



## **Borough Council of King's Lynn and West Norfolk Local Plan Examination**

### **Matter 1 Statement – Duty to Co-operate and Legal Compliance**

**18 NOVEMBER 2022**

## Introduction

1. This statement is a response from the Borough Council of King's Lynn and West Norfolk Council (BCKLWN) to the following issues and questions raised by the Inspectors relating to Matter 1 of the examination into the King's Lynn and West Norfolk Local Plan relating to the Duty to Cooperate and Legal compliance requirements.
2. References used in this statement (e.g. [F10],[D10]) relate to documents held in the examination library as either a submission document or as part of the wider evidence base.

## Borough Council of King's Lynn and West Norfolk Responses to Matter 1 Questions

### Issue 1a: Has the Council complied with the Duty to Co-operate (DtC) in preparing the King's Lynn and West Norfolk Local Plan Review (the Plan)?

#### Q1. Does the Plan give rise to any strategic cross-boundary issues for which there is a duty to co-operate?

Yes. The National Planning Policy Framework (NPPF) defines strategic matters, for which there is a Duty to Cooperate (DtC), as those that cross administrative boundaries (paragraph 24). The Borough shares boundaries with the following local authorities:

- Norfolk – County Council; Breckland; North Norfolk
- Cambridgeshire – County Council; Peterborough and Cambridgeshire Combined Authority; East Cambridgeshire; Fenland
- Lincolnshire – County Council; South Holland
- Suffolk – County Council; West Suffolk

Structured discussions with those authorities at each stage of the plan making process identified housing, the economy and the natural environment (notably the protection and enhancement of strategic green infrastructure and coastal management) as the principal considerations capable of engaging the duty. Flowing from that:

- (1) The Norfolk Strategic Planning Framework (NSPF) recognises West Norfolk as a functionally self-contained housing and economic market area (Agreement 4 [D13]. It further concluded that there is no need for the Borough to meet the existing or emergent housing or employment needs of neighbouring Norfolk authorities through the preparation of this plan. The NSPF also addresses other strategic issues (e.g., Quality of life/ health, climate change and environment), but considers these matters can be all be addressed (within Norfolk) through the 31 specified Agreements.
- (2) For areas beyond Norfolk, the DtC Statement [A6] considers other potential strategic matters that could have implications for the Borough. This work concluded the Plan does not need to make provision to meet the housing or employment needs of Cambridgeshire, Lincolnshire or Suffolk authorities (see also our response to Question 7 of the Inspectors' Initial Questions Part 2 [F18]. However, three specific strategic cross-boundary matters are identified, and detailed in [D13] and [A6]:
  - Green Infrastructure – addressed through the NSPF [D13] and GI-RAMS, the latter which was implemented in April 2022;
  - Coastal Management (The Wash/North Norfolk Coast) – addressed through arrangements such as the Wash and North Norfolk Marine Partnership; and

- Wisbech Fringe.

- (3) Wisbech Fringe is proposed as a joint site allocation (with Fenland District Council), to the east of Wisbech. However, it is not strictly a duty to cooperate issue; each authority has separate HMAs and neither is reliant on the other to help meet their housing needs (see D13). Instead, delivery of Wisbech Fringe is recognised as an opportunity for effective joint working between Fenland District Council and the Borough Council to deliver a sub-strategic site that will benefit the residents of both authorities in the medium term. The 2018 East Wisbech Broad Concept Plan [D38] is the culmination of this cooperation, which continues to evolve through both this plan, the draft Fenland Local Plan, and through the development management process.

Overall, the analysis and explanation above, demonstrates that cross boundary strategic issues were fully identified and assessed prior to submission (fuller details on the discharge of the duty are set out in documents [A6] and [D13]).

**Q2. If so, has the Council engaged constructively, actively and on an ongoing basis with all of the relevant authorities and prescribed bodies on the 'strategic matters' applicable to the Plan and have they been resolved?**

Yes. The Borough Council (BCKLWN) has continued to engage constructively, actively and on an ongoing basis with all relevant DtC organisations (neighbouring local authorities and prescribed national DtC bodies) since the start of the Local Plan Review (LPR) in October 2016.

