contributions be secured and collected?](#)

[Q3.13 Will I still have to pay other contributions?](#)

[Q3.14 Will there be further restrictions imposed on landowners and users?](#)

#### **Q3.1 Why are decisions on my planning application being delayed at the current time?**

The Footprint Ecology Report has clearly identified adverse effects on the integrity of the CBSAC. The evidence is telling us that any additional new residential development in Dacorum is likely to result in an increase in overall visitor numbers using Ashridge Commons and Woods SSSI and Tring Woodlands SSSI.

The Habitats Regulations are clear that development proposals must not give rise to adverse effects on the integrity of the CBSAC either alone or in combination with other plans or development proposals. If it is likely or even where it is uncertain that a (significant) adverse effect will occur, then measures must be secured to either avoid or mitigate the impact. If it is not possible to avoid or mitigate an adverse impact then planning permission will be refused.<sup>7</sup>

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<sup>7</sup> In the absence of imperative reasons of overriding public interest and appropriate compensatory measures.

The Council is prioritising the preparation of a mitigation strategy, working with landowners, Natural England and neighbouring authorities. This work has commenced but it could take several months before it will be finalised. In line with steps taken on other designated sites in the UK, this requires us to identify and implement mitigation measures in perpetuity (see Section 4. WHAT NEXT AND WHERE CAN I FIND FURTHER INFORMATION? of these FAQs).

Furthermore, there are specific statutory controls in place which prohibit the granting of planning permission for development proposals that may adversely affect those internationally important habitats and species. These controls apply to the CBSAC.

The Council will continue to carry out processing and working with applicants on all stages of the planning application process. However, given the above and pending the conclusions on further evidence gathering:

- **The Council will refuse all qualifying applications where they fall within the 500m buffer zone (see Q3.7 What happens to my application where it falls within the 500m SAC exclusion zone? below).**
- **The Council will continue to progress qualifying applications for new housing (subject to certain measures) which are outside of the 500m SAC buffer zone.**
- **However, the Council will not be able to issue the decisions on such applications during this interim period of restrictions pending the identification of acceptable mitigation strategies to manage the recreational pressures and adverse effects of new development on the CBSAC.**

**Despite the restrictions we strongly encourage applicants to continue to submit applications to the Council in the normal way. This will ensure that all other aspects of the scheme are considered (and matters worked through) and means that the Council can begin to issue decisions as soon as the restrictions are lifted.**

### **Q3.2 Which applications are affected by the guidance?**

It will depend on the type of application you have submitted.

The Council will screen your application to identify if it will require assessment for recreational pressure on the CBSAC and to undertake HRA through the planning process (see Q.3.4).

**The position will only affect the Council issuing a decision on your application if it leads to any net increase in new homes on a site, including as part of wider mixed-use schemes.** This 'qualifying developments' could also include other forms of residential accommodation or types of development and a simple summary is set out below (Table 3.1).

**Table 3.1 Qualifying development types affected by the Zone of Influence and exclusion zone buffer areas**

Development type (use class)	Affected by the restrictions	Comments
Student accommodation (C2)	✓	
Residential care homes and institutions (C2)	✓	This includes staff residential accommodation, but is likely to exclude nursing homes.
Dwelling houses (C3)	✓	
Houses in Multiple Occupations (HMOs) (C4)	✓	
Residential caravan sites	✓	
Permanent residential boat moorings.	✓	
Gypsies, Travellers and travelling show people plots	✓	
Ancillary accommodation (e.g. granny annexe)	✓	
Householder extension or other minor works	✗	
Replacement dwelling	✗	
Other (e.g. cafés, shops, hotels, hostels in close proximity to the site)	?	Some applications, depending on their scale and location could lead to a significant impact on the CBSAC. We will have to consider each of these on their own merits and may consult with relevant stakeholders to ensure these are dealt with appropriately.

The Regulations apply to consents or permissions which the applicant requires the Council to give in order for the development to proceed. These including consents and permission for reserved matters and where the discharge of conditions are sought.

With this, it is important to clarify what types of applications are affected by this. These are presented in the table below:

**Table 3.2 Application types affected**

Application type (where they include the qualifying development set out in table 3.1)	Affected by the restrictions	Comments
Full Planning Permission	✓	
Outline Planning Permission	✓	
Applications for reserved matters	✓	
Applications for the discharge of conditions	✓	This applies to pre-commencement conditions only.
Applications for prior approval / permitted development rights	✓	
Applications subject to appeal	✓	The Secretary of State, with PINS, is the “competent authority” for determining planning appeals.
Applications for minor amendments	✓	
Lawful Development Certificates	✗	
Pre-application advice	✗	

Despite the restrictions we strongly encourage applicants to continue to submit applications to the Council in the normal way. This will ensure that all other aspects of the scheme are considered and that the Council can issue decisions as soon as the restrictions are lifted.

