

# **The Dorset Heathlands**

## **Interim Planning Framework 2006-2009**



**1 January 2007**

**Amended 10 December 2008**

**Borough of Poole Bournemouth Borough Council Christchurch Borough Council  
Dorset County Council East Dorset District Council Purbeck District Council**

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## **1. Introduction**

- 1.1 The Dorset Heathlands cover an extensive area of South East Dorset fragmented by urban development and other land uses. It is the view of Natural England that the cumulative effect of further **residential** development up to 5 kilometres from protected heathland in Dorset<sup>1</sup> would have a significant effect on Dorset's lowland heaths which are covered by several international designations.<sup>2</sup> Mitigation will be required otherwise there is the prospect that Local Authorities will not be able to grant permission for residential development within 5 kilometres of these designated sites.
- 1.2 Local authorities in South East Dorset whose administrative area is within 5 kilometres of protected heathland and which have responsibility for the determination of residential planning applications, have agreed a 3 year interim strategy for the protection of heathland to the end of 2009. During the next 3 years the local authorities will work with Natural England and other partners to continue research into the effects of urban pressures on the protected heaths and to secure a longer term solution.
- 1.3 It is the purpose of this document to set out the approach that, together, the local authorities in South East Dorset will follow. This demonstrates how harm to the heathlands can be avoided, based upon identified measures set out in the accompanying Background Paper<sup>3</sup> together with a map of the South East Dorset sub region. The document has been adopted by all the local authorities in South East Dorset i.e. Borough of Poole, Bournemouth Borough Council, Christchurch Borough Council, East Dorset District Council and Purbeck District Council. Dorset County Council is also party to the document due to its implementation role but has no responsibility for the determination of residential planning applications.

## **2. Context**

- 2.1. European wildlife sites are protected by the EC Birds and Habitats Directives, specific provisions of which are applied in the UK by the Conservation (Natural Habitats, &c.) Regulations 1994 (the Habitats Regulations). They place particular responsibilities on a decision maker in relation to such sites. As competent authorities, Local Authorities must have regard to these requirements, as advised

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<sup>1</sup> The Dorset heathlands are found in the the local authority areas of Bournemouth, Christchurch, East Dorset, Poole, Purbeck and West Dorset.

<sup>2</sup> Dorset Heathlands Special Protection Area, Dorset Heathlands Ramsar Site, Dorset Heathlands Special Area of Conservation and Dorset Heathlands Special Area of Conservation (Purbeck and Wareham) and Studland Dunes

<sup>3</sup> Dorset Heathlands Interim Planning Framework Background Paper October 2006

- in Circular 06/2005<sup>4</sup>, which provides the procedure that should be followed in deciding whether to approve a proposal (a plan or project) that will potentially affect a European wildlife site.
- 2.2. Regulation 48 of the Habitats Regulations requires that any application for development or strategic plan or policy which is likely to significantly affect a European site is subject to an appropriate assessment of the implications of the proposal for the site's conservation objectives. The planning authority must ascertain that the plan or project will not have an adverse effect on the integrity of the site, alone or in combination with other plans or projects, either directly or indirectly, taking account of any conditions or restrictions that would help ensure no adverse effect, before granting permission or adopting plan or policy.
  - 2.3. Natural England locally are concerned at the intensification of residential development in South East Dorset and the resultant pressures placed upon protected heathland by new occupants living in close proximity to the heathlands. These are similar to the impacts being observed within the Thames Basin Heaths SPA. Various studies<sup>5</sup> have found that public access to lowland heathland, from nearby development, has led to an increase in wild fires, damaging recreational uses, the introduction of incompatible plants and animals, loss of vegetation and soil erosion and disturbance by humans and their pets amongst other factors.
  - 2.4. This is most marked for development within 400m of heathland where Natural England advise that additional residential development is likely to have a significant adverse effect upon the designated site, either alone or in combination with other developments save in exceptional circumstances. The implication of this is that in most cases it will not be possible for a local planning authority undertaking an appropriate assessment of a proposal for residential development (Use Class C3: Dwelling Houses<sup>6</sup>) to be certain that any adverse effects could be avoided or alleviated.
  - 2.5. In the area between 400m and 5 km, measured as a straight line from the boundary of protected heath, Natural England considers that Local Authorities undertaking appropriate assessment will still identify a significant adverse effect in combination with other proposals, but that avoidance or mitigation measures can allow development to be approved. Mitigation of this effect will encompass measures to divert recreational pressure away from heathland, access management measures and resources to enable the aforementioned to be implemented. **It is in this area between 400m and 5km that the Interim Planning Framework applies.**

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<sup>4</sup> Circular 06/2005: DEFRA Circular 01/2005 to Accompany PPS9