Specific DtC strategic issues are identified in the answer to Q1, above. The following strategic (cross-boundary) issues have been identified and are addressed through the DtC Statement [A6] and NSPF [D13]:

- Housing and economic market areas;
- Quality of life/ health, climate change and environment;
- Green infrastructure;
- Coastal Management (The Wash/ North Norfolk Coast) – addressed through arrangements such as the Wash and North Norfolk Marine Partnership; and
- Wisbech Fringe.

**Q3. Is this adequately evidenced by the DtC Statement and supporting Statements of Common Ground (SoCG)? In particular, have the outstanding objections from the Environment Agency and Historic England to various policies and site allocations been resolved?**

Yes. The DtC Statement [A6] (together with the NSPF [D13]) provides comprehensive and adequate evidence that the DtC has been complied with, from the launch of the Local Plan (October 2016), to sign off by the Council, on 8 July 2021<sup>1</sup>, for Pre-Submission Draft (Regulation 19) consultation and submission to the Secretary of State. The DtC statement ([A6], section 4/ p16) highlights a list of strategic priorities, or 'issues' potentially needing strategic cross boundary working. These were systematically assessed, considering arrangements for ongoing cooperation, the evidence base and DtC outcomes ([A6], section 5).

Objections were subsequently received from the Environment Agency and Historic England through the Regulation 19 consultation (both dated 27 September 2021). These prompted the preparation of a series of draft Statements of Common Ground (SoCGs) [A12] in response to outstanding objections to various policies and site allocations. The representations distinguish

<sup>1</sup> [Agenda for Council on Thursday, 8th July, 2021, 4.30 pm \(west-norfolk.gov.uk\)](#)

between specific objections (regarding soundness) and advisory comments regarding the Plan. Specific outstanding objections from the Environment Agency and Historic England are summarised as follows:

| <b>Environment Agency (EA)</b>  |  |                           |
|---|--|---------------------------|
| <b>Issue</b>  | <b>Commentary</b>  | <b>Evidence Base Ref</b>  |
| <b>Policy E1.15</b> –The EA objected to the Bankside (former Del Monte factory) site, West Lynn, with reference to its location, development constraints and the lack of justification for the retained allocation. | This outstanding objection relates solely to site specific constraints and is not a strategic issue (as defined by NPPF paragraph 24).<br>Suggested Main Modifications are being considered through the emerging SoCG. | A12-1a (section 4)        |
| Section 3 – detailed/ suggested changes (rep 311)   | EA comments considered; minor changes previously put forward as Additional Modifications   | A2 – AM10, AM15 and AM41. |
| Section 6 – detailed comments re paragraph 6.1.4 (rep 512)  | EA comments re Tidal Hazard Mapping considered – Main Modification accordingly proposed.   | F21, MM p93               |
| Section 6 – detailed comments re paragraph 6.3.9 (rep 513)  | EA comments re occupancy conditions considered, but no modifications deemed necessary.   | A8-1                      |
| <b>Policy LP17</b> – Coastal Change Management Area (rep 514)   | EA comments considered and additional policy criteria already put forward as Main Modifications  | F21, MM p105-106          |
| <b>Policy LP18</b> – Design and Sustainable Development (rep 517)   | EA comments re occupancy conditions considered, but no modifications deemed necessary.   | A8-1                      |
| <b>Policy LP25</b> – Sites in Areas of Flood Risk (reps 518-519)  | EA comments considered; minor changes previously put forward as Additional Modifications   | A2 – AM15                 |
| <b>Section 8</b> – Settlements & Sites (general comments – reps 525-527)  | EA comments considered; cross references put forward from various site specific policies to LP25, where these are lacking or insufficiently clear  | F21 – Various MMs         |
| <b>Section 8</b> – Settlements & Sites (general comments – reps 525-527)  | EA comments considered; cross references put forward from various site specific policies to LP25, where these are lacking or insufficiently clear  | F21 – Various MMs         |
| <b>E1.1</b> – King’s Lynn Town Centre (rep 520)   | EA comments considered; minor changes previously put forward as Additional Modifications   | A2 – AM10, AM15 and AM41. |
| <b>E1.KLR</b> – King’s Lynn Riverfront Regeneration Area (rep 521)  | EA comments re King’s Lynn regeneration sites considered, but no modifications deemed necessary.   | A8-1                      |