### Q3.3 Will these restrictions affect other types of applications?

Generally, no. We will be able to continue to determine and issue decisions for all other types of applications except for developments involving the creation of new homes (or residential accommodation) during this interim period. This includes (but is not limited to):

- Non-residential development
- Listed Building consents
- Conservation Area consents
- Advertisement consents, etc.

Neither will these restrictions prevent us from providing applicants with advice at the pre-application stage or issuing a decision in the case of where a qualifying development is refused for reasons other than HRA matters.

### Q3.4 How will we screen applications?

The Council will carry out a screening assessment of your application to decide whether the development is likely to have a significant effect (either alone or in combination with other plans and projects) on the CBSAC. We will take into account the nature, scale and location of the development and undertake any relevant review of evidence of reports received in support of the proposal. This initial review will “screen out” proposals that do not need further assessment under the Habitats Regulations.

We expect all applicants to provide sufficient evidence with their application to assist this process, as appropriate. In a small number of cases, we may need to seek the advice of other key bodies at the screening stage, such as Natural England or Hertfordshire Ecology.

The broad process is as follows:

**Applications will be screened in where they meet all of the following criteria:**

- 1. The application includes qualifying development as set out in Table 3.1 Qualifying development types affected by the Zone of Influence and exclusion zone buffer areas above;**
- 2. The application type is affected by the position (see Table 3.2 Application types affected above); and**
- 3. The qualifying development proposed results in a net increase in the number of dwellings (or equivalent residential units) on the site.**

**Additionally:**

- 4. Where the application meets bullet points 1 and 2 above, and is located within (or partly within) the 500 metre exclusion zone surrounding Ashridge Commons and Woods SSSI or Tring Woodlands SSSI, the application is unlikely to be considered acceptable in planning terms in light of the latest evidence.**

### Q3.5 When will the Council be able to issue a decision on my application?

The interim position created by the HRA process will prevent many applicants from receiving planning decisions for residential development for a number of months. The Council estimates that a mitigation strategy will be agreed in the period between June and August 2022.

The legal process of the HRA means that for all applications that are screened in, the Council has a duty to undertake an appropriate assessment to accompany all planning decisions until a strategic mitigation strategy has been agreed with Natural England. Our appropriate assessment will have to have regard to the harm evidenced in the Footprint Ecology Report at the Chilterns Beechwoods SAC. The Council therefore

needs to agree steps to prevent, avoid or reduce the harm being caused and to be confident that the overall integrity of the site is improved. This is expected to be achieved through the use of mitigation.

The Council is working at pace to develop and agree a mitigation strategy that will aid in this process. Once agreed, it will allow development to proceed subject to satisfying the requirements set out in that strategy. The mitigation strategy is unlikely to enable all qualifying developments to be issued with a decision, however it is hoped that small and medium scale developments will be able to proceed.

Applicants have the choice to produce their own project level HRA (or 'shadow HRA') which the Council can consider as part of its appropriate assessment. While normally, it is expected that the outcomes of any such assessment are unlikely to satisfy the Council (as the Council is working on a cross-boundary, strategic scale solution with all relevant partners and landowners to identify the ZOI-wide mitigation measures needed to enable development again), there may be exceptional cases where a project-level HRA may be acceptable. The Council wishes to point out that such studies are normally very costly and carry risk (if they cannot adequately demonstrate that the project will not result in likely significant effects on the CBSAC).

The Council is also seeking to develop a more comprehensive mitigation strategy which will work alongside the initial mitigation strategy. This will require partnership working with Natural England, our adjoining authorities and relevant landowners, and will take longer to put in place. It is likely that this will be progressed in tandem with the new Local Plan, but the Council will explore opportunities to deliver it sooner.

This will be linked to the speed at which we are able to progress further key work important to enhancing our understanding of the risks to the CBSAC and to identify and put in place appropriate mitigation measures. **No decisions on qualifying applications can be issued until then (see Table 3.1 Qualifying development types affected by the Zone of Influence and exclusion zone buffer areas).**

Therefore, we will need to agree an extension of time on qualifying applications to cover this interim period while restrictions in determining applications are in place. We may also agree a resolution in principle to grant planning permission for your application, but this will be subject to an agreement to contribute to the identified mitigation measures (see Section 4. WHAT NEXT AND WHERE CAN I FIND FURTHER INFORMATION? below).

