

RSPB response to Inspector's questions regarding King's Lynn and West Norfolk Local Plan: Site Allocations and Development Management Policies

Representor: Mr M. Jones, Royal Society for the Protection of Birds

Hearing matter number: 1

Issue 1: The Duty to Co-operate, Legal Requirements and the Council's Broad Strategy

Question 1.5

In broad terms is sufficient weight placed on the need to conserve and enhance the natural environment (NPPF section 11)? In particular have the consequences of the proposed allocations on sites of nature conservation importance been adequately assessed and are satisfactory mitigation measures proposed if they would be required?

The RSPB does not agree that sufficient weight has been placed on the need to conserve and enhance the natural environment, or that the consequences of the proposed allocations on sites of nature conservation importance have been adequately assessed.

Measures to address the adverse effects of additional visitor pressure from housing allocations on European sites have been discussed in the Habitats Regulations Assessment accompanying the DPD. Some progress has been made towards addressing these issues, which were previously identified in the Core Strategy examination in 2010, but this has not been completed to a satisfactory level, and issues identified as concerns in the Core Strategy examination in 2010 remain unresolved at this plan's stage.

The RSPB will be attending a meeting with the Council and their consultants on 23rd June to discuss a draft Statement of Common Ground (SoCG) on the above matters. The Council is also in similar discussions with Natural England, Norfolk Wildlife Trust and Breckland Council over the potential content of the SoCG, in response to their concerns regarding the plan's predicted impacts on the natural environment.

Our outstanding concerns, which have prevented us from agreeing with the Council that the plan is sound, are listed below. All relate to the inability of the plan in its current form to prove that it can avoid adverse effects on European sites and therefore comply with the Habitats Regulations.

a) Visitor pressure baseline

There is a clear need for the plan to demonstrate that the housing growth it is promoting will not result in damaging levels of visitor pressure on sensitive European sites. This issue is recognised nationally and clear solutions are available, and already implemented in some Local Authority (LA) plans (e.g. the adjacent Breckland Council's Site Allocations DPD). The LA should be able to demonstrate that it can avoid the adverse effect occurring, through a clear commitment in policy to a monitoring and management programme, supported by developer contributions or

other funding mechanism within a defined range of these sites. The Council appears committed to this work and some progress has been made in partnership with other Norfolk Local Authorities, but whilst we support this progress, this work has yet to be completed. As we previously raised the same concerns strongly at the Core Strategy examination five years ago this is profoundly concerning. This is an important piece of work which is needed to demonstrate that the plan can avoid an adverse effect on multiple European sites both inside and external to the District. We seek further clarification on what guarantees the Council can provide that this work is a priority and will be completed or established to such a degree that we can be assured of its success. Without this there is a risk that those housing allocations in the plan close to European sites will be undeliverable (i.e. not effective under the soundness tests of the NPPF) as they will not be able to prove that they can avoid an adverse effect.

b) Determination of area within which developer contributions should be sought for visitor pressure monitoring and management

We have several outstanding concerns regarding how the visitor catchment for European sites from new housing allocations in the HRA has been defined (and therefore what funding for monitoring and management measures will be expected). These are summarised in our submission stage response (comment id 1221) and will need resolving in order for us to be confident that the plan is based on reliable evidence and therefore sound.

c) Rewording of policies DM16 and DM19 to provide clarity regarding financial viability

We are concerned that the wording of these policies and their supporting text may mistakenly create the impression that applicants will be exempt from complying with the Habitats Regulations on grounds of financial viability, if they are unable to afford the green infrastructure measures identified as required mitigation for adverse effects on European sites. If any proposal is unable to fund or otherwise secure the necessary mitigation, then it will not be possible for the Council to grant consent.

The Council has proposed a simple modification to policy DM19 in their draft SoCG to clarify where financial viability can be considered in determining planning permission. However, we are concerned that the Council in their draft SoCG disagrees with us about making similar changes to policy DM16 to provide the same clarity.
