

Report to Inform Habitats Regulations Assessment: Stage 1 and Stage 2

Orchard Lane, East Molesey, London

A Report To: CIRC Construction Management Ltd
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Quality Assurance

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Declaration of Compliance

The information which we have prepared is true, and has been prepared and provided in accordance with the Chartered Institute of Ecology and Environmental Management's Code of Professional Conduct. We confirm that the opinions expressed are our true and professional bona fide opinions.

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Contents

1. Introduction.....	4
1.1 Project Background	4
1.2 Context for HRA	4
1.3 Site Description	6
1.4 Development Description	6
2. Habitats Regulations Assessment Process	8
2.1 Stages of HRA.....	8
2.2 The Precautionary Principle	9
3. Stage 1: Relevant European Sites	11
3.1 Identification of European Sites	11
3.2 South West London Waterbodies SPA	12
3.2 South West London Waterbodies Ramsar site	13
4. Stage 1: Screening.....	15
4.1 Identification of Potential Impacts and Effects	15
4.2 Assessment of Potential Effects - Construction Phase.....	15
4.3 Assessment of Potential Effects - Operational Phase	15
4.4 In-Combination Assessment	17
4.5 Summary of Stage 1: Screening	18
5. Conclusions and Recommendations.....	20
5.1 Conclusions	20
5.2 Recommendations.....	20
6. Drawings.....	21

1. Introduction

1.1 Project Background

In April 2023, CIRC Construction Management Ltd commissioned Middlemarch to prepare a Report to Inform a Habitats Regulations Assessment (HRA) associated with a proposed development at Orchard Lane, East Moseley, London. This report has been prepared in line with the Conservation of Habitats and Species Regulations 2017 (as amended) ('Habitats Regulations') to support a planning application for 3 detached buildings containing 74 residential units with underground and surface level car and cycle parking, mechanical plant, soft and hard landscaping and associated diversion of an existing Thames Water pipe at The Moseley Venture, Orchard Lane, East Moseley, KT8 0BN.

Middlemarch was commissioned to prepare this report to provide a robust evidence base to support the Competent Authority (Elmbridge Borough Council) in undertaking Stage 1 (Screening) of their HRA. The assessment is required due to the proximity of the site to the South West London Waterbodies Special Protection Area (SPA) and Ramsar site, Richmond Park Special Area of Conservation (SAC) and Wimbledon Common SAC. These sites form part of the 'National Sites Network' of European statutory nature conservation sites in the UK (see Section 1.2).

Middlemarch has carried out a suite of ecological works at site to inform the proposed development. These works comprise:

- Preliminary Ecological Appraisal (RT-MME-153535-01 RevB);
- Preliminary Bat Roost Assessment (RT-MME-153535-02 RevA);
- Dusk Emergence & Re-entry Bat Surveys (RT-MME-153851-02 RevA);
- Herpetofauna Reasonable Avoidance Method Statement (RT-MME-153851-03 RevA);
- Invasive Species Method Statement (RT-MME-153851-04 RevA); and,
- Biodiversity Net Gain Assessment (RT-MME-156895 RevA).

1.2 Context for HRA

The need for projects with the potential to affect European designated sites to be assessed is stated in Article 6 of the European Council Directive 92/43/EEC on the Conservation of Natural Habitats and Wild Flora and Fauna (hereafter 'the Habitats Directive'). Articles 6(3) and 6(4) of the Habitats Directive state that an 'Appropriate Assessment' is required for any plan or project that is considered likely to have a significant effect on a European site, either individually or in combination with other plans or projects. The land and marine aspects of the Habitats Directive, as well as certain elements of the Wild Birds Directive (Directive 2009/147/EC) (known collectively as the Nature Directives) are transposed into English and Welsh law through the Conservation of Habitats and Species Regulations 2017 as amended ('the Habitats Regulations 2017').

Regulations 63, 64, 65 and 66 of the Habitats Regulations transpose the requirements of Articles 6(3) and 6(4) of the Habitats Directive into domestic law, as regards a competent authority deciding to undertake, or give any consent, permission, or other authorisation for, a plan or project. Additionally, regulations 75, 76, 77 and 78 of the Habitats Regulations incorporate the requirements of Articles 6(3) and 6(4) of the Habitats Directive, regarding the competent authority's granting of a planning permission by a general development order (permitted development). The requirements of Articles 6(3) and 6(4) of the Habitats Directive are further transposed into

regulations 105 and 106 of the Habitats Regulations regarding the requirements of a competent authority (plan-making authority) to undertake an appropriate assessment of implications of any land use plan before the plan is given effect.

Changes have been made to parts of the Habitats Regulations so that they operate effectively from 1st January 2021 following the UK's departure from the European Union ('EU') and the end of the Brexit transition period. The changes are made by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 ('Habitats Regulations 2019'), among other things which transferred functions from the European Commission to the appropriate authorities in England and Wales.

