

Breckland Local Plan Examination

Matter 1:

Legal requirements

Breckland District Council

Hearing Statement

March 2018



Duty to Cooperate

1.1: Overall, has the plan been prepared in accordance with the Duty to Cooperate imposed by Section 33A of the Planning & Compulsory Purchase Act (2004) (as amended)?

1. The Local Plan has been prepared in accordance with the section 33A duty to cooperate (at times referred to below as “the DtC”). The steps that have been taken to discharge the duty to cooperate are set out in the Council’s Duty to Cooperate Statement (LP/S/18) (“the DtC Statement”).
2. The DtC Statement details the Council’s process of engagement with the other local planning authorities and bodies prescribed by section 33A(1) and section 33A(9), as set out by Regulation 4 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (together “the prescribed bodies”) in relation to each of the strategic objectives listed in the NPPF (para. 156) and other key policy issues managed on a strategic basis. Opportunities have been taken to engage with organisations outside the set consultation periods for the Local Plan, particularly where concerns were raised in representations. This is detailed in full within the DtC Statement.
3. Prior to publication of the DtC Statement, a final draft version was sent to all prescribed bodies, seeking verification that the DtC Statement provided an accurate representation of engagement over strategic issues. No concerns were raised by prescribed bodies, either in response to the final draft DtC Statement or during the pre-submission consultation on the Local Plan.
4. The Council considers that all strategic matters which fall within the scope of the duty to cooperate have been addressed.
5. Note that, in response to the requirement for local planning authorities to cooperate over strategic issues, in 2015 all the local authorities in Norfolk established the Strategic Norfolk Planning Member Forum (“the Forum”). The Forum is made up of 2 elected members from each of the Norfolk local authorities. It meets regularly. The Forum oversees the preparation of the Norfolk Strategic Planning Framework (“the NSPF”) (LP/S/28), which records a series of agreements in relation to the strategically important cross-boundary issues affecting the delivery of growth in Norfolk. The NSPF is intended to inform the preparation of statutory development plans and is in its final stage of

ratification by each council. The Breckland Local Plan has had regard to the emerging NSPF and the Local Plan is in conformity with the final set of agreements reached.

6. Proposals for a Statement of Common Ground to address strategic matters set out in the consultation by the Government on the Housing White Paper 'Fixing the Broken Housing Market', were taken into consideration in the development of the NSPF. Whilst the Government's consultation has not resulted in any amendments to legislation or regulations with regards to the duty to cooperate (at this point), the Government's intentions were taken into consideration in the final version of the NSPF, so that this bridges the gap in the interim whilst there is not a statutory requirement for Statements of Common Ground between all local authorities in Norfolk.
7. The Council will continue to engage with the prescribed bodies during the examination of the Local Plan and after, including implementation, and will remain part of and actively engaged with the Strategic Norfolk Planning Member Forum, overseeing the implementation, and any subsequent reviews, of the NSPF or successor mechanisms such as formal Statements of Common Ground on strategic matters.

Other legal requirements

1.2 Has the Plan been prepared in accordance with the Council's Statement of Community involvement and met the minimum consultation requirements in the 2012 regulations?

8. The Breckland Statement of Community Involvement (SCI) (LP/S/16), prepared in accordance with section 18 of the Planning and Compulsory Purchase Act 2004, sets out how the Council will engage with all sections of the community in the planning process. In determining how to consult, the Council considered the requirements of the Town and Country Planning (Local Planning) (England) Regulations 2012 ("the 2012 Regulations") and the SCI.
9. The Council's Consultation Statement (LP/S/14) sets out how the Council has met the minimum requirements of the 2012 Regulations and the requirements of the SCI.
10. In line with the 2012 Regulations, the Council consulted on the emerging Local Plan in accordance with Regulation 18 and Regulation 19. The consultation stages (each held for 6 weeks) are detailed as follows:
 - Regulation 18: Issues and Options consultation

- Regulation 18: Preferred Directions consultation
- Regulation 18: Preferred Sites and Settlement Boundaries consultation
- Regulation 19: Pre-submission Publication

11. Section 7 of the Council's Consultation Statement (page 36) explains how the requirements of the SCI (which the Council considers go beyond the requirements of the 2012 Regulations) have been met.

