

Statement of Common Ground

1st Phase of Hearings

**As agreed between City of York Council and Natural
England**

06 December 2019

Introduction

1. This Statement of Common Ground (SoCG) has been prepared jointly between City of York Council and Natural England (NE). The purpose of this SoCG is to inform the Inspector of areas of agreement between the two authorities regarding habitat regulations as result of the adoption the submitted draft York Local Plan (Local Plan).

Background

2. Natural England is a non-departmental public body. Natural England's 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.
3. City of York Council has consulted Natural England at each stage of the preparation of the Local Plan. In addition, there has been ongoing correspondence in relation to the preparation of a Habitat Regulation Assessment and Sustainability Appraisal to accompany the Local Plan.
4. City of York Council submitted their Local Plan and associated supporting documents, including a Habitat Regulation Assessment, on 25 May 2018. The Habitat Regulation Assessment (2018) was prepared in accordance with the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2017 and took account of the European Court of Justice Case 'People Over Wind'¹ ensuring that any mitigation was considered through an Appropriate Assessment.
5. The HRA concluded that with mitigation, there was not likely to be adverse effects on the integrity of European Designated Sites, alone or in-combination, as a result of the submitted Local Plan.
6. Natural England was consulted on the Publication draft of the Plan, in the absence of an up to date habitats Regulations Assessment, in February 2018, before being consulted on the Habitats Regulations Assessment in April 2018.

¹ Case C/323-17 People Over Wind'

7. On the 4 June 2018, Natural England wrote to the Council [EX/CYC/1] welcoming the production of a Habitat Regulation Assessment and to set out their outstanding concerns in relation to the HRA conclusions reached. The outstanding concerns related to:
 - Recreational Pressure at Strensall Common SAC - Insufficient evidence provided regarding recreational disturbance at Strensall Common SAC to back up a conclusion of no adverse effects on integrity and an expectation of a robust and comprehensive visitor assessment to be provided as evidence;
 - Air Quality at Strensall Common SAC - The level of detail provided to conclude air quality impacts in relation to Strensall Common (SAC) was insufficient and further detail was required.
8. In response to this letter [see EX/CYC/2], City of York Council commissioned consultants, Waterman Environment and Infrastructure Ltd, to prepare an air quality assessment to determine air quality impacts on designated nature conservation sites in the authority as a result of the development in the Local Plan. In addition, consultants, Footprint Ecology, were commissioned to undertake visitor surveys for Strensall Common SAC and the Lower Derwent Valley SPA and Skipwith Common SAC.
9. Natural England endorsed the visitor survey methodologies through consultation in July 2018.
10. Following the completion of the additional evidence bases, the Habitat Regulation Assessment and conclusions in the submitted Habitat Regulation Assessment were revisited by City of York Council's HRA consultants following the completion of the commissioned evidence base.
11. The screening assessment in the revised HRA (2019) identified that likely significant effect could be ruled out for all policies except those listed below:

European site	Policies	Issue	Feature affected
Strensall Common SAC	SS19/ST35, H59 & E18	Aquatic environment	Wet and dry heathland habitats
		Air pollution	
		Recreational pressure	
Lower Derwent Valley SPA	SS13/ST15	Mobile species	Non-breeding birds
		Recreational pressure	Breeding/non-breeding birds
	SS18/ST33	Recreational pressure	Breeding/non-breeding birds
River Derwent SAC	SS13/ST15	Air pollution	Floating vegetation community River and sea lamprey, and bullhead

12. Additional air quality modelling and analysis was provided to Natural England between March and June 2018 and resolved Natural England’s outstanding concerns regarding the impact of traffic emissions as confirmed in Natural England’s letter dated 07 March 2019 [**Annex A**].

13. Following appropriate assessment of these matters, the HRA concluded that:
“Upon further scrutiny or by the addition of mitigation measures, it was found that adverse effects on the integrity of all the European sites could be ruled out completely for all these issues except one - the impact of recreational pressure at Strensall Common SAC. Whilst the HRA found that the addition of mitigation measures to Policy E18 would be sufficient to remove the threat of an adverse effect on the integrity of the site, this was not the case with Policies SS19/ST35 and H59. Here, it was found that uncertainty surrounding the effectiveness of the mitigation measures proposed meant that an adverse effect on the integrity could not be ruled out. Given the absence of other mitigation measures, the only option was to remove Policies SS19/SS19/ST35 and H59 from the Plan.

Should these measures be adopted in full, the Council would be able to ascertain that adverse effects on the integrity of the European sites can be avoided.”

Areas of Agreement

14. The following matters and issues have been identified as areas on which the parties agree are common ground:

Matter 1: Legal compliance

Habitat Regulation Assessment

- The Habitat Regulation Assessment (2019) has been prepared in accordance with the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 and is legally compliant;
- The methodology for the supporting Air Quality evidence base is robust and the outcomes are accepted;
- The methodology for the Visitor Survey for Strensall Common (SAC) is appropriate and robust. The outcomes showing a 24% uplift in recreational pressure are accepted;
- The proposed modifications to the Local Plan to remove policy SS19/ strategic allocation ST35 'Queen Elizabeth Barracks' and general housing allocation H59 'Howard Lane, Strensall' are agreed as necessary to avoid adverse impacts on the integrity of Strensall Common SAC identified in the HRA (2019) [PM13, 14, 18 & 19];
- Recreational impact from other Strategic site allocations as identified in the Strensall Common Visitor Survey (7%) can be mitigated through site specific policy and their bespoke development principles in conjunction with policies
 - G11 – Green Infrastructure
 - G12 – Biodiversity and Access to Nature (as amended through PM26 in EX/CYC/20)
 - G13 – Green Infrastructure Network
 - G14 – Trees and Hedgerows
 - G15 – Protection of Open Space and Playing pitches

➤ GI6 – New Open Space Provision.

