

Thames Basin Heaths
Special Protection Area
Delivery Framework

Thames Basin Heaths Joint Strategic Partnership Board

This Delivery Framework has been endorsed by the Thames Basin Heaths Joint Strategic Partnership Board and is recommended to the local authorities affected by the Special Protection Area (SPA). The Board encourages local authorities to use the Framework to guide the production or revision of local avoidance and mitigation strategies without delay.

This document has been prepared as a non-statutory document within the context of the South East Plan proposed changes published in July 2008 (which, when adopted, will form part of the statutory development plan), and on the basis of regional planning and governance arrangements as of January 2009.

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**Introductory message from Cllr Moira Gibson,
Chairman of the Thames Basin Heaths Joint Strategic Partnership Board**

When planning for our communities, we need to balance the requirements of our residents to make sure they have the homes and services that they need, against the need to protect and enhance our natural environment; which makes our region such an attractive place to live.

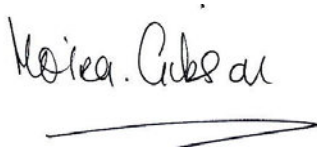
The Thames Basin Heaths, which covers parts of Surrey, Hampshire and Berkshire, is a rare example of lowland heathland. It is home to three important bird species, and protected by international law as a 'Special Protection Area' (SPA). The heaths, and the birds that nest and breed there, are easily disturbed by people and their pets.

This means that new homes built in the area for our residents must not increase the risks the heathland faces.

Considerable work

The local authorities surrounding the Thames Basin Heaths have undertaken a considerable amount work in seeking a way forward to allow development. Along with the Regional Assembly and other partners, the authorities have established the Thames Basin Heaths Joint Strategic Partnership to agree the long-term protection of the SPA.

This long-term strategy is needed if we are to ensure that the balance between protecting the heathland, and its birds, and the need to provide new homes for our residents is maintained into the future.

A handwritten signature in black ink that reads "Moira Gibson". The signature is written in a cursive style and is positioned above a horizontal line that tapers to a point on the right side.

Cllr Moira Gibson

1. Aim

- 1.1 This Delivery Framework sets out the Thames Basin Heaths Joint Strategic Partnership Board's (JSPB) recommendations on measures to enable the delivery of dwellings in the vicinity of the SPA - without having a significant effect on the SPA as a whole. It focuses on avoiding the impact of recreation and urbanisation on the SPA habitat and interest features.
- 1.2 Local authorities should refer to this Delivery Framework in the preparation of local or joint mini-plans, development plan documents (DPDs) and/or supplementary planning documents (SPDs). They should also ensure that appropriate references are made to the provision of SPA-related impact avoidance measures in their Local Development Framework (LDF) and supporting implementation documents in line with policy within the South East Plan.
- 1.3 Adopting the framework approach into SPD/DPD does not negate the need to undertake a Habitats Regulations Assessment on that document. In developing planning documents which relate to the SPA, local authorities should satisfy themselves as to whether the document requires a Habitats Regulations Assessment or should be subject to Strategic Environmental Assessment. This Delivery Framework should not be used directly for development control purposes.

2. Objectives

- 2.1 The objectives of the Delivery Framework are to recommend:
- A consistent approach to the protection of the SPA from the significant effects of residential development
 - The type and extent of residential development that may have a

significant effect alone or in combination on the SPA

iii. Key criteria for the delivery of avoidance measures.

- 2.2 The Delivery Framework will be accompanied by a programme of actions for the local and collective delivery and implementation of avoidance measures and a clear strategy for monitoring the SPA.

3. Key Principles

- 3.1 The following key principles set out the overarching context for the recommendations within this Delivery Framework.
- All net new residential development - when considered either alone or in combination with other plans and projects - is likely to have a significant effect on the SPA and should therefore provide or contribute to the provision of avoidance measures.
 - Developments can provide - or make a contribution to the provision of - measures to ensure that they have no likely significant effect on the SPA. In doing so, residential development will not have to undergo an appropriate assessment.¹ The option remains for developers to undertake a Habitats Regulations screening assessment and where necessary a full appropriate assessment to demonstrate that a proposal will not adversely affect the integrity of the SPA.
 - A three prong approach to avoiding likely significant effect on the SPA is appropriate², however this framework

¹ This principle has been established through the High Court Judgement of J Sullivan in Hart DC v SoS for Communities and Local Government [2008].