12. The Consultation Statement provides specific detail of the method of consultation – how, when and where - and a summary of the level of response received at each consultation stage, beginning with Issues and Options at pages 4-5 of the Consultation Statement. The Council also held a series of drop in events to help publicise the consultation and engage with members of the public for each of the Regulation 18 consultation stages.

13. The Consultation Statement Appendices (LP/S/15) contain evidence of the notifications of each consultation and the documents which were provided in libraries and community buildings. Appendix T contains a copy of the Statement of Representations Procedure which was provided to all to each of the general consultation bodies and each of the specific consultation bodies invited to make representations under Regulation 18(1) of the 2012 Regulations.

14. Prior to submission of the Local Plan to the Secretary of State, the consultation process undertaken was checked on an iterative basis when completing the PAS Soundness Checklist (LP/S/19) and PAS Legal Compliance Checklist (LP/S/20), providing further assurance that the correct procedure was being followed.

1.3 Is the Sustainability Appraisal (SA) adequate? Has the Plan's formulation been based on a sound process of SA and testing of reasonable alternatives?

15. The Local Plan has been subject to ongoing sustainability appraisal ("SA") throughout its evolution.

16. Prior to production of the Local Plan, the Sustainability Appraisal Scoping Report (2013) (LP/S/5) ("the Scoping Report") was produced. This document collated baseline information to establish a profile of the environmental, social and economic characteristics of Breckland District and reviewed relevant programmes and policies to

inform the development of Sustainability Appraisal (SA)/Strategic Environmental Assessment (SEA) objectives. The Scoping Report was subject to consultation. In response to the consultation on the Scoping Report, two additional SA/SEA objectives were added in the Issues and Options Sustainability Appraisal (LP/S/7) producing the SA Framework used in appraising the Local Plan, consisting of 19 objectives that aim to meet the key social, environmental and economic issues for the District. The framework for appraising local plan policies and proposals highlights the most sustainable policy direction when testing a number of options at each stage of development of the Plan.

17. The policies and proposals of the Local Plan have been subject to SA at each stage of consultation as follows:

- Issues and Options Sustainability Appraisal (2014) (LP/S/7)
- Preferred Directions Sustainability Appraisal Part 1 – Policies (2015) (LP/S/8)
- Preferred Directions Sustainability Appraisal Part 2 – Sites (2015) (LP/S/9)
- Interim Site Allocations and Settlement Boundary Review Sustainability Appraisal (2016) (LP/S/13)
- Pre-submission Sustainability Appraisal (2017) (LP/S/3)

18. Each iteration of the SA has fully incorporated the requirements of strategic environmental assessment (SEA). The SEA Directive (EU Directive 2001/42/EC), transposed by the Environmental Assessment of Plans and Programmes Regulations 2004, SI 2004/1633, as amended (“the SEA Regulations”), requires assessment of the likely significant effects of implementing the plan and of ‘reasonable alternatives’. The policies and reasonable alternatives to the policies have been appraised through the iterative SA, to determine whether each policy and reasonable alternative/s had a positive, neutral or negative effect against each of the 19 SA/SEA objectives, in order to identify the most sustainable policy direction. This includes appraisal of sites and reasonable alternative sites. Commentary/summary has also been provided to aid understanding of the scoring and consideration of the results.

19. The positive role that SA has played in developing options can be seen throughout the Local Plan, and may be easily understood through the documents within the evidence base that explain how particular policies in the Local Plan have been arrived at, such as the application of the sequential test in relation to flood risk (LP/E/7) and the site allocation topic paper which explains the role of the SA in selecting sites (LP/H/4). These papers explain how the SA was used to develop options.

