

Habitats Regulations Assessment (HRA) – Updated July 2018
DC/14/2096/HYB
Land North Of Station Road, Station Road, Lakenheath
Hybrid planning application - 1) Full application for the creation of a new vehicular access onto Station Road, and entrance to a new primary school, 2) Outline application for up to 375 dwellings (including 112 affordable homes), and the provision of land for a new primary school, land for ecological mitigation and open space and associated infrastructure (as amended).

Introduction

- 1 The local planning authority, as the competent authority, is responsible for the Habitats Regulation Assessment (HRA) as required by *The Conservation of Habitats and Species Regulations 2017*. Regulation 63 (1) requires that a *competent authority, before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which (a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and (b) is not directly connected with or necessary to the management of that site, must make an appropriate assessment of the implications of the plan or project for that site in view of that site's conservation objectives*. There is also a requirement to *consult the appropriate nature conservation body and have regard to any representations made by that body*.

Background to this update

- 2 On 12 April 2018 the Court of Justice of the European Union issued a judgement in the Case C-323/17 *People Over Wind v Coillte Teoranta* that ruled the Habitats Directive “must be interpreted as meaning that, in order to determine whether it is necessary to carry out, subsequently, an appropriate assessment of the implications, for a site concerned, of a plan or project, it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site. Prior to this judgment, case law in England and Wales had established that avoidance or reduction measures that form part of a proposal could be taken into account when considering whether the plan or project would be likely to have a significant effect on a European site. If the risk of a significant effect could be excluded on the basis of objective information, there was no need to undertake an Appropriate Assessment.
- 3 The implication of the CJEU judgment is that competent authorities cannot take account of any integrated or additional avoidance or reduction measures when considering, at the HRA screening stage, whether the plan or project is likely to have an adverse effect on a European Site.
- 4 For the development being considered in planning application DC/14/2096/HYB, a conclusion that *likely significant effects (LSE) could be screened out* was reached on the basis of avoidance or reduction measures specifically in relation to in-combination recreational effects. A revised screening is presented below progressing to Appropriate Assessment. This

note is a record of the local planning authorities updated Habitats Regulations Assessment

Consultation

- 5 In undertaking the HRA the local planning authority has had regard to information submitted by the applicant¹ and the advice of Natural England (Natural England representations of 11 January 2016 , 4 June 2015, 16 October 2015, 27 January 2015) and other correspondence^{2,3,45} received in matters concerning the European sites.
- 6 Previously Natural England had provided advice and was satisfied (in their letter recorded 11 January 2016 but dated 18 October 2015) that the application would *be unlikely to significantly affect the qualifying species of the SPA, either directly or indirectly or result in significant effects to the integrity of Breckland SPA*. Following the CJEU judgement Natural England⁶ was consulted and has confirmed that they are *satisfied that all issues relating to the casework has been addressed* and as a result has stated that additional consultation is not required.

European sites and location in relation to the development site

- 7 Breckland Forest Site of Special Scientific Interest (SSSI), a component part of Breckland Special Protection Area (SPA) is located 4.3km to the east. The closest farmland component of the SPA is 1.8km to the north-east (Breckland Farmland SSSI). Lakenheath Warren, the closest heathland component of the SPA and also a component of Breckland Special Area of Conservation (SAC) is 3.7km to the south-east. RAF Lakenheath SSSI, which is also a component part of Breckland SAC is 2.2km to the south.

Table 1 Breckland Special Protection Area Information

<i>Breckland Special protection Area (SPA)</i>
The nearest component sites: Breckland Forest Site of Special Scientific Interest (SSSI) - 3.6km to the east Breckland Farmland SSSI - 3.5km to the north-east, and 1.9km to the south-east Lakenheath Warren SSSI 2.1km
Qualifying Features: A133 <i>Burhinus oedicephalus</i> ; Stone-curlew (Breeding) A224 <i>Caprimulgus europaeus</i> ; European nightjar (Breeding) A246 <i>Lullula arborea</i> ; Woodlark (Breeding)
Conservation objectives: Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring; <input type="checkbox"/> The extent and distribution of the habitats of the qualifying features

¹ Lakenheath North Habitats Regulations Assessment – Applied Ecology November 2015; Land at Lakenheath North Extended Phase 1 Habitat Survey October 2014- Applied Ecology Ltd; Land at Lakenheath North Extended Phase 2 Habitat Survey September 2015 - Applied Ecology Ltd

² RSPB letters of 16/12/14 and 20/01/16

³ SWT letter of 11/12/15

⁴ Landscape partnership letter of 22 January 2016

⁵ National Planning Casework Unit EIA screening letter and written statement 20 May 2016

⁶ Natural England email of 23.05.18

- ☐ The structure and function of the habitats of the qualifying features
- ☐ The supporting processes on which the habitats of the qualifying features rely
- ☐ The population of each of the qualifying features, and,
- ☐ The distribution of the qualifying features within the site.

