

CANNOCK CHASE SPECIAL AREA OF CONSERVATION (SAC)

GUIDANCE TO MITIGATE THE IMPACT OF NEW RESIDENTIAL DEVELOPMENT

(September 2022)

1. Background

- 1.1. Walsall Council has a duty as a Competent Authority under the Conservation of Habitats and Species Regulations 2010 (Habitat Regs.) to ensure that planning application decisions comply with the Habitats Regulations. Local Plan policy EQ2 safeguards the Cannock Chase Special Area of Conservation (SAC), which has been designated under the Regulations for its unique heathland habitat.
- 1.2. Evidence produced to inform the production of the Council's Local Plan (Core Strategy) policy EQ2, by consultants Footprint Ecology, together with that of partner Local Planning Authorities in the Cannock Chase SAC Partnership (Stafford Borough Council, Cannock Chase Council, Lichfield Council, East Staffordshire Council, South Staffordshire Council, City of Wolverhampton Council and Walsall Council), shows that the "in combination" impact of proposals involving a net increase of one or more dwellings within a 15 kilometre radius of the SAC would have an adverse effect on its integrity unless avoidance and mitigation measures are in place.
- 1.3. The effects arise from an increase in recreation over the local plan period and comprise the creation of new paths, path widening, erosion and nutrient enrichment from visitor use and vehicle emissions. SAC Partners have therefore agreed to formally support the Footprint Ecology evidence base reports and acknowledge a 15km Zone of Influence. Walsall Council, together with other local authorities within the 15km radius of Cannock Chase SAC, have agreed to collect financial contributions from housing developments within the 15km zone and to spend these on a package of mitigation measures to mitigate harmful impacts on the SAC.
- 1.4. Following the production of the Footprint Ecology evidence base, additional advice has been received from Natural England. This has directed the Cannock Chase SAC Partnership authorities to consider mitigating any likely significant effects through the provision of on-site mitigation measures. The use of measures seeking to avoid significant effects, such as offsite Suitable Alternative Natural Greenspaces (SANGs), is not being pursued at this time. This is primarily due to uncertainties regarding

their effectiveness and their relatively high cost when compared to on-site mitigation measures.

1.5. Policy EQ2 states:

Policy EQ2: Cannock Chase Special Area of Conservation

Development will only be permitted where it can be demonstrated that it will not be likely to lead directly or indirectly to an adverse effect upon the integrity of the Cannock Chase Special Area of Conservation (SAC).

A net increase of housing development within the areas of Walsall that fall within the Zone of Influence around Cannock Chase SAC (as identified by current evidence and subject to further research) that is likely to have an adverse impact upon Cannock Chase SAC should mitigate for such effects, in line with the ongoing work to outline the pressures on the SAC caused by recreation and visitor pressure. This may include contributions to habitat management, access management and visitor infrastructure, publicity, education and awareness raising; and provision of suitable alternative natural green recreational space, within development sites where they can be accommodated and where they cannot by contributions to offsite alternative green space.

The effective avoidance of and/or mitigation for any identified adverse effects on the Cannock Chase SAC must be demonstrated to the Council as the Competent Authority and Natural England and secured prior to the Council giving approval of development. This Policy has jurisdiction over developments within Walsall only; however it will be implemented jointly with neighbouring authorities via the application of complementary policies in partner Local Plans.

Development proposals should be consistent with other local planning policies.

- 1.6. The Council must ensure that decisions made on planning applications, and policies in the Local Plan, will avoid and mitigate recreation impacts on Cannock Chase SAC. If there are any likely significant effects, the Council is either unable to grant planning permission due to the restrictions of the Habitat Regs., or it must ensure there are appropriate mitigation measures in place. Given the evidence now available that one or more net dwellings would have an adverse effect on the SAC's integrity, the Council has introduced Guidance, as set out below, which includes a simple regime of financial contributions as an alternative to developers providing Habitats Regulations Assessment information to inform mitigation so as to prevent harm to the SAC.