1.4 Has the Habitats Regulation Assessment (HRA) been undertaken in accordance with the regulations?

20. The Council has worked with consultants, Footprint Ecology, to ensure that the emerging Local Plan has at all times been assessed in accordance with the Habitats and Conservation of Species Regulations 2010 (now replaced by the Habitats and Conservation of Species Regulations 2017) (“the Habitats Regulations”) through Habitats Regulations Assessment (“HRA”). This has spanned the commencement of development of the Local Plan and all subsequent stages. HRA has been an iterative process, informing the refinement of the Local Plan as it has progressed towards publication. Four versions of the HRA have been published::

- Background and Scoping Work in relation to Habitat Regulations Assessment of the Breckland Local Plan at Issues and Options, 2015 (LP/S/30)
- Habitat Regulations Assessment of the Breckland Local Plan – Preferred Directions Stage, 2016 (LP/S/31)
- Habitat Regulations Assessment of Breckland Local Plan Part 1 - Preferred Site Options and Settlement Boundaries, 2016 (LP/S/32)
- Breckland Local Plan Habitats Regulation Assessment at Publication Stage, 2017 (LP/S/4) (N.B. The HRA Publication Stage is linked to the Breckland Local Plan Pre-Submission Publication (LP/S/1) as it is an assessment of the plan at its ‘Publication’ stage, i.e. the plan is ready to be published for Examination.

21. Following the initial scoping exercise undertaken in 2015, each HRA document listed above contains an assessment of the screening of each proposed policy for likely significant effects on a European Site either alone, or in combination with other policies, projects or plans. The HRA provided recommendations to avoid likely significant effects at each stage of plan production, which informed the development of the Local Plan in accordance with the Habitats Regulations.

22. Following the submission of the Breckland Local Plan Pre-Submission Publication (LP/S/1) to the Secretary of State on 30th November 2017, an error has been identified with the proposed wording for Policies ENV 02 Sites of International, European, National & Local Nature Conservation Importance and ENV 03 The Brecks Protected Habitats and Species. The HRA concludes that the Breckland Local Plan is compliant with the requirements of the legislation on the basis that the recommended edits for Policy ENV

02 and ENV 03 set in Appendix 5 of the HRA¹ have been fully incorporated into the Publication of the plan. Paragraph 14.1 of Appendix 5 of the HRA introduces the recommended edits stating the difference between red text and strikethroughs which were made during the preparation of the HRA Report and blue text and strikethroughs which were made at Submission stage. Due to human error, the final recommendations (blue text and strikethroughs) which apply only to Policy ENV 03 The Brecks Protected Habitats and Species and supporting text, were not incorporated into the Breckland Local Plan Pre-Submission Publication (LP/S/1). Modifications are proposed to Policies ENV 03 to incorporate all the recommended wording set in Appendix 5 of the HRA in order to ensure that the plan policies comply with the Habitats Regulations. The proposed modifications to Policy ENV 03 are shown in Appendix 1 of this Statement and in the Councils statement for Matter 12 - Environment in relation to the Inspectors questions 12.6 regarding Policy ENV 03.

23. In its conclusion, the HRA confirms that adverse effects on site integrity have been ruled out by the changes made (paragraph 8.12, page 48). Provided the remaining modifications in Appendix 1 are incorporated in the plan, it is considered that the plan is compliant with The Conservation of Habitats and Species Regulations 2017 [the Habitats Regulations].

1.5 The HRA does not rule out the potential for likely significant effects on the Brecks Special Protection Area (SPA) from the proposed site allocations in Swaffham, Watton and Narborough. This is due to a lack of data in terms of functional land (between 1500 metres and 3 km from the SPA) for Stone Curlew. The HRA advises that the provision of project level HRAs will be required to demonstrate that there would be no significant effects. Is this an appropriate approach? Does this fulfil the requirements of the Regulations?