|  |  |                 |
|--|--|-----------------|
| <b>E1.5, E1.8 and E1.10</b> – King’s Lynn regeneration sites (reps 522-524)  | EA comments re King’s Lynn regeneration sites considered, but no modifications deemed necessary.   | A8-1            |
| <b>Appendix B</b> – Flood Risk Design (rep 528)  | EA comments considered; minor changes previously put forward as Additional Modifications   | A2 – AM41       |
| <b>Historic England (HE)</b>   |  |                 |
| <b>Policy LP20 (Historic Environment Policy)</b> – should be re-worded to provide decision makers and developers with clear indication of expectations for proposals affecting the historic environment. | Through ongoing SoCG discussions between Historic England and BCKLWN (since March 2022; before and after submission of the LP), it was agreed between the parties that LP20 and supporting text, as submitted, was not fit for purpose/ NPPF compliant.<br><br>The parties are working to finalise the LP20 wording through the emerging SoCG.   | A12-2           |
| <b>Policy E2.1 (West Winch Growth Area)</b> – located in proximity to heritage assets.   | HE advised a Heritage Impact Assessment (HIA) should be prepared for this site to test/confirm the potential impact of the proposal on the historic environment and, if found suitable, to identify any necessary mitigation measures.<br><br>This has prompted the preparation of an HIA to support E2.1, which will be finalised in advance of the LP Examination Hearings. Bearing in mind that this is an existing allocation which was tested at the examination of the previous local plan, and the requirement for a HIA when a planning application is made, then subject to the conclusions of the plan level HIA that has been commissioned to inform the examination, the Council is satisfied there is sufficient and proportionate evidence that this allocation can be delivered in full and that it is in all other respects sound. | A12-2           |
| <b>Policy LP01(2)(e)</b> – Addition of reference to ‘historic environment’ (rep 356)   | HE comments considered; minor changes previously put forward as Additional Modifications   | A2 – AM01, AM02 |
| <b>E1.1</b> – King’s Lynn Town Centre (rep 361)  | Recommended addition of reference to heritage assets (criterion f) – previously accepted as Main Modification  | F21, MM, p194   |
| <b>E1.3</b> – Gaywood Clock (rep 362)  | Recommended addition of reference to heritage assets (criterion 1b) – previously accepted as Main Modification   | F21, MM, p199   |
| <b>F1.1</b> – Downham Market Town Centre Area (rep 364)  | HE comments re Downham Market considered, but no modifications deemed necessary. Considered as Additional Modification, but reference to heritage assets already made at paragraph 10.1.4  | A8-1            |

|   |   |      |
|---|---|------|
| <b>G22.1</b> – Castle Acre – Land West of Massingham Road | HE comments re Castle considered, but no modifications deemed necessary. Considered as Additional Modification, but reference to heritage assets already made at paragraph 10.1.4 | A8-1 |
|---|---|------|

Most outstanding EA/ HE objections relate to detailed wording and have been resolved through suggested Main Modifications, in the interests of clarity and readability. Therefore, the only unresolved matters between the EA, HE and BCKLWN relate to policies LP20, E1.15 and E2.1.

**Q4. Does the evidence contained in the DtC Statement and in the Council’s Position Statement on Wisbech Fringe adequately demonstrate that the Council has met the duty to co-operate in respect of Policy F3.1 for the cross-boundary strategic site allocation at land east of Wisbech?**

Yes. Wisbech Fringe/ East Wisbech is a longstanding site allocation. The Fenland part of the site was allocated in the Fenland Local Plan (FLP), adopted May 2014<sup>2</sup> (policies LP4 and LP8). The FLP states: “Indicatively, around 900 dwellings should come forward in the Fenland area and 550 dwellings in the KLWNBC area (with the final latter figure to be determined via the KLWNBC Site Specific Allocations and Policies Local Plan)” (Policy LP8). The Site Allocations and Development Management Policies Plan was subsequently adopted in September 2016, with the Wisbech Fringe site allocated for 550 dwellings, in line with the FLP.

