

# Breckland Local Plan Examination

## **Matter 12:**

### **Environment**

### **Breckland District Council**

### **Inspector's Questions on the Additional Work and related Proposed Modifications**

August 2018



## Policy ENV 01 - Green Infrastructure

### 1.48 **Is Policy ENV 01 and its supporting text (as modified in the Environment Topic Paper) justified and in accordance with national policy?**

- 1.48.1 The policy and supporting text are considered to meet the requirements of national policy, specifically the NPPF, paragraph 114. The policy plans positively for the creation, protection, enhancement and management of networks of green infrastructure through the requirement on developers to exploit opportunities to incorporate GI and enhance connectivity. Further wording has been proposed to clarify that regard should be had to Council endorsed strategic green infrastructure strategies and made Neighbourhood Plans, and in the absence of these developers should consider other designated spaces, as shown on the Policies Map. The additional wording is designed to aid implementation of the policy.
- 1.48.2 The policy sets out a strategic approach by identifying the location of the strategic GI corridors on the Norfolk Green Infrastructure Map and by applying the policy criteria to all development proposals. It is considered justified in comparison to the alternatives – either not to have a specific policy or to identify strategic networks without working collaboratively with the other Norfolk Planning Authorities, as this would not take into consideration the wider, cross boundary network.
- 1.48.3 There is an error in the proposed wording which is contained in the third paragraph of the proposed modified supporting text to the policies. The intention of the sentence was to clarify that it is not feasible to identify every component of green infrastructure in an extensive rural district, however the text refers to GI strategies. It is therefore proposed to amend this sentence:

Where it states: 'Unlike smaller, urban areas it is not feasible to create strategic level green infrastructure strategies to cover an entire rural district as extensive as Breckland identify every component of green infrastructure in an extensive rural district'

- 1.48.4 Further to this, green infrastructure assets have been identified as part of the wider work being undertaken collectively by Norfolk Planning Authorities. This is discussed in reference to question 1.49.
- 1.49 **The Government's Planning Practice Guidance (Paragraph: 029 Reference ID: 8-029-20160211) sets out that: 'Local Plans should identify the strategic location of existing and proposed green infrastructure networks...'. Does the Plan fulfil this requirement?**

- 1.49.1 The revised policy ENV 01 and supporting text set out on page 4-6 of the Council's Environmental Policies Topic Paper (EX.77) includes a map of the identified Strategic GI corridors and habitat core areas. This presents a cross boundary approach to the identification of a strategic GI networks to which all Norfolk authorities are committed to enhancing. A further map of existing GI assets has been produced for the Norfolk Strategic Planning Framework (NSPF) (LP/S/28A). This record has aided the

creation of strategic GI corridors in the plan, which is considered to meet the requirements of the PPG.

1.49.2 The Council seek to add evidence underpinning the identified corridors to the examination library. The Norfolk Green Infrastructure Mapping Project (GIMP) Report prepared by Norfolk County Council on behalf of the Norfolk Strategic Framework Project presents a series of maps which examine:

- Current Green Infrastructure Assets
- Grassland and Heathland Habitats
- Grassland and Heathland Opportunity Map
- Woodland Habitat
- Woodland Habitat Opportunities
- Wetland Habitats
- Wetland Habitat Opportunities
- Combined Habitat Networks
- Combined Habitat Network Opportunities
- Grassland and Heathland Corridors
- Woodland Corridors
- Wetland Corridors
- Accessible Natural Greenspace Standard (ANGSt) urban areas within 2km of a 20ha or greater greenspace
- ANGSt Urban areas within 5km of a 100ha or greater greenspace
- ANGSt Urban areas within 10km of a 500ha or greater greenspace
- ANGSt Urban areas within 500m of a 2ha or greater greenspace
- Woodland Trust Woodland Access Standards
- Norfolk Green Infrastructure Map

1.49.3 Breckland is ahead of all other Norfolk authorities in the production of a new single Local Plan covering the period to 2036. The timescale for publication of the Norfolk wide mapping project and GI Strategy is behind schedule, but the Norfolk wide GI map has been informed by the data as outlined above.

1.49.4 The collective work by the Norfolk Planning Authorities is ongoing, and will result in a Norfolk wide Green Infrastructure Study which will aid interpretation of the identified Strategic GI corridors and the areas or connections they represent. The policy ENV 01 including proposed modifications will be supported by further work on green infrastructure from the emerging Norfolk wide work as well as the adopted Attleborough Neighbourhood Plan, non superseded policies from Thetford Area Action Plan and emerging Neighbourhood Plans for three of the Breckland Towns (Watton, Dereham, Swaffham).