All other processes and provision in the Habitats Regulations remain unchanged and existing guidance is still relevant. The obligations of a competent authority in the Habitats Regulations for the protection of designated sites or species do not change. A competent authority is a public body, statutory undertaker, minister or department of government, or anyone holding public office.

The Habitats Regulations 2019 have created a National Site Network on land and at sea, including both the inshore and offshore marine areas in the UK to replace the EU's Natura 2000 network. The National Site Network includes:

- Existing Special Areas of Conservation (SACs), which are designated due to their importance to the habitats and species listed in Annexes I and II of the Habitats Directive;
- Existing Special Protection Areas (SPAs), which are designated due to their importance for wild birds in accordance with the Wild Birds Directive; and,
- New SACs and SPAs designated under these Regulations.

SACs and SPAs in the UK no longer form part of the EU Natura 2000 ecological network. Any references to Natura 2000 in the Habitats Regulations and in guidance now refers to the new National Site Network. However, guidance provided by Freeths (2020a)¹ recommends that existing SACs and SPAs in the UK can continue to be referred to as 'European sites' and 'European marine sites'.

Designated Wetlands of International Importance (known as Ramsar sites) do not form part of the National Site Network. Many Ramsar sites overlap with SACs and SPAs and may be designated for the same or different species and habitats. All Ramsar sites remain protected by national policy in the same way as SACs and SPAs and are treated, for planning purposes, as European sites.

Under Regulation 63 of the Habitats Regulations, the competent authority may only agree to a proposed plan or project which is likely to have a significant effect on a European site after having undertaken an appropriate assessment to ascertain that it will not adversely affect the integrity of any European site either alone or in-combination with other plans and projects. Where likely significant effects on a European Site are anticipated and/or cannot be ruled out, at the appropriate assessment stage the plan or project may only be permitted by the competent authority by grant of derogation where the plan or project meets the following three tests, namely (a) that there are no alternative solutions; (b) that the proposed development needs to be carried out for imperative reasons of overriding public interest; and (c) the necessary compensatory measures are secured.

¹ Freeths. (2020a). *The Habitats Regulations Assessment regime after 31 December 2020 – how will it look?* 22nd October 2020. Available at: <https://www.freeths.co.uk/2020/10/22/the-habitats-regulations-assessment-regime-after-31-december-2020-how-will-it-look/?cmpredirect>

1.3 Site Description

Table 1.1 provides a brief summary of the site and its surroundings.

Attribute	Description
Location	Orchard Lane, East Molesey
National Grid Reference	TQ 14620 67336
Site Area (ha)	Approximately 0.75
Topography	The site is generally flat.
Land Cover (on site)	The site is dominated by buildings and associated hardstanding, with patches of amenity grassland and areas of introduced shrub. There are scattered trees of varying maturity throughout the site with dense bramble scrub in the north-west of the site. In the north-east of the site is a large horticultural area which contains poor semi-improved grassland and scattered scrub.
Land Cover (site surrounds)	The site is bordered by the gardens of residential houses to the east and by Orchard Lane to the south. The River Ember is adjacent to the site's western boundary and an area of rough grassland and woodland are present to the north of the site that forms part of the River Ember and River Mole green corridor. The wider landscape is dominated by residential development to the east and by the River Ember, River Mole Island Barn Reservoir (a Site of Nature Conservation Importance) and other habitats including woodland, rough grassland and scrub to the west.

Table 1.1: Summary of Site and Surroundings

1.4 Development Description

The proposals involve the demolition (or partial demolition) of all existing buildings and the erection of three new buildings comprising 74 residential units (15 x 1-bed, 48 x 2-bed and 11 x 3-bed) and ancillary facilities for residents, underground and surface level car and cycle parking, mechanical plant, soft and hard landscaping and associated diversion of an existing Thames Water pipe.

Documentation made available by the client is listed in in Table 1.2.

Document / Drawing Number	Author
Site Plan / 3340 – 01	Mobile CAD Surveying Solutions
South Site – Site Plan / 3340 – 02	Mobile CAD Surveying Solutions
North Site – Site Plan / 3340 – 03	Mobile CAD Surveying Solutions
Ground Floor / 3340 – 04	Mobile CAD Surveying Solutions
First Floor / 3340 – 05	Mobile CAD Surveying Solutions
Roof Plan / 3340 – 06	Mobile CAD Surveying Solutions
Molesey Ventures Elevations / 3340 – 07	Mobile CAD Surveying Solutions

Table 1.2: Documentation Provided by Client (Continues)

Document / Drawing Number	Author
Horticultural Centre Elevations / 3340 – 08	Mobile CAD Surveying Solutions
River Cottage Elevations / 3340 – 09	Mobile CAD Surveying Solutions
Sundial House Elevations / 3340 – 10	Mobile CAD Surveying Solutions
Newstead House Elevations / 3340 – 11	Mobile CAD Surveying Solutions

Table 1.2 Continued: Documentation Provided by Client

2. Habitats Regulations Assessment Process

2.1 Stages of HRA

The current assessment is based on the best practice for HRA as outlined in The Habitats Regulations Handbook (DTA Publications, 2013² and subsequent updates). This document expands upon previous guidance published by the Impacts Assessment Unit at Oxford Brookes University (2001)³ and the Department for Communities and Local Government (2006)⁴.