This demonstrates that the Wisbech Fringe allocation is the result of longstanding cooperation between Fenland District Council (FDC) and the Borough Council. This cooperation was further cemented by adoption of the East Wisbech Broad Concept Plan [D38] by both authorities in May 2018, well after the start of the Local Plan Review (October 2016).

**Duty to Cooperate Statement [A6]**

The DtC statement [A6] provides further explanation for the process of continuous engagement between the two local authorities throughout the Plan preparation process, recognising Wisbech Fringe as a strategic planning priority [A6, p16/ Appendix 1]. Several initiatives involving FDC and the Borough Council are identified in the DtC statement, including:

- Cross boundary cooperation transport initiatives; e.g. Wisbech Access Strategy (Steering Group), A47 Alliance; and
- Wisbech Fringe strategic issue [A6, p28].

Critically, the DtC statement highlights, as an outcome from strategic working, the: “Joint housing allocation in Wisbech Fringe Area which is within the Borough Council’s and Fenland District Council’s Local Plans” [A6, p37/ p53-54].

**Position Statement [F23]**

The process of continuous engagement is further emphasised in the Position Statement [F23]. This identified that FDC’s representation was supportive of maintaining the allocation stating,

<sup>2</sup> [Development Plan - Fenland District Council](#)

in response to the 1<sup>st</sup> draft Plan (Regulation 18) consultation in spring 2019, that: ‘This council also welcomes the proposal to provide at least 550 new dwellings to the east of the town which will fall within the jointly agreed (May 2018) Broad Concept Plan for the area’ [F23, paragraph 7; see also E6, p166-167]. FDC made no representation regarding the Local Plan at the Regulation 19 consultation stage (August/ September 2021).

FDC’s proposal to remove Wisbech Fringe was taken by its Cabinet on 13 June 2022 [F23, paragraph 9] in approving its draft replacement Local Plan for Regulation 18 consultation– two months after submission of the Local Plan. The draft FLP consultation took place between 25 August 2022 and 19 October 2022. This was supported by the Draft Local Plan - Sites Evidence Report (Part D) (August 2022)<sup>3</sup>, which provided further explanation: “A strategic political decision was taken to remove any existing Broad Concept Areas without significant progress towards a planning application on the grounds of the failure to deliver” (p18).

The Borough Council was first notified by FDC of the proposal to remove the East Wisbech site allocation from the Local Plan prior to publication of the Cabinet Report (May 2022). Officers have continued to engage via email and/ or MS Teams meetings as/ when necessary, since FDC’s approval of the replacement Local Plan for consultation on 13 June 2022.

The proposed deletion of East Wisbech from the replacement FLP triggered several applications and/ or expressions of interest (screening opinions), to both FDC and the Borough Council, as follows.

| Reference                         | LPA area/ description of location                                  | No of dwellings |
|-----------------------------------|--|-----------------|
| 22/01291/PIP                      | BCKLWN – west of Burrettgate Road                                  | 9               |
| 22/01322/CON<br>(F/YR22/0802/PIP) | Fenland DC – north of Sandy Lane                                   | 9               |
| 22/01323/CON<br>(F/YR22/0722/PIP) | Fenland DC – east of Meadowgate School<br>(Meadowgate Lane access) | 9               |
| 22/01324/CON<br>(F/YR22/0815/PIP) | Fenland DC – Stow Road – NW corner of site                         | 9               |
| <b>Also of interest</b>           |  |                 |
| F/YR22/0817/F                     | Change of use to school playing field (Meadowgate Lane)            | n/a             |
| F/YR22/0700/SC                    | Screening opinion – 200 dwellings development phase                | 200             |
| F/YR22/0514/SC                    | Screening opinion – 325 dwellings development phase                | 325             |

The Borough Council has submitted responses to the PIPs and Screening opinions submitted to FDC. These would need to be determined on the basis of the current (2014) FLP, regardless of whether the site is allocated by FDC or not in the future. These applications indicate the site is likely to come forward whether the site is allocated by Fenland or not in the future. In short, cooperation has been and remains effective throughout the Local Plan process since its commencement (Regulation 18) in October 2016, up to submission in March 2022 and beyond. Further, in light of the strong interest in the development of the site that has been stimulated by regulation 18 consultation, which directly counters the reason for FDC’s deletion of the previous allocation, there is a good prospect the allocation will be reinstated.

