

EXAM15

Examination of North Lincolnshire Local Plan 2020-2038

Inspectors: Elaine Worthington MTP MUED MRTPI IHBC, Louise Crosby MA MRTPI and Rachael Bust BSc (Hons) MA MSc LLM PhD MLoL MCMi MIEEnvSci MRTPI

Programme Officer: Ian Kemp

Tel: 07723 009 166, email: idkemp@icloud.com

Mr Durham
Place Planning Team
North Lincolnshire Council
Church Square House
30-40 High Street
Scunthorpe
DN15 6NL

23 July 2024

Dear Mr Durham

Statement of Common Ground – North Lincolnshire Council and Natural England (June 2024)

1. Thank you for your letter dated 25 June 2024 and the associated attachments (EXAM 13B-E). We are pleased to see that areas of disagreement between the Council and Natural England are narrowing, which is important, as they are a statutory consultee.
2. However, there are clearly some important matters outstanding, and these have been known about for at least 2 years. We would like to ensure that as much work is done in advance of the examination hearing sessions to avoid further work being necessary afterwards as this would potentially necessitate more hearings. This tends to prolong examinations unduly and we are conscious that the examination is now in its second year.

Recreational Disturbance

3. Natural England advise that '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'. It seems that the Council considers that any potential impacts can be addressed at the project stage i.e the planning application stage.

4. Natural England also consider that it would be of great benefit to join up the approach to recreational disturbance across the Humber Estuary and therefore recommend that consideration is given to the approaches being undertaken by East Riding of Yorkshire Council and North East Lincolnshire Council. They advise that 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.
5. They also recommend considering the approach of East Riding of Yorkshire Council to require development to contribute towards strategic programmes aimed at managing the impact of tourism and residents on international (habitats) sites. The Council and Natural England agree that this would involve introducing a Strategic Access Mitigation and Monitoring Strategy (SAMMS), including a S106 contribution on new development.
6. Planning Practice Guidance (PPG) advises that 'where it cannot be concluded that there will be no adverse effects on a site's integrity, there is a need to consider potential mitigation. Mitigation measures are protective measures forming part of a project and are intended to avoid or reduce any direct adverse effects that may be caused by a plan or project, to ensure that it does not have an adverse effect on the integrity of a habitats site(s). Any measures used to inform the decision about the effects on the integrity need to be sufficiently secured and likely to work in practice' ID:65-004-20190722.
7. Accordingly, can the Council please confirm how these matters would be approached at project level if the work requested by Natural England is not undertaken and how this accords with the advice in the PPG and whether it is likely to conflict with The Conservation of Habitats and Species Regulations 2017.

Functionally Linked Land

8. Relevant case law has established that an Appropriate Assessment (AA) must: a) catalogue the entirety of habitat types and species for which a site is protected; and b) identify and examine the implications of the proposed plan or project for the designated features present on that site, including for the typical species of designated habitats as well as the implications for habitat types and species present outside the boundaries of that site and functionally linked, insofar as those implications are liable to affect the conservation objectives of the site.
9. The Council disagree with Natural England regarding 3 site allocations (H1P-6, H1P-13 & H1P-23) and whether they should be screened out as being Functionally Linked Land. The first stage of AA, the screening process, must be carried out on a precautionary basis. The question is whether there is a probability or a risk that the plan or project will have a significant effect on any European site. It is not necessary at this stage to identify that it would have such an effect, merely whether there is a risk that it might and so on this basis we advise that these sites be formally assessed. It appears to us from appendix

B (functionally linked land assessment) that a precautionary approach has not been taken by the Council which is a serious legal compliance concern.

Additional Plan Appendix

10. Natural England have requested that the Council do not directly copy from their guidance document in the proposed additional Plan appendix. This request should be adhered to.

Air Quality

11. In the SoCG Natural England confirm that they are satisfied with the Council's approach to air quality in relation to impacts on European Designated Sites. However, the Council in response provide a significant amount of text in both the SoCG and their Briefing Paper¹. For the avoidance of doubt can the Council please confirm that there is nothing outstanding regarding this matter and that Natural England are not seeking any further work.
12. In relation to impacts on Nationally Designated Sites Natural England are seeking information to provide certainty that the Plan will not damage Hatfield Chase Ditches SSSI. The Council say that there are bigger pressures on the site's condition such as water quality issues as a result of agricultural run-off. This does not seem to us to be adequate justification for not assessing traffic levels or air quality as these pollutants could add to the damage to the SSSI.

Proposed Main Modifications

13. The Council's Briefing Paper contains numerous proposed changes to the Plan that the Council suggest would overcome some of Natural England's objections. Are these all agreed with Natural England?

Conclusions

14. We would encourage the Council to address the important issues with a view to narrowing down the areas of disagreement with Natural England as soon as possible as this will enable more effective and constructive discussions at the hearing sessions. In particular we note that Natural England are requesting on occasion that the issues are dealt with in a manner that is comparative to the approach in East Riding of Yorkshire Council and North East Lincolnshire Council areas. These two local planning authorities adjoin North Lincolnshire's administrative area and are affected by the same European sites and therefore it seems to us that a similar policy approach would be worth exploring to ensure consistency in approach to mitigation across the Humber Estuary SPA/SAC/SSSI/Ramsar.
15. Any subsequent, new or revised HRA report will need to be subject to an equivalent level of consultation as the original report. The HRA report should only be done however when all of the issues identified above have been resolved.

¹ North Lincolnshire Local Plan (2020-2038) Briefing Paper – Position with Natural England June 2024

16. We will need to consider and discuss at relevant hearings sessions, whether the findings of the revised HRA report mean that any main modifications need to be made to the Plan. Further HRA work in relation to main modifications towards the end of the examination process may also be necessary.
17. In order to move the examination forward, can the Council carefully consider the contents of our letter and respond in full, with a timetable for carrying out the outstanding work by 30 August 2024.

Elaine Worthington, Rachael Bust and Louise Crosby

Examining Inspectors