24. The Local Plan proceeds on the basis of two “buffers” that the Council is satisfied will ensure any adverse effects on the integrity of the SPA are avoided plus a policy safeguard in respect of areas of possible functionally linked land. The policy comprises a buffer of land within 1500m of the SPA boundary where stone curlews are present (“the primary buffer”), a buffer area outside this zone where stone curlews are known to be present (“the secondary buffer”) Additionally the policy introduces an additional safeguard in respect of possible areas that have a functional link to the SPA, subject to additional data (orange cells). In this, the Local Plan continues the “primary” and

¹ Footprint Ecology (2017) Breckland Local Plan Habitats Regulation Assessment at Publication Stage, 2017 (LP/S/4) Section 14, Appendix 5: Recommended edits for Policy ENV 2 and ENV 3, Pages 92-99

“secondary” buffer approach taken by the adopted Core Strategy, but revises both buffers in light of more recent data.

25. The Local Plan HRA (LP/S/4) shows the “primary” and “secondary” buffers and orange cells on Map 2, page 32, following explanatory text over paragraphs 4.6 to 4.17. The primary buffer is within 1500m of the SPA where stone curlews are present (represented by red hatching). Within this buffer there is a presumption against development, because there is a good evidence base that leads to a conclusion of likely significant effects. Also, adverse effects on site integrity cannot be ruled out. However, paragraph 4.20 of the HRA also explains that there may be exceptions, rebutting the presumption, where further project-level information, surveys and analysis could demonstrate that a development could proceed without adverse effects, such as infill development).
26. The secondary buffer (represented by a blue outline) reflects areas where there is evidence of regular nesting by stone curlew, just outside the SPA, and therefore the land is functionally-linked to the SPA.
27. Orange cells represent areas where survey data is lacking. These are within 3km of the SPA and therefore may be functionally linked.
28. Both the secondary buffer and orange cells relate to areas where impacts would relate to the stone curlew, but not occur within the SPA, i.e. they relate to land outside the SPA that is (in the case of the secondary buffer) or may be (in the case of the orange cells) functionally linked land because it may support stone curlew that are outside, but part of the SPA.
29. Where functionally linked land is affected, it should be possible to provide mitigation as there is no loss of quality or deterioration of land within the SPA. Rather, any impact would relate to land outside the SPA, but used by stone curlews that may be part of the SPA population. The difference therefore is it is possible to provide mitigation for impacts in the secondary buffer and orange cells, for example through the provision of alternative nest plots, creating areas of arable land that are secured and managed in-perpetuity for nesting.
30. The proposed allocations identified in Narborough, Swaffham and Watton lie within the orange cells. The orange cells differ from the secondary buffer in that the orange cells do not have current information to indicate use by stone curlew; it is simply that the habitat

may be suitable due to its habitat type and its proximity to the SPA. Evidence, explained within the HRA, identifies 3km as a distance at which stone curlew outside the SPA could be birds associated with the SPA. The orange cells therefore may not even have regular use by stone curlew; survey effort tends to be focussed on areas regularly used and good quality habitat, so the orange cells simply reflect a lack of data. Survey work could be undertaken at project level and if that reveals regular use by stone curlews, then mitigation would need to be provided, as per the secondary buffer. The orange cells therefore represents a precautionary area, in light of our understanding of the distance outside the SPA the birds may be present, where checks are necessary and mitigation could be required if the checks identify regular use by nesting stone curlew.

31. It would be disproportionate to survey all the area depicted as orange cells at the plan level as these areas are not within the SPA, or the 1500m primary buffer. These areas have also not been focussed on in terms of data collection at this point, possibly because they contain unsuitable habitat and they have no recorded nesting attempts. Nevertheless it is identified as an area where additional data checks or surveys may be required due, which can be covered by a project level HRA. For those allocations within the orange cells, mitigation can, in principle, be provided. Therefore the HRA determines that the plan is fully compliant with the Habitats Regulations.