<sup>5</sup> de Molenaar 1998, Haskins 2000, Underhill-Day 2005

<sup>6</sup> Town and Country Planning Use Classes Order 1987 as amended

### **3. Towards a Solution**

- 3.1 This document sets out an interim approach to the mitigation of the harmful effects of residential development in South East Dorset on Dorset's lowland heaths. The interim solution will be in place until the end of 2009 by when the local planning authorities have agreed to have in place a joint Heathland Development Plan Document (DPD) as part of their Local Development Frameworks. The joint DPD will be informed by appropriate assessment work being undertaken for the emerging Regional Spatial Strategy and for LDFs and more detailed research into the impact of urban pressures on protected heath.
- 3.2 The Background Paper that accompanies this document sets out a range of measures that have been identified jointly by the local authorities and Natural England. Natural England's advice is that together these comprise an appropriate package of measures to reduce to an insignificant level the harm that would otherwise occur to protected heathland. These measures are costed at £7.53million<sup>7</sup> with the cost being attributable in the form of a planning obligation to residential development between 400m and 5km coming forward over the 3 years to the end of 2009. The obligation will be applied to every residential development regardless of number of units proposed where there is a net increase in dwellings but will not be applied to extensions.
- 3.3 The contribution will be based upon a standard charge, see section 4 for how the contribution has been calculated, with adjustment for the different occupancy rate for houses and flats. This approach is both clear, robust and easy to operate being applied to the forecast population increase over the 3 year period of the strategy. The alternative option of basing contributions on bedspaces has been rejected due to the weak correlation between bedspaces and occupancy rates. However as part of the preparation of the joint Heathland DPD alternative options will be considered.
- 3.4 Natural England will provide advice concerning larger developments or locations where residential intensification is considered significant alone and will be expected to provide appropriate mitigation either on or off site in advance of the development. Where this is the case such schemes will be considered individually and may be exempt from the approach set out in this document.<sup>8</sup> Discounting may be applied to residential schemes where an element of care is provided.<sup>9</sup> As stated in paragraph 2.4 this interim planning framework is only applicable to dwellings,

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<sup>7</sup> Base date figure November 2006

<sup>8</sup> Large scale developments or areas where significant intensification is taking place may be able to provide on site measures to avoid or mitigate harmful effects or bring forward off site arrangements e.g. securing alternative informal greenspace

<sup>9</sup> If there are more than 6 residents in a single dwelling then this type of proposal would not fall within use class C3 and would not be covered by this interim planning framework

including houses, flats and maisonettes. Other accommodation types such as student halls of residence, hotels and residential nursing homes which fall within a separate use class will be subject to assessment outside of this framework.

- 3.5 A number of the local authorities have in place open space/play provision policies that require a contribution to their provision where this cannot be provided on site. This provision/obligation is not mitigation for the impact of urban pressures on protected heathland but to provide for recreational needs in the form of open space, sports pitches, indoor recreation and children's play. This type of provision does not provide for the diffuse recreational pressures placed upon heathland e.g. the walking of dogs. The heathland mitigation obligation does not seek to duplicate other recreation contributions. Large sites that may be able to provide open space on site are unlikely to also be able to provide suitable on site heathland mitigation. However, this will be looked at on a case by case basis and should this be possible then appropriate discounting will apply.

#### 4.0 The Level of Contributions

- 4.1 To provide certainty to those considering or making applications for residential development and to ensure transparency and accountability a formulae approach has been adopted that sets out a mechanism for the calculation of the planning obligation. A standard charge is proposed that will provide the clarity required by developers, the owners of land and the general public thus avoiding unnecessary delay in the negotiation of planning obligations.
- 4.2 In order to ensure that contributions are sought only for the need generated by development the costs presented below are based on the **forecast population increase by type of dwelling 2006-2009**. It is therefore the increase in population and their impact that needs to be mitigated and the scale and apportionment of costs needs to reflect the additional pressure generated by the growth in population allowing for the different occupancy rates of houses and flats. It will also be necessary to discount the cost of the existing residential unit on site, for example, if a single dwellinghouse is proposed to be replaced by 10 flats then the calculation would be:

**10 x cost of a flat minus the cost of 1 house**

- 4.3 The factors that are taken into account for calculating the contribution are:
- Forecast population growth 2006-2009<sup>10</sup> (7142)
  - Draft Regional Spatial Strategy housing requirement 2006-2009<sup>11</sup> (5475)

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<sup>10</sup> Borough of Poole Research and Intelligence Population forecasts for participant local authorities, 2005 mid year estimate base

<sup>11</sup> The Draft Regional Spatial Strategy for the South West 2006-2026, June 2006