**Q5. Are there any ‘strategic matters’ on which the DtC has not been met? If so, what is the evidence to support this?**

No.

<sup>3</sup> [PE01-4 Sites Evidence Report Aug 22.pdf \(fenland.gov.uk\)](#)

**Issue 1b: Has the Council complied in all other respects with the legal and procedural requirements in preparing the Plan, as defined in Part 2 of the Planning and Compulsory Purchase Act 2004, the Town and Country Planning (Local Plan) (England) Regulations 2012 and the Conservation of Habitats and Species Regulations 2017 (as amended)?**

### **Local Development Scheme**

**Q6. Has the Plan been prepared in accordance with the Council's Local Development Scheme (LDS)? Are there any obvious omissions from the submitted Plan, in terms its overall scope as described in the LDS?**

Yes, the Plan has been prepared in accordance with the Council's LDS [A10]. The LDS reflects the timings of the Regulation 19 consultation, submission of the Local Plan, the Examination and anticipates the timing of the Inspectors' Report and adoption of the Plan. There are no omissions having regard to the scope of the LDS.

### **Consultation**

**Q7. Has consultation on the Plan been undertaken in accordance with the Council's adopted Statement of Community Involvement (SCI)<sup>4</sup> and the minimum consultation requirements in the Regulations<sup>5</sup>? What evidence is there to demonstrate this and that representations submitted in response to the first Draft Plan have been taken into account as required by Regulation 18(3)?**

Yes. The evidence that the representations on the first Draft Plan were taken into account is to be found in the Statement of Consultation [A7].

### **Sustainability Appraisal**

**Q8. Has the formulation of the Plan been based on a sound process of sustainability appraisal (SA), as set out in the Sustainability Appraisal incorporating Strategic Environmental Assessment for the Local Plan Review, dated August 2020<sup>6</sup> and the SA Addendum, dated July 2022?**

**In particular:**

**a. Is the baseline evidence sufficiently up-to-date and therefore adequate?**

Yes. The baseline evidence was updated in 2020 in the Sustainability Appraisal Scoping Report Update [B2]. The SA is an iterative process that normally evolves over several years, the baseline evidence needs to be updated in a reasonable and proportionate way, as the baseline information was last updated in 2020, it is considered up to date and adequate.

**b. Does the SA test the policies and site allocations in the Plan against reasonable alternatives?**

The policies and site allocations proposed and a range of reasonable alternatives, were assessed against a set of Sustainability Objectives which have been taken from the adopted Local Plan, reviewed and updated, as per the scoping report update, to form a set for the emerging Local Plan. To aid assessment of individual sites these were assessed against a more site specific and focused Site Sustainability Factors. The assessments can be found in [B3] – Local Plan Review Sustainability Appraisal (including SEA) report (2020).

All policies and site allocations and any reasonable alternatives are tested in [B3].



**c. Has the SA been robustly prepared with a comparative and equal assessment undertaken of each reasonable alternative?**

The policies and reasonable alternatives are measured against a range of sustainability objectives. There were two sets of objectives to allow a more nuanced approach to site specific appraisals. The objectives for the site specific policies were applied to all site specific policies. The objectives against which the non-site specific policies were measured were applied to all non-site specific policies. Therefore, the approach taken was comparative and equal.

**d. Is the SA decision making and scoring robust, justified and transparent?**

The SA 2020 considered the overall scores for the non site-specific policies and the site-specific policies. The SA acknowledges that plus and minus scores are not directly comparable in this way; however, it does give an overall picture of the potential impact on sustainability that the Plan could have. The Scoring criteria can be found in Appendix 4 of the SA from 2020 in table 3c. Table 3.3b shows the relationship between site sustainability factors and the local plan review sustainability objectives.

**e. Has the Council provided clear reasons for not selecting reasonable alternatives?**

The SA [B3] provides reasons for not selecting reasonable alternatives for each individual policy or site.

