

Response to Inspector's Note to the Council (9th July 2015) - Habitats Regulations Assessment Issues

1. The Examination into the SADMP adjourned on 7 July and the Inspector outlined a number of issues to which he required responses. In response to the Inspector's note dated 9 July, the Council has addressed the Habitats Regulations issues.
2. We consider that the approach and detailed changes provide a pragmatic response and display sufficient flexibility in response to the Inspector's questions.
3. In responding to the Inspector we noted that the following actions were necessary:
 - The preparation of a comprehensive Monitoring and Mitigation Strategy (Appendix 1) to address the actions required from the Habitats Regulations Assessment (HRA). This will include:
 - A restatement of the HRA findings.
 - Detail on how each of these requirements are intended to be, and can be, met in respect of the allocated sites.
 - The inclusion of a levy on all development in the Borough, responding to the potential cumulative impacts that could occur from such growth that may not be adequately addressed through measures on allocated development sites.
 - More detailed consideration of pressures currently arising on the European site locations.
 - A mechanism for considering and responding to monitoring information, including the recommendation for spending from the levy fund (primarily aimed at the sensitive European site locations). This would take the form of a Panel (Chaired by a Cabinet member from the Borough Council and including representatives from the NWT, RSPB, Natural England and others) to consider results of monitoring and propose mitigation measures, as well as co-ordinating wider related proposals for green infrastructure in the Borough.
 - A revised HRA reflecting the above.
4. In his letter to the Borough Council the Inspector requested further information about the potential mitigation measures to address these implications. We have responded by way of preparing the Monitoring and Mitigation Strategy which is attached at Appendix 1. This Monitoring and Mitigation Strategy seeks to give detail to the above

bullet points. In particular we have sought to identify known recreational pressures, and create a mechanism for dealing with potential effects arising from growth in housing / recreational pressures including at the Natura 2000 sites themselves. Particular attention is drawn to sections 5 and 6 of the attached document at Appendix 1 where the Habitat Mitigation Fund and the Panel proposals are discussed.

5. The document draws together previously separate aspects into one place. Discussions have taken place with interested parties (including RSPB, NWT and Natural England) about the above. Should Council agree the recommendation we would anticipate that a levy could be in place in the autumn, and a Monitoring & Mitigation & G I Coordination Panel operating at the same time. The Borough Council intends this to demonstrate the commitment to fulfilling requirements under the Habitats Regulations Assessment and providing reasonable certainty to deliver suitable mitigation measures.
6. It should be noted that the Borough Council is additionally pursuing a Community Infrastructure Levy and anticipates a Cabinet report in October to confirm a Draft Charging Schedule. CIL would not be a substitute for the Habitat Mitigation Fund, but rather an additional potential resource for green infrastructure projects.

Conclusion

7. In conclusion, the Council has sought to address the issues raised by the Inspector, as set out above. Significantly the revised HRA (dated September 2015) states that 'on this basis, no adverse effects on the conservation objectives of these sites are predicted, as a framework and funding mechanism is in place for the avoidance of harm, mitigation of potential impacts and monitoring of status.' (page 5)
8. In terms of the SADMP document the Council has proposed a modification to policy DM19 to include the Monitoring and Mitigation Strategy, and specifically elements such as the levy, and the Monitoring & Mitigation & GI Coordination Panel. The revised wording is included in Appendix 2.

Appendix 1 –

AS A SEPARATE DOCUMENT

**Borough Council of King's Lynn
and West Norfolk Natura
2000 Sites
Monitoring
and
Mitigation
Strategy**

August 2015

Appendix 2 - Revised Policy DM 19 – GI provision and Habitats Monitoring and Mitigation

C.19 DM19 - Green Infrastructure/Habitats Monitoring and Mitigation

Context

C.19.1 Green Infrastructure is a term that encompasses a wide range of green and blue spaces and other environmental features. Ensuring that there is a network of green infrastructure is important to the health and wellbeing of local people and for biodiversity.

C.19.2 The Green Infrastructure Study was completed in 2010 and provides a Borough-wide analysis of:

- existing provision,
- deficiencies in provision,
- potential improvements to green infrastructure,
- policies to deliver green infrastructure,
- High, medium and low priority projects in addition to specific policies that will deliver green infrastructure.

C.19.3 This Study has been supplemented by a recent (2013) research identifying existing green infrastructure projects around the Borough being undertaken by a range of agencies. This combined information will aid the Council in developing and targeting further green infrastructure funds and endeavours, particularly in relation to planned development which has been identified by the Habitats Regulations Assessment as having potential adverse impacts on designated nature conservation sites. By supporting existing projects, or filling gaps (geographical or type) in existing or emerging provision, the Council's efforts can be targeted to best effect.

Relevant Local and National Policies

- National Planning Policy Framework: Conserving and enhancing the natural environment
- Natural Environment White Paper – The Natural Choice: securing the value of nature (2011)
- Core Strategy Policy CS12 Environmental Assets
- Core Strategy Policy CS13 Community and Culture
- Core Strategy Policy CS14 Infrastructure Provision
- Green Infrastructure Strategy Stage 1 (2009) and Stage 2 (2010)

Policy Approach

C.19.4 Retaining and developing the Borough's green infrastructure network is highly important to the long-term wellbeing of the area, its residents and visitors. Furthermore the Habitats Regulations Assessment identified potential effects on designated European sites of nature conservation importance from additional recreational pressure. The need for monitoring

and, where necessary, a package of mitigation measures, both on and off site, were identified to ensure no adverse effects on European sites.

Policy DM 19 – Green Infrastructure/Habitats Monitoring and Mitigation

Opportunities will be taken to link to wider networks, working with partners both within and beyond the Borough.

The Council supports delivery of the projects detailed in the Green Infrastructure Study including:

- The Fens Waterway Link – Ouse to Nene;
- The King's Lynn Wash/Norfolk Coast Path Link;
- Gaywood Living Landscape Project;
- The former railway route between King's Lynn and Hunstanton; and
- Wissey Living Landscape Project.

The Council will identify, and coordinate strategic delivery, with relevant stakeholders, of an appropriate range of proportionate green infrastructure enhancements to support new housing and other development and mitigate any potential adverse effects on designated sites of nature conservation interest as a result of increased recreational disturbance arising from new development.

These enhancements will be set out in a Green Infrastructure Delivery Plan.

Major development will contribute to the delivery of green infrastructure, except:

- Where it can be demonstrated the development will not materially add to the demand or need for green infrastructure.

Where such a contribution would make the development unviable, the development will not be permitted unless:

- It helps deliver the Core Strategy; and
- There is no adverse effect on a European Protected Site; or
- The relevant contribution to that Strategy could not be achieved by alternative development, including in alternative locations or in the same location at a later time; or
- Unless the wider benefits of the proposed development would offset the need to deliver green infrastructure enhancements.

More detailed local solutions based on the Green Infrastructure Strategy will be developed for Downham Market and Hunstanton, particularly in relation to the main growth areas and King's Lynn and surrounding settlements.

In relation to Habitats Regulations Assessment monitoring and mitigation the Council has endorsed a Monitoring and Mitigation Strategy including:

- **Project level HRA to establish affected areas (SPA, SAC, RAMSAR, etc.) and a suite of measures including all/some of:**

- I. On site provision of suitable measures (as per, for example, South Wootton E3.1, 1d) i);
 - II. Offsite mitigation;
 - III. Offsite alternative natural green space;
 - IV. Publicity, etc.
- Notwithstanding the above suite of measures the Borough Council will levy an interim Habitat Mitigation Payment of £50 per house to cover monitoring/small scale mitigation at the European sites. The amount payable will be reviewed following the results of the 'Visitor Surveys at European Sites across Norfolk during 2015 and 2016'.
 - The Borough Council anticipates utilising CIL receipts (should a CIL charge be ultimately adopted) for contributing to green infrastructure provision across the plan area.
 - Forming a HRA Monitoring & Mitigation & GI Coordination Panel to oversee monitoring, provision of new green infrastructure through a Green Infrastructure Delivery Plan and the distribution of levy funding.