- 1.7. The Guidance should be read alongside other documents produced by the Cannock Chase SAC Partnership, including the most recent Cannock Chase SAC Partnership Frequently Asked Questions document, which are available on the Walsall Council Planning Policy webpages - https://go.walsall.gov.uk/special_areas_of_conservation
- 1.8. The mitigation measures are directly targeted at mitigating impacts arising from new planning permissions and Local Plan policies, where these increase the number of residents within the Zone of Influence.
- 1.9. Natural England supports the use of Guidance to mitigate the impact of new residential development

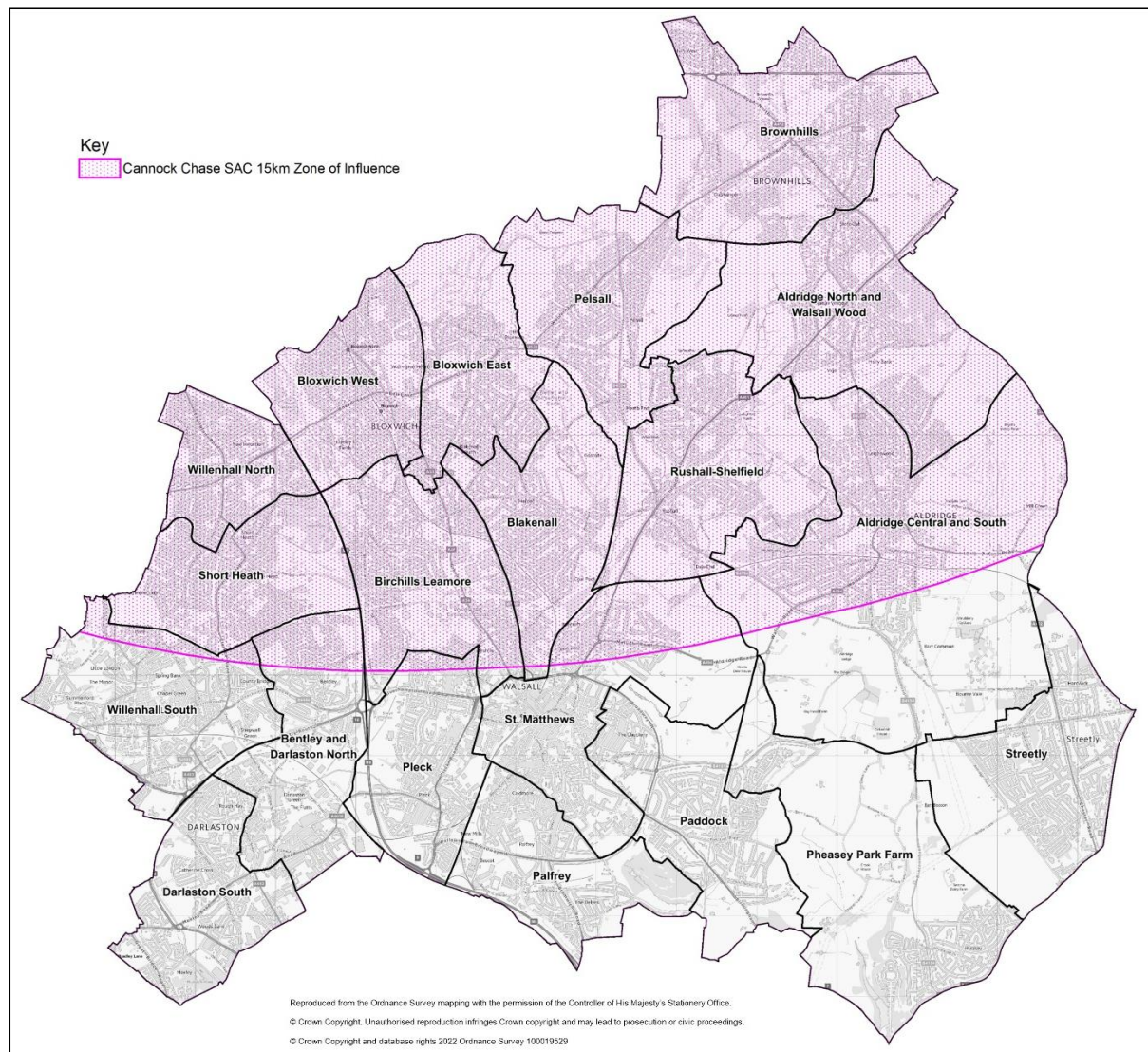
2. Which Developments are Affected?