**f. Is it clear how the SA has influenced the policies and allocations in the Plan and how mitigation measures have been taken account of?**

The iterative SA/SEA was prepared alongside the development of the Local Plan comprising of; SA/SEA reports supporting the SADMP, SA/SEA Scoping Reports in 2017 and an update in 2020 [B1 and B2], responses to the Scoping Report and Update in 2020 [B5], SA/SEA in 2019/20 [B3 and B4], responses to the SA/SEA reports from 2019/20 [B6], SA/SEA Addendum and a Non-Technical Summary in 2022 [B7 and B8], and responses to the Addendum and Non-Technical summary in 2022 [B9].

Mitigation is considered in the main SA for each individual policy or site [B3].

The SEA Post-Adoption Statement will include a final set of indicators with links to specific policies in the Local Plan monitoring schedule. Monitoring will be undertaken through the BKLWN AMR, the AMR for Norfolk County Council, and through the Habitat Regulation Monitoring and Mitigation/Green Infrastructure Panel.

**g. Have the requirements for Strategic Environmental Assessment been met, including in respect of the cumulative impacts of the Plan?**

Yes. A Sustainability Appraisal (SA) incorporating Strategic Environmental Assessment (SEA) has been prepared and is compliant with the European Directive 2001/42/EC and paragraph 32 of the National Planning Policy Framework 2021. The full set of SA documents were prepared in support of the examination into the BCKLWN Local Plan Review and follow Stage A to D of the preparation of the SA including Strategic Environmental Assessment. Annex II of the SEA Directive is also considered in Appendix 5 of the Addendum.

Stage A: See reports [B1] - Scoping report (2017), [B2] - Scoping report update (2020) and [B5] - Statutory Responses to the SA Scoping Report Update August 2020.

[B1] and [B2] set the context and objectives, establish the baseline and decide on the scope as per the Strategic Environmental Assessment Directive 2001/42/EC. [B5] shows the statutory responses to the consultation on the Scoping report 2020.

Stage B: See reports [B3], [B4], [B6],[B7], [B8] and [B9].

[B3] and [B4] develop and refine alternatives by assessing the effects of the plan policies against objectives.

Table 2.2 in the Addendum [B7] tests for synergies or inconsistencies between the objectives of the plan and objectives from the SEA. Appendix 5 of the Addendum sets out revised monitoring indicators.

Stage C: See report [B3].

The full report includes alternatives.

Stage D: See reports [B5], [B6] and [B8].

All consultation bodies were given the opportunity to draft their opinions on the findings of the environmental report. The council was able to gather further information via this process.

Reports [B5], [B6] and [B9] show how consultee's opinions and information were taken into account in deciding the final form of the plan to be adopted.

## Equalities Impact Assessment

**Q9. Is the Equalities Impact Assessment Screening Report<sup>8</sup> robust and adequate? Does it demonstrate whether the policies and allocations of the Plan would have any negative effects on people with protected characteristics in King's Lynn and West Norfolk? Are further mitigation measures required?**

Yes. The Equality Impact Assessment Screening Report found at page 52-58 of the Cabinet Report, 15th June 2021 [A5] is robust and adequate. The Plan has been the subject of public consultations, carried out in accordance with best practice, and in accordance with the approved Statement of Community Involvement [A9]. The Equality Impact Assessment demonstrates that the Plan has been prepared with due regard to the Public Sector Equality Duty and that the plan has neither a negative nor positive impact on protected characteristics. As no impacts were identified, no mitigation measures are required.

## Habitats Regulations Assessment

**Q10. Is the Plan legally compliant with respect to the Habitats Regulations<sup>9</sup> and Habitats Directive, as interpreted by recent case law<sup>10</sup>, and any requirement for appropriate assessment? Does the Habitats Regulations Assessment (HRA), dated May 2021<sup>11</sup> ensure compliance?**

Yes. The Plan is legally compliant with respect to the Habitats Regulations and Habitats Directive. It was prepared by Footprint Ecology (dated 27/05/21) and in close consultation with Natural England. Natural England confirms they were content with the document. The HRA has been prepared in accordance with the Conservation of Habitats and Species Regulations 2017 (as amended), and the Conservation of Habitats and Species (amendment) (EU Exit) Regulations 2019[5] following best practice guidance and relevant guidance.

