

Date: 08 December 2014
Our ref: 138163
Your ref:



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BY EMAIL ONLY

Dear Jane,

Planning consultation: Core Strategy Updated Habitats Regulations Assessment (November 2014)

Location: City of Bradford Metropolitan District

This letter should be read alongside previous advice to City of Bradford Metropolitan District Council (CBMDC) regarding the Habitats Regulations Assessment of the Publication Draft Core Strategy (letters dated 31 March 2014 and 1 August 2014).

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Having reviewed our previous advice on the HRA and assessed the alterations and additions which have been made within the November 2014 iteration, Natural England is satisfied that they address our concerns regarding:

- The incorrect use of typical South Pennine Moors Special Area of Conservation (SAC) bird species to determine adverse effects on the SAC's integrity.
- The assessment of the Core Strategy's adverse effects upon the Special Protection Area's (SPA) breeding bird assemblage (as identified within the original citation signed in 1998).

Adverse Effects on Integrity

Recreational Pressure

The HRA contains extensive evidence that the South Pennine Moors SPA and SAC is under considerable recreational pressure. Natural England concurs that policy HO3 (Housing Distribution) will adversely affect the integrity of the South Pennine Moors SAC and SPA due to increased recreational pressure, especially where housing is proposed within settlements in close proximity to Rombalds and Ilkley Moors (within Wharfedale and Airedale). Consequently effective and deliverable avoidance and/or mitigation measures are required to address these effects.

Loss of Functional Land

Natural England's letter dated 1 August 2014 advised that the HRA should examine whether housing targets in Policy HO3 would result, at the allocations stage, in the loss of functionally linked

land used by the breeding bird assemblage (either through direct loss of habitat or indirect disturbance).

This assemblage includes curlew and lapwing, the HRA outlines both species have been recorded widely within 2.5km of the SPA (as was favourable feeding habitat). Our representation on the publication draft Core Strategy (dated 31 March 2014) highlighted that significant loss of curlew feeding habitat may occur as a result of the policy HO3 and the revised HRA has concluded that adverse effects of policy HO3 cannot be ruled out. Given the strategic nature of the Plan and considering the evidence presented to date Natural England concurs with this conclusion and therefore the requirement for avoidance and/or mitigation measures within the Core Strategy and subsequent development plan documents.

Urban Edge Pressures

The HRA contains extensive evidence that, where significant development is directed to locations in close proximity to the South Pennine Moors Natura 2000 site, adverse effects upon the integrity of the SPA and SAC cannot be ruled out and that effective and deliverable avoidance and/or mitigation measures are required.

Avoidance and Mitigation Measures

Policy SC8 sets out the measures which will avoid and/or mitigate the impacts of urban edge effects, increased recreation pressure and loss of functional land upon the South Pennine Moors Natura 2000 sites. These include:

- a 400m zone around the SPA and SAC to mitigate urban edge effects;
- a 2.5km zone within which important foraging areas outside the SPA will be protected; and
- a 7km zone within which residential developments contribute to greenspace improvements that deflect visitors away from the SPA (and avoid effects), the implementation of onsite access management measures and a programme of habitat management and monitoring.

Notwithstanding our concerns regarding the clarity of the wording of this policy (see letter dated 31st March 2014), provided the measures identified in policy SC8 are effectively implemented at the allocations and/or projects stage, these should avoid and/or mitigate the effects of policy HO3.

However, Natural England remain concerned that detailed evidence regarding the implementation of policy SC8, particularly those measures which seek to avoid and/or mitigate the adverse effects of recreational pressure (alternative greenspace and access management) has not been identified in Chapter 6 of the HRA and that delivery has been deferred to a Supplementary Planning Document and Access Management and Monitoring Strategy. Both of which have not yet been provided.

In order to increase confidence that these measures will be delivered and therefore adverse effects ruled out, the HRA should be supported by a draft copy of the SPD, or at least its scope, and detailed examples of deliverable access management measures.

When developing on-site habitat management measures, your authority should also be aware of the implications of the recent *Briels* judgment by the Court of Justice of the European Union¹ which ruled that habitat creation on land within a Natura 2000 site was in fact a compensatory measure and should not be taken into account until later in the formal Habitats Directive decision making process. Compensatory measures are considered through Regulation 66 of the Habitats Regulations where a plan or project is to be consented following a negative assessment under

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<http://curia.europa.eu/juris/document/document.jsf?text=&docid=152343&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=6391>

Regulation 61 and where in the absence of alternatives, there are imperative reasons of overriding public interest.

As compensatory measures are not relevant to this case, the HRA should be accompanied by examples of habitat management and manipulation mitigation measures that comply with the recent *Briels* judgement. Natural England would be happy to advise further on this evolving legal issue.

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

For any queries relating to the specific advice in this letter only please contact John King on 03000 604129. For any new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

We really value your feedback to help us improve the service we offer. We have attached a feedback form to this letter and welcome any comments you might have about our service.

Yours sincerely

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