- the relative proportion of households in houses (73%) and flats (27%)<sup>12</sup>
  - the projected net population increase per dwelling (**Houses 1.5 persons/dwelling; Flats 0.9 persons/dwelling**)
  - The cost of the mitigation at **£8.19m** (October 2008 cost)<sup>13</sup>
- 4.4 The cost of mitigation divided by the forecast population growth i.e. **£8.19m** divided by **7142** gives a charge per person of **£1,146**. However an adjustment to the charge to allow for the net population increase per dwelling type results in a charge per dwelling of:
- Cost per house (£1,146 x 1.5) of **£1,719.00**
  - Cost per flat (£1,146 x 0.9) of **£1031.00**
- 4.5 An additional administrative charge<sup>14</sup> to cover the cost of collection and distribution of the obligation will be applied at a variable rate reflecting the work involved in administering the obligation payable at the following rate:
- 1% of the total contribution where payment is received in full on or before the issuing of the planning consent
  - 2% of the total contribution where the proposal is the subject of a legal agreement which involves phased payments
  - Administrative payments are subject to a minimum charge of £50 and capped to a limit of £1,000 per contribution type.
- 4.6 It is expected that the obligation will be paid prior to the release of planning consent. In most cases a decision will not be released until payment is made, the exception being on strategically important sites delivering large numbers of residential units over a number of years where it would be unreasonable to take full payment upfront. Such situations will be assessed on a case by case basis. It will be for development control officers to advise on an appropriate time limit between a resolution to grant and the grant of planning consent after which an application will be deemed to be withdrawn, thereby avoiding an adverse impact on a local planning authorities development control performance.

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<sup>13</sup> Package cost increased by 4.3% RPI October 2008

<sup>14</sup> The administrative charge excludes the recovery of individual local authorities legal costs where these are incurred

- 4.7 The cost of the mitigation package is calculated at 2006 prices. On each of the subsequent anniversaries of the adoption of this document the base costs will be increased by an amount equivalent to the increase in the Retail Price Index.
- 4.8 On the fifth anniversary of the signing of the Agreement, or in the case of an upfront payment on the granting of planning permission, if the contribution has not been spent then it will be returned in full plus the interest that that money would have earned commensurate to the Bank of England Interest Rate over that period.
- 4.9 Where a contribution is paid prior to the determination of a planning application and subsequently that application is refused permission the payment will be returned at either the end of the statutory period for appealing against a refusal of planning permission where no appeal is submitted, or at the end of the appeal process. If an application is withdrawn and a payment has been made then this will be returned to the applicant/agent. In such circumstances the payment returned excludes the administration fee.

## **5. Model Clauses for s106 Agreements and Unilateral Undertakings**

- 5.1 The use of a standard clause for either s106 or unilateral agreements by the five local authorities will be in the interest of all involved and will help speed up delivery. For the purposes of the obligation the s106 clause could be worded:

*“the Nature Conservation Contribution” means the sum of ( ) thousand ( ) hundred and ( ) Pounds index linked plus an administrative fee of £( ) to be paid by the Owner towards measures which avoid or mitigate against any adverse effect on the Dorset Heathlands in accordance with the Dorset Heathlands Interim Planning Framework 2006-2009.*

