



**East Cambridgeshire Local Plan  
Examination**

**Matter 1 – Legal compliance, including duty to co-operate**

**Natural England Further Written Statement to  
Address the Inspector's Questions**

**23 May 2018**

## Habitat Regulations Assessment (HRA)

### **8. Is it the Council's intention to seek to address the recommendations of the Habitat Regulations Assessment (HRA) Methodology and Screening document which was produced to accompany the Local Plan? If not, what are the implications of not responding to, and acting upon all the recommendations set out within the HRA?**

We note that these questions are directed to the Council. Natural England reiterates comments made in its response to the Local Plan Proposed Submission consultation (19 December 2017, ref. 230728 and 231220 ) supporting recommendations in section 5.34 of the Habitats Regulations Assessment (HRA) for modifications to Plan policies relating to Burwell, Isleham, Littleport and Soham, to ensure housing development will not have an adverse effect on the integrity of European sites. Natural England is satisfied that the relevant Plan policies will be amended accordingly as indicated in the interim Statement of Common Ground (SoCG) between East Cambridgeshire Council and Natural England.

Our advice takes into consideration the Council's proposed approach to the Local Plan HRA, as outlined in the Council's letter to the Inspector (16 May 2018), in light of the recent judgement of the Court of Justice for the European Union on 12 April 2018<sup>1</sup>. The judgement determined that a full and precise analysis of the measures capable of avoiding or reducing any significant effects on the European site concerned must be carried out, not at the HRA screening stage, but specifically at the stage of the Appropriate Assessment. Natural England is therefore in general agreement with the Council's proposed approach to the preparation of an Appropriate Assessment, as set out in that letter. Natural England is satisfied that the content and agreements in the interim SoCG will be revisited once the outcome of the Appropriate Assessment has concluded.

### **9. Is the Plan's strategy and distribution of development positively prepared, justified, effective, consistent with the national policy, and the recommendations of the HRA? Have the likely combined or cumulative adverse recreational impacts of the distribution of development; an increased population; and the potential impact of the loss or physical damage of supporting habitat been appropriately assessed in relation to the relevant sites of international significance? How have NE's Impact Risk Zones informed the HRA? Is it appropriate, in the interests of certainty and consistent with the Habitats Regulations, that sites be allocated within the Local Plan, which require project based HRAs where there is the potential that these may preclude development? If so, are there any risks to the development strategy of the plan?**

Natural England does not dispute that the Plan's strategy and distribution of development is generally consistent with the National Planning Policy Framework (NPPF) and the recommendations in the current HRA. However, as advised in our response to the Proposed Submission consultation, it is not clear whether mitigation to address the effects of increased recreational pressure, including delivery of additional / enhanced green infrastructure, will be sufficient to mitigate the adverse impacts of proposed housing allocations, in-combination with development in neighbouring districts, on designated sites. Natural England appreciates the approach taken in the HRA to assess the impacts of recreational pressure on European sites. However, as this has not been informed through a detailed visitor study and assessment of current visitor pressures at the European sites, it could be argued that uncertainties remain regarding the adequacy of mitigation to address recreational pressure. However, based on the evidence currently available, for example through Natural England's Impact Risk Zones (IRZs) and Site Improvement Plans (SIPs) we believe that any uncertainty regarding the effects of

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<sup>1</sup> People over Wind and Sweetman v Coillte Teoranta, Case C-323/17: Consideration of avoidance and reduction measures in Habitat Regulations Assessment.

recreational pressure on European designated sites can be addressed through the proposed policy modifications detailed in the SoCG, subject to the findings and recommendations of the Appropriate Assessment.

Our advice regarding the assessment of the in-combination effects of housing development, through recreational pressure, on European sites, is provided in response to question 10 below.

The HRA has used a map produced by the RSPB (Lucking et al, 2004) to identify potential risks, through Plan development, to land functionally linked to the Ouse Washes Special Protection Area (SPA) and Ramsar site. Natural England recognises this map and accepts that the zones of risk largely coincide with the area defined in Natural England's Ouse Washes 'Goose and Swan Functional Land' Impact Risk Zone (IRZ). Natural England has prepared a map for the Council to indicate the extent of this IRZ across the district.

Natural England advocates the importance of a precautionary approach to development within the Functional Land IRZ; the availability of swan functional habitat is particularly influenced by changes in cropping patterns / crop rotations, hence development proposals within the IRZ should always be accompanied by appropriate, up to date, desk-based and/or survey data to demonstrate no adverse impact to Ouse Washes functional habitat.

The HRA notes that whilst Littleport is within an area of high risk, advice from the RSPB also indicates, from available data from surveys for Bewick's and Whooper Swans outside of the Ouse Washes (with the Wildfowl and Wetlands Trust), that the most frequent counts of swans did not coincide with areas proposed for significant development. Based on this and the scale of the development proposed, the HRA concludes that development in Littleport is unlikely to have any significant effect on the Ouse Washes (through direct impact on, or displacement of birds from functional land). Natural England accepts this subject to swan count/distribution data, in the vicinity of the Littleport allocations, being made available in the HRA. In the absence of this, proposals for development should be accompanied by sufficient evidence, i.e. up to date swan count / distribution data, to demonstrate that development will not have any adverse effect on the Ouse Washes, through direct impact on, or displacement of birds from, functional land. Where this evidence cannot be provided then a project level HRA will need to be prepared. Natural England is satisfied that the relevant Littleport housing policies will be amended accordingly, to include this requirement, through the proposed modifications set out in the SoCG. We welcome the proposal, through the SoCG, to include additional supporting text to policy LP30, to provide clarification on this matter. We also support the proposal to reference the Goose & Swan Functional Land IRZ in the Appropriate Assessment and, dependent on the outcome of that assessment, to also include the recommendations proposed in the SoCG. Natural England is therefore satisfied that this matter has been appropriately addressed through the interim SoCG.