## Policy ENV 02 - Biodiversity

### 1.50 **Is Policy ENV 02 and its supporting text (as modified in the Environment Topic Paper, Appendix 2) justified and in accordance with legislation and national policy?**

- 1.50.1 Policy ENV 02 is considered to be in accordance with national policy, specifically paragraph 113 which seeks for planning authorities to set criteria based policies against which proposals for any development on or affecting protected wildlife, geodiversity or landscape areas will be judged and that the level of protection is commensurate with the areas status. The policy provides clarity on how development proposals will be assessed, specifies to which areas the criteria applies as identified on the policies map, and how proposals can be permitted subject to conformity with criteria. The policy also recognises the importance of protection for Priority Habitats or Species under Section 41 of the Natural Environment and Rural Communities Act (2006).
- 1.50.2 The modifications proposed seek to provide additional clarity to the policy and to aid implementation and have been formulated to more closely align with legislation, particularly in conformity with The Conservation of Habitats and Species Regulations 2017. Modifications have also been proposed to clarify the requirements in relation to demonstrating biodiversity net gains in development proposals.
- 1.50.3 The NPPF seeks to provide net gains in biodiversity, where possible (paragraph 109). The proposed modifications to the policy which relate to the title change and wording on biodiversity net gain, clarify that the policy relates to all biodiversity assets, and applies to all development proposals. In seeking net gains from all development, it is important to ensure that biodiversity net gains are proportional to the scale of development and impact, if any, and the modification therefore provides this clarity, to ensure that proposals which are likely to have a higher impact on biodiversity will address this through their application in providing net gains overall.
- 1.50.4 The policy is considered justified. A large portion of Breckland District is covered by environmental designations, and additionally the rural nature of the district means most development sites are greenfield. Most developments will therefore have the potential to affect biodiversity to some extent, and the policy will help to meet the requirements of the Natural Environment and Rural Communities Act (2006) with regard to the consideration of biodiversity in development.
- 1.50.5 Against the alternative of not having a local policy on biodiversity protection and enhancement, the policy is preferable as it reflects national policy and legislation providing clarity to developers on how the impact on biodiversity is a consideration in development proposals. The proposed modifications are justified as the wording in the submission version of the plan did not provide sufficient clarity on the range and hierarchy of biodiversity assets, how the policy is to be implemented and a clear requirement for biodiversity net gain. The modifications also now align the policy more closely with the Conservation of Habitats and Species Regulations 2017.

1.50.6 Policy ENV 02 as modified is therefore considered justified and robust in accordance with legislation and national policy.

### **Policy ENV 03 - The Brecks Protected Habitats and Species**

#### **1.51 Is Policy ENV 03 and its supporting text (as modified in the Environment Topic Paper) justified and in accordance with legislation and national policy?**

1.51.1 The adopted Core Strategy Policy CP 10 Natural Environment originally set the designated 1500m primary buffer and secondary buffers designed to support protected species Stone Curlews, Woodlark and Nightjar, therefore providing clear requirements for developers and avoiding adverse effects on the integrity of Breckland SPA. The buffer zones are well established, having subsequently been designated in Local Plan documents for neighbouring authorities surrounding The Brecks (Forest Heath District Council, The Borough Council of King's Lynn and West Norfolk). Additional evidence produced<sup>1</sup>, following the adoption of early Core Strategies reviewed the impact of development on the Stone Curlew population on the basis of newer data on nesting sites which supported the continuation of the policy approach. This is therefore a justified and consistent cross boundary policy approach to protecting the SPA and protected species against the potential harmful effects of development which is evidence based and described and reviewed in the Habitats Regulations Assessment (HRA) for the Plan.

1.51.2 In addition to the longstanding primary and secondary buffer, the policy now introduces an additional safeguard in respect of possible areas that potentially have a functional link to the SPA, subject to additional data gathering at the development project level (orange cells). As explained in Appendix 2 of the Environmental Policies Topic Paper (page 6, paragraph 3.11), this has been developed as a result of collaborative work with the RSPB and Natural England. The orange cells are not zone of development constraint or a mitigation measures, rather they are a flag for applicants to understand the requirements related to the site in terms of submission of a project level HRA. The inclusion of orange cell areas in the Local Plan is therefore consistent and compliant with the approach within the legal Judgement referred to as the People Over Wind Ruling. As previously explained in the Council's Matter 1 Statement, the orange cell areas are flagged as potential for Stone Curlew presence. They have not been focussed on in terms of data collection at the plan level, as this would be disproportionate. They are identified as an area where additional data checks or surveys may be required which can be covered by a project level HRA. For those allocations within the orange cells, mitigation can, in principle, be provided. The orange cells are therefore an aid to developers to give early identification of project level HRA data requirements. The HRA therefore determines that the plan is fully compliant with the Habitats Regulations.