Guidance published by the Department for Environment, Food & Rural Affairs (DEFRA), Natural England, the Welsh Government and Natural Resources Wales (2021)⁵ identifies that the HRA process is broadly divisible into three stages: Stage 1 (Screening), Stage 2 (Appropriate Assessment and Stage 3 (Derogation).

These stages are described in Table 2.1 below.

Stage	Description
1 – Screening	Evidence is collected regarding those parts of the National Site Network (SACs and SPAs) that have the potential to be impacted by a project or plan, either alone or in combination with other projects or plans. Where no significant effects are perceived, sites may be screened out of the need for further assessment.
2 – Appropriate Assessment	<p>Where it is considered (or else cannot be discounted) that a European site may experience likely significant effects from a project or plan, directly or indirectly, either alone or in combination with other projects or plans, an Appropriate Assessment of the likelihood and severity of the perceived effect on the integrity of the European site and the National Site Network is undertaken. This is based on a detailed review of the proposed project or plan in conjunction with the structure, function and conservation objectives of the designated European site(s). This stage may also include a preliminary assessment regarding the potential for the identified impacts to be mitigated.</p> <p>The April 2018 decision by the Court of Justice of the European Union (CJEU) in the case of <i>People Over Wind and Sweetman v Coillte Teoranta (C-323/17)</i> ('People Over Wind') means that mitigation measures intended to avoid or reduce the harmful effects of a proposed project on a European site may no longer be taken into account by competent authorities at the HRA Screening stage when judging whether a proposed plan or project is likely to have a significant effect on the integrity of a European site. This is a reversal of a previously settled principle in English and Welsh law. As such, where a proposed development is proximate to a SAC or SPA and could give rise to likely significant effects, even if these effects can be effectively mitigated for, an Appropriate Assessment (Stage 2) is still required.</p>

Table 2.1: Stages of HRA (continues)

² DTA Publications (2013 and subsequent updates). *The Habitat Regulations Assessment Handbook*. DTA Publications, Nottingham.

³ Oxford Brookes University. (2001). 'Assessment of Plans and Projects Significantly Affecting Natura 2000 Sites: Methodological Guidance on the provisions of Article 6(3) and 6(4) of the 'Habitats' Directive 92/43/EEC. European Commission DG Environment.'

⁴ Department for Communities and Local Government (2006). *Planning for the Protection of European Sites: Appropriate Assessment. Guidance for Regional Spatial Strategies and Local Development Documents*.

⁵ Department for Environment, Food & Rural Affairs, Natural England, Welsh Government, and Natural Resources Wales (2021). *Guidance: Habitats regulations assessments: protecting a European site*. Available at: <https://www.gov.uk/guidance/habitats-regulations-assessments-protecting-a-european-site#follow-hra-principles>

Stage	Description
3 – Derogation	<p>Where adverse effects on the integrity of the European site and the National Site Network cannot be ruled out, the work can only proceed if three legal tests are passed and it is granted an exception, or 'derogation of the law'. These three legal tests are applied in the following order (DEFRA, Natural England, the Welsh Government and Natural Resources Wales, 2021)⁵:</p> <ol style="list-style-type: none"> 1. There are no feasible alternative solutions that would be less damaging or avoid damage to the site. 2. The proposal needs to be carried out for imperative reasons of overriding public interest. 3. The necessary compensatory measures can be secured.

Table 2.1 (continued): Stages of HRA

The need to complete each stage is determined by the results of the previous stage. This report focuses on Stages 1 and 2 of the HRA process.

2.2 The Precautionary Principle

Oxford Brooks (2001) Methodological Guidance on Articles 6(3) and 6(4) Habitats Directive states that “*Implicit in the habitats directive is the application of the **precautionary principle**, which requires that the conservation objectives of Natura 2000 should prevail where there is uncertainty*”. The European Commission’s Final Communication from the Commission on the Precautionary Principle (European Commission, 2000a⁶) states that the use of the precautionary principle presupposes:

- Identification of potentially negative effects resulting from a phenomenon, product or procedure;
- A scientific evaluation of the risks which because of the insufficiency of the data, their inconclusive or imprecise nature, makes it impossible to determine with sufficient certainty the risk in question (CEC, 2000).

According to best practice guidance, this means that the emphasis for assessment should be on objectively demonstrating, with supporting evidence, that there will be no significant effects on a European site. The publication ‘Managing Natura 2000 Sites: The Provision of Article 6 of the ‘Habitats’ Directive 92/43/EEC’ (European Commission, 2000b⁷) provides explanatory guidance regarding this point, which is paraphrased below.

