

NORTH LINCOLNSHIRE LOCAL PLAN (2020-2038)

STATEMENT OF COMMON GROUND - NORTH LINCOLNSHIRE COUNCIL AND NATURAL ENGLAND

June 2024

Summary - areas of agreement and disagreement

Issue	Natural England's (NE) Position	Council's (NLC) Position	Agree/Disagree
<p>Impacts on European Designated Sites:</p> <p>a) Habitats Regulations Assessment (HRA)</p>	<p>Adverse effects on the integrity of European designated sites cannot be excluded. NE and NL Council have had ongoing engagement on unresolved issues following NE's Reg 19 response. As such this SoCG addresses areas of ongoing concern or where concerns have been resolved. However, the Regulation 19 HRA will not include any updated positions; as such these issues will need to be considered within a revised HRA. As noted in sections below, for those areas where we are now in agreement with the Council, Natural England is satisfied that a conclusion of no adverse effect on the integrity of the designated sites could be reached. This is not the case for those issues where issues remain unresolved.</p>	<p>The Council considers that sufficient information is already available to rule out adverse effects on the integrity of European designated sites. This information is either already contained within the latest HRA for the Plan, or in the <u>Briefing Paper</u> on this matter previously provided to the Inspectors. The Council will send a slightly updated version of this paper separately to the Inspectors as NE are not signed up to it and have not agreed to any of its content.</p> <p>Based on the clarity provided by this statement, the Council now considers that a line has been drawn under what it and NE's final positions are on various matters, enabling it to commission an update of the HRA and to update the <u>Briefing Paper</u> to reflect this heading into the examination hearing sessions.</p>	<p><u>Agree</u> a revised HRA is needed</p> <p><u>Disagree</u> on whether effects on the integrity of European designated sites can be excluded.</p>