- The methodology for the Visitor Survey for the Lower Derwent Valley (SPA) and Skipwith Common (SAC) is appropriate. Outcomes pertaining to the Lower Derwent valley are accepted.
- CYC accept Natural England's assertion that recreational pressure at Skipwith Common may be underestimated based upon the access points they describe in their letter dated 18 February 2019 [EX/CYC/14d and **Annex B** to this SOCG]. Both parties accept that this does not impact the conclusions reached in the Habitat Regulation Assessment (2019).
- Natural England accepts CYC's air quality modelling and analysis and agrees with the conclusion that the plan will not have any adverse effects on the integrity of European sites.


Sustainability Appraisal


- The City of York Local Plan Sustainability Appraisal (2018) [CD008, CD009, CD010], SA Addendum (2018) [CD011] and SA Addendum of the Proposed Modifications (2019) [EX/CYC/24] have been prepared in accordance with Directive 2001/42/EC² and Environmental Assessment of Plans and Programmes Regulations 2004 (statutory instrument 2004 No.1633).
- In so far as Natural England's strategic environmental interests are concerned the SA appropriately identifies the issues and objectives to be evaluated through the SA Framework.

There are no areas of disagreement between the parties.

² on the assessment of the effects of certain plans and programmes on the environment

Endorsement

City of York Council		
Name and Position	Signature	Date
Mike Slater Assistant Director for Planning and Public Protection		05 December 2019

Natural England		
Name and Position	Signature	Date
Merlin Ash Lead Adviser Yorkshire and Northern Lincolnshire Team		06 December 2019

Annex A: Natural England letter 07 March 2019

Date: 07 March 2019
Our ref: 276024



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Dear Alison

Planning consultation: Further consultation regarding York Local Plan Habitats Regulations Assessment

Thank you for your consultation.

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.

Natural England has commented previously upon the publication draft of the City of York Local Plan in our letter dated 04 April 2018 (our ref 239830), on the Habitats Regulations Assessment in our letter dated 08 May 2018 (our ref 246074), and on the further air quality evidence in the updated Habitats Regulations Assessment in our letter dated 04 June 2018 (our ref 247643). This letter represents our further comments on the additional information provided in your letter dated 19 June 2018.

Natural England welcomes the additional assessment of the impacts of traffic emissions on Strensall Common Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI) considering potential for the loss of species richness as a result of nitrogen deposition. Natural England concurs with the conclusions of this assessment and is satisfied that air quality emissions as a result of the plan will not lead to adverse effects on the integrity of Strensall Common SAC or damage the interest features of Strensall Common SSSI. We advise that this information should be included in or appended to the Habitats Regulations Assessment for clarity.

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 please contact Merlin Ash at Merlin.ash@naturalengland.org.uk or on 02080 266382. For any new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

Yours sincerely

Merlin Ash
Yorkshire and Northern Lincolnshire Team
Natural England

Annex B: Natural England letter 18 February 2019

Date: 18 February 2019



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Dear Alison

Lower Derwent Valley SPA/SAC & Skipwith Common SAC and Strensall Common SAC Visitor Surveys

Thank you for sharing the Visitor surveys for Lower Derwent Valley SPA/SAC & Skipwith Common SAC and Strensall Common SAC with Natural England. As requested at our meeting on 4 February 2019 our initial thoughts on these surveys are provided below.

Lower Derwent valley SPA/SAC and Skipwith Common SAC

The Visitor Survey for the Lower Derwent Valley and Skipwith suggests that additional visitor pressure resulting from housing allocations within the York Local Plan is unlikely to result in an adverse effect on integrity to the designated site. That said, Natural England's own observation and anecdotal information received does suggest that recreation pressure, particularly that arising from village communities adjacent to the site is a significant issue. This takes the form of dog walking, horse riding, cycling, wildfowling, boating etc. both within and adjacent to the designated site. Some of this access involves trespass into areas where there is no right of way. Unfortunately the visitor survey did not assess visitor pressure from key access area e.g. adjacent villages such as East Cottingwith, Ellerton and Thorganby and consequently is likely to have under recorded recreational pressures.

Strensall Common SAC

The Visitor survey for Strensall very clearly identifies the high level of public use that Strensall Common SAC already receives. It also suggests a significant increase (24%) in access as a result of housing allocations within the draft Local Plan. A significant proportion of this increase is associated with allocations closer to the SAC (0-500m) with the ST 35 QEII allocation perhaps the most important contributor to this increase. Consequently the visitor survey concluded, "Given the scale of increase in access predicted from the visitor surveys, the proximity of new development and concerns relating to current impacts from recreation, adverse integrity on the SAC cannot be ruled out as a result of the quantum of development proposed. In addition, for individual allocations that are adjacent to the site it will be difficult to rule out adverse effects on integrity." Natural England concurs with this conclusion.

The visitor survey goes on to consider potential approaches to mitigation. The effectiveness of the various approaches are however caveated within the survey and from the information supplied, Natural England does not believe it is possible to rule out an adverse effect on the integrity of the Strensall Common SAC as a result of allocations currently included with the draft York Local Plan.

If you have any queries relating to the advice in this letter please contact me on 07717692927.

Yours sincerely

Lauren Forecast
Yorkshire and northern Lincolnshire Team