It is clear from the context and from the purpose of the directive that the ‘integrity of the site’ relates to the site’s conservation objectives. For example, it is possible that a plan or project will adversely affect the integrity of a site only in a visual sense or only habitat types or species other than those listed in Annex I or Annex II. In such cases, the effects do not amount to an adverse effect for the purposes of Article 6(3), provided that the coherence of the network is not affected.

The expression ‘integrity of the site’ shows that focus is here on the specific site. Thus, it is not allowed to destroy a site or part of it on the basis that the conservation status of the habitat types and species it hosts will anyway remain favourable within the European territory of the Member State.

⁶ European Commission (2000a). *Final Communication from the Commission on the Precautionary Principle*.

⁷ European Commission. (2000b). *Managing Natura 2000 Sites: The Provision of Article 6 of the ‘Habitats’ Directive 92/43/EEC*.

As regards the connotation or meaning of 'integrity', this can be considered as a quality or condition of being whole or complete. In a dynamic ecological context, it can also be considered as having the sense of resilience and ability to evolve in ways that are favourable to conservation. The 'integrity of the site' has been usefully defined as 'the coherence of its ecological structure and function, across its whole area, that enables it to sustain the habitat, complex of habitats and/or levels of populations of the species for which it was classified' (IEEM, 2006).

The integrity of the site involves its ecological functions. The decision as to whether it is adversely affected should focus on and be limited to the site's conservation objectives.

Conservation objectives for the European sites considered in this assessment are presented in Chapter 3.

3. Stage 1: Relevant European Sites

3.1 Identification of European Sites

A search for European statutory sites within a 10 km radius of the works area was completed, using Natural England’s Multi-Agency Geographic Information for the Countryside (MAGIC) website. Four European statutory sites were identified.

An initial review of the proposals (See Section 1.4) has been undertaken to determine whether the project has the potential to affect any of the European sites identified. The assessment takes into account a range of factors including the location, proximity, type, scale, extent, duration, frequency and timing of the proposals.

The identified sites are listed in Table 3.1, and justification for scoping them in or out of further assessment is provided.

European site	Distance from Application Site	Justification for Scoping In/Out of Further Assessment
South West London Waterbodies SPA	2.15 km west; 3.63 km north-west; 3.97 km north-west; 10 km north-west	This SPA/Ramsar comprises a series of embanked water supply reservoirs and former gravel pits that support a range of man-made and semi-natural open-water habitats. Over winter, the site regularly supports internationally important populations of gadwall <i>Anas strepera</i> and shoveler <i>Anas clypeata</i> . The largest waterbodies (Wraysbury, King George VI and Staines Reservoirs) are fenced off with no access to the public. The smaller waterbodies comprise Wraysbury fishing lakes, for which a small number of private sailing and fishing clubs and events venues have access.
South West London Waterbodies Ramsar Site	2.15 km west; 3.63 km north-west; 3.97 km north-west; 10 km north-west	It is considered that the proposed works have the potential to result in a significant indirect impact upon the SPA/Ramsar site during its construction phase, due to accidental pollution. The proposed scheme is also considered to have the potential to result in a significant indirect impact due to increased recreational impacts in its operational phase. The South West London Waterbodies SPA/Ramsar site is therefore considered further within this assessment.
Richmond Park SAC	5.50 km north-east	Due to the intervening distance and lack of functional connectivity between the application site and this SAC and the nature and scale of the works (as outlined in Section 1.4), no impacts on this SAC are anticipated, and it has been scoped out of further assessment.
Wimbledon Common SAC	7.72 km north-east	Due to the intervening distance and lack of functional connectivity between the application site and this SAC and the nature and scale of the works (as outlined in Section 1.4), no impacts on this SAC are anticipated, and it has been scoped out of further assessment.

Table 3.1: Summary of European Sites

3.2 South West London Waterbodies SPA

Overview

The following information is taken from the Natura 2000 Standard Data Form⁸ for the SPA.

Attribute	Description
Country	England
Administrative Region	London Borough of Hounslow, Royal Borough of Windsor & Maidenhead and Surrey
Latitude	51.4614
Longitude	-0.5242
Site Code	UK9012171
Area (ha)	825.1

Table 3.2: Summary of South West London Waterbodies SPA

Qualifying Features

This site qualifies under Article 4.2 of the Directive (79/409/EEC) by supporting populations of European importance of migratory species. These species are summarised in Table 3.3.