The HRA follows a clear two stage process. At stage 1 the plan is screened for likely significant effects (see chapter 4), if there are any, they're scrutinised in Stage 2 where they undergo appropriate assessment and an integrity test (see chapter 5). In-combination effects have been considered at both stages as shown throughout the HRA.

Yes, the plan is legally compliant with regards to recent case law *People over Wind & Sweetman v Voillte Teoranta C-323/17*. The HRA considers this case among others at paragraph 1.19-1.27. Learning from the case, the screening stage does not consider any mitigation

measures. Furthermore, the HRA confirms the definition of integrity includes the alternative meaning that was considered after the Sweetman case, 'the lasting preservation of the constitutive characteristics of the site', paragraph 1.25.

Yes, the plan is legally compliant with regards appropriate assessment. Five qualifying features were carried forward from Stage 1: the screening stage into Stage 2: the appropriate assessment stage as set out in part 5 of the HRA. Stage 2 identified the potential for likely significant effects as a result of:

1. the loss of supporting habitats or functionally-linked land (page 33);
2. general urban effects and avoidance of buildings (page 41);
3. recreational impacts (page 49);
4. water related impacts (page 60); and
5. air quality (page 69).

The HRA determines that policies will ensure that the Plan will have no adverse impact on European sites. Adverse effects on the integrity of protected habitat sites were ruled out as summarised in paragraphs 10.3 and 10.4 in relation to the potential loss of supporting habitat/functionally linked land, 10.5 and 10.6 relating to general urban effects and avoidance of buildings by Stone Curlew, 10.7-10.9 relating to Recreational impacts, 10.11 - 10.13 in relation to water related impacts and 10.15 and 10.16 in relation to air quality.

**Q11. Given the conclusion of the HRA that the Norfolk-wide Green Infrastructure and Recreational Avoidance and Mitigation Strategy (RAMS) will provide the means to secure the necessary mitigation to avoid adverse impacts on the integrity of a number of European sites, should criterion 2 of Policy LP27 make clear that the Norfolk-wide RAMS will apply from the adoption of the Plan?**

The Norfolk Wide Green Infrastructure and Recreational Avoidance and Mitigation Strategy (RAMS) was implemented by the Council and the other Norfolk Councils in April 2022. We propose to make additional modifications to the supporting text and propose the following Main Modification to criterion 2 of Policy LP27:

LP27 2. Notwithstanding the above suite of measures the Borough Council will levy ~~an interim Habitat Mitigation Payment of £50 per house~~ a GI-RAMS tariff of £185.93 per net dwelling to cover monitoring/small scale mitigation at the European sites. ~~This Strategy and associated payments will be in place until superseded by the Norfolk wide Green Infrastructure (GI) and Recreational Impact Avoidance and Mitigation Strategy (RAMS).~~

**Q12. The HRA states that the Council is preparing an air quality strategy, which will include mitigation measures necessary to address any adverse effects for air quality resulting from development in the Plan on the integrity of the Roydon Common and Dersingham Bog Special Area of Conservation and Ramsar sites. If such development can only take place with the strategy in place:**

- a. When will the strategy be prepared and what will its status be once it is adopted?
- b. Should Policy LP27 make clear that the strategy will apply from the adoption of the Plan and that development proposals will be required to take into account the strategy and any monitoring and mitigation requirements it specifies?

Any development which the Council or local highway authority determines has the potential to generate a level or kind of traffic which could adversely affect local air quality, then in accordance with Norfolk CC development control policy and also IAQM's planning guidance

(2017), mitigation is secured through TA / TP's and Air Quality Assessments. It is not necessary for the Air Quality Mitigation Strategy to be in place before any development can proceed.

- a) The Air Quality Mitigation Strategy (Strategy) is currently being prepared by the Council and is anticipated to be completed by February 2023. The Strategy will determine the extent of the likely nitrogen deposition impact on the SAC as a result of planned growth and, if necessary, identify any avoidance or mitigation measures. The Strategy, once completed, will inform the types of mitigation measures required. It is not intended to be a supplementary planning document, rather a technical study that informs possible solutions.
- b) We agree that LP27 should include a requirement for development proposals to take account of the Strategy and will propose an additional modification to the supporting text at paragraph 6.13.8 and propose the following Main Modification to LP27 with an additional criterion 7:

**Roydon Common and Dersingham Bog SAC/Dersingham Bog Ramsar**

7. Development proposals should be consistent with the Council's Air Quality Management Strategy and must demonstrate that any effect on air quality will not adversely affect the integrity of either protected European site.