1.51.3 The proposed modifications to Policy ENV 03 and the supporting text are intended to improve clarity in terms of making the policy requirements explicit in relation to

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<sup>1</sup> Clarke and Liley (2013) Further assessments of the relationship between buildings and stone curlew distribution, Footprint Ecology (LP/E/12)

proposals for development within defined buffer and orange cell areas. There is some differentiation in the way in which proposals for different types of buildings, or locations (infill development, for example) will be assessed, which is supported by the aforementioned evidence (LP/E/12). The evidence indicates that small agricultural buildings are likely to have a low impact on the establishment of nesting sites and therefore the policy approach reflects the evidence and ensures a proportionate approach.

1.51.4 In addition to setting requirements in regard to precautionary buffer zones, the policy also establishes a monitoring and mitigation framework which will ensure that the cumulative impact of growth in the plan on the SPA will be monitored, and mitigation provided to prevent any adverse impact on the SPA. This is explained in the response to the Inspectors question 1.52 and reflects evidence in LP/E/1<sup>2</sup>.

1.51.5 In light of the appropriate assessment detailed within the HRA, it is concluded that Policy ENV 03, subject to proposed amendments, in conjunction with other policies in the Local Plan, will ensure that the plan will not adversely affect the integrity of the European site (Breckland SPA) and is therefore a requirement of, and compliant with, legislation<sup>3</sup> and national policy<sup>4</sup>

**1.52 Would the proposed modifications to Policy ENV 03 ensure that there would be no adverse effects (from increased recreational pressure) on the Breckland Special Protection Area?**

1.52.1 The HRA considers urban effects, including recreational disturbance in chapter 5 (pages 35-38 of the HRA). It recommends in paragraph 5.12 that a monitoring and mitigation framework should be committed to in Policy ENV 03 in conjunction with adequate recreational provision in new development.

1.52.2 Inevitably, a higher local population in Breckland District is likely to lead to more people visiting accessible sites in the Brecks. Addressing the cumulative impact of development warrants a high level partnership approach, in accordance with good practice for other European sites around the country, to understand the impact and to provide mitigation to avoid potential adverse effects. Monitoring is required to understand the impact of local growth on the SPA and the creation of an advisory panel will bring all parties involved in the management of the SPA together to agree on what mitigation is required, where applicable. Monitoring is an important part of the proposed approach. It acts as an early warning mechanism, allowing measures to be put in place to maintain the ecological integrity of sites and prevent their decline. Through monitoring levels of access, it will be possible to determine the effect of growth in the plan, i.e. whether local visitor pressure has increased as a result of growth in Breckland in comparison to the baseline taken from the original visitor pressure study. The framework will ensure that the SPA is protected against the impact of cumulative growth, by collecting monitoring data to inform any

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<sup>2</sup> Footprint Ecology (2017) Visitor surveys at European protected sites across Norfolk during 2015 and 2016

<sup>3</sup> The Conservation of Habitats and Species Regulations (2017)

<sup>4</sup> The National Planning Policy Framework

mitigation needs in response to early indications of increased recreation pressure. This works in conjunction with the requirements safeguarding the SPA from the adverse effects of development within the primary and secondary buffer around the SPA in the policy, in addition to individual S106 conditions applied to Thetford SUE (the largest proposed development in Breckland adjacent to the SPA) and individual policy requirements in the Local Plan for project level HRA's, including those applying to allocations in the 'orange cell area' of potentially functionally linked land for Stone Curlews.

1.52.3 The HRA states in para 5.14 'the appropriate assessment at plan level for assessing urban effects and recreational disturbance can now conclude that adverse effects have been prevented with the measures incorporated and the ongoing work that the Council will do to progress any implementation of measures, working with other partners and stakeholders'. It is therefore concluded that Policy ENV 03, subject to the proposed modifications complies with the recommendations of the HRA and will ensure no adverse effects. Furthermore, the additional modifications proposed through the Statement of Common Ground seek to provide additional clarity regarding the monitoring and mitigation framework.