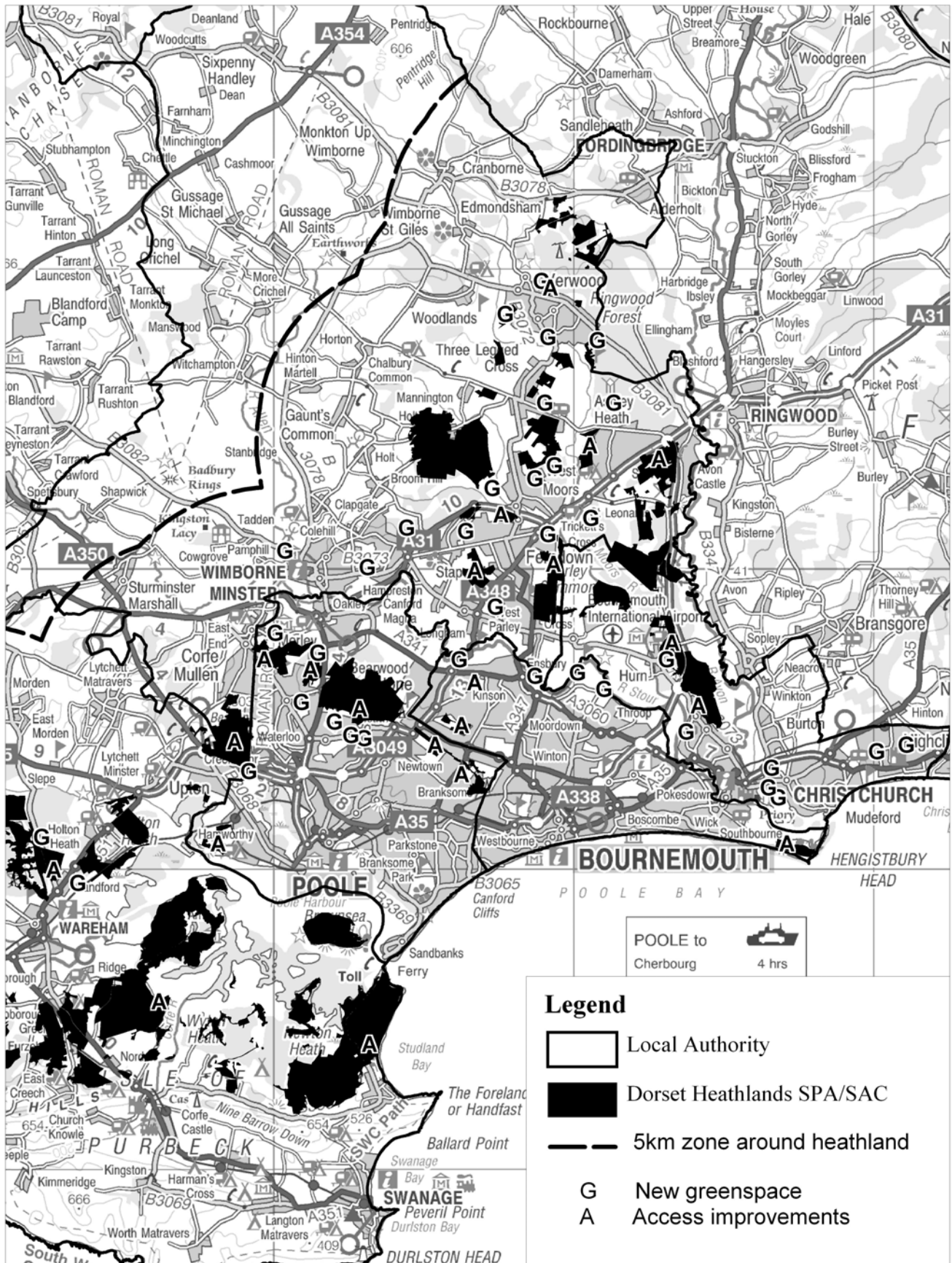
- 5.2 The obligation may then be worded:  
*“The Owner hereby Covenants with the Council that he will not cause or permit the commencement of the development on the land until the Nature Conservation Contribution has been paid to the Council..”*
- 5.3 For strategically significant sites delivering large numbers of residential units the obligation may be worded differently to reflect payment of the contribution on a phased basis.

## **6. Administration and Audit Trail**

- 6.1 The Interim Planning Framework has been adopted by the South East Dorset local authorities. The Background Paper is not adopted, its purpose being to support the IPF and establish the initial contribution level.

- 6.2 A joint Councillor/Stakeholder Scrutiny Group will be established with the role of the group to determine and review the list of mitigation schemes. The group will consist of one elected member from each of the 6 local authorities together with representatives from the House Builders Federation, Natural England and the RSPB. The group will be able to consider schemes put forward by other groups not just schemes proposed by local authorities. The group will meet regularly to review and consider schemes and to oversee the monitoring process. The terms of reference for the group will be progressed with immediate effect.
- 6.3 The Scrutiny Group will be advised by an officer group comprised of technical officers from the local authorities with representation from the Dorset Planning Officers Panel. This group will undertake monitoring and provide technical advice and be responsible for preparing annual progress reports. An early task will be establishing indicators for the success of the interim strategy.
- 6.4 Contributions will be required from all qualifying developments determined after 1 January 2007. The Scrutiny Group will therefore be established with immediate effect with an early review of the list of mitigation measures and before any capital expenditure is incurred. Schemes may be varied through the on-going review process but crucially Natural England will need to be satisfied that the necessary overall level of mitigation is achieved.
- 6.5 The partnership between the local authorities will be separate from the Urban Heaths Partnership (UHP). The UHP will employ the proposed team through Dorset County Council and will continue to work across local authority boundaries. Local authority countryside teams will be able to put forward projects for delivery by UHP. The work of the UHP will be scrutinised by the Scrutiny Group and will agree and monitor their annual business plan. The Scrutiny Group in prioritising expenditure will maintain an appropriate balance between the activities of the UHP and agreed capital schemes. The partnership will also explore other funding sources to supplement the developer funded programme.
- 6.6 Each of the partner local authorities is responsible for the collection of contributions through their role as local planning authority. The financial responsibilities of local authorities also requires them to administer the contributions in an accountable and transparent way. The contributions will be held separately from other accounts and will be managed by the Borough of Poole.

# Location of interim planning framework projects



Map 1 of 1



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