- 2.1. Any development which would produce a net increase in the number of homes within 15km of Cannock Chase SAC will be required to undertake a Habitats Regulations Assessment (HRA) or make a financial contribution before development takes place. The map below (Map 1) shows the area of Walsall within 15km of the SAC.
- 2.2. The types of development affected includes any development which would produce a net increase in the number of homes, new homes arising through the conversion of existing buildings, houses in multiple occupation, sheltered accommodation and care homes falling within Use Class C3 and gypsy and traveller pitches.
- 2.3. Hotels, holiday lets, and camping & caravan sites will also need to undertake their own Habitats Regulations Assessment (HRA) or provide a financial contribution, as set up by the SAC Partnership and agreed by Walsall Council, if they could generate visitors to Cannock Chase SAC.
- 2.4. Prior approval and permitted developments, such as conversion of offices into new homes, are also affected by the Cannock Chase SAC requirement. The HRA process and consultation with Natural England must be undertaken before Walsall Council can determine if a development is permitted development or if prior approval can be granted.
- 2.5. Further detail on developments affected by the requirement and the prior approval / permitted development process can be found in the current Cannock Chase SAC Partnership Frequently Asked Questions document, which is available at: https://go.walsall.gov.uk/special_areas_of_conservation
- 2.6. Where a development is affected by the Cannock Chase SAC mitigation requirement, a Cannock Chase SAC HRA form, as set out in Appendix 1, must be

completed and submitted with the planning application. This form will be used to consult Natural England.

- 2.7. If the developer wishes to undertake a Habitats Regulations Assessment rather than make use of the financial contributions system further advice can be provided by the Planning Team.

Map 1. Map of the 15km Zone of Influence for Cannock Chase SAC in Walsall



3. Cannock Chase SAC Mitigation Payments in Walsall

- 3.1. Walsall Council will require a payment of £290.58 for each net new home created through development within 15km of Cannock Chase SAC. This figure will be subject to an annual increase which will apply each 1st April from 2023 onwards, in line with the All Items Group (Item reference CHAW) of the Retail Prices Index published by HM Government Office for National Statistics. Walsall Council may also make a charge for the administration costs of entering into the relevant legal agreement required to secure this financial contribution.
- 3.2. Walsall Council will require the developer to enter into either a S106 agreement or a Unilateral Undertaking in order to secure the contribution. The template Unilateral Agreement provided in Appendix 2 is recommended for developments of less than 10 homes, as these are unlikely to require a Section 106 Agreement. However, parties should take their own independent legal advice before entering into such an agreement.
- 3.3. In order to meet the requirements of the Habitats Regulations, any legal agreement must ensure that the financial contribution is paid before commencement of development.

Appendix 1 Cannock Chase SAC HRA Form



Habitat Regulation Assessment (HRA)

Screening Matrix and Appropriate Assessment Statement

PLEASE NOTE: Undertaking the HRA process is the responsibility of the decision maker as the Competent Authority for the purpose of the Habitats Regulations, however, it is the responsibility of the applicant to provide the Competent Authority with the information that they require for this purpose.

This template is to be used only for Cannock Chase SAC Partnership Local Planning Authorities

Application Reference:	
Application Address:	
Application Description:	
Proximity to SAC (km):	
Accordance with the development plan:	

STEP 1) - Scoping - Details of the Plan or Project	
European site potentially impacted by planning application, plan or project	Cannock Chase SAC
Is the planning application, project or plan directly connected with or necessary to the management of the site?	No
Are there any other projects or plans that together with the planning application/project being assessed could affect the site?	Yes. The evidence base shows that all new development resulting in a net increase in residential dwellings within 15km of the Cannock Chase SAC will have an adverse, in combination effect on the integrity of the Cannock Chase SAC in the absence of mitigation.

STEP 2)- HRA Stage 1, Screening Assessment, (likely significant effect?)
Test 1: the significance test - The Applicant is to provide evidence so that a judgement can be made as to whether there could be any potential significant impacts of the development on the integrity of the SPA/SAC/Ramsar.
<p>The proposed development is within 15km of the Cannock Chase SAC. In accordance with advice from Natural England, The Cannock Chase SAC Partnerships evidence base and the evidence base which underpins the development plan, any development within 15km of the SAC which is likely to increase recreational disturbance of the area is likely to result in significant harm to the SACs reasons for designation.</p> <p>Following the recent CJEU ruling (case C 323/17), LPAs can no longer consider any avoidance and mitigation measures as part of the application at this stage of HRA. For applications which may result in increases in recreational disturbance on Cannock Chase SAC, Natural England's advice is that such applications, without mitigation, are likely to significantly impact upon the reasons for designation of the SAC. Therefore, such applications will progress directly to Appropriate Assessment.</p>

STEP 3, PART 1) - HRA Stage 2, Appropriate Assessment (integrity test), Information Provided by the Applicant and Details of Proportional Mitigation

Appropriate Assessment under Regulation 63(1) - the integrity test - if there are any potential significant impacts, the applicant must provide evidence showing avoidance and/or mitigation measures to allow an Assessment to be made. The Applicant must also provide details which demonstrate any long-term management, maintenance and funding of any solution.

