

Bradford Local Plan

Core Strategy Examination

Councils Response to Participants Further Statements on Policy EN2

Date: 29th April 2015

Introduction

- 1.1 In document PS/F072 the Council identified suggested modifications to Policy EN2 Biodiversity and Geodiversity in response to amendments previously put forward by Natural England and CEG. CEG Land Promotions have made further comments on these in document PS/F082d.

Part A B and C of Policy EN2

- 1.2 The further comments of CEG in document PS/F082d confirm that parts A, B and C of Policy EN2 as proposed to be modified in document PS/F072 are supported by them. These are set out below for clarity.
- 1.3 Suggested modifications to Policy EN2 as supported by CEG (as set out in PS/F072):

'Policy EN2: Biodiversity and Geodiversity

The North and South Pennine Moors SPAs and SACs

*A. Any development that would be likely to have a significant effect on a European Site either alone or in combination with other plans or projects will be subject to assessment under the Habitat Regulations at project application stage. If it cannot be ascertained that there will be no adverse effects on site integrity then the project will have to be refused **unless the derogation tests of Article 6(4) Habitats Directive can be met.***

Sites of Special Scientific Interest

B Proposed development on land within or outside a Site of Special Scientific Interest likely to have an adverse effect on a Site of Special Scientific Interest (either individually or in combination with other developments) should not normally be permitted. Where an adverse effect on the site's notified special interest features is likely, an exception should only be made where the benefits of the development, at this site, clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the national network of Sites of Special Scientific Interest.

Locally Designated Sites

*C. Development likely to have an **direct or indirect** adverse effect on a site of ecological/geological importance (SEGIs and RIGS) or a site of local nature conservation value (Bradford Wildlife Areas) will not be*

permitted unless it can be clearly demonstrated that there are reasons for the proposal which outweigh the need to safeguard the substantive nature conservation value of the site. Proposals that are likely to have an impact on such sites will be assessed according to the following criteria;

1. Whether works are necessary for management of the site in the interests of conservation.

2. Whether ~~adequate buffer strips and other~~ **appropriate mitigation measures, which could include adequate buffer strips, have** been incorporated into the proposals to protect species and habitats for which the **Locally Designated** Site has been designated.

3. The development would be expected to result in no overall loss of habitat, **through avoidance, adequate mitigation or, as a last resort, the provision of** ~~and mitigation could be expected to include compensatory habitats adjacent~~ to or within the vicinity of any losses proposed. Existing habitats and proposed mitigation **or compensatory measures** should be quantified.

Part D Habitats and Species outside Designated Sites

1.4 In document PS/F082d CEG identify proposed amendments to paragraphs D and E of Policy EN2. Amendments proposed by CEG to part D are set out below and are identified in red for clarity:

' Proposals that may have an adverse impact on important habitats and species outside designated sites need to be assessed according to the following criteria:-

- 1. The potential for adverse impact on important/priority habitats that occur outside designated sites*
- 2. The potential for adverse impact on species of international, national and local importance*
- 3. The extent to which appropriate measures to mitigate any potentially harmful impacts can be identified and carried out.*

4 The extent to which appropriate measures to compensate as a last resort any potentially harmful impacts can be identified and carried out'

The assessment needs to take account of:

West Yorkshire Site Selection Criteria and

Where relevant developers will be expected to submit (European) Protected Species surveys and other ecological assessment related information with their application.

*Development which would cause serious fragmentation of habitats, wildlife corridors or have a significantly adverse impact on biodiversity networks or connectivity will be resisted **unless it can be clearly demonstrated that there are reasons for the proposal which outweigh the need to safeguard the substantive nature conservation value of the features of interest.***

First Amendment to Part D proposed by CEG

- 1.5 The first amendment proposed by CEG, to add point 4, is based on the need to recognise the distinction between mitigation and compensatory measures.

Councils Response

- 1.6 The Council would be prepared to accept an amendment based on the need to introduce further clarity into the policy, with a minor amendment to the ordering of words to emphasise that compensation needs to be considered only as a last resort.
- 1.7 The modification that is therefore suggested by the Council is to add as a new point 4 the following:

4 As a last resort, the extent to which appropriate measures to compensate any potentially harmful impacts can be identified and carried out.

Second amendment to Part D proposed by CEG

- 1.8 CEG argue that the last element/sentence of Part D needs a further caveat to recognise that development interests may in certain circumstances need to override nature conservation interests.

Councils Response

- 1.9 Having considered the suitability of the amendment put forward by CEG, in the context of the current language of the policy, the promotion of ecological networks in the NPPF, the need for policies to be positively prepared and the ongoing work by the Council to identify networks, the Council considers that, rather than adding further caveats, it would be more appropriate to omit this element from paragraph D and move it to Part E Enhancement in order to express the policy in more positive terms.