**Q13. Are any other Main Modifications to the Plan necessary to ensure it would not have any likely significant impacts in the light of the HRA?**

No.

**Climate Change Policies**

**Q14. Does the Plan, taken as a whole, include policies designed to ensure that the development and use of land in King's Lynn and West Norfolk contributes to the mitigation of, and adaptation to, climate change in accordance with the Act?**

The Plan, taken as a whole, includes the following policies designed to ensure that the development of and use of land in King's Lynn and West Norfolk contributes to the mitigation of, and adaptation to, climate change in accordance with Section 19 (1A) of the Planning and Compulsory Purchase Act 2004 (as amended):

- LPO6 Climate Change Policy:– lists a wide range of measures that development proposals should incorporate to address climate change in terms of minimising and reducing carbon emissions, adapting and mitigating the impacts of climate change and requires development proposals to be submitted with a Sustainability and Climate Change Statement to demonstrate how development proposals contribute to climate adaptation and mitigation.
- LP18 Design and Sustainable Development Policy: – criterion 3 requires development proposals to demonstrate the use and implementation of several measures to achieve high standards of sustainability and energy efficiency, such as the use of recycled materials, generation of cleaner energy and water efficiency standards. Criterion 5 & 6 requires development proposals to incorporate SuDs and refers to the Shoreline Management Plans, Marine Plans and associated documents which will serve to highlight the changes that may affect coastal communities arising from climate change. Criterion 7 encourages the generation of renewable energy and requires

development proposals for commercial and agricultural buildings of a certain size to provide for solar panels.

- LP24 Renewable Energy Policy: - encourages and sets the criteria for renewable energy developments.

## Superseded Policies

**Q15. Does the Plan make it clear which policies of the adopted development plan it will supersede, as required by Part 4, paragraph 8(5) of the Regulations? Will the Council's proposed modifications to the Introduction to the Plan in chapter 2 and to Appendix D make this clear?**

As set out in our response to Question 10 to the Inspectors' Initial Questions Part 1 [F15] we acknowledged that Appendix D of the submitted Plan was unclear as to which policies in the adopted development plan were to be superseded and subsequently proposed a modification to address this. We are of the opinion that the suggested main modification to Appendix D makes it clear which policies of the adopted development plan it will supersede, as required by Part 4, paragraph 8(5) of the Regulations.

We propose the following changes to paragraphs 2.0.3 to 2.0.5 of the Introduction to clarify that the Plan is a single Local Plan that replaces the CS and SADMP in their entirety:

2.0.3 The Borough Council, as part of the Site Allocations and Development Management Policies Plan (SADMP) examination and adoption process, had already committed to an early review of the Local Plan. This means reviewing both the Core Strategy (CS) and the SADMP to create a single Local Plan document.

2.0.4 This commitment formed Policy 'DM2A – Early Review of Local Plan' of the SADMP. An early review This Local Plan will replace the CS and SADMP and will ensure a set of deliverable and achievable housing sites for the duration of the Plan period (2016–2036), with the most up to date policy framework in a single plan to secure continuity for the longer term. The review This Local Plan will identify the full, objectively assessed housing needs for the borough and proposals to ensure that this is met in a consistent manner with national policy.

2.0.5 Elements Preparation of this review Local Plan began in 2016 and continued in 2017 including the Sustainability Appraisal (SA) Scoping Consultation with statutory consultees (Environment Agency, Natural England and Historic England) and the 'Call for Sites and Policy Suggestions' Consultation (Regulation 18). The latter ran for 6 weeks, between the 17 October and 28 November 2016, and offered an opportunity for developers, agents, landowners, individuals, and other interested parties to promote sites located within the Borough for future development, suggest locations/areas for special policy treatment, and put forward policy suggestions. The Housing and Economic Land Availability Assessment (HELAA) process also commenced.