² That is, focusing on (i) provision of Suitable Alternative Natural Greenspace (SANG), (ii) access management; and (iii) habitat management.

focuses on the two prongs of SANG (Suitable Alternative Natural Greenspace) and access management, which the JSPB currently considers are the most appropriate avoidance measures.³

- This Framework sets out the JSPB's recommended approach to the provision of avoidance measures. Its key objective is to recommend consistent standards for the application and provision of avoidance measures. However, as a strategic document it cannot address every foreseeable circumstance. It is acknowledged that there may be some exceptional circumstances where local authorities consider that a more or less prescriptive approach needs to be taken, or greater local specificity is needed, in the light of local circumstances or evidence base, or the detail of the proposed new residential development⁴. Such circumstances should be carefully justified.
- It should be noted that the JSPB has no formal control on the planning decisions which are to be made in respect of the Thames Basin nor does it set any formal planning policy. However, the JSPB will retain an overview of local authority mini-plans, SPDs and DPDs, and will seek to ensure that a consistent approach is being applied and sufficient avoidance measures are being provided.

³ In the longer term, habitat management may – theoretically - be taken to be an avoidance measure; however, the focus in the short-term must be improving the quality of the SPA to favourable condition status. This is a duty of SPA landowners which falls outside the development control system.

⁴ For example, if it can be demonstrated that small scale social housing developments will cater for housing need existing within the zone of influence and will not directly or indirectly lead to an increase in population in the zone of influence.

4. What development is covered?

- 4.1 This section describes the location, type and scale of development to which it is recommended the Delivery Framework be applied.

Location

- 4.2 The avoidance measures recommended in the Delivery Framework should be applied within a 'Zone of Influence' - defined as the area from 400m from the perimeter of the SPA (measured as the crow flies to nearest part of the curtilage of the dwelling) to 5km from the perimeter of the SPA, (measured as the crow flies from the primary point of access to the curtilage of the dwelling).⁵
- 4.3 In exceptional circumstances it may be appropriate for local authorities to modify the extent of this zone to take account of physical obstructions to cat, or human movement or access.
- 4.4 Applications for large scale development proposals beyond the zone of influence should be assessed on an individual basis. Where appropriate a full appropriate assessment may be required to ascertain whether the proposal could have an adverse effect on the SPA.⁶

⁵ The South East Plan Technical Assessor ('the Assessor') recommended that a zone of influence should be defined on the basis of travel distance. A travel distance approach was trialled by LAs, however this approach led to increased confusion and uncertainty. The JSPB therefore recommends that in the interests of certainty and clarity the Zone of Influence of the Delivery Framework approach to provision of avoidance measures is based on a 5km linear distance.

⁶ This is in line with the general requirements of the Habitats Regulations and reflects the approach proposed by the Assessor, who recommended that between 5 and 7km from the edge of the SPA residential developments of over 50 houses should be assessed and may be required to provide appropriate mitigation. It is recommended that such cases be considered on a case by case basis.

4.5 Within 400m of the SPA (measured as the crow flies from the SPA perimeter to the point of access on the curtilage of the dwellings) the impact of net new residential development on the SPA is likely to be such that it is not possible to conclude no adverse effect on the SPA. There should therefore be a presumption against development within this zone – an Appropriate Assessment will be needed to demonstrate that any development will not have an adverse effect on the SPA and/or the acceptability of any avoidance measures provided. In exceptional circumstances the 400m distance may be modified by local authorities to take account of physical obstructions to cat movement and human access⁷.

Type of development covered

4.6 The avoidance measures recommended in the Delivery Framework should be sought in relation to the following types of development:

- i) Proposals for 1 or more net new dwelling unit falling within Use Class C3 (residential development).⁸
- ii) Proposals for 1 or more net new units of staff residential accommodation falling within Use Class C1 and C2⁹

⁷ The Assessor recommended the retention of a 400m zone in which no development should be allowed unless it could be demonstrated that it would not lead to further recreational use of the SPA or have any other significant effect on its integrity.