1.10 Councils proposed modification to Part D is as follows:

' Proposals that may have an adverse impact on important habitats and species outside designated sites need to be assessed according to the following criteria:-

- 1. The potential for adverse impact on important/priority habitats that occur outside designated sites*
- 2. The potential for adverse impact on species of international, national and local importance*
- 3. The extent to which appropriate measures to mitigate any potentially harmful impacts can be identified and carried out.*

4 As a last resort, the extent to which appropriate measures to compensate any potentially harmful impacts can be identified and carried out.'

The assessment needs to take account of:

West Yorkshire Site Selection Criteria and

Where relevant developers will be expected to submit (European) Protected Species surveys and other ecological assessment related information with their application.

~~*Development which would cause serious fragmentation of habitats, wildlife corridors or have a significantly adverse impact on biodiversity networks or connectivity will be resisted*~~

Part E Enhancement

1.11 CEG have made further comments on Part E Enhancement and have put forward 3 amendments to the last paragraph which are identified in red below, to distinguish these from earlier amendments put forward.

'Enhancement

E. Plans, policies and proposals should contribute positively towards the overall enhancement of the District's biodiversity resource.

They should seek to protect and enhance species of local, national and international importance and to reverse the decline in these species.

The Council will seek to promote the creation, expansion and improved management of important habitats within the district and more ecologically connected patchworks of grasslands, woodlands and wetlands. Opportunities for specific habitat creation within development proposals will be sought, including provision for future management.

Habitats of the moorland will be enhanced and landowners or occupiers will be actively encouraged to manage important areas for bird foraging to ensure continued provision of suitable habitat.

In accordance where relevant with Policy SC8 and where supported by evidence ~~the Council will recognise the importance of foraging/ commuting areas for protected and SPA/SSSI species~~ **qualifying features** outside the statutory designated area as a material consideration in the preparation of development plans and in the determination of planning applications. Where **supported by evidence**, foraging sites, currently outside the SPA/SAC **and SSSI** will be considered for designation as a **Locally Designated Site**.’

First amendment proposed to Part E by CEG

- 1.12 The wording of the final paragraph of EN2 needs to be consistent with SC8 to avoid creating confusion. To achieve this CEG put forward that a phrase be added at the beginning of the final paragraph of Part E and EN2 which states:

‘In accordance where relevant with Policy SC8.....’

Councils Response

- 1.13 In response to the third amendment proposed, the Council consider that this amendment is not appropriate and seeks to create further confusion by a failure to explain any link and because it would be misleading to seek to link one policy to another when the overall aims and objectives of each policy are clearly quite different. EN2 aims to protect and enhance the biodiversity resource within the district and the last paragraph also supports the SSSI designation and features. SC8 is a strategic core policy which uses a zone of influence approach to address potential adverse impacts on the South Pennine Moors. The 2.5km zone has been identified as a guide to identifying foraging habitat. The representation from the RSPB stated that studies from the Peak District indicated that male golden plover can travel well beyond the 2.5km zone to feed. The Council do not consider this to be a soundness issue.

Second amendment proposed by CEG and Councils Response

- 1.14 The deletion of the ‘the importance of ‘ in the second line of the last paragraph of part E on the grounds that it is the existence of a foraging/ commuting area which is a material consideration and that the importance is relevant to the weight to be afforded to it. This detailed point is accepted by the Council.

Third amendment proposed by CEG and Councils Response

- 1.15 The correct phrase to use in line 3 of the last paragraph of E would be SPA/SSSI qualifying features. This detailed point is accepted by the Council.

1.16 Councils proposed modification to Part E is as follows:

'Enhancement

E. Plans, policies and proposals should contribute positively towards the overall enhancement of the District's biodiversity resource.

They should seek to protect and enhance species of local, national and international importance and to reverse the decline in these species.

The Council will seek to promote the creation, expansion and improved management of important habitats within the district and more ecologically connected patchworks of grasslands, woodlands and wetlands. Opportunities for specific habitat creation within development proposals will be sought, including provision for future management.

The Council will seek to establish coherent ecological networks that are resilient to current and future pressures. Development which would cause serious fragmentation of habitats, wildlife corridors or have a significantly adverse impact on biodiversity networks or connectivity will be resisted.

Habitats of the moorland will be enhanced and landowners or occupiers will be actively encouraged to manage important areas for bird foraging to ensure continued provision of suitable habitat.

Where supported by evidence ~~the~~ Council will recognise ~~the importance of foraging/ commuting areas for protected and SPA/SSSI species~~ **qualifying features** outside the statutory designated area as a material consideration in the preparation of development plans and in the determination of planning applications. Where **supported by evidence**, foraging sites, currently outside the SPA/SAC **and SSSI** will be considered for designation as a **Locally Designated Site.**