<p>b) Functionally Linked Land</p>	<p>Based on the information provided in the Habitats Regulations Assessment (2022) Natural England advises that it is not possible to ascertain that the proposal will not result in adverse effects on the integrity of the Humber Estuary SPA/Ramsar from impacts on functionally linked land. Natural England advises that the assessment does not currently provide enough information and/or certainty to justify the assessment conclusions.</p> <p>Discussions with North Lincolnshire Council are ongoing regarding proposed updates to the assessment and relevant Policy wording for Local Plan allocations and windfall developments. Natural England considers that it should be possible to overcome the relevant concerns; however, these have not yet been adequately addressed at this stage.</p> <p>We note that further information has been provided in North Lincolnshire’s Draft STATEMENT OF COMMON GROUND - NORTH LINCOLNSHIRE COUNCIL AND NATURAL ENGLAND (MARCH 2023). However, we advise that the additional information should be assessed in an updated appropriate assessment and formally submitted for review. We consider that a number of outstanding concerns have not been adequately addressed in the information provided.</p> <p>Natural England also notes that the proposed Appendix to the additional criterion for functionally linked land has been directly copied from our guidance document ‘Annex C: Passage and wintering bird surveys for functionally linked land associated with the Humber Estuary and/or Lower Derwent Valley designated sites (Version 1.1)’. As previously discussed with the Council, we consider this to</p>	<p>The Council’s position on Functionally Linked land is informed by discussions and information exchanged with NE up to 13th March, 2024. Some of this information has not yet formally been incorporated into an updated HRA as NLC were waiting for agreement in principle from NE on this so as to reduce the risk of additional HRA work being abortive. As per (a) above, the Council will proceed with amendments to the HRA and based on this it is hopeful that:</p> <p>-The screening outcome on whether Plan allocations should be screened in or out of being Functionally Linked Land as set out in a revised <u>Appendix B</u> to the Briefing note can be agreed. That is apart from three allocations: H1P-6 (PA/2019/1782), Moorwell Road, Scunthorpe; H1P-13, Land off Barrow Road, Barton; H1P-23, Land off Mill Road, Crowle.- NLC consider all three should be screened out.</p> <p>-For allocations screened in as being potentially functionally linked land, it can be agreed a criterion is inserted into the relevant allocation policies, which requires proposals to be supported by an assessment for Humber Estuary SPA/Ramsar birds on the site. This should incorporate a suitable level of data collection and/or bird surveying to determine the individual and cumulative importance of the site for these species. Where the potential for adverse effects resulting from the off-site habitat loss and/or disturbance is identified, appropriate and timely measures must be taken to mitigate such impacts, such as alternative habitat managed specifically for the affected species and/or contributions towards the provision of strategic mitigation sites.</p> <p>-It can be agreed to inserting a policy approach to address windfall development and the possibility of functional land in relation to Thorne and Hatfield Moors SPA. This is focussed on proposals located within 3km of the SPA, that impact</p>	<p>Disagree on whether effects on the integrity of European designated sites can be excluded, on account of impacts on potential functionally linked land.</p>
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	<p>be an inappropriate approach to the supporting text, and we have not given consent for the guidance document to be used in this way. Although we advised that the guidance document may be helpful in developing the supporting text, it should not be directly copied. Therefore, we request that the Appendix is revised.</p>	<p>habitats that nightjars may use for feeding on. Such proposals will only be supported where they deliver a net gain in nightjar foraging habitat.</p> <p>NLC disagrees that extensive site-specific bird surveys at the plan-making stage are needed for sites screened in as being potentially functionally linked land. NLC consider undertaking bird surveys to support site allocations for all sites within 4km of the Humber, and possibly further than that, would be a massive undertaking. They could be more targeted to just the 11 sites screened in through the latest functionally linked land assessment, but it would still involve collecting a large amount of field survey data over a relatively long period. It is considered that both the field survey and desk-based assessment would be much better undertaken at the project level. Reference is made to an additional Plan appendix, which sets out a current survey approach to advising on developments that may impact on functionally linked land associated with the Humber Estuary SPA / Ramsar.</p>	
<p>c) Air Quality</p>	<p>Natural England are satisfied that an adverse effect on the Integrity of the Humber Estuary SPA/SAC/SSSI/Ramsar from air quality impacts can be excluded. North Lincolnshire have considered growth in their Local Plan in combination with the conclusions of the ERLP Appropriate Assessment and the results remain unchanged. It is our understanding that North Lincolnshire Council will adopt the conclusions of the ERLP Appropriate Assessment and Natural England are satisfied with this approach.</p>	<p>Agree that an adverse effect on the Integrity of the Humber Estuary SPA/SAC/SSSI/Ramsar from potential air quality impacts as a result of the Plan can be excluded.</p> <p>From NLCs perspective this is not just on account of the findings of the ERLP Appropriate Assessment. An updated <u>Briefing Paper</u> sets out other reasons for this conclusion (which we appreciate NE have not agreed to) including:</p> <ul style="list-style-type: none"> -The proportion of new car registrations consisting of Battery Electric Cars is going up fast resulting in falling pollutants from traffic. -New internal combustion engine cars will be banned from sale in the UK from 2035. The Government has confirmed that new diesel lorries will also be banned in the UK by 2040 at the 	<p>Agree that an adverse effect on the Integrity of the Humber Estuary SPA/SAC/SSSI/Ramsar from potential air quality impacts as a result of the Plan can be excluded.</p>