⁸ The Assessor recommended that only new residential development of 10 dwellings or more would have an impact on the SPA. The Board considers that this approach fails to recognise the longer term cumulative effect of small-scale developments, however accepts his conclusion that *individually* developments of less than 10 dwellings will not have a significant impact on the SPA. Thus this Delivery Framework recommends a more flexible approach to the provision of SANG in relation to smaller developments. The threshold of 10 is identified on the basis of the definition of major development in the GDPO 1995.

⁹ The principal impact on the SPA being dealt with in this Framework is that resulting from recreational pressure

except large residential development proposals which, due to their scale and potential impact and ability to offer their own alternative avoidance measures, should be considered by local authorities on a case-by-case basis. The numerical definition of ‘large development proposals’, and the ability of large schemes to provide their own avoidance measures, will vary depending on the particular locality of the proposals.

4.7 Small-scale residential developments are likely to have an effect on the SPA in combination with other residential developments, therefore should provide a contribution towards the provision of avoidance measures.

4.8 The recommendations within this Delivery Framework apply only to net new residential development. It is considered that replacement dwellings will not generally lead to increased recreational pressure therefore will have no likely significant effect on the SPA.

4.9 All other applications for planning permission for developments in the vicinity of the SPA should be screened to assess whether they will have a likely significant effect (individually or in combination with other plans or projects) and where necessary a full Habitats Regulations Assessment should be undertaken.

4.10 The recommendations in this Framework should be applied to applications for full or outline planning permission. Reserved matters, discharge of conditions or amendments to existing planning consents

and urbanisation impacts associated with residential development (eg cat predation). On this basis it is recommended that the Delivery Framework approach generally be applied to all net new development which provides permanent accommodation. It is recommended that other C1 and C2 uses are assessed on a case by case basis.

should be considered on an individual basis by local authorities.

5. Avoidance measures

5.1 This section describes the measures recommended by the Board to avoid any likely significant effect of development on the SPA. The suite of avoidance measures should be provided in order that it can function in perpetuity¹⁰.

SANG (Suitable Alternative Natural Greenspace)

5.2 The provision of alternative recreational land to attract new residents away from the SPA is a key part of the three pronged approach set out above (para 3.13).

5.3 SANG should be delivered by local authorities or groups of local authorities and funded by developer contributions. To meet the requirements of the Habitats Regulations, SANG must be provided in perpetuity.

5.4 Joint working between authorities to provide SANG may be appropriate when:

- i) A LPA alone is not able to provide sufficient SANG land to meet its local need
- ii) The catchment of a SANG extends into a neighbouring authority
- iii) There is the opportunity to add value and/or capacity to individual SANG by developing a network of SANGs across boundaries.

5.5 Local authorities should explore opportunities for cross boundary working.

5.6 SANG provision should be funded by developer contributions, collected at a local or cross authority level; the calculation of costs should take account of acquisition costs, upgrading costs, and maintenance and management costs in perpetuity. Alternatively SANG may be provided by developers for individual developments.

5.7 Sufficient SANG should be provided in advance of dwelling completion¹¹ to ensure that there is no likely significant effect on the SPA, however, in exceptional circumstances (to be agreed by Natural England) contributions may need to be pooled to provide for the costs associated with the upgrading or maintenance of SANG.

5.8 SANG should be provided on new or existing public open space, taking into account the availability of land and its potential for improvement. Where it is proposed to use existing public open space as SANG, the existing patterns and rights of public use must be taken into account and protected. When new land or existing public open space is proposed as SANG, any existing nature conservation interests must be taken into account.

5.9 SANG should be provided on the basis of at least 8ha per 1,000 population¹². The average occupancy rate should be assumed to be 2.4 persons per dwelling unless robust local evidence demonstrates otherwise.¹³

¹⁰ Perpetuity means forever and, for the avoidance of doubt, does not mean the estimated design life of the development. Where financial payments form all or part of the avoidance measures, a commuted sum should be collected to allow the avoidance measures to be provided forever through a continual annuity.

¹¹ Completion should be defined as when an *individual* dwelling is completed, rather than when a whole development is completed.

¹² Based on the recommendations of the South East Plan Technical Assessor.

¹³ Based on the occupancy rate across the 11 affected authorities in 2006.