### **Q3.6 Where in Dacorum will these further checks to applications apply to?**

Natural England has recommended that all relevant local planning authorities covered by the ZOI should assess applications in accordance with their plan/project specific advice, and to secure avoidance and mitigation measures accordingly. The Council accepts the need to take these steps in order to meet our obligations under the Habitats Regulations.

**The Council has agreed with Natural England that we will be using the 12.6km ZOI around Ashridge Estate to determine whether development will have a recreational impact on the CBSAC.** This will apply to both progressing the Local Plan and when we determine planning applications.

**Using the ZOI means that we will have to screen all qualifying residential applications located anywhere in the borough.**

However, if your application falls within the 500m SAC buffer zone we will apply a slightly different but more restrictive approach to proposals (see Q3.7 What happens to my application where it falls within the 500m SAC exclusion zone? below for an explanation).

### **Q3.7 What happens to my application where it falls within the 500m SAC exclusion zone?**

Qualifying applications (see Table 3.1 Qualifying development types affected by the Zone of Influence and exclusion zone buffer areas above) falling within the 500m SAC buffer zone will be treated differently to those falling within the remaining ZOI. This is to reflect the greater sensitivity of the CBSAC to new development within this zone and the difficulties of avoiding further pressure/damage upon the protected features and mitigating its effect there (see Q2.9 What is the 500m SAC exclusion zone and what is its purpose? above).

The Council will apply a presumption against new development in the buffer zone. **Therefore based on the current evidence it is highly unlikely that qualifying developments can be proven to be acceptable in planning terms within this 500m buffer zone and the Council is therefore likely to refuse these applications within the exclusion zone.**

We recognise the difficulties that introducing an exclusion zone will cause for applicants and residents, but we must fulfil our legal obligations to protect the CBSAC under the Habitats Regulations.

### **Q3.8 Can I appeal against the non-determination of my application because of these new interim determination restrictions?**

You are within your rights to appeal against the non-determination of your application as a result of the current position for the CBSAC.

The Secretary of State, acting through the Planning Inspectorate (PINS), will usually be the body deciding whether or not to grant permission for an application that is appealed.

As a result, they are the “competent authority” for the purposes of the HRA and are responsible for carrying out the appropriate assessment which informs that decision. It should be expected that the Planning Inspector will wish to see what information has been produced for the appropriate assessment to date, by the Council and the applicant, to inform their ultimate decision.

### **Q3.9 What enforcement actions will the Council take for any breaches?**

The Council is empowered to take enforcement action whenever development is carried out without the required planning permission or in breach of any condition or limitation to which planning permission was granted within. This also applies to permitted development rights.

If the Council knows, or suspects, that a breach of planning control will cause an adverse effect on the integrity of the CBSAC, then the Council will consider whether it is practical to use its enforcement powers.

### **Q3.10 Will I have to pay contributions to mitigation measures for the CBSAC?**

Yes. Making payments towards mitigation measures is the easiest way to help mitigate against recreational disturbance impacts on the designated sites arising from new residential development. It also allows the Appropriate Assessment of smaller developments to conclude that the in-combination effect will be mitigated without disproportionate amounts of evidence being required for these applications.

The Council still needs to put in place a comprehensive Mitigation Strategy to address recreational pressures on the CBSAC. This could include:

- On-site contributions delivered within the SAC unit towards mitigation measures involving visitor access management and monitoring measures (usually delivered through a Strategic Access Management and Monitoring (SAMM) strategy).
- Contributions (physical or financial) to suitable alternative natural green space (SANGs) that can alleviate recreational pressures on the SAC.

The mitigation strategy will also set out how much of a contribution will need to be made per new home built.

**The Council cannot seek contributions ahead of the completion of a mitigation strategy, as there needs to be clarity on the measures needed (including their costs) before a decision can be made on a plan or project (i.e. a planning application). This is an important part of the Habitats Regulations.**

**Any contributions towards the SAMM and SANG must be secured ahead of occupation of these new homes.**

### **Q3.11 What will these contributions be spent on?**

The contributions will go towards projects at the CBSAC which will be prioritised to avoid, reduce or divert recreational pressure on these sensitive areas. The prioritisation will be agreed between the Local Authorities, landowners and the National Trust (as the land managers who will implement these measures on-site). Such action includes (but are not limited to) staffing/wardening, education and work at sensitive sites, to help, minimise the increased impact, or develop new access routes and to monitor the success of enacted mitigation actions. Future surveying will also check whether visitor behaviour and patterns have significantly changed as a result of the implemented mitigation measures.