**10. Is there sufficient evidence to support the conclusion, that there is unlikely to be additional recreational use of Devil's Dyke, Ouse Washes, Wicken Fen and Chippenham Fen, as a result of new developments, and therefore, there would not be consequential significant adverse effects. If there is not, and taking the precautionary approach, what would be the appropriate mechanism to mitigate the impacts of the proposed development within the 8 km zones of influence of accessible European sites and throughout the wider district?**

Natural England welcomes the approach taken in the revised HRA to present data, in Table 13, on housing numbers within an assumed 8km zone of influence (ZoI) for visitors to accessible European sites including the Ouse Washes SAC, SPA and Ramsar site, Wicken Fen and Chippenham Fen Ramsar sites, components of Fenland SAC, and also to Devil's Dyke SAC. The HRA concludes that Plan development alone, through increased

recreational pressure, is unlikely to have any significant effect on these sites on the basis that Local Plan policies include requirements for provision /enhancement of open space or financial contribution. The HRA also notes that the Site Improvement Plans (SIPs) do not identify recreational pressure as a threat to these sites and existing visitor management measures are in place. The HRA has ruled out in-combination effects on the basis of the 'no likely significant effect' conclusions of the HRAs for neighbouring district Local Plans. Whilst Natural England broadly accepts this conclusion we believe that uncertainties may remain on the basis that: 1) the HRA is not informed by a detailed visitor study to confirm the Zol, assessment of impacts and mitigation requirements relating to European sites; and 2) new evidence is emerging, since the preparation of neighbouring Local Plan HRAs, regarding the sensitivity of sites such as Wicken Fen and Devil's Dyke to recreational pressure.

Natural England is in the process of updating the IRZs to highlight risk to these sites through visitor pressure. However, based on the evidence currently available, through Natural England's IRZs and SIPs, we believe that any uncertainty regarding the effects of recreational pressure on designated sites can be addressed through the proposed policy modifications detailed in the SoCG, subject to the findings and recommendations of the Appropriate Assessment.

**11. Is there evidence to demonstrate the level and distribution of growth proposed would not have an adverse impact on the aquifers linked to any of the Natura 2000 sites? Does the potential reduction of water quality, identified by NE within its representations, impact on the recommendations of the HRA?**

Section 5.60 of the Local Plan HRA identifies that Anglian Water's Water Resources Management Plan (WRMP) was subject to HRA and this concluded that the preferred schemes (for delivery of water services to meet development needs) in the Ely, Newmarket and Cheveley Water Resource Zones (WRZs) (which supply most of East Cambridgeshire) would not result in adverse effects on the integrity of European sites. The HRA states that *'this implies that there should be no requirement for adverse levels of water abstraction from any of the aquifers connected to N2K sites'*. Natural England is therefore satisfied that proposed growth will not have an adverse impact on the aquifers linked to any European sites. Our advice is that this should be confirmed in the Local Plan Appropriate Assessment through detailed reference to the findings and recommendations of the Appropriate Assessment of the WRMP.

As stated in our response to the Proposed Submission consultation, we are pleased that the East Cambridgeshire Water Cycle Study was updated in October 2017 to inform the Further Draft Local Plan. We note that this has confirmed that, with mitigation through policy requirements for relevant development to deliver / contribute to necessary sewage treatment works upgrades, water quality effects would not be a constraint to growth at any of the Water Recycling Centres (WRCs) assessed. Whilst this approach poses a potential risk to the deliverability of those sites, Natural England considers that these policy safeguards are sufficient to demonstrate no adverse effect to European sites through deterioration in water quality.

## Climate Change

**12. Whether the overarching strategy of the Local Plan is designed to secure the development and use of land which contributes to the mitigation of, and adaptation to, climate change consistent with S19 (1A) of the Planning and Compulsory Purchase Act 2004?**

Consistent with our advice in response to the Proposed Submission consultation, Natural England has no issues to raise with regard to the Plan's compliance with legal and policy requirements to contribute to the mitigation of and adaptation to climate change.

## Duty to Cooperate

**13. Notwithstanding that no prescribed body has made any representation, either during or outside of a formal consultation stage, which states that they have a specific concern under the Duty to Co-operate, has the Plan been prepared in accordance with the Duty to Co-operate? Specifically, has the Council discharged its duty to maximise the effectiveness of the plan-making process in relation to strategic matters, including development and infrastructure requirements, flooding and other cross-boundary issues and strategic priorities, including those of the Greater Cambridgeshire Greater Peterborough Local Enterprise Partnership (LEP) and Natural Cambridgeshire (LNP), as well as other prescribed bodies such as Highways England (HE), the Environment Agency (EA), Historic England (Hist E) and Natural England (NE)?**

As indicated in our response to the Proposed Submission consultation Natural England has no specific issues to raise with regard to the Council's Duty to Cooperate.

**Sarah Fraser  
Natural England**