

# Guidance Note for King Lynn and West Norfolk Borough Council planning applications on preparation of the Template Shadow Habitat Regulations Assessment

## Introduction

The Conservation of Habitats and Species Regulations 2017 (as amended) requires all competent authorities to complete a Habitats Regulations Assessment (HRA) prior to the determination of planning applications. The conducted assessment will establish whether a project or plan will have a likely significant effect on the integrity of Special Protection Areas, Special Areas of Conservation and Ramsar Sites, collectively termed Habitats Sites (also known as European Sites and Natura 2000 Sites).

New developments are required to mitigate the potential for recreational activities to disrupt the protection objectives of Habitats Sites in and around Norfolk and must demonstrate compliance with the Habitats Regulations. Permission cannot be granted unless there is demonstrable evidence that any potential impacts have been satisfactorily assessed and mitigated.

It is the responsibility of the applicant to provide all relevant information necessary for completion and conclusion of the HRA. The template Shadow HRA is intended to enable applicants to ensure they provide all required information. Please note that the shadow template is only suitable for developments where no potential for direct effects on protected wildlife sites have been identified (in such instances, a bespoke HRA will be required). Provided that the Council deems the shadow HRA to satisfy the perquisites, the completed template will be filed as the HRA record for the determination of the planning application.

The requirements should be satisfied at the earliest possible stage, ideally at pre-application stage.

## The Norfolk Green Infrastructure and Recreational impact Avoidance and Mitigation Strategy (2021)

The Council's Local Plan<sup>1</sup> Section 7.5 identified a need to develop measures to prevent increasing visitor pressure to address increased recreational pressure arising from new development on Habitats Sites. Such measures were essential to ensure new development could satisfy requirements of the Conservation of Habitats and Species Regulations 2017 (as amended). In response to this the Council adopted a Habitat Monitoring Mitigation Strategy in 2018. This strategy was funded by developer contributions and ensured that the in-combination recreational impacts on Habitats Sites were mitigated. However, evidence suggests that impacts are cross-boundary and there is potential for development within the Borough to impact on habitat sites outside of the Borough and vice-versa. In response to this, the Council has worked with all Norfolk local planning authorities and Natural England to create a county-wide strategy known as the Norfolk Green Infrastructure and Recreational Avoidance and Mitigation Strategy.

The strategy identifies that all residential development and tourist accommodation development within the Borough could give rise to recreational disturbance impacts on Habitats Sites. The strategy

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<sup>1</sup> [https://www.west-norfolk.gov.uk/downloads/download/68/core\\_strategy\\_document](https://www.west-norfolk.gov.uk/downloads/download/68/core_strategy_document)

outlines a package of mitigation measures to be funded by developers of development which may lead to recreational impacts on Habitats Sites.

### RAMS Tariff

The Recreational impact Avoidance and Mitigation Strategy (RAMS) comprises strategic measures to mitigate the adverse recreational impacts on Habitats Sites, which will be costed and funded through evidence-based developer contributions to ensure development is compliant with Habitats Regulations. A per dwelling tariff for the Norfolk-wide RAMS has been calculated by dividing the total forecast cost of the RAMS mitigation package by the total number of houses still to be delivered over Local Plan periods.

This cost is identified as **£210.84 per dwelling** and per 6 bedspace for tourist accommodation units or per 2.5 bedspace for student accommodation units<sup>2</sup>. The tariff will be due on commencement of the development and increased in line with the Retail Price Index (all items) at the point of payment.

The RAMS tariff will apply to the following:<sup>3</sup>

1. All new dwellings of 1+ units in current site allocations and windfall (excludes replacement dwellings and extensions);
2. Houses in Multiple Occupancy e.g. hotels, guest houses and lodges;
3. Student accommodation;
4. Residential care homes and residential institutions (excludes nursing homes);
5. Residential caravan sites/mobile homes/park homes;
6. Gypsies, travellers and travelling show people plots;
7. Residential moorings, holiday caravans, touring pitches and campsites.

The GIRAMS tariff will be collected on submission of the application and can be paid either; over the phone via card by calling 01553 616234, online via the Council's website under "pay for it" or by BACS.

### Section 106 Agreement

Alternatively, for developments that do not require a Section 106 agreement (typically those over 10 dwellings), payment of the RAMS tariff will be secured via a Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990. Where the proposed development already requires a Section 106 agreement, payment of the RAMS tariff will be included within the relevant agreement.

