

Hambleton District Publication Local Plan – Habitat Regulations Assessment (Update)

LP09.3.1 Supporting Statement - draft

September 2020

Background

Natural England were consulted on the Local Plan HRA report (LP09) in May 2020 and provided comments in their letter dated 22nd June 2020. In general, they agreed with the conclusions of the HRA report but suggested that the wording of the recreational pressure assessment in Chapter 5 regarding the North York Moors SAC/SPA could be clarified and expanded, particularly regarding windfall development within 7km of the SAC/SPA.

In particular, Natural England commented that *'In order to ensure no adverse effect at the plan stage there needs to be level of certainty that avoidance and/or mitigation measures are available and can be secured at the planning application stage'* but that is only true if an adverse effect on integrity is actually expected in the absence of specific mitigation.

Issue 1 - Recreational pressure

With regard to recreational pressure, the analysis in the HRA report (LP09) concluded that specific mitigation for recreational pressure was not needed because:

1. Only 135 dwellings on 2 sites are planned for delivery within the 7km zone around the SAC/SPA over the plan period, and the nearest proposed allocation is 3.5km away from a SAC/SPA. As such there is no real likelihood that regular casual visitor pressure on the SPA/SAC will materially increase due to the Local Plan; and
2. The National Park Management Plan (and related strategies) already provide a sufficient mechanism to sustainably manage tourism in the National Park (irrespective of where the tourists originate) to ensure no harm is caused to its internationally important interest features and the National Park has not given any indication levels of tourism in the National Park are unmanageable or unsustainable, or expected to become so (this position will obviously need to be kept under review and taken into account in the 5-year reviews of the Local Plans surrounding the National Park).

The HRA report (LP09) has been updated to make that position clear and the opportunity has also been taken to explain further the reasoning behind those conclusions, specifically relating to the key recreational areas (honeypot sites) within the National Park in the vicinity of the two settlements where housing allocations are proposed (Stokesley and Great Ayton). Both of these settlements are outside the SAC/SPA and the moorland parts of the National Park (which are covered by the SAC/SPA designation) are at a considerably greater elevation above the honeypot sites, which will inherently limit the number of residents of the two proposed allocations who are likely to regularly venture into the moorland. This is addressed in paragraphs 5.15 to 5.22 of the HRA report.

Natural England also suggested that cross-reference could be made in the HRA report to the Green Infrastructure policy of the Local Plan (Policy E4) and this cross reference has now been included, along with recommendations for additional text to Policy E3 (Natural Environment) to make a more explicit reference to the role of new housing development

within 7km of the SAC/SPA in enhancing the green infrastructure linkages between the surrounding settlements and the recreational hotspots in the National Park. This is discussed in paragraph 5.20 of the HRA and the recommended text is as follows: *'The Council expects that any new residential development within 7km of the North York Moors SPA/SAC will enhance the designated site. This will be achieved by contributions to enhancing natural recreational greenspace connections from new development within 7km of the North York Moors SAC/SPA to the recreational hotspots in the North York Moors National Park, beyond the boundaries of the SAC/SPA in line with Policy E4.'*

Issue 2 – Windfall development

Natural England also recommended that explicit discussion of new housing outside allocations (i.e. windfall) be added to the HRA and that has been incorporated in paragraph 5.21 and 5.22. This has resulted in the recommendation for explicit wording to be included in **Policy HG5** (Windfall) in order to make the linkage to provision of green linkages and protection and enhancement of the SAC/SPA explicitly clear as follows: *'In order to enhance connectivity of natural greenspace in the area around the North York Moors National Park (encompassing the North York Moors SAC and SPA) all windfall housing within 7km of the SAC/SPA will be expected to make a financial contribution, commensurate to the size of the development, for delivering strategic greenspace projects.'*

Proposed revisions

Some additional adjustments have been made to the text of **Policy E3** in order to provide a clearer structure and better reflect the legislative tests associated with HRA. The first change involved re-ordering the structure to the policy. The first part of the policy now begins with the international and national designated sites whilst the second part links to local geodiversity and biodiversity issues.

The second change is to reword and expand the first paragraph as follows (strikethrough indicates deleted text and red text is newly inserted):

'New development should not have an adverse effect on the integrity of a European site either alone or in combination with other proposals. ~~The Council expects that any new development should enhance the designated site.~~ Where development cannot demonstrate that it has no adverse effect on the integrity will result, development will only be permitted under Imperative Reasons of Overriding Public Interest (IROPI) ~~or similar~~ and if there are no alternatives. The Council expects that any new residential development within 7km of the North York Moors SPA/SAC will enhance the designated site. This will be achieved by contributions to enhancing natural recreational greenspace connections from new development within 7km of the North York Moors SAC/SPA to the recreational hotspots in the North York Moors National Park, beyond the boundaries of the SAC/SPA, in line with Policy E4.'