- 5.10 The size of site suitable for use as SANG will depend on the individual site characteristics and location, including its relationship within a wider accessible open space or network of green infrastructure. The preference should be for SANG to be of at least 2ha in size, and located within a wider open space or network of spaces although smaller spaces may form part of a wider SANG network. Across the affected area, a range of types and sizes of SANG should be provided, offering a range of experiences, including large SANG which have the benefit of being able to act as attractor sites.
- 5.11 The catchment of SANG will depend on the individual site characteristics and location, and their location within a wider green infrastructure network. As a guide, it should be assumed that:
- i) SANG of 2-12ha will have a catchment of 2km
 - ii) SANG of 12-20ha will have a catchment of 4km
 - iii) SANG of 20ha+ will have a catchment of 5km¹⁴.
- 5.12 Developments of less than 10 dwellings do not need to be within a specified distance of SANG provided that a sufficient quantity and quality of SANG land to cater for the consequent increase in population is identified and available in that district or agreed in an adjoining district, and functional in advance of completion¹⁵. However, all net new dwellings (including on sites of less than 10 dwellings) will be required to contribute to the provision of
- avoidance measures. Monitoring of the available capacity of SANG must take account of this requirement.
- 5.13 Regard should be had to the cumulative effect of the small development proposals with other anticipated developments in the vicinity – for example where the local authority receives an application for planning permission for development which forms part of a more substantial proposal on the same land or adjoining land.
- 5.14 In assessing the required quality for new SANG land regard should be had to the guidance published by NE.
- 5.15 The JSPB will retain an overview of SANG provision to ensure that sufficient SANG is delivered to deliver South East Plan housing allocations.
- Access Management
- 5.16 Existing landowners and managers should deliver access management and funding should come from developer contributions. Funding should be provided for in perpetuity.
- 5.17 Access management should be coordinated strategically, by Natural England (NE) working with local authority and land managers, in line with an overarching strategy for access management on the SPA and SANGs, which should include:
- i) A consistent SPA/SANG message - which may include signs, leaflets, educational material, etc
 - ii) Guidance on access management on the SPA eg rangers, seasonal restrictions, campaigns etc
 - iii) Guidance over access management on SANG eg provision of attractive facilities.

¹⁴ These catchments are indicative and based on initial research by NE as set out in the draft Delivery Plan.

¹⁵ Whilst the Board considers that SANG is not required to cater for the individual impact of small developments (see footnote 8), in order to provide certainty that the overall (cumulative) impact of all small developments on the SPA is avoided, an appropriate level of SANG should be provided within the vicinity of the SPA as a whole.

5.18 Access management on the SPA should be funded by ensuring that the charge levied on developer contributions includes an allowance for the cost of this service. The charge collected in relation to access management measures should be pooled for strategic allocation. Alternatively, where a developer is also an SPA land manager, access management measures may be provided by that developer.

5.19 There should be a focus on 'soft' measures for access management - where access restriction is proposed for the purposes of the avoidance of recreational impact, this should be as a last resort, and reasons must be clearly identified and restrictions carried out within legal requirements and provisions to protect existing public or open access rights. Care must also be taken to protect other existing nature conservation interests on the SPA including SSSI interest features.

5.20 The JSPB will retain an overview of access management provision to ensure that sufficient measures are being taken to protect the SPA.

6. Monitoring and review

6.1 Monitoring of the success of avoidance/mitigation measures should be carried out by local authorities, NE and existing landowners and managers, and funded by ensuring that the charge levied on developer contributions includes an allowance for the cost of this work. The charge collected in relation to monitoring should be pooled for strategic allocation.

6.2 This monitoring should address:

- i) Habitat condition and bird numbers (an existing NE responsibility).
- ii) The provision of SANG and delivery of dwellings
- iii) Access Management
- iv) Visitor Surveys.

It should be coordinated strategically, in line with a Monitoring Strategy agreed by the JSPB.

6.3 Partners, including NE, may undertake additional monitoring and research in relation to the SPA and in order to improve the evidence base.

7. Review of the Delivery Framework

7.1 The JSPB will review the results of the monitoring work undertaken on an annual basis. Where necessary the Board will consider amendments to the Delivery Framework that are required to address identified problems. Any amendments agreed by the JSPB in this way should in turn be considered by individual local planning authorities when updating mini-plans, SPDs or DPDs.