1.53 **Should more detail from the Statement of Common Ground with the RSPB with regard to the proposed Monitoring and Mitigation Framework be included in Policy ENV 03 for it to be effective and justified?**

1.53.1 The principle of the proposed Monitoring and Mitigation Framework is to ensure that the Council monitor the effect of the cumulative growth proposed in the plan on Breckland Special Protection Area (SPA), with particular emphasis on the increased recreational pressure from local visitors. The context for the Statement of Common Ground was that the policy was not explicit enough regarding how this framework would be achieved, and consequently left uncertainty regarding the impact of policies in the plan on the integrity of the SPA. The RSBP have jointly agreed the revised wording with the Council to address this concern. The revised wording specifies that there will be an advisory panel and a monitoring programme. This will inform the development of mitigation measures and funding sources, also specified in the policy.

1.53.2 The wording and agreement set out in the Statement of Common Ground provides the basis for the formation and inception of the Panel. It is in the Council's interest to work with partners to safeguard the protected features of the SPA which is a unique and irreplaceable habitat and also to fulfil the obligations of the Habitats Regulations and Duty to Cooperate which do not stop once the plan is adopted. It is considered, through consultation with the RSPB, that the addition of further detail to the policy itself is not required. It could make the policy unnecessarily detailed and prescriptive prior to working with wider partners to establish the remit of the group and its objectives. However, it is considered that further detail could be added from the Statement of Common Ground to the supporting text for Policy ENV 03, to provide a more detailed explanation of how the Panel will work and who the partners are. Suggested additional wording to be added to the supporting text is highlighted in red in appendix 1.

**1.54 Is the suggested modification with regard to agricultural buildings within Policy ENV 03 (part b) justified?**

1.54.1 An error has been identified in the proposed modifications to Policy ENV 03 in the Local Plan. The following wording derives from the Preferred Directions (LP/S/8):

(b) Permission may be granted for agricultural buildings where:

- there is a demonstrable need for the facility (necessary to manage the agricultural land/maintain the economic viability of an agricultural enterprise);
- justification is provided as to why it cannot be located elsewhere (outside the buffer zone),
- and;
- justification that the selected location is the least detrimental.

1.55 This wording was included in the Councils HRA, Appendix 5 (LP/S/4) but was not identified as new recommended wording (i.e. not marked as red or blue text) and is no longer required as it has been superseded by alternative wording in the policy relating to agricultural buildings. The Council seek not to add the above wording as a proposed modification to the Local Plan and therefore to remove it from the draft list of proposed modifications. The HRA will be subject to an update to assess all proposed main modifications, and this wording will be excluded.

1.56 Immediately following point b) the following wording is sought as a proposed modification in Policy ENV 03:

‘Large developments adjacent to, or just outside the primary or secondary buffer, particularly where occurring in an isolated area with few other buildings, are likely to also require project level assessment’.

1.57 This sentence was a recommended addition to the policy because the policy criteria predominantly relate to what a developer must consider within the buffer zones, and it was felt that it needed to be made clear that there should not be an assumption that any proposal outside the buffer zones will not have a significant effect. This point highlights that there may be circumstances where a project level HRA is still required to gather information to have certainty that a proposal outside the buffer zones will not lead to adverse effects. This may particularly be the case where a development outside the buffer zones could make a notable addition to the factors that the evidence indicates cause Stone Curlew to avoid habitat, such as a large development with few other buildings in its vicinity. The sentence is essentially a flag to developers that the Council may determine a need to pursue a HRA in these circumstances.

**Policy ENV 04 - Open Space, Sport and Recreation**

**1.58 Is Policy ENV 04 and its supporting text (as modified in the Environment Topic Paper) justified and in accordance with national policy?**



- 1.58.1 The modifications in relation Policy ENV04 are focussed on the new provision required for new residential development. Paragraph 73 of the NPPF states that *planning policies should be based on robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision.....Information gained from the assessments should be used to determine what open space, sports and recreation is required.*
- 1.58.2 The open space assessment shows that there is a deficit in open space provision across large parts of the District, therefore the requirement to seek new open space provisions is considered to accord with the requirements of the NPPF. The policy has removed the thresholds for which different types of open space should be provided. The thresholds had previously been subject to objection from representors. The removal of the thresholds does not reduce or limit the requirement to provide sufficient open space for both children's play or outdoor sports. Those requirements remain, however it does allow for development to provide onsite provision which best suits the occupants of the site.
- 1.58.3 The revised policy also seeks to provide a definition of outdoor sports and the type of facilities which can be incorporated. This was previously lacking within the pre-submission Local Plan. This is considered to improve the effectiveness of the implementation of the policy.
- 1.58.4 The supporting text to the policy has been modified to include a paragraph in relation to the role that open space can also play in relation to environmental functions. This includes the potential for multifunctional use as sustainable urban drainage systems. Multi-functionality of green space is included within the glossary of the Fields in Trust guidance and as such the modification is considered to conform. Furthermore the modification requires the primary purpose of the site to be taken into account, and any limitations this would have on its use as outdoor playing space.
- 1.58.5 The modifications proposed seek to embed the requirements for the provision of new open space in accordance with both the evidence base and the Fields in Trust guidance. The approach is considered to be both justified and in accordance with national policy.