Species	Status within European Site
	Source of Data: 2000 SPA Citation / 2015 Natura 2000 Standard Data Form
Gadwall <i>Anas strepera</i>	710 individuals, representing 2.4% of the population in north-western Europe (five year peak mean 1993/94-1997/98)
Shoveler <i>Anas clypeata</i>	853 individuals, representing 2.1% of the population in north-western/central Europe (five year peak mean 1993/94-1997/98)

Table 3.4: Summary of Qualifying Species for the South West London Waterbodies SPA

Conservation Objectives

Conservation objectives for the South West London Waterbodies SPA as detailed by Natural England⁹ are as follows:

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;

- *The extent and distribution of the habitats of the qualifying features;*
- *The structure and function of the habitats of the qualifying features;*
- *The supporting processes on which the habitats of the qualifying features rely;*
- *The population of each of the qualifying features, and,*
- *The distribution of the qualifying features within the site.*

⁸ JNCC (2015). South West London Waterbodies SPA Standard Data Form. Available at: <https://jncc.gov.uk/jncc-assets/SPA-N2K/UK9012171.pdf>.

⁹ Natural England (2019). European Site Conservation Objectives for South West London Waterbodies SPA. Available at: <https://publications.naturalengland.org.uk/file/5411059804667904>.

In addition, Natural England¹⁰ details the range of ecological attributes on which the qualifying features will depend and which are most likely to contribute to a site's overall integrity. Minimum targets are set out for each qualifying feature to achieve in order to meet the site's objectives. These are summarised in Appendix 1.

Issues Affecting the Qualifying Features

The Site Improvement Plan for the South West London Waterbodies SPA¹¹ highlights the following issues affecting the qualifying features:

- Public access/disturbance;
- Changes in species distributions;
- Invasive species;
- Natural changes to site conditions;
- Fisheries: fish stocking; and,
- Inappropriate weed control.

It is recognised that not all of the issues listed are of relevance to the proposals. Where the proposed works have the potential to interact with and/or exacerbate the pressures/threats listed (e.g. through habitat loss or damage, disturbance to qualifying species or supporting habitats or pollution), this is discussed further in Chapter 4.

3.2 South West London Waterbodies Ramsar site

Overview

The following information is taken from the Ramsar Information Sheet¹² for the site.

Attribute	Description
Country	England
Administrative Region	Greater London, Berkshire, Surrey
Latitude	51 23 59 N
Longitude	00 23 26 E
Site Code	1038
Area (ha)	828.14

Table 3.5: Summary of South London Waterbodies Ramsar site

Qualifying Features

The site qualifies under Ramsar Criterion 6, supporting internationally important numbers of gadwall *Anas strepera* and shoveler *Anas clypeata*.

¹⁰ Natural England (2018). European Site Conservation Objectives: Supplementary Advice on Conserving and Restoring Site Features – South West London Waterbodies SPA. Available at: <https://publications.naturalengland.org.uk/file/5893345162821632>.

¹¹ Natural England (2014). Site Improvement Plan: South West London Waterbodies. Available at: <https://publications.naturalengland.org.uk/file/5135484288237568>

¹² JNCC (2000). South West London Waterbodies Ramsar Site. Ramsar Information Sheet. Available at: <https://rsis.ramsar.org/ris/1038>.

Issues Affecting the Qualifying Features

The Ramsar Information Sheet¹² highlights the following issues affecting the qualifying features:

- Potential decommissioning of reservoirs once they are no longer required for the purposes of water supply;
- Maintenance works, which may require winter draw-down of reservoirs;
- Potential development pressures within an urbanised and urban-fringe area;
- Vegetation succession; and,
- Disturbance from recreational activities.

It is recognised that not all of the issues listed are of relevance to the proposals. Where the proposed works have the potential to interact with and/or exacerbate the pressures/threats listed (e.g. through habitat loss or damage, disturbance to qualifying species or supporting habitats or pollution), this is discussed further in Chapter 4.

4. Stage 1: Screening

4.1 Identification of Potential Impacts and Effects

Following a review of the proposals (refer to Section 1.4) and the guidance provided by Natural England and consideration of the wider issues which are affecting the SPA and Ramsar site (see Chapter 3), two impact pathways have been identified through which the proposed development (in the absence of mitigation) could lead to potentially adverse effects on the integrity of the European sites in proximity to the application site. These are summarised in Table 4.1.

Phase	Potential Impact Pathways
Construction	<ul style="list-style-type: none"> Accidental pollution of habitats on which qualifying species rely (via water).
Operation	<ul style="list-style-type: none"> Disturbance of qualifying species (via increased recreational pressure).

Table 4.1: Summary of Potential Impact Pathways

These impact pathways and potential effects on the European sites identified are discussed further in the following sections.

4.2 Assessment of Potential Effects - Construction Phase

Accidental pollution of habitats on which qualifying species rely (via water)

Adjacent to the site's western boundary lies the River Ember, a channel of the River Mole, which in turn is a tributary of the River Thames. Though several of the designated waterbodies of the South West London Waterbodies SPA/Ramsar site comprise pumped storage reservoirs which hold water abstracted from the River Thames, these reservoirs all lie upstream to the west of the development site. The development site is therefore not considered to be hydrologically connected to the South West London Waterbodies SPA/Ramsar site, which means that any dust, debris, mobile soil, or pollutants arising due to accidental chemical spills, contaminated surface water run-off, or the improper storage of environmentally harmful materials could not and would not be transported from the works area to the SPA/Ramsar site during the construction phase.