1.6 Has the Plan been prepared in accordance with the Council's Local Development Scheme?

32. The Local Development Scheme (LDS) sets out the intended programme and timetable for producing the Local Plan and Policies Maps. The 5th revision of the LDS was produced in March 2013 and set stages for the production of the Local Plan and Policies Maps. Whilst the process of developing the Local Plan was followed in accordance with the LDS, the timescale slipped leading to the 6th revision of the LDS which was published in February 2017. The 6th revision projected a more accurate timescale for the remaining stages of production of the Local Plan and Policies Maps, however a decision was taken at a meeting of the Cabinet on 25th April 2017 to delay the timeline for production of the Local Plan by six weeks to ensure that the Local Plan had a greater emphasis on design and to include a commitment to producing a design supplementary planning document. The LDS was subsequently revised in June 2017, resulting in the current LDS (LP/S/17) which comprises the seventh revision. The Plan is in accordance with the current LDS (LP/S/17).

1.7 Does the plan include policies designed to secure that the development and use of land contribute to the mitigation of, and adaptation to, climate change?

33. Mitigating and adapting to climate change is a systemic, central theme to the Local Plan which all policies seek to contribute towards. It also forms an integral part of the Sustainability Appraisal Objectives, against which each policy was appraised.
34. The overarching strategic policy GEN 01 Sustainable Development in Breckland sets out that the Local Plan seeks and ensures that development contributes to a number of principles including to 'mitigate and adapt to climate change'.
35. In forming the settlement hierarchy (policy GEN 03), the Council sought to identify higher order settlements based on their level of services and infrastructure, including public transport provision and frequency. Policy HOU 02 The Level and Location of Growth distributes allocations to reinforce the settlement hierarchy and, in doing so, reinforces a settlement pattern which concentrates development in locations with better services, facilities and public transport, minimising the use of the car and therefore helping to mitigate climate change.
36. Other policies in the plan contain clauses or requirements which help to mitigate and adapt to climate change, including:
- Policy HOU 10 Technical Design Standards sets requirements for water efficiency in new properties and seeks properties to be adaptable;
 - Policy ENV 01 Green Infrastructure and Policy ENV 04 Open Space, Sport & Recreation encourages the creation of accessible green spaces, reducing the need for residents to travel further afield for recreation;
 - Policy ENV 09 Flood Risk and Surface Water Drainage ensures development will be located to minimise the risk of flooding, helping to future proof development in the knowledge of the impact of climate change and seeks, where possible, to restore rivers and enhance them, helping to manage and improve water channels;
 - Policy ENV 10 Renewable Energy Development seeks to deliver renewable energy and clarifies how such proposals will be assessed;
 - Policies on Design including GEN 02 Promoting High Quality Design and COM 01 Design encourages sustainable design and durable construction, observing best practice in energy efficiency and climate change mitigation;

- Policy COM 02 Healthy Lifestyles seeks to assess the impact of development on air quality and ensure development conforms to measures identified in Air Quality Management Areas.

37. Collectively the policies in the Local Plan will secure development which contributes to the mitigation of, and adaptation to climate change.

1.8 Which documents make up the policies map?

38. The Policies Map (LP/S/2) comprises the district wide map (Breckland Policies Map Pre-Submission Publication Summer 2017) and all accompanying inset maps labelled LP/S/2 in the Examination Library.

Appendix 1 Modifications to Policy ENV 03 The Brecks Special Protection Area

~~The Brecks~~ Breckland Special Protection Area

Covering ~~39,441ha~~ 39,434ha of heathland, forest and arable farmland, The Brecks is of ~~international and~~ European value to birdlife. Designated in 2006 as a Special Protection Area (SPA) under the European Council's Directive on the Conservation of Wild Birds, The Brecks habitat is important for a range of ground-nesting birds including the Stone Curlew, Woodlark and Nightjar.