		<p>latest. Looking further afield to our neighbours in the EU, from 2035 all new cars that come on the market should be zero-emission and cannot emit any CO2.</p> <p>-There is a whole raft of National to Local strategies aiming to make sure that the switch to electric vehicles continues.</p> <p>-It is estimated a traffic and air quality assessment along the lines of that carried out by East Riding of Yorkshire Council and promoted by NE would cost in the region of £80k to £100k. Such an assessment would cost in the order of £60k alone for the traffic assessment without the air quality assessment. Paragraphs 31 and 35, alongside the 'Justified' soundness test within the NPPF are clear that relevant and up-to-date evidence underpinning the Local Plan should be adequate and proportionate. The Council's view is the scale and cost of an assessment originally envisaged by NE is completely disproportionate in light of the above.</p> <p>-It needs to be borne in mind the Retained EU Law (Revocation and Reform) Act 2023 abolishes the principle of supremacy of EU law in UK law at the end of 2023, so that it no longer applies in relation to any domestic legislation, whenever it was made. This Act also gives the Attorney General and other Law Officers in the UK and devolved administrations the power to intervene in and refer cases to the higher courts, so that they may be invited to exercise their new discretion to depart from retained EU case law. It is therefore not a foregone conclusion that the EU case law relating to air quality and international habitats would prevail in the UK.</p>	
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<p>d) Recreational Disturbance</p>	<p>Natural England’s regulation 19 response provided information on the need to consider recreational impacts strategically. We welcome the updated evidence base but there is currently no strategic assessment of recreational pressure impacts and no proposed strategic mitigation that could be considered under an appropriate assessment to conclude that the Local Plan would not have an adverse effect on the integrity of the Humber Estuary SPA/SAC/SSSI/Ramsar. NE consider that it would be of great benefit to join up the approach to recreational disturbance across the Humber Estuary so recommend that consideration is given to the approaches being undertaken by East Riding and North East Lincolnshire Council. The potential impact of residential development within the recreational pressure zone of influence which could contribute towards strategic programmes aimed at managing the impact of tourism and residents on international (habitats) sites should be considered.</p>	<p>In relation to possible additional recreational disturbance on account of the Local Plan. NLC considers that:</p> <ul style="list-style-type: none"> -policies DQE10, DQE11 and CSC3, with proposed amendments as set out in an updated <u>Briefing Paper</u>, sufficiently address the issue of recreational pressure within the confines of their general remit. -Commissioned evidence identified a 14.7km ‘zone of influence’ within which it is assumed that new housing will have a likely significant effect on the European sites due to the impacts from recreation. Within the ‘zone of influence’ it is assumed that Local Plan housing allocations will need to consider mitigation to reduce potential recreational pressure. This results in a proposed addition to 32 housing allocation policies, which requires proposals to demonstrate through the submission of appropriate levels of evidence that development will result in no adverse effects (alone or in combination) on the integrity of Habitats sites. Measures to avoid and mitigate for recreational disturbance must be incorporated as necessary. As a catch-all for other relevant non-allocated development to consider recreational pressure impacts, a proposed modification to Policy DQE3 is also included in the <u>Briefing Paper</u>. This requires the potential impact of recreational pressure on Humber international habitats sites to be considered by proposals for residential and/or tourism accommodation within the zone of influence. Where necessary, measures to avoid and mitigate for recreational disturbance must be incorporated. -There is no existing evidence that could be used or gathered in order to carry out a strategic assessment of potential recreational pressure impacts per se- and certainly not within a reasonable timeframe and cost. NE have confirmed the objective is not to reduce number of visitors to the Estuary, 	<p>Disagree that existing Local Plan Policies (including proposed amendments) address possible additional recreational disturbance on account of the Local Plan.</p>
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	<p>Natural England welcomes the updated evidence base and agree that this identifies a zone of influence for recreational pressure of 14.7km</p> <p>Natural England agrees with the proposed modification of Policy DQE3 and the proposed wording of DQE10, DQE11 and CSC3 and would be satisfied to have this included in main modifications. However, the proposed wording alone does not address the need for recreational disturbance impacts to be assessed strategically under the Habitats Regulations with certainty as to mitigation measures. This point therefore links to the above.</p>	<p>interpretation' and limiting the public's Countryside Rights of Way Act rights over coastal access margins.</p> <p>Whilst other Authorities have completed and implemented such work, the circumstances and evidence available are different to the situation in North Lincolnshire. NLC considers that the merits of a potential SAMMS should be discussed at the examination hearing sessions.</p> <p>Footprint Ecology were commissioned to update their studies for North Lincolnshire to gather up-to-date visitor information. Data from the survey was used to identify a 14.7km 'zone of influence' within which it is assumed that new housing will have a likely significant effect on the European sites due to the impacts from recreation. Consultants consider the zone of influence to be 'robust', while NLC believes the zone is really a 'worst case scenario' for various reasons, including not taking account of numerous barriers to accessing to the Estuary. Whilst the assumption is that new housing within the zone will have a significant impact, there is no firm evidence for this. The evidence only shows the distance away from the estuary that people are prepared to travel to visit it.</p> <p>NLC refers to its comments above in relation to Strategic assessment of recreational disturbance impacts and mitigation measures.</p>	<p><u>Agree</u></p> <p><u>Partial agreement</u></p>
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