Therefore, the likely impacts of the proposed development on the habitats on which qualifying species of both the South West London Waterbodies SPA and South West London Waterbodies Ramsar site rely due to accidental water pollution during the construction phase can be considered to be insignificant.

This potential impact pathway is not considered further within this report.

4.3 Assessment of Potential Effects - Operational Phase

Disturbance of qualifying species (via increased recreational pressure)

The proposed scheme includes the provision of residential dwellings and as such could potentially increase the level of recreational disturbance to the South West London Waterbodies SPA/Ramsar site, which are popular sites for birdwatching, angling and water sports, via indirectly increasing the local population.

There are four distinct designated areas of the South West London Waterbodies SPA/Ramsar site within a 10 km radius of the application site, covering the Bessborough and Knight, Red House, Kempton Park East and Staines Reservoirs. None of these areas are designated as open access land under the Countryside Rights of Way (CROW) Act 2000¹³. There is one right of way that runs through the Staines Reservoirs, comprising a footpath (Staines I Miles Public Footpath) separating the North Basin and South Basin. The location of this right of way is depicted on Drawing C159247-03-02 (Chapter 6). The end of the footpath nearest the development site is situated just over 10 km away.

It is considered reasonable to assume that future occupants of the proposed scheme would be very unlikely to frequently walk a distance of > 10 km to reach this footpath, resulting in a minimum 'round-trip' of > 20 km on foot. No formal public car parking provision is associated with the Staines Reservoirs, though some limited lay-by parking appears to be available on the west side of the reservoirs on the A3044 (Stanwell Moor Road) at the western end of the footpath. The shortest route which residents could take to drive to this point, and thus reach the boundary of the SPA/Ramsar site, requires a journey distance of approximately 15 km, resulting in a minimum 'round-trip' of 30 km. However, parking in this location would necessitate visitors park and walk alongside a road with a speed limit restriction of 40 mph where there is no infrastructure to allow for pedestrians to take refuge from or avoid collision with approaching vehicles.

It can be expected that the lack of any adequate and safe parking provision, associated with the Staines Reservoirs, would reduce the likelihood of new residents driving to and then accessing the SPA/Ramsar to negligible levels.

In addition, dog-walking is not permitted along the footpath which limits its recreational usage to walking, jogging and birdwatching. It is logical to assume that birdwatching (in and of itself) does not represent a potential significant impact to the qualifying features of the SPA/Ramsar site, or would otherwise impede the delivery of the sites' conservation objectives. Furthermore, members of the public have legal rights of access of a very small proportion of the Staines Reservoirs and an almost negligible proportion of the South West London Waterbodies SPA/Ramsar site as a whole via the Staines I Miles footpath. It is considered reasonable to conclude (even if there was a dramatic increase in usage of the right of way that runs through the Staines Reservoirs due to the proposed development scheme), that walking and jogging along this footpath would not result in significant impact upon the qualifying species of the SPA/Ramsar site.

Therefore, whilst future residents could potential utilise the right of way that runs through the Staines Reservoirs, this is likely to be a highly infrequent occurrence which would not result in a quantifiable change in the levels of site disturbance (compared to present).

There are no other statutory rights of way within any of the remaining designated areas within a 10 km radius. As such, the public (inclusive of any future occupants of the proposed scheme) have no legal access to these designated areas.

The closest designated areas of the South West London Waterbodies SPA/Ramsar site within which recreational usage of the waterbodies themselves is permitted are two distinct areas located in close proximity to another approximately 14.6 km and 15.5 km away, respectively, to the north-west of the application site. Each of these two areas consists of a series of lakes used for angling and water sports (namely sailing and diving).

¹³ Countryside Rights of Way Act, (2000), Available at: <https://www.legislation.gov.uk/ukpga/2000/37/contents>

The shortest route from the site of the proposed development to the nearest car parking area associated with these land parcels (the Silver Wing Sailing Club car park), would require a journey distance of approximately 20 km, resulting in a minimum 'round-trip' of 40 km. This route would require any potential visitor from the proposed development to pass several other closer areas of open space recreation, including Island Barn Reservoir Sailing Club, Liquid Leisure Shepperton, Thorpe Lakes Aqua Park and Twynersh Fishing Complex.

Due to the significant distance that any occupant of the proposed scheme would have to travel to reach these parcels, and the high level of alternative and easily accessible open air recreation opportunities which lie closer to the proposed development it is considered highly unlikely that the proposed scheme will generate a quantifiable increase in recreational usage on these areas of the South West London Waterbodies SPA/Ramsar site.

Therefore, the likely impacts of the proposed development on the qualifying species of both the South West London Waterbodies SPA and South West London Waterbodies Ramsar site due to increased disturbance via increased recreational pressure during the operational phase can be considered to be insignificant.

This potential impact pathway is not considered further within this report.