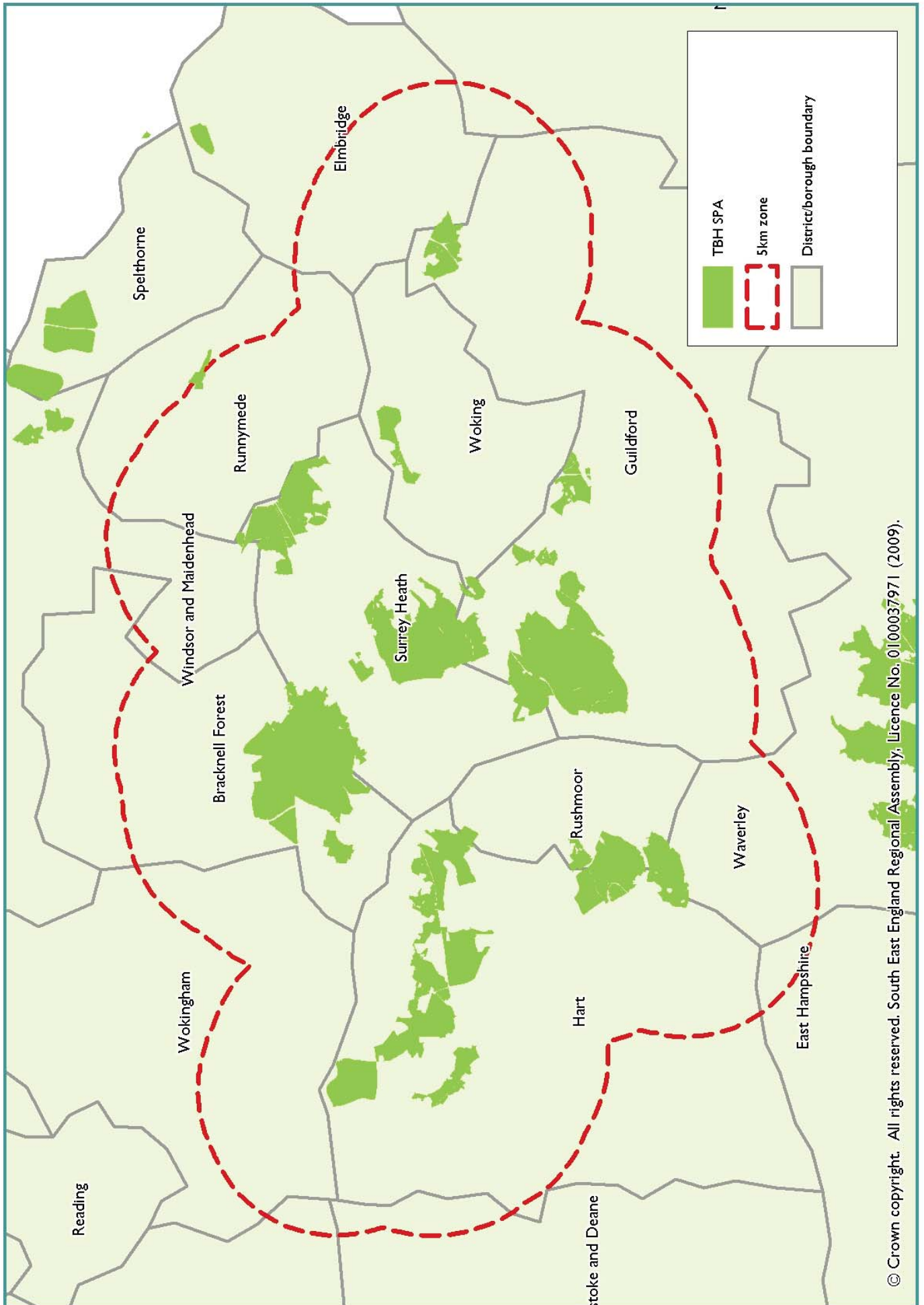
Joint Strategic Partnership Board February 2009