The Mitigation Strategy will include a list of measures and projects to be funded through these contributions.

In the case of recreational pressure, monitoring may be required to assess the ongoing appropriateness of the mitigation measures in minimising impacts from recreational use of designated sites.

### **Q3.12 How will these contributions be secured and collected?**

Payment towards the mitigation will be secured through a legal agreement. You must sign and fulfil these obligations as a basis for us granting you planning permission.

The financial contribution must be secured either by a Unilateral Undertaking<sup>8</sup> (UU) or Section 106 agreement. In the case of a UU, this will simply require you to complete our standard UU template and make payment. The total contribution plus administration fee (for processing the agreement) must be made on completion of the UU by way of cleared funds and before permission is granted. In the case of a S106 agreement, please advise us that you wish to proceed with this site specific legal agreement, along with your solicitor's details, so that our legal team can be instructed.

S106 agreements are likely to be used for more complex sites and therefore may take longer to complete and cost the applicant more costs as a result. These fees will be set out on our website at [Developer contributions \(dacorum.gov.uk\)](http://Developer%20contributions%20(dacorum.gov.uk)), the Mitigation Strategy for the CBSAC or in future iterations of these FAQs.

### **Q3.13 Will I still have to pay other contributions?**

Yes. The HRA process and the need for applicants to make payments or to provide on-site measures does not supersede or replace normal development management considerations. This includes the need for you to contribute towards other environmental requirements/obligations (S106 or S278 matters) and CIL, as appropriate.

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<sup>8</sup> A Unilateral Undertaking is a simplified version of a Planning Agreement and is only entered into by the landowner. It does not require any individual legal inputs from the Council to complete it, although you may choose to obtain your own legal advice before completing this contract with us.

### Q3.14 Will there be further restrictions imposed on landowners and users?

This will be dependent on ongoing evidence gathering at the CBSAC.

There is already a legal requirement to protect and manage all the features of these sites into a favourable condition and this is being actively progressed through the delivering the Mitigation Strategy. A key part of the strategy is identifying ways of managing these sites to best meet the needs of landowners and users, as well as the important wildlife features.

#### FACTS:

- Letter received from Natural England dated 14 March 2022 confirming approach going forwards since the release of the Footprint Ecology evidence.
- Dacorum's evidence base:
  - Visitor Survey, recreation impact assessment and mitigation requirements for the Chilterns Beechwoods SAC and the Dacorum Local Plan, Footprint Ecology dated March 2022
- Other examples of this matter: [Thames Basin Heaths](#), [Epping Forest](#) and [Burnham Beeches](#)

## 4. WHAT NEXT AND WHERE CAN I FIND FURTHER INFORMATION?

Questions covered in this section:

[Q4.1 What are we doing next?](#)

[Q4.2 Have we made any decisions on mitigation strategies yet?](#)

[Q4.3 What is happening about SAMMs and SANGs](#)

[Q4.4 Do the Council need to complete any other studies connected with the HRA?](#)

[Q4.5 Where can I find out more information about the SAC and development restrictions on planning applications?](#)

### Q4.1 What are we doing next?

The HRA process is complex, its implications on the CBSAC and other designated sites will be wide-ranging, and it will involve a lengthy work programme for the Council. Matters are further complicated by the number of partner organisations we need to work with and whether we progress a joint or individual mitigation strategies. The Council is aiming for a strategic, comprehensive Mitigation Strategy for the CBSAC.

Natural England will continue to provide us with oversight and their advice throughout the process. This ensure that any mitigation package is fully supported by them as the 'appropriate conservation body'.

We set out the further key areas of work we intend to complete in the questions below.

### Q4.2 Have we made any decisions on mitigation strategies yet?

No, as these are still being explored before we prepare draft versions for stakeholders to feed into.

We are currently liaising with Natural England, other partners and neighbouring local authorities in order to agree a Mitigation Strategy to offset some of the additional pressures on the SAC units. We need to develop these as soon as practicable to limit the delay on issuing a decision on your application (if you are affected by the HRA process).

The mitigation strategy will need to identify what measures are required. We are also investigating model approaches and referring to best practice elsewhere. These mitigation measures will be required in order to determine that there are no detrimental impact to the CBSAC sites.

**These mitigation measures have to be agreed with Natural England (to qualify as mitigation to the SAC) and must be in place prior to the determination of relevant planning applications affected by the current restrictions in issuing decisions.**

However, to ensure that there is clarity on a strategy we must first address the matter of recreational pressure and its impacts. The Council is seeking advice from a number of organisations on a range of technical and legal matters regarding the preparation, adoption and content of the mitigation strategy.

