



Borough Council of King's Lynn and West Norfolk Local Plan Examination Additional Matters, Issues and Questions (MIQs) West Winch Growth Area

Introduction

This document has been prepared in response to the Inspector's additional questions relating to ecology matters, as covered in the *West Winch Growth Area Ecology and Biodiversity Assessment* produced by Place Services in March 2023. Two MIQs have been raised and these are taken in turn below.

AQ23. Is the increase in dwelling numbers proposed at the WWGA justified in the light of the potential loss of sensitive habitats and the effects on a number of protected and priority species within the site, as identified in the Ecology & Biodiversity Assessment [F51f]?

The Ecology and Biodiversity Assessment identified the habitats outside of the extant application on 'Land to the West of Constitution Hill' that are ecologically sensitive, which are set out in section 4.50. This covers a small part of the Growth Area and avoidance of development in this approximately 5ha area will not constrain the proposed increase in dwelling numbers.

The likely presence of protected and priority species within the Growth Area is assessed in sections 4.31 to 4.41 and it is concluded at section 5.17 that "...it is unlikely that there will be any impacts on protected or Priority species that cannot be adequately mitigated...". This assessment was on the basis of the increased dwelling numbers.

AQ24. Would Policy E2.1, as proposed to be modified [in F51k], be consistent with the national policy in respect of the ecological mitigation hierarchy, biodiversity net gain and the protection and conservation of priority and protected habitats and species?

The relevant national policy referred to in AQ24 is:

- In respect of the ecological mitigation hierarchy, paragraph 186 of the National Planning Policy Framework, which states that "*When determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*". As a key principal of national planning policy, this applies to the consideration of all planning applications and so does not need to be repeated within Local Plan policy. However, the strategic objectives set out in Part A of Policy E2.1 include the retention of "*existing vegetation grassland, trees, woodland, hedgerows and watercourses where they are considered in good condition*", which amounts to avoidance of harm. Similarly, paragraph 6 of Part B



of the policy includes a criterion that states that the Brook Watering Meadow County Wildlife Site, the only site within the Growth Area designated for its nature conservation value, should be retained.

- In respect of biodiversity net gain, is the now statutory requirement for all planning applications (that are not exempt) to deliver a 10% net gain in biodiversity, as required under Schedule 7A (Biodiversity Gain in England) of the Town and Country Planning Act 1990, inserted by Schedule 14 of the Environment Act 2021. Although Policy E2.1 does not need to cover this statutory requirement, at paragraph 5 of Part B, it clarifies that ecological assessments submitted with proposals for development should show “*How a minimum of 10% biodiversity net gain can be delivered, both for the Growth Area as a whole and individual development phases*”. This is cannot extend the requirement to development that would otherwise be exempt¹, but is otherwise consistent with published government guidance.

The Ecology and Biodiversity Assessment considers the delivery of biodiversity net gain in sections 5.28 to 5.37 and concludes that, based on available information, a gain of 10% should be achievable across the Growth Area as a whole. Irrespective of this, delivery of biodiversity measures outside of the Growth Area could compensate for any lower level of gain that becomes apparent as proposals come forward.

- In respect of the protection and conservation of priority habitats and species, is the Biodiversity Duty introduced by Section 40 of the Natural Environment and Rural Communities Act 2006 (NERC Act), which requires Local Planning Authorities (as public authorities) to consider what they can do to conserve and enhance biodiversity in England. Priority habitats and species are those identified under Section 41 of the NERC Act as being of principal importance for the purpose of conserving or enhancing biodiversity in England. Some Priority species are also protected by legislation, by which developers will have to abide. Part A of Policy E2.1 includes conservation and enhancement of biodiversity as a strategic outcome for the Growth Area. The conservation and enhancement of Priority Habitats will be covered by the statutory biodiversity net gain requirement. Paragraph 5 of Part B of Policy E2.1 sets out that the “*...impacts of development upon protected and priority species...*” should be identified in ecological assessments in support of development proposals. Paragraph 6 requires development proposals to be accompanied by a package of habitat protection measures, to include “*mitigation measures within the Growth Area boundary or compensatory measures beyond, to address the disturbance to protected and priority species*”.

¹ Paragraph 006 of the ‘Planning practice guidance on biodiversity net gain’
<https://www.gov.uk/guidance/biodiversity-net-gain#about-biodiversity-gain>

**Correction**

It should be noted that at sections 5.5 and 5.9, the Ecology and Biodiversity Assessment incorrectly states that the statutory biodiversity net gain requirement would be likely to apply to the reserved matters stages of the two extant applications. This was based on guidance available at the time, but government guidance has now clarified that the general condition only applies to applications where consent is granted, which is not considered to be the case with reserved matters. As these two applications were validated before mandatory net gain became statutory, the general condition cannot be applied.

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