### Thresholds for use of the template shadow HRA

Accurate HRA recording is particularly important given case law has clarified the need to adequately undertake and record a HRA in a stepwise way, with assessment of identified significant effects undertaken at the 'appropriate assessment stage,' and ensure that all development that poses a potential risk has the benefit of a HRA record. This includes small scale development such as a single new dwelling. Each should have a detailed and satisfactory HRA to demonstrate that any potential effects have been assessed.

Whilst the Brough Council is ultimately responsible for the HRA, it is the responsibility of the applicant to provide all information necessary to inform the HRA and its conclusions. Gathering this information often involves the commissioning of an ecologist or other specialists. In order to expedite this the

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<sup>2</sup> [https://www.gnlp.org.uk/sites/gnlp/files/2021-03/Norfolk\\_GI\\_RAMS\\_Strategy\\_March\\_2021.pdf](https://www.gnlp.org.uk/sites/gnlp/files/2021-03/Norfolk_GI_RAMS_Strategy_March_2021.pdf) (3.4.1.1)

<sup>3</sup> [https://www.gnlp.org.uk/sites/gnlp/files/2021-03/Norfolk\\_GI\\_RAMS\\_Strategy\\_March\\_2021.pdf](https://www.gnlp.org.uk/sites/gnlp/files/2021-03/Norfolk_GI_RAMS_Strategy_March_2021.pdf) (3.4.1)

Council has produced an assessment template that can be used for small-scale development to make the process as straightforward as possible whilst having confidence in compliance with the legislation. This guide and the template have been agreed with Natural England.

The template is referred to as a 'shadow HRA' because it is set out in a way that enables an applicant to provide the information necessary to inform the Borough Council's HRA. Where the Council is satisfied that the shadow HRA provides all the information required, the Council will use the completed template as the HRA record for the determination of the planning application.

The Council must consider any potential impacts arising from a development proposal. The agreement of the Council at any stage to use of the template will not prejudice it following the correct procedures, and this may subsequently lead it to require a full, bespoke shadow HRA to be submitted to enable the Council to prepare a more detailed HRA record.

The assessment template is not appropriate for larger scale developments, those in more sensitive locations, or where there is a potential for other impacts from the specific development in addition to the cumulative impact of recreation pressure. Where a development is particularly large, or in close proximity, there may be other additional recreation considerations that warrant further assessment and may require additional measures to be included in the proposal. These developments are likely to require a more detailed and bespoke assessment.

## Relevant internationally protected wildlife sites

The Borough Council considers that the following sites are relevant to the template and bespoke shadow HRAs required for residential and tourism development:

- Breckland SPA and SAC
- North Norfolk Coast SPA, SAC and Ramsar
- The Wash and north Norfolk Coast SAC
- The Wash SPA and Ramsar
- Roydon Common Ramsar
- Dersingham Bog Ramsar
- Roydon Common and Dersingham Bog SAC
- Norfolk Valley fens SAC

## Establishing whether a template or bespoke shadow HRA is required

The following tables and supporting text set out in broad terms when the following apply:

- A bespoke shadow HRA will be required
- The template shadow HRA can be used to provide an assessment

The scenarios can be identified by considering the scale of the development and its location. The 'Indicative Habitat Impact Zones Map' that accompanies this guide identifies the different zones referred to within the table (below).

Please note that the following table is a guide in the first instance only. The Council as the competent authority reserves the right to request further information (such as a shadow HRA) at any development scale or location should it consider it necessary.

**Table 1 - Residential Development and Tourist Development- Type of Habitat Regulations Assessment**

<b>Scale</b>	<b>Within 400m (Red Zone)</b>	<b>400m to 2.5km (Orange Zone)</b>	<b>Over 2.5km (Green Zone)</b>
1 to 9 units	Bespoke HRA	Template HRA	Template HRA
10 to 25 units	Bespoke HRA	Bespoke HRA	Template HRA
Over 26 units	Bespoke HRA	Bespoke HRA	Bespoke HRA

### Providing a Bespoke shadow HRA

Under circumstances where a bespoke shadow HRA is required an assessment will need to be undertaken by a qualified person (e.g. an ecologist). The assessment should demonstrate to the satisfaction of the Borough Council that the development project can proceed without having any adverse effects on Habitats Sites: having assessed likely significant effects both alone and in-combination (with other planned development), where required carrying out 'Appropriate Assessment' and incorporating any necessary mitigation measures.