## **Policy ENV 10 - Renewable Energy Development**

### **1.59 Is Policy ENV 10 and its supporting text (as modified in the Environment Topic Paper) justified and in accordance with national policy?**

- 1.59.1 The NPPF in paragraph 97, states that local planning authorities should have a positive strategy to promote energy from renewable and low carbon sources. Policy ENV 10 is considered to be compliant with national policy in this regard, and the positive approach is considered to be further clarified by proposed modifications designed to highlight that proposals for new renewable energy and low carbon development will be permitted where the impact is, or can be made, acceptable. The

modifications bring together elements previously referred to either in the supporting text and Planning Practice Guidance and in doing so ensure that all relevant factors are included in the policy which will be taken into account when assessing proposals. This further aligns the policy with national policy and Planning Practice Guidance. Reference to other policies in the plan of particular significance to the assessment of such development is also made in the policy. The modifications are considered to aid implementation by providing developers and the public more certainty over the criteria which proposals will be assessed against and is therefore justified in this regard.

1.59.2 The NPPF states that consideration should be given to identifying suitable areas for renewable and low carbon energy sources, and supporting infrastructure, where this would help secure the development of such sources (paragraph 97). Identifying suitable areas was not considered necessary to ensure the delivery of renewable energy developments in Breckland. The ministerial statement released by the Secretary of State for Communities and Local Government (Greg Clark) on 18<sup>th</sup> June 2015 and accompanying PPG guidance on renewable and low carbon energy<sup>5</sup> sets out that wind energy development should not be permitted unless 'suitable areas' have been allocated in a Local Plan or Neighbourhood Plan. The plan as submitted was silent on this requirement, and therefore in order to comply with national policy, modifications have been proposed to align Policy ENV 10 with the ministerial statement and revised planning practice guidance.

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<sup>5</sup> Paragraph: 005 Reference ID: 5-005-20150618 Revision date: 18 06 2015

## Appendix 1

### **Breckland Special Protection Area**

... [Revisions apply to the final 2 paragraphs of the supporting text]

#### Urban effects and recreational pressure

A report providing a comprehensive analysis of current and projected visitor patterns to European protected sites across Norfolk was commissioned by Norfolk County Council and the Norfolk Biodiversity Partnership on behalf of Local Authorities and completed in 2017. The report entitled 'Visitor surveys at European protected sites across Norfolk during 2015 and 2016 highlights that whilst survey areas in The Brecks received a much lower number of visitors than other survey sites such as those on the Norfolk coast, the proportion of local visitors (with Norfolk postcodes) was significantly higher to sites in The Brecks. The report presents evidence that of all designated sites included in the survey, Breckland SPA had the highest proportion of local visitors to the Brecks, from the settlements of Thetford, Mildenhall, Swaffham, Mundford, Brandon (of which Mildenhall and Brandon are outside the District within Suffolk). There is therefore evidential support for mitigation strategies to apply to new development in those settlements.

Policy ENV 03 requires a Monitoring and Mitigation Framework to ensure that no adverse impact on the integrity of Breckland SPA will occur due to urban effects and recreational pressure arising from growth proposed in the Local Plan. The Framework will consist of measures that monitor and address recreational pressure from proposed allocated sites – both at the individual site level where necessary, and the consideration of cumulative pressure. Partnership working with the Forestry Commission, Natural England, RSPB and Norfolk Wildlife Trust and neighbouring Local Planning Authorities will enable more detailed consideration of proposed developments and the likely pressure points (publicly accessible sites/sites at greater risk due to urban effects) in and around Breckland SPA and Breckland SAC. This will enable refinement of the type of monitoring that needs to be put in place and any mitigation required to address identified impacts of development. Once a planning application is made, the Council will use the Monitoring and Mitigation Framework and its outputs to aid consideration of development proposals, and for HRA screening.

The Thetford SUE represents the largest area of planned growth within the District which would result in increased recreational pressure in The Brecks. A number of strategic mitigation measures were accepted as part of the adopted Thetford Area Action Plan in July 2012 which have ~~been saved~~ not been superseded through this Local Plan. Further measures have been incorporated within a number of site allocation policies within the plan to ensure that mitigation is provided to reduce the impact of recreational pressure on designated sites.