4.4 In-Combination Assessment

Overview

In accordance with the legal requirement in the Habitats Regulations and best practice methodology, the potential for a project or plan to impact upon a European site must be considered either alone, or in combination with other projects or plans. As such it is necessary to consider the potential for the proposed development to impact upon the SPA and Ramsar site, both alone and in combination with other plans and projects.

The scope of an in-combination assessment is restricted to plans and projects which are 'live' at the same time as the assessment being undertaken (Natural England, 2018)¹⁴. These types of plans include:

- The incomplete or non-implemented parts of plans or projects that have already commenced;
- Plans or projects given consent or given effect but not yet started;
- Plans or projects currently subject to an application for consent or proposed to be given effect;
- Projects that are the subject of an outstanding appeal;
- Ongoing plans or projects that are the subject of regular review and renewal;
- Any draft plans being prepared by any public body; and,
- Any proposed plans or projects that are reasonably foreseeable and/or published for consultation prior to application.

Additionally, the guidance from Natural England makes it clear that plans or projects deemed to cause significant impact within their own right (and so have either incorporated methods of avoidance or proportional mitigation within the proposed plan or scheme) should be dealt with in

¹⁴ Natural England (2018). *Natural England's approach to advising competent authorities on the assessment of road traffic emissions under the Habitats Regulations*. Version 1.4.

isolation within their own individual HRA and not be considered in combination with other schemes where impacts (individually) were considered insignificant. Likewise, where a plan or project is considered to result in an insignificant impact in isolation it should not be considered in combination with plans or projects already determined to be significant.

In-Combination Effects – Construction Phase

Accidental pollution of habitats on which qualifying species rely (via water)

Due to the lack of any hydrological connectivity between the development site and the SPA and Ramsar site it has been determined that there will be **no effect** from this potential impact pathway. As such there is no potential for an in-combination effect and further assessment is not required

In-Combination Effects – Operational Phase

Disturbance of qualifying species (via increased recreational pressure)

Due the great distance between the development and the closest accessible land parcels of the SPA and Ramsar site, the lack of adequate parking provision associated with the ‘nearest’ accessible land parcels and the restriction already enforced upon types of open-air recreation allowed it has been determined that there will be **no effect** from this potential impact pathway. As such there is no potential for an in-combination effect and further assessment is not required

4.5 Summary of Stage 1: Screening

Table 4.2 provides a summary of the potential impacts and effects arising from the project, either alone or in-combination with other projects and plans.

European Site	Distance from Application Site	Potential Impacts and Effects	Significance of Effects	Potential for In-Combination Effects	Appropriate Assessment Required?
South West London Waterbodies Ramsar Site	2.15 km west; 3.63 km north-west; 3.97 km north-west; 10 km north-west	Accidental pollution of habitats on which qualifying species rely (via water).	No Effect	N/A	No
South West London Waterbodies Ramsar Site	2.15 km west; 3.63 km north-west; 3.97 km north-west; 10 km north-west	Disturbance of qualifying species (via increased recreational pressure).	No Effect	N/A	No

Table 4.2: Stage 1 Screening – Assessment of Impacts and Effects of Proposed Project on European Sites Alone or In-Combination with other Projects and Plans (Continues)

European Site	Distance from Application Site	Potential Impacts and Effects	Significance of Effects	Potential for In-Combination Effects	Appropriate Assessment Required?
South West London Waterbodies Ramsar Site	2.15 km west; 3.63 km north-west; 3.97 km north-west; 10 km north-west	Accidental pollution of habitats on which qualifying species rely (via water).	No Effect	N/A	No
South West London Waterbodies Ramsar Site	2.15 km west; 3.63 km north-west; 3.97 km north-west; 10 km north-west	Disturbance of qualifying species (via increased recreational pressure).	No Effect	N/A	No

Table 4.2, Continued: Stage 1 Screening – Assessment of Impacts and Effects of Proposed Project on European Sites Alone or In-Combination with other Projects and Plans

5. Conclusions and Recommendations

5.1 Conclusions

Evidence has been collected and an assessment has been undertaken to assist the competent authority, Elmbridge Borough Council, in conducting its Habitats Regulations Assessment as per the requirement placed upon it by Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended). The evidence provided is deemed sufficiently robust (being determined by use of the best scientific evidence available) to allow the authority to determine if it can be certain that there will be no adverse effect on the integrity of any European sites as a result of the proposed development.

Potential impacts on several different European sites have been detailed and considered. It has been displayed that the proposed development will likely result in no impacts upon either the qualifying species, the habitats on which they rely, or else prevent or impede the delivery of the conservation objectives of the European sites under consideration.

5.2 Recommendations

R1 Re-Assessment if Material Change

All future material revisions to the development proposals should be subject to an updated screening to determine whether they could give rise to a likely significant effect on a European site, either alone or in-combination with other plans and projects.