GLOSSARY

| Term | Definition |
|--|---|
| AA | See Appropriate Assessment |
| access management | Measures to limit the damage caused by visitors to the SPA. This can include 'soft' measures, such as education and wardening, or 'hard' measures such as limiting car parking, pathways etc. |
| the affected authorities / affected area | Those local authorities that surround the SPA, and that wholly or partially fall within 5km of the SPA boundary. |
| Appropriate Assessment, or AA | The second stage in a Habitats Regulations Assessment process, an AA assesses the implications of a plan or project on a European site's conservation interests. |
| the (Technical) Assessor's report | The report from the Planning Inspector who ran the draft South East Plan Examination in Public Technical Sessions looking at the Natural England draft Delivery Plan. |
| avoidance measures | Used to refer to the collection of measures that may be used to avoid any significant effect of new development on the SPA; that is, SANG and access management. This definition also sometimes includes monitoring. |
| the (Joint Strategic Partnership) Board | A forum of elected representatives from the II authorities that surround the SPA, and two county councils, and advisors from key stakeholder groups including the nature conservation sector and development industry and major landowners. The work of the JSP Board is guided by a member steering group. |
| competent authority | An authority entitled to give an authorisation or consent to a plan or project. Local authorities are competent authorities. |
| Delivery Framework | A set of recommendations from the Board about measures that will help to enable consistent provision of avoidance measures across those local authorities within the vicinity of the SPA. |
| Development Plan Document (DPD) | A statutory local planning document which forms part of the LDF, prepared by a local authority, and setting out planning policies for the area |
| Draft Delivery Plan | The original avoidance measure document published by Natural England in 2006, which sets out the principles using SANG and access management to avoid any significant effect from new residential development on the SPA. |
| Habitat management | Measures to improve the quality of the heathland so that the protected bird species are able to live and breed successfully. |
| Habitat Regulations Assessment (HRA) | The assessment of the possible impact of a new development or plan on European Sites. A HRA comprises: <ul style="list-style-type: none"> - an initial 'screening stage' to determine whether a plan or development is likely to have a significant effect on a European site and (if it is determined that there is likely to be a significant effect) - a second stage called the 'appropriate assessment' which comprises an assessment of the proposal in light of the particular conservation interests of the site. <p>Only if the appropriate assessment demonstrates that there will be no adverse effect on the European Site integrity can the project or plan be approved.</p> |
| HRA | See Habitat Regulations Assessment |
| Joint Strategic Partnership or JSP | A partnership of those local authorities affected by the SPA designation along with a wide range of stakeholders who have an |

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| | interest in providing dwellings whilst ensuring the protection of the SPA. |
| Local Development Framework (LDF) | A collection of DPDs and other planning documents which form the local spatial plan for an area. |
| Mini-plan | A short-term strategy produced by a local authority planning department to allow development in the vicinity of the SPA to go ahead through the collection of developer contributions to fund the provision of avoidance measures by the local authority. |
| the Project Board | Formed to manage and oversee the delivery of strategic access management and monitoring measures; reporting to the JSP Board |
| SANG | Suitable Alternative Natural Greenspace – alternative open space similar in character to the SPA provided to attract new residents away from the SPA. Cross boundary SANG has the potential to act as an avoidance measure for more than one authority, or for a different authority to that in which it is located. |
| SPA | Special Protection Area – a protected area designated under European law |
| Supplementary Planning Document (SPD) | Planning document which provides guidance on how policies in Development Plan Documents (DPDs) are implemented |
| TBH | Thames Basin Heaths |

Map of the Thames Basin Heaths



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The Thames Basin Heaths Joint Strategic Partnership Board comprises:

Bracknell Forest Borough Council
Elmbridge Borough Council
Guildford Borough Council
Hart District Council
Royal Borough of Windsor and Maidenhead
Runnymede Borough Council
Rushmoor Borough Council
Surrey Heath Borough Council
Waverley Borough Council
Woking Borough Council
Wokingham Borough Council
Hampshire County Council
Surrey County Council
South East England Regional Assembly.

The Board is advised by:

Berkshire Joint Strategic Planning Unit
Defence Estates
Forestry Commission
Government Office for the South East
Federation of Master Builders
Natural England
Open Spaces Society
Royal Society for the Protection of Birds
Wildlife Trusts in the South East