The preferred approach is for a comprehensive (strategic) mitigation strategy involving key partners and adjoining authorities. This would ensure everyone works together to produce a comprehensive proposal to fully mitigate these effects. However, this will be complicated to progress and likely to take some time to prepare.

As such the Council is seeking to put in place a mitigation strategy for SAMM in advance of a comprehensive strategy which would include SANG proposals as well. However, we will need to ensure we have satisfied our legal obligations under the Habitats Regulations before doing so.

#### **Q4.3 What is happening about SAMMs and SANGs?**

The majority of the mitigation measures will involve visitor access management and monitoring measures and will likely be delivered on-site within the SAC units themselves under a Strategic Access Management and Monitoring (SAMM) strategy. Once finalised, the strategy will require applicants to make a financial contribution for every new home being proposed.

The contribution will be collected through a SAMM tariff per each new home (expected to be through the collection of planning obligations (often as a Unilateral Undertaking)). We will need to develop SAMM tariff guidance for all local authority partners that outlines the relevant level of the contribution in each case. The tariff has been recognised elsewhere as a fair and quick method of securing mitigation and preventing delays in planning decisions.

Another measure that will be required to mitigate recreational pressures from new development is to provide other destination green spaces to actively draw potential users away from the CBSAC (termed Suitable Alternative Natural Greenspace (SANG)). Our evidence is telling us that existing green spaces are not able to satisfy additional recreational pressures from new development.

Therefore, we consider that it is quite likely that a new SANG site (or sites) may need to be delivered to mitigate the impacts of Dacorum's growth on the SAC units. This could be achieved through a combination of the Council securing a new SANG, enhancing existing green infrastructure so that it is functioning as a SANG site, developers directly providing a suitably designed SANG if appropriate within the site boundary of their larger residential schemes, and through smaller developments making potential off-site financial contributions towards a SANG.

There is also the possibility that larger developments are likely to trigger the requirement for their own project-level HRA, bespoke on-site mitigation packages and SANGs/SANG-type schemes.

#### **Q4.4 Does the Council need to complete any other studies connected with the HRA?**

Yes. The Council highlights that there are other impacts that have been screened in and will be subject to appropriate assessment in due course. These include:

- Air quality impacts on the Chilterns Beechwoods SAC; and
- Hydrology impacts on the South West London Waterbodies SPA and Ramsar sites.

These will be considered separately, require their own evidence base and, if necessary, separate mitigation packages and modelling assumption outputs. They may necessitate future development having to provide financial contributions and/or other mitigation measures. Although we will work through this as necessary and find solutions if mitigation is needed for these wider HRA matters.

#### **Q4.5 Where can I find out more information about the SAC and development restrictions on planning applications?**

The Government has provided advice on the Habitats Regulations Assessment process and protecting European sites:

<https://www.gov.uk/guidance/habitats-regulations-assessments-protecting-a-european-site#make-decision-making-quicker>

<https://www.gov.uk/guidance/appropriate-assessment>

You can find further general information about the process and how it affects the Local Plan on the Council's dedicated CBSAC and Local Plan website:

[www.dacorum.gov.uk/sac](http://www.dacorum.gov.uk/sac)

[www.dacorum.gov.uk/localplan](http://www.dacorum.gov.uk/localplan)

To find out more about the HRA process please contact:

<b>Matters specific to planning applications:</b>	Applicants will need to continue to liaise with their allocated case officer either: <ul style="list-style-type: none"><li>• via email <a href="mailto:planning@dacorum.gov.uk">planning@dacorum.gov.uk</a>; or</li><li>• by calling 01442 228000 (asking for Planning or the name of the officer).</li></ul>
<b>General questions regarding the CBSAC:</b>	Please contact: <ul style="list-style-type: none"><li>• email <a href="mailto:SAC@dacorum.gov.uk">SAC@dacorum.gov.uk</a>; or</li><li>• by calling Strategic Planning on 01442 228 660.</li></ul>



If you have any questions please contact:

Strategic Planning and Regeneration  
Email: [strategic.planning@dacorum.gov.uk](mailto:strategic.planning@dacorum.gov.uk)  
Tel: 01442 228660

Dacorum Borough Council  
The Forum  
Marlowes, Hemel Hempstead  
Hertfordshire.  
HP1 1DN

[www.dacorum.gov.uk/strategicplanning](http://www.dacorum.gov.uk/strategicplanning) or [www.dacorum.gov.uk/sac](http://www.dacorum.gov.uk/sac)