The new text has been added a) to make an explicit reference to the alternatives test which is set out in the Conservation of Habitats and Species Regulations which must be undertaken in addition to the IROPI test and b) to make an explicit link to Policy E4, which already talks about improving connections to the National Park.

The third change is to adjust the second paragraph, which has been suggested for clarity:

Where a proposed development site is located within 2.5km of the North York Moors SPA, evidence must be provided **of the extent to which the site and surrounding land are used by golden plover to ensure that loss of supporting habitat outside of the SPA does not occur.** ~~to determine the use of the land parcel and that surrounding the site by Golden Plover, and that the loss of supporting habitat outside of the European site does not occur.~~ This may require a Phase 1 habitat survey to determine suitability of habitat and, **if required** ~~potentially~~, non-breeding bird surveys to determine presence/ absence of golden plover and ~~populations present~~ **population size**. Multiple years of data may be required to fully support the application.

For full details on the proposed revisions to Policy E3 – The Natural Environment and Policy HG5 – Windfall Development please refer to Appendix A.

Overall conclusion

To be completed – awaiting Natural England's to sign off on the proposed word improvements to Policy E3 and Policy HG5.

Appendix A

A1: Original Policy E3 – The Natural Environment

The first proposed change involves re-structuring the existing policy. Originally, policy E3 in the submission document (LP01 – Hambleton Local Plan Publication Draft) had the policy starting with those matters relating to local geodiversity and biodiversity issues, whilst the second part of the policy focused on international/national designated sites. Below is the original version with added notes for information.

E3 - The Natural Environment

(first part) (propose to move this section down)

A proposal that may harm a designated site of importance for nature conservation (SINC), local geological site, or a non-designated site or feature of biodiversity interest, will only be supported where:

- a. the mitigation hierarchy is applied so that firstly harm is avoided wherever possible, then appropriate mitigation is provided to lessen the impact of any unavoidable harm, and as a last resort compensation is delivered to offset any residual damage to biodiversity;
- b. the biodiversity offsetting metric is used to demonstrate that a proposal will deliver a net gain for biodiversity;
- c. they protect, restore, enhance and provide appropriate buffers around wildlife and geological features and where possible deliver actions and priorities identified in the North Yorkshire and York Local Nature Partnership Strategy;
- d. they produce and deliver appropriate long term management plans for local wildlife and geological sites as well as newly created or restored habitats; and
- e. they can demonstrate that the need for the proposal outweighs the value of any features that would be lost.

(second part) (propose to start the policy with this section)

A proposal that may impact on a special area of conservation (SAC), special protection area (SPA) or Ramsar site will only be supported where it can be demonstrated that there will be no likely significant effects and no adverse effects on the integrity of an European site, unless there are no alternative solutions and it is justified by an 'imperative reasons of overriding public interest' (IROPI) assessment under the Habitats Directives. **(Proposed to rework this paragraph because the wording does not include the full recommendation as set out in the Habitats Regulations Assessment – Feb 2020 report (LP09))**

A proposal that may either directly or indirectly negatively impact a Site of Special Scientific Interest (SSSI) will not normally be supported. All proposals should seek to protect and enhance SSSIs wherever possible. **(Propose no change to this paragraph)**

In addition, where a proposal is located within 2.5km of the North York Moors SPA, evidence must be provided of the extent to which the site and surrounding land is used by golden plover to ensure that loss of supporting habitat outside of the SPA does not occur. This may require a Phase 1 habitat survey to determine suitability of habitat and if required non

breeding bird surveys to determine presence/ absence of golden plover and population present. Multiple years data may be required to fully support the proposal. (Proposed to rework this paragraph)

A2: Proposed policy revisions

The proposed revisions to Policy E3: The Natural Environment and Policy HG5: Windfall Housing Development which shows text deletions as a strikethrough and red text is newly inserted:

E3: The Natural Environment

The natural environment of the district and its contribution to the maintenance of ecosystem services will be protected and enhanced by:

Designated Sites (new sub heading)

'New development should not have an adverse effect on the integrity of a European site either alone or in combination with other proposals. ~~The Council expects that any new development should enhance the designated site. Where development cannot demonstrate that it has no adverse effect on the integrity will result, development will only be permitted under Imperative Reasons of Overriding Public Interest (IROPI) or similar~~ and if there are no alternatives. The Council expects that any new residential development within 7km of the North York Moors SPA/SAC will enhance the designated site. This will be achieved by contributions to enhancing natural recreational greenspace connections from new development within 7km of the North York Moors SAC/SPA to the recreational hotspots in the North York Moors National Park, beyond the boundaries of the SAC/SPA, in line with Policy E4.'