The East of England supports 65% of the UK's breeding pairs of Stone Curlew where most breeding is located within the Brecks. The rich biodiversity of The Brecks is also recognised through other statutory conservation designations including four Special Areas of Conservation (SACs), numerous SSSI and National Nature Reserves (NNR), where the latter (NNRs and SSSIs) make up 40% of the total area.

Evidence used to support the adoption of the Core Strategy in 2009 included research to inform the Habitats Regulations Assessment (HRA) of the Core Strategy which examined the effects of housing and roads on the distribution of the Stone Curlew in The Brecks.

The adopted mitigation policy required that any new development which may impact on the SPA must be subject to Appropriate Assessment. The measures are defined by buffers (Map 5.1). New development is not permitted within 1,500m of the edge of the SPA (primary buffer (red) unless it can be demonstrated by an appropriate assessment that the development would not adversely affect the integrity of the SPA. Such circumstances may include the use of existing buildings and development where completely masked from the SPA by existing development.

Stone Curlews are also found outside the SPA; these birds are clearly part of the SPA population and functionally linked. Accordingly, a secondary buffer (blue) indicated areas that have been identified where there are concentrations of Stone Curlew (using data gathered over the periods 1995-2006, and 2007-2015) (most recently using data from 2011-2015).

Within these areas development may be brought forward, providing a project level Habitats Regulations Assessment can demonstrate adverse effects have been prevented, for example where alternative land outside the SPA can be secured to adequately mitigate for the potential effects.

In 2013 a "Further Assessments of the Relationship between Buildings and Stone Curlew Distribution" study was carried out to update previous work on the effect of buildings and roads on Stone Curlews in The Brecks. Including new analysis and using additional survey data, this study report focused on the effects of buildings on the distribution of breeding Stone Curlew in The Brecks. The report provides strong support for the continuation of a 1500m zone around the areas capable of supporting Stone Curlews. Within this zone additional development is likely to have a significant effect on the SPA. ~~An appropriate assessment will be required in cases where the integrity of the SPA would be adversely affected following HRA screening.~~

The 2013 research also suggests that the planting of woodland/screening as a mitigation measure is unlikely to be effective and that the effect of nest density is strongest as a result of the amount of buildings ~~rather than type~~. One of the key aims of the research was to differentiate the effects of nest density due to different building classes. Due to the sample size and number of buildings identified there needs to be an element of caution applied to the results, however, the research indicates that there was no evidence of a negative impact of agricultural or commercial buildings. As such, the analysis suggests ~~an element of flexibility could be applied~~ for that project level HRA for non-residential development in the SPA buffer zones may be able to demonstrate that adverse effects can be ruled out.

A draft protocol entitled 'Agricultural Buildings and the Breckland Special Protection Area stone curlew constraint zone' was produced by Natural England (2013) with input from stakeholders. ~~Natural England suggested that Breckland Council may wish to update and formally adopt this protocol to take account of the most recent Footprint Ecology report and expand it to include commercial buildings, and this has therefore been taken into account in the Local Plan HRA. For non-residential Agricultural buildings developments which meet certain criteria, this should result in a simplified Habitats Regulations Assessment. This has been reflected in the policy wording. Further consideration of the evidence is required to determine whether other building types could also be added.~~

Further analysis of the most recent Stone Curlew survey data allowed for some minor revisions to the primary (red) and secondary (blue) buffers to ensure they remain founded upon up to date information. Areas where data is absent, but could potentially provide functionally linked land, is identified by orange cells. Here a likely significant effect is presumed until project level Habitats Regulations Assessment provides additional information.

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.

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 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.

