

HABITATS REGULATIONS ASSESSMENT

INTRODUCTION

It is a basic requirement that all plans, including neighbourhood plans are consistent with European and UK law. Amongst these laws that must be complied relate to the need to undertake a Strategic Environmental Assessment (see separate Fact Sheet) and Habitats Regulations Assessment. These assessments are used to identify the impact of plans' policies and proposals on the wider environment, and internationally important sites for nature conservation.

WHAT IS HABITAT REGULATIONS ASSESSMENT (HRA)?

Habitats Regulations Assessment (HRA) has its origins in European law under the Habitats Directive. This has been translated into UK law via The Conservation of Habitats and Species Regulations 2010. The HRA's main purpose is to ensure that your neighbourhood plan will not result in significant damage to designated wildlife sites. These designated sites are those which are considered to be internationally important for nature conservation and wildlife.

WHAT ARE THESE INTERNATIONALLY IMPORTANT SITES FOR NATURE CONSERVATION?

These internationally important nature sites include Special Areas of Conservation (SAC) which have important habitat features, Special Protection Areas (SPAs) which relate to bird populations and Ramsar sites which are internationally important wetlands. These are often referred to as Natura 2000 sites.

DOES NORTH LINCOLNSHIRE HAVE ANY OF THESE NATURA 2000 SITES?

Yes. North Lincolnshire has a number of Natura 2000 sites. These are concentrated on the Humber Estuary and Crowle Moors. In total there are two SACs, two SPAs and one Ramsar site. In addition to these designated areas with North Lincolnshire, the area is bounded by Hatfield Moor to the west, which is an SPA and SAC. The Crowle Moors SPA and SAC are part of the wider Crowle Thorne & Goole Moors designated area, which straddles three local authority areas (North Lincolnshire, Doncaster & East Riding of Yorkshire).

WHAT DOES A HABITAT REGULATIONS ASSESSMENT DO?

A Habitat Regulations Assessment examines the likely impacts of the possible effects of a plan's policies on the integrity of the Natura 2000 sites (including possible effects 'in combination' with other plans projects and programmes). There is a generally accepted methodology for assessing whether there are likely to be significant impacts (screening); if yes, whether these can be mitigated for or compensated for (appropriate assessment) or whether alternative solutions are needed.

It is intended to be a systematic, consistent process through which the performance of a plan can be assessed for its likely impact on the integrity of Natura 2000 sites, while the plan, is still being produced. HRA allows you to assess whether there are likely to be any impacts, how significant they are likely to be, whether any mitigation measures are needed to protect the Natura 2000 sites or whether it is not possible to offset any likely adverse effects from the plan.

DOES EVERY NEIGHBOURHOOD PLAN NEED A HABITAT REGULATIONS ASSESSMENT?

Not every neighbourhood plan will need a Habitat Regulations Assessment. Much will depend on the area to be covered and whether its policies and proposals will impact on any Natura 2000 site.

HOW DO WE FIND OUT IF OUR NEIGHBOURHOOD PLAN NEEDS A HABITATS REGULATIONS ASSESSMENT?

You can find out whether your plan needs a Habitats Regulations Assessment, by contacting the council or Natural England, who are the Government's statutory advisor on nature conservation. It is best to come to the council as a starting point. We can provide you with advice and assistance. However, given the technical nature of the assessment, you may need to engage specialist consultants.

WHAT HAPPENS IF OUR NEIGHBOURHOOD PLAN NEEDS A HABITATS REGULATIONS ASSESSMENT?

If your neighbourhood plan is identified as needing a Habitats Regulations Assessment, it is important that you allow sufficient time within the plan timetable to do the work. Government guidance suggests that there are three main stages in preparing a Habitats Regulation Assessment – screening for likely significant effects, appropriate assessment and ascertaining the effect on integrity, and identifying mitigation measures and alternative solutions.

The first stage, screening is an initial assessment of the draft plan's policies and proposals on any Natura 2000 sites on their own or in combination with other plans or projects. This stage initially involves gathering data and information about the Natura 2000 sites within or adjacent to the neighbourhood area being covered by your plan. You should discuss the sites to be assessed and way in which you intend to do this with Natural England and other important bodies at this point. Once this has been agreed, you can then make an assessment of your policies and proposals for likely significant effects on them. Should the screening show that the policies and proposals in your plan, the next part of the exercise is to attempt to eliminate them by amending your plan or policy option. At the end of the screening process,

you should publish a screening report, and consult Natural England and other key bodies on its findings, and if appropriate, the scope of any further Appropriate Assessment works.

If the screening concludes that your neighbourhood plan is unlikely to have a significant effect on the conservation objectives of Natura 2000 sites, then you do not have to continue with the Habitats Regulations Assessment. However, if the screening shows that there will be a significant effect or cannot ascertain its extent, you will need to move onto the next stage of the Habitats Regulations Assessment. The stage is known as Appropriate Assessment (AA). Before moving to this stage, Natural England must sign off the screening report.

The second and third stages involve evaluating the evidence gathered on impacts and consideration of whether changes to the plan are needed to ensure that it will have no significant adverse effect upon any Natura 2000 site. This should be the end of the AA process and the plan can be adopted. It should be noted that these stages in the HRA process are iterative and it is anticipated that a report would be produced with each evolution of your neighbourhood plan. It is important that final agreement on the HRA is obtained from Natural England.

WHO WOULD PREPARE A HABITAT REGULATIONS ASSESSMENT?

Essentially, this is likely to be a joint effort between the town/parish council or neighbourhood forum, preparing the neighbourhood plan, and the council with strong input from Natural England. Under the Conservation of Habitats and Species Regulations 2010, they are required to provide appropriate information that the "competent authority" may reasonably require in order to undertake a Habitats Regulations Assessment or help them to decide whether that assessment is required. Normally, the "competent authority" is considered to be the council.

WHERE CAN WE GET ADVICE ABOUT THE HABITATS REGULATIONS ASSESSMENT?

You can get advice about the Habitats Regulations Assessment from a number of sources. Initially it's a good idea to contact the council. We have had this type of assessment undertaken on the Core Strategy document. You can have a look at this document and what we did via our website www.northlincs.gov.uk.

The Government have also produced a guidance note entitled Planning for the Protection of European

Sites: Appropriate Assessment, which was issued for consultation in August 2006. It is aimed at those who were preparing Regional Strategies and Local Development Documents, but nonetheless it provides a useful overview of the process. It can be viewed on Stafford Borough Council's website as it hard to find on the DCLG website.

Natural England has produced more prescriptive draft guidance on the assessment of Local Development Plan Documents under the provisions of the Habitats Regulations (David Tyldesley and Associates, draft 2009). This introduces the concept of a stepped approach to the assessment process and fits within the framework of the three stages identified by DCLG. Whilst the guidance is draft it nevertheless provides a helpful approach to HRA. You are advised to contact Natural England about this publication.

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