Where a proposed development site is located within 2.5km of the North York Moors SPA, evidence must be provided of the extent to which the site and surrounding land are used by golden plover to ensure that loss of supporting habitat outside of the SPA does not occur. ~~to determine the use of the land parcel and that surrounding the site by Golden Plover, and that the loss of supporting habitat outside of the European site does not occur.~~ This may require a Phase 1 habitat survey to determine suitability of habitat and, if required potentially, non-breeding bird surveys to determine presence/ absence of golden plover and populations present population size. Multiple years of data may be required to fully support the application.

Sites of Special Scientific Interest (SSSI) (new sub heading)

A proposal that may either directly or indirectly negatively impact a Site of Special Scientific Interest (SSSI) will not normally be supported. All proposals should seek to protect and enhance SSSIs wherever possible.

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Protecting and enhancing geodiversity assets and biodiversity (new sub heading)

The degree of protection given to geodiversity or wildlife sites will be commensurate with the sites' status in the hierarchy of international, national and locally designated sites with appropriate weight given to their importance and the contribution which they make to wider

ecological networks.

A proposal that may harm a designated site of importance for nature conservation (SINC), local geological site, or a non-designated site or feature of biodiversity interest, will only be supported where:

- a. the mitigation hierarchy is applied so that firstly harm is avoided wherever possible, then appropriate mitigation is provided to lessen the impact of any unavoidable harm, and as a last resort compensation is delivered to offset any residual damage to biodiversity;
- b. the DEFRA biodiversity metric tool is to be used to demonstrate that a proposal will deliver a net gain for biodiversity;
- c. they protect, restore, enhance and provide appropriate buffers around wildlife and geological features and where possible deliver actions and priorities identified in the North Yorkshire and York Local Nature Partnership Strategy;
- d. they produce and deliver appropriate long term management plans for local wildlife and geological sites as well as newly created or restored habitats; and e. they can demonstrate that the need for the proposal outweighs the value of any features that would be lost.

All development proposals will be expected to protect and enhance the services that ecosystems provide by ensuring the development proposal incorporates appropriate measures to manage the land and water environment, conserve and improve soils and increase the ability to store carbon through planting.

HG5 : Windfall Housing Development

In order to enhance connectivity of natural greenspace in the area around the North York Moors National Park (encompassing the North York Moors SAC and SPA) all windfall housing within 7km of the SAC/SPA will be expected to make a financial contribution, commensurate to the size of the development, for delivering strategic greenspace projects.

Within the built form of defined settlements

A proposal for housing development within the main built form (defined in policy S5 'Development in the Countryside') of a defined settlement *see policy S3 'Spatial Distribution') will be supported where the site is not protected for its environmental, historic, community or other value, or allocated, designated or otherwise safeguarded for another type of development.

Adjacent to the built form of Service, Secondary and Small Villages

A proposal to build minor scale housing development, defined in the 'Glossary', on a site adjacent to the built form of a defined village will be supported where the proposal demonstrate that:

- a. a sequential approach to site selection has been taken where the re-use of previously developed land will come first before greenfield;
- b. it will provide a reliable source of supply. Applicants will be expected to provide evidence of the site's deliverability, especially in those villages where development has been completed within the plan period and there are existing outstanding commitments; and

- c. it will provide a housing mix in terms of size, type and tenure, in accordance with the Council's Housing and Economic Development Needs Assessment (HEDNA) and Strategic Housing Market Assessment (SHMA) or successor documents.

All proposals will individually or cumulatively;

- d. represent incremental and organic growth of the village by virtue of its location, scale and nature;
- e. not result in the loss of open space that is important to the historic form and layout of the village or is an important social and community space; and
- f. have no detrimental impact on the character and appearance of the village, surrounding area and countryside or result in the loss of countryside that makes a significant contribution to the character or setting of that part of the village.

Further details are set out in the Housing SPD (forthcoming).