Policy ENV03 The Brecks Protected Habitats & Species

The Council requires that a Habitats Regulations Assessment is undertaken on all proposals for development that are likely to have a significant effect on The Breckland Special Protection Area (SPA) which is classified for its populations of Stone Curlew, Woodlark and Nightjar, and/or Breckland Special Area of Conservation (SAC), which is designated for its heathland habitats. Development will only be permitted where it can be demonstrated that the proposal will not adversely affect the integrity of the SPA or the SAC.

Stone Curlew

Plan level Habitats Regulations Assessment has been undertaken to identify where built development is likely to significantly affect the Breckland SPA. Map 5.1 identifies a 1,500m buffer zone from the edge of those parts of the SPA that support, or are capable of supporting, Stone Curlew, where new built development would be likely to significantly affect the SPA population.

The plan level Habitats Regulations Assessment also identifies areas that have a functional link to the SPA, because they support Stone Curlew outside, but in close proximity to the SPA boundary.

These areas also have a 1500m buffer zone, within which new built development would be likely to significantly affect the SPA population.

A conclusion of no likely significant effect can be met where the proposed building is located further than 1500m away from the SPA boundary (red primary buffer) or the identified (blue secondary buffer) or possible (orange cells) areas that have a functional link (see Map 5.1).

Development within the SPA boundary, or located less than 1500m away from the SPA boundary or identified areas that have a functional link (see Map 5.1) will not normally be permitted.

Where a proposed building is outside the SPA but within 1500m of the SPA boundary or identified or possible areas that have a functional link (see Map 5.1), there may be circumstances where a project level Habitats Regulations Assessment is able to demonstrate that the proposal will not adversely affect the integrity of the SPA. For agricultural buildings, applicants must provide evidence to show how their proposal meets the criteria listed in Natural England's "Agricultural Buildings and the Breckland SPA Stone Curlew constraint zone" advice note, or successor document. Circumstances where the proposal is able to conclusively demonstrate that it will not result in an adverse effect on Breckland SPA may include where the proposal is:

- More than 1500m away from potential stone curlew ~~nesting sites~~ habitat (such as arable land) inside the SPA (~~these are those parts of the SPA that are also designated as Breckland Farmland SSSI~~);
- A new building that will be completely masked on all sides from the SPA by existing built development;
- A proposed re-development of an existing building that would not alter its footprint or increase its potential impact;
- A new agricultural building of less than 120 sqm;
- An extension to existing agricultural buildings of less than 120 sqm or 100% of the original, whichever is less.

(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.

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.

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Woodlark and Nightjar

Development within 400m of the SPA that support, or are capable of supporting Woodlark and/or Nightjar will not normally be permitted. The Council will consider the need for a Habitats Regulations Assessment to determine the implications of development Nightjar and Woodlark on a case by case basis, depending on the location and nature of the proposal.

Recreation pressure and urban effects

Plan level Habitats Regulations Assessment has identified the potential for increased disturbance to Nightjar, Woodlark and Stone Curlew as a result of recreation, and the potential for other urban effects such as increased fire, litter and eutrophication to significantly affect Breckland SPA and SAC.

The Council will work with partners to develop a framework of measures that manage and monitor access. Proposals for development in Thetford, Swaffham and Mundford will be required to demonstrate the inclusion of mitigation measures that contribute to the framework to address the potential impact of increased recreational pressure on Breckland SPA. This should comprise:

- new on-site recreational areas in accordance with other policy requirements in this plan, and/or;
- other measures that contribute to managing recreation pressure, such as educational/information materials, staff resources, managing car parking and projects targeting dog walking or; where the development will not provide on-site recreational space;

- promotional materials for new residents to advertise existing local suitable alternative natural green space for recreation.

The Council will work with partners to develop a framework for managing and monitoring urban effects. Proposals for development where urban heaths at Thetford (Barnham Cross Common, Thetford Heath, Thetford Golf Club and Marsh), East Wretham or Brettenham are likely to be used as local greenspace will need to demonstrate the inclusion of mitigation measures that contribute to the framework to address the potential impact urban effects on Breckland SPA/SAC.