Development sites within the 15km zone of influence of the Cannock Chase SAC (both individually and in combination with other development within the zone of influence) will increase the human population within the zone and contribute to the creation of new paths, path widening, erosion and nutrient enrichment from visitor use and vehicle emissions. Further information regarding the impacts of increased recreation levels on the Cannock Chase SAC's integrity is set out in detail in the Impacts of Recreation to Cannock Chase SAC (2012) report.

The project being assessed would result in a net increase of residential dwellings within the 15km zone of influence. In line with the evidence base referenced earlier in this assessment, an adverse in combination effect on the integrity of the SAC would therefore be likely to result due to an increase in recreational disturbance as a result of the new development. As such, in order to lawfully be permitted, the effects resulting from the development will need to be avoided and mitigated through a package of suitable measures.

The Cannock Chase SAC Partnership has agreed a series of mitigation and avoidance measures with Natural England. These are referred to as Strategic Access Management and Monitoring Measures (SAMMM).

As set out in the SAMMM and the evidence base which supports it, the majority of visitors to the SAC from within the 0-15km zone of influence surrounding the Cannock Chase SAC. Therefore, the approach agreed through the SAMMM is to require mitigation payment per net residential dwelling from all new development within the 0-15km 'zone of payment'.

Furthermore, evidence indicates that the measures set out in the SAMMM can accommodate fluctuations in housing delivery from speculative growth (windfall), provided any fluctuations are within the parameters of currently adopted plans. This is set out in detail in the Cannock Chase SAC - Planning Evidence Base Review (2017).

Therefore, the Cannock Chase SAC - Planning Evidence Base Review (2017) suggests that any likely significant effects to the Cannock Chase SAC can be avoided or mitigated through the provision of a financial contribution per net residential dwelling proposed

towards the measures outlined in the SAMMM. A legal agreement or CIL contribution will be necessary to secure the required payment. Without the security of the mitigation being provided through a legal agreement, a significant effect would remain likely. As long as such a legal agreement is secured, the proposed development would not lead to a likely significant effect on the Cannock Chase SAC.

Provided that the application proposes to secure a financial contribution per net residential dwelling through a satisfactory legal agreement, the proposed development would deliver sufficient mitigation and avoidance measures to prevent an adverse in combination effect on the integrity of the Cannock Chase SAC.

STEP 3, PART 2)- Appropriate Assessment, Conclusion of the Competent Authority (LPA)

The authority concludes that the application will have a significant effect in the absence of avoidance and mitigation measures on Cannock Chase SAC. This represents the authority's Appropriate Assessment as a Competent Authority in accordance with requirements under Regulation 63 of the Conservation of Habitats and Species Regulations 2017, Article 6 (3) of the Habitats Directive and having due regard to its duties under Section 40(1) of the NERC Act 2006 to the purpose of conserving biodiversity.

The authority has concluded that the adverse effects arising from the proposal are wholly consistent with the effects detailed in the Cannock Chase SAC evidence base referenced elsewhere in this assessment. The most up-to-date evidence suggests that these effects can be satisfactorily mitigated by the measures set out in the Strategic Access Management and Monitoring Measures agreed with Natural England.

As the development lies within the 0-15km zone of payment it is the authority's assessment that, subject to a satisfactory legal agreement or CIL contribution to secure the proportional financial contribution towards the SAMMMs, the application will deliver the required measures necessary to mitigate or avoid any likely significant effects. Therefore it can be concluded that there will be no adverse effect on the integrity of Cannock Chase SAC.

Natural England Comments and Further Advice:

Summary of Natural England's comments:

NATURAL ENGLAND INSERT TEXT HERE

Appendix 2 Template Unilateral Undertaking

Template to follow