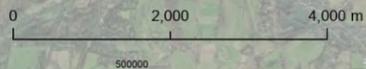
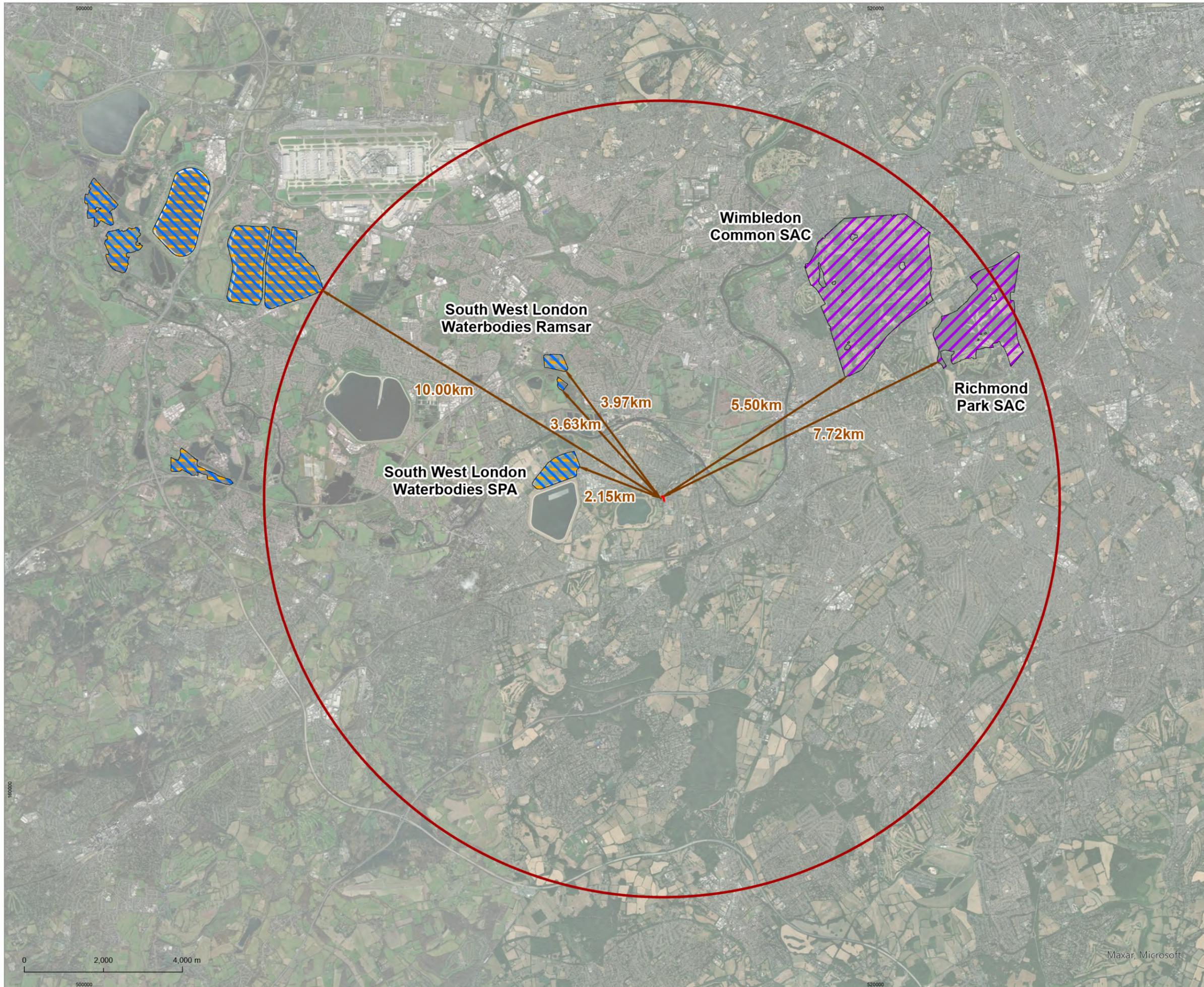
6. Drawings

Drawing C159247-03-01 – Location of European Sites

Drawing C159247-03-02 – Public Access to European Sites

Legend

- - - Site boundary
- Shortest distance between site boundary and designated site
- Special Area of Conservation
- Ramsar Site
- Special Protection Area
- 10km from site boundary



Maxar, Microsoft



Project		Orchard Lane, East Molesey	
Drawing		European Sites within 10km	
Client		CIRC Management LLP	
Drawing Number	Revision	C159247-03-01	00
Scale @ A3	Date	1:90,000	May 2023
Approved By	Drawn By	CW	KB



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Legend

- - - Site boundary
- 10km from site boundary
- Staines I Miles Public Footpath
- Open access land under the CROW Act 2000
- Informal public access for recreation



Project		Orchard Lane, East Molesey	
Drawing		Public Access to European Sites	
Client		CIRC Management LLP	
Drawing Number	Revision	C159247-03-02	00
Scale @ A3	Date	1:55,000	May 2023
Approved By	Drawn By	AZ	JR



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