Table 2 Breckland Special Area of Conservation Information

<i>Breckland Special Area of conservation (SAC)</i>
The nearest component sites: RAF Lakenheath SSSI - 425m to the east Lakenheath Warren SSSI 2.1km
Qualifying Features: H2330. Inland dunes with open Corynephorus and Agrostis grasslands; Open grassland with grey-hair grass and common bent grass of inland dunes H3150. Natural eutrophic lakes with Magnopotamion or Hydrocharition-type vegetation; Naturally nutrient-rich lakes or lochs which are often dominated by pondweed H4030. European dry heaths H6210. Semi-natural dry grasslands and scrubland facies: on calcareous substrates (Festuco-Brometalia); Dry grasslands and scrublands on chalk or limestone H91E0. Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae); Alder woodland on floodplains* S1166. Triturus cristatus; Great crested newt
Conservation objectives: Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring; <ul style="list-style-type: none"> <input type="checkbox"/> The extent and distribution of qualifying natural habitats and habitats of qualifying species <input type="checkbox"/> The structure and function (including typical species) of qualifying natural habitats <input type="checkbox"/> The structure and function of the habitats of qualifying species <input type="checkbox"/> The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely <input type="checkbox"/> The populations of qualifying species, and, <input type="checkbox"/> The distribution of qualifying species within the site.

Is the plan or project directly connected with or necessary to the management of the site for nature conservation?

- 8 The proposal is not directly connected with or necessary for the management of the European sites

Direct effects

- 9 The development is located outside of Breckland SPA and is outside of the 400m constraint zone for woodlark and nightjar and the 1500m stone curlew constraint zone. However the eastern and the southern edges of the site are located within the frequent nesters constraint zone which has been drawn to protect Stone Curlew breeding on farmland outside of the SPA but considered to be part of the Breckland population. The Forest Heath Core Strategy policy CS2 requires that proposals for development within these areas will require a project level HRA.

- 10 As part of the HRA process available stone curlew nesting records have been assessed in the determination of likely significant effects along with stone curlew survey of the development site and surrounding farmland. Natural England commissioned Footprint Ecology to produce a predictive model for estimating the impact of development on stone curlew numbers in different areas. The model was produced in 2016 and is in the form of a spreadsheet based on the most recent work (Clarke & Liley 2013) that predicts stone curlew numbers for a given area based on data on the distance to the nearest trunk road, area of current housing, amount of new housing and the amount of woodland. Areas of buildings or other data can be manipulated within the spreadsheet to generate predictions of changes in stone curlew use. Natural England used the model (in May 2016) to confirm that the proposed development would not result in likely significant effects.
- 11 The application was submitted prior to the publication, in July 2016 by the Council, of up-dated Special Protection Area constraints buffers. The update was undertaken to ensure that up to date data (2011-2015 inclusive) are used to reflect the areas of the SPA used by Stone Curlews and the areas outside the SPA that are also important. In particular the frequent nesters buffer was re-visited. In advising on direct impacts of this planning application upon Breckland SPA, Natural England paid full regard to the relevant nesting records which also informed the revised nesting buffers. Accordingly, the updated buffers (which have now caught up with the source nesting records) do not alter Natural England's advice nor the Councils HRA screening.
- 12 The RSPB have expressed concern about the application because built development is proposed within the frequent nesters constraint zone. A buffer has been drawn on the eastern side of the site, shown on the submitted concept plan as an ecology zone, where no built development would take place. In addition the woodland tree screen to the south of the site is proposed for retention. A proportion, but not all, of the element of the site that falls within the frequent nesters constraint zone is shown as the ecology zone and/or the existing tree belt and this would not include built development. A part of the built development would still fall within the updated frequent nesters constraint zone (July 2016), however the detailed modelling of the development in relation to the known stone curlew records took this into account.
- 13 No direct likely significant effect on Breckland Special Protection Area have been identified.
- 14 The site is located outside of Breckland SAC and outside the 200m constraint zone for RAF Lakenheath SSSI. This site is within the fenced airbase where there is no access for the public and hence no risk of impacts from fly tipping, trampling or other anti-social behaviour.
- 15 No direct likely significant effects on the Breckland Special Area of Conservation have been identified.

Indirect effects

- 16 The potential for indirect recreational effects on the SPA associated with increased residential properties has been considered. The eastern and the southern edges of the site are located within the frequent nesters constraint zone which has been drawn to protect Stone Curlew breeding on farmland outside of the SPA but considered to be part of the Breckland population. There is potential for effects from the large increase in residential development in terms of effects to the birds within the nest attempts area through the increase in the population using the existing public rights of way particularly as it is not always the case that dog walkers will stick to public rights of way and therefore further consideration is needed on whether measures may be needed to divert dog walkers away from the SPA, or from areas with high nest density/important supporting habitat. On this basis and taking a precautionary approach it is not possible to rule out the likelihood of significant effects and Appropriate Assessment is required.
- 17 The concept plan⁷ for the site shows an ecology buffer located to the north and east of the development site; the intention is for this land to be designed such that it provides suitable alternative natural green space (SANG) which would divert the public from travelling to use the SPA as their local green space at least some of the time. A total area of 4.7ha has been agreed and secured through the section 106 agreement.
- 18 The buffer would also support pedestrian access and link to other footpaths. There would be new opportunities for dog walking within the site as indicated on the concept plan and these would divert residents from using the existing PRoW. The new routes would include a path around the periphery of this site and the adjacent Rabbithill Covert which would be a distance of approximately 2km. This path would benefit from existing green infrastructure (for example existing tree belts and the Cut-Off channel) and views into the surrounding countryside. In addition to the ecology buffer the development would also deliver public open space as required by the FHDC Open space, sport and recreation - Supplementary planning document (October 2011). The acceptability of the scheme relies on the quality and connectivity of the proposed open space /green space, a proportion of which should be available when the first dwellings are occupied. Information on the layout and connectivity and delivery program of all the public open space to be delivered must form part of the remedial matters secured by condition.
- 19 The site is connected to the Public Rights of Way network in the south east corner of the site. This PRoW connects to Poshpoors Fen and the farmland beyond and to Maids Cross Hill SSSI and LNR by Sandy Drove. The walk to Maids Cross Hill is an obvious circular walk which would be attractive to dog walkers potentially returning via village roads. However this is a distance of approximately 5km which is somewhat longer than would normally be regarded as a daily walk and potentially less attractive where there are other alternatives. There is currently no footpath link between the site and the village centre as the existing footpath on Station Road terminates close to

⁷ Lakenheath North - Concept plan 0012/7.8.12/0001

Drift Road; however village wide improvements to walking and cycling provision would be secured through legal agreement and would be available to the new residents.

- 20 The concept plan shows a pedestrian link into the agricultural land to the north west of the site however there is currently no PRow in this area. Forest Heath District Council is currently working with other authorities including Suffolk County Council to secure public access along the Cut-off Channel as part of the strategic mitigation for the settlement. The new connection to the north west of the site would enable access to additional walking routes along the Cut-Off channel and to the west of the village.
- 21 These measures reflect those set out in the Council's Natural Greenspace Study which was written to support the FHDC Site Allocation Local Plan⁸. This recommends an approach to the provision of additional natural greenspace in the settlements including Lakenheath identifying some of the opportunities available to achieve this. The measures proposed as part of this development will form part of the strategic green infrastructure improvement scheme to be implemented in the village, and would be sufficient to avoid and reduce recreation pressure such that there will be no adverse effect on the integrity of the SPA.

In-combination and cumulative effects

- 22 The in-combination effects of the project have been considered. Planning applications registered with the local planning authority and being considered in Lakenheath at the current time are:
- a) Rabbit Hill Covert, (81 dwellings)
 - b) Land West of Eriswell Road, Lakenheath(140 dwellings)
 - c) Land off Briscow Way(67 dwellings)
 - d) Land North of Station Road (375 dwellings and a school)
 - e) Land at Little Eriswell (550 dwellings and a school)
 - f) Land at Lords Walk, RAF Lakenheath (total of 82 dwellings)
- 23 The total number of dwellings currently being considered significantly exceeds the total which was tested in the FHDC Core Strategy Habitats Regulation Assessment⁹ which for Lakenheath was 670 homes¹⁰. The concern is that whilst alone each of the applications may not have an impact; for this number of dwellings within the settlement, in-combination effects need consideration. The main issues are in-combination recreational effects on the SPA and the potential requirement for road improvements close to the SPA to deal with any increase in cumulative traffic movements.
- 24 Natural England's internal advice on in-combination effects¹¹ states that it is only the effects of those plans and projects that are not themselves significant alone which are added into an in combination assessment. The

⁸ Proposed Forest Heath District Council Submission Site Allocations Local Plan, January 2017

⁹ Habitats Regulations Assessment: Forest Heath District Council Core Strategy DPD(March 2009)

¹⁰ Forest Heath District Core Strategy (adopted 2010)

¹¹ NE letter of 4 June 2015

assessment should only include those that genuinely result in a combined effect, which impairs the ability of an interest feature to meet its conservation objectives. In this regard the application for 550 dwellings at Little Eriswell which is accompanied by an EIA and HRA can be excluded from in-combination impact assessment.

- 25 The distance of this site from the SPA and SAC is such that it is unlikely that there would be a significant change to current use of paths within the SPA from residents walking out of their houses, however there is potential for use of footpaths outside of the SPA but within farmland potentially used by Stone Curlew; for the application site this has been assessed and measures identified, therefore in-combination effects need no further consideration.
- 26 The site is located within 7.5km of the woodland components of Breckland SPA important for woodlark and nightjar and the main concern is that residents from all sites could drive to Breckland Forest SSSI/Breckland SPA and to Breckland SAC for recreation including those arising from other developments within 7.5km of the SPA and in particular to exercise their dogs in the absence of accessible local green space.
- 27 FHDC Core Strategy proposes a total of 6400 homes in the district for the period 2001-2021 and this was tested in the HRA which recommended measures to avoid in-combination effects with other plans including a mitigation and monitoring strategy; this is being developed alongside the current Local Plan Single Issue Review and Site Allocations Local Plan.
- 28 In 2010 a visitor survey of Breckland SPA¹² was commissioned by Forest Heath District and St. Edmundsbury Borough Councils to explore the consequences of development on Annex 1 bird species associated with Breckland SPA. An important finding of the study was that Thetford Forest is a large area, surrounded by relatively low levels of housing, and at present it seems apparent that recreational pressure may be adequately absorbed by the Forest. The Annex I heathland bird interest features are not yet indicating that they are negatively affected by recreational disturbance. However there are still some gaps in our understanding of the Thetford Forest populations of Annex 1 birds, their current status and potential changes that may be occurring. It is not currently understood whether distribution is affected by recreation, for example.
- 29 The recreation study went on to advise that provision of alternative greenspaces could be provided to potentially divert some of the recreational pressure away from the SPA. These would need to be at least equally, if not more attractive than the European sites. Such an approach could link into any green infrastructure initiatives as part of the local plan. Important factors to consider in the design of such spaces are the distance to travel to the site, the facilities at the site, and experience and feel of the site. The visitor survey identified that people are travelling up to 10km to use the SPA as their local greenspace. The provision of an attractive alternative in closer

¹² Fearnley, H., Liley, D. and Cruickshanks, K. (2010). Visitor survey from results Breckland SPA. Footprint Ecology.

proximity to a new development would contribute to the reduction of these trips.

- 30 Natural England has advised that it is necessary to consider cumulative recreational effects to the qualifying species of Breckland Special Protection Area (SPA) up to a distance of 7.5km¹³. This is the distance within which it has been established that the majority of recreational effects can be captured. The distance is relevant to the woodland and heathland areas of the SPA rather than the farmland areas as visitors were likely to travel some distance to forest/heathland areas, but would only use farmland (for walking dogs etc.) near to home.
- 31 An additional unpublished recreation study (January 2017)¹⁴ undertaken on behalf of Norfolk County Council and Norfolk Biodiversity Partnership analysed current and projected visitor patterns to European protected sites across Norfolk. The findings of this study showed that the Brecks have a clear draw for dog walking and a relatively high proportion of visitors to these areas are dog walkers. Access is by local residents, and the sites provide a convenient, highly attractive local space for activities, but notably there is little awareness of the nature conservation importance of the sites.
- 32 The study went on to use the collected data to make predictions of the likely change in access at European Protected sites as a result of the cumulative levels of development across Norfolk taking into account the distance (2km bands) of that growth from the European sites. The results showed that the largest increase in visitors by Norfolk residents – were the survey to be repeated again in the future at the end of the current plan periods – is predicted at the Brecks sites. An overall 30% increase in access was predicted at the survey locations in the Brecks, predominantly driven by new housing within Breckland District. The study did not take into consideration the effects of proposed growth in Suffolk however the findings of this study in relation to the Brecks are highly relevant to the situation in Forest Heath District; section 6.7 is clear that development outside Norfolk has the potential to further increase access.
- 33 This site is located 4.3km from the closest forest component of Breckland SPA and has the potential to contribute to cumulative recreational effects. The proposals must provide measures for influencing recreation in the surrounding area, to avoid a damaging increase in Visitors to Breckland SPA. On this basis likely significant effects cannot be ruled out and Appropriate Assessment is required.
- 34 In response, and to support the FHDC Site Allocation Local Plan¹⁵, the Council has undertaken a Natural Greenspace Study¹⁶ which, based on the existing accessible natural greenspace available in each settlement, recommends an approach to mitigation for each settlement identifying some of the

¹³ NE letter of 1 July 2016

¹⁴ Panter, C., Liley, D. & Lowen, S. (2016). Visitor surveys at European protected sites across Norfolk during 2015 and 2016. Unpublished report for Norfolk County Council. Footprint Ecology.

¹⁵ Proposed Forest Heath District Council Submission Site Allocations Local Plan, January 2017

¹⁶ Forest Heath District Council, Evidence paper for Single Issue Review (SIR) of Core Strategy Policy CS7 and Site Allocations Local Plan. Accessible Natural Greenspace Study, January 2017

opportunities available to achieve this. The study found that in Lakenheath there is an absence of natural greenspace between 2-20ha in size, except in the vicinity of Maids Cross Hill SSSI and Local Nature Reserve (LNR). It concluded that additional provision of natural open space is required as part of any developments in particular provision of new natural green space to divert pressure away from the SPA and existing Maids Cross Hill SSSI. For Lakenheath the measures identified were; additional provision of natural open space as part of any developments in particular provision of new natural green space to divert pressure away from the SPA, and existing Maids Cross Hill SSSI and new access routes which could potentially focus on the Cut-Off Channel. A number of opportunities were identified for the village to develop suitable alternative green space for both new and existing residents to use.

35 Natural England supports the provision of additional natural green space in the settlement¹⁷ which is well connected to the existing PRoW network. The following mitigation measures set out below and as described in the above paragraphs 17-20 are included as part of the proposals or would be secured through condition or legal agreement:

- A buffer on the eastern side of the site as shown on the submitted concept plan as an ecology zone, where no built development would take place (provision to be secured through section 106 and the proposal is for the land to be transferred to the Council to maintain).
- The ecology buffer, located to the north and east of the development site, must be designed to provide suitable alternative natural green space (SANG). The buffer must also support pedestrian access and link to other footpaths to provide dog walking routes within the site including a walk around the periphery of this site (approximately 2km)(design and implementation to be conditioned. Maintenance contribution to be secured through section 106 agreement)
- A proportion of the natural green space (SANG) must be available when the first dwellings are occupied (condition)
- In addition to the ecology buffer, the development must also deliver public open space as required by the FHDC open space SPD (condition)
- A walking route to the village centre secured as part of the village wide pedestrian and cycle infrastructure improvements (section 106 contribution to County Highways)
- An alternative walk of a similar length to the Sandy Drove route, but avoiding Maids Cross Hill, through linkage to the north west of the site along the Cut-off Channel (delivered as part of the village wide strategic green infrastructure. This project will contribute by allowing the bridge (funded by one of the other proposals) to be provided and accessed).
- Monitoring of the ecology buffer as a suitable alternative natural greenspace (secured through section 106)

¹⁷ NE correspondence 4 June 2015

- 36 The Council has submitted the emerging 'Single Issue Review' and 'Site Allocations Local Plan' documents to the Planning Inspectorate for examination. The plans were submitted on Thursday 23rd March 2017 and hearings were held in September/October 2017 and in June 2018. This means that increased weight can be attributed to the provisions of the policies contained in those documents given the next stage in the process of preparing the Plans has been reached.
- 37 Policies SA8 of the Site Allocations Document allocate sites for housing development at Lakenheath including Land north of Station Road. The policy requires: measures for influencing recreation in the surrounding area to avoid a damaging increase in visitors to both Maids Cross Hill and the Breckland SPA; strategic landscaping and open space; a substantial buffer next to the Cut Off Channel providing semi-natural habitat next to the water course; and retention of the area of grassland to the east of the site. The measures in the current proposal which will be secured through conditions or legal agreements are consistent with the requirements of the policy which was tested in the accompanying HRA.
- 38 The avoidance and reduction measures proposed will make a significant contribution to the availability of green space in the northern part of Lakenheath. In addition, because of the size and location of this green space adjacent to the Cut-Off Channel, and the potential for it to be well linked (by improvements to the footpath network) the measures will contribute to the overall strategy to reduce recreational pressure on the SPA. Monitoring associated with this development would be appropriate. Monitoring the success of the site as a suitable alternative natural