

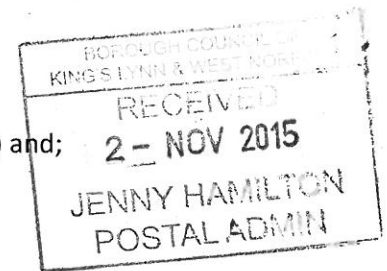
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15 OCT 2015

Examination of: King's Lynn and West Norfolk Site Allocations and Development Management Policies Document

Statement of Common Ground

Between:

- The Borough Council of King's Lynn and West Norfolk (The Council) and;
- The RSPB
- The Norfolk Wildlife Trust
- Natural England



Regarding

- Compliance with Habitats Regulations

Date: 29/09/2015

1. Introduction

- 1.1. This statement of common ground (SOCG) is provided to aid the Inspector examining this plan in understanding the areas of agreement, and those of divergence, between the key parties in respect of the Council's compliance with the Habitats Regulations with regard to the Site Allocations and Development Management Policies Document (SADMP).
- 1.2. It is intended that this SOCG will aid the Inspector to address Examination Issue 1: The Duty to Co-operate, Legal Requirements and the Council's Broad Strategy.

2. Background

- 2.1. The Council published a Habitats Regulations Assessment to accompany the SADMP at each stage of public consultation and have refined this and the SADMP document in response to comments received from the public and statutory and non-statutory consultees.
- 2.2. The Council produced the final Habitats Regulations Assessment¹ accompanying the Proposed Submission version of the SADMP Plan in January 2015.
- 2.3. Representations made during the pre-submission consultation (Jan/Feb 2015) from the RSPB and Norfolk Wildlife Trust challenged the legal compliance and soundness of the SADMP as they considered it did not accord with Habitats Regulations. Representations from Natural England sought modifications to the HRA and the development of a monitoring and mitigation strategy to accompany the Plan.
- 2.4. Despite efforts to resolve identified issues, the Examination was adjourned in July 2015, in part because the Inspector considered that there was insufficient evidence regarding the

¹ Wild Frontier Ecology (2014) Borough Council of King's Lynn and West Norfolk Habitats Regulations Assessment of the Detailed Policies and Sites Plan: Site Allocations and Development Management Policies – Proposed Submission Document, September 2014. *Examination Library ID# HR01*

potential implications of the proposed developments on the protected sites and species and that there was no detailed consideration of the mitigation measures that may be required, as part of any development package, to satisfactorily address those 'implications' – either on-site or off-site.

2.5. Since the suspension of the hearings, the Council have undertaken significant work to address the Inspectors concerns and have undertook a series of meetings with representatives from the RSPB, Norfolk Wildlife Trust and Natural England to clarify how the recommendations in the HRA will be met, and to develop a Monitoring and Mitigation Strategy. The HRA will be revised to link with the Monitoring and Mitigation Strategy. The Council considers that the measures proposed will ensure that the Plan will meet all the requirements of the Habitats Regulations and will not have a significant adverse impact on the integrity of designated European Sites.

3. Summary of Agreed Matters

3.1. All the parties agree, for the purposes of the Plan examination, the following:

A) Broad Principles of the Monitoring and Mitigation Strategy

Whilst the precise detail may be subject to further discussion and deliberation prior to, and during the Examination, the measures proposed in the Monitoring and Mitigation Strategy (below) form an appropriate response to demonstrate that the Plan will not have a significant adverse impact on the integrity of designated European Sites. The measures comprise:

For affected areas a suite of measures including all/ some of:

- On site provision of suitable measures
- Offsite mitigation
- Offsite alternative natural green space
- Publicity
- A project level HRA to establish specific issues as appropriate
- Habitat Mitigation Fund - In addition to the above suite of measures the Borough Council will make a Borough wide charge to cover small scale mitigation on designated sites and general monitoring
- The Borough Council anticipates utilising CIL receipts (should a CIL charge be ultimately adopted) for contributing to more strategic scale 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
- Revising Policy DM19 to embed these provisions into the Plan (proposed modifications to Policy DM19 attached as Appendix 1).

- Participating in Norfolk-wide monitoring of the effects of new development on designated sites.

B) Duty to Cooperate

To work together with other relevant organisations and bodies as members of the HRA Monitoring & Mitigation & GI Coordination Panel² over the plan period with the aim of ensuring that the Plan will not have a significant adverse impact on the integrity of designated European Sites.

C) Flexibility

The Panel have responsibility to monitor the impacts of visitor pressure on European Sites within and adjacent to the Borough during the plan period and to review the effectiveness of the measures proposed in the Monitoring and Mitigation Strategy. The Panel have the discretion to make recommendations on priorities for allocating resources. The Panel provides the key element of flexibility in the Strategy, to respond to, and address issues on European sites, as the need arises. This is an effective method to help safeguard the integrity of European Sites over the Plan period.

D) Revised Habitats Regulation Assessment (HRA)

The revised HRA provides an accurate assessment of the impact of the Site Allocation and Development Management Policies document (SADMP) on the integrity of European Sites. The recommendations listed in the HRA should be fulfilled to ensure the SADMP conforms to the habitats regulations.

4. Declaration

- 4.1. The content of this document is agreed by the parties below for the purposes of the examination of the King's Lynn and West Norfolk Site Allocations and Development Management Policies Document.

² as listed in Chapter 6 of the Monitoring and Mitigation Strategy

Name Sarah Fraser

For and on behalf of Natural England.....

Signed... 

Date 05/10/2015.....

Name... John Hiskett


For and on behalf of Norfolk Wildlife Trust.....

Signed... 

Date... 16/10/2015

Name... JOHN SHARPE

For and on behalf of RSPB

Signed... 

Date... 29.10.15

Name Alan Gomm, LDF Manager

For and on behalf of The Borough Council of King's Lynn & West Norfolk

Signed... 

Date... 2/11/15

Appendix 1 - Revised Policy DM 19 – GI Provision and Habitats Monitoring and Mitigation (additions underlined/deletions struckthrough)

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. All new development must ensure there is no adverse effect on a European Protected Site through the provision of appropriate measures. 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
- 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) and a suite of measures including all/some of:**
- **Provision of an agreed package of habitat protection measures, to monitor recreational pressure resulting from the new allocations and, if necessary, mitigate adverse impacts before they reach a significant threshold, in order to avoid an adverse effect on the European sites identified in the HRA. This package of measures will require specialist design and assessment, but is anticipated to include provision of:**
 - i. **A monitoring programme, which will incorporate new and recommended further actions from the Norfolk visitor pressure study (anticipated to be completed in Spring 2016) as well as undertaking any other monitoring not covered by the County-wide study.**
 - ii. **Enhanced informal recreational provision on (or in close proximity to) the allocated site [Sustainable Accessible Natural Greenspace], to limit the likelihood of additional recreational pressure (particularly in relation to exercising dogs) on nearby relevant nature conservation sites. This provision will be likely to consist of an integrated combination of:**
 - 1. **Informal open space (over and above the Council's normal standards for play space);**
 - 2. **Landscaping, including landscape planting and maintenance;**
 - 3. **A network of attractive pedestrian routes, and car access to these, which provide a variety of terrain, routes and links to the wider public footpath network.**
 - iii. **Contribution to enhanced management of nearby designated nature conservation sites and/or alternative green space;**
 - iv. **A programme of publicity to raise awareness of relevant environmental sensitivities and of alternative recreational opportunities.**
- **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 and Mitigation and GI Coordination Panel to oversee monitoring, provision of new green infrastructure through a Green Infrastructure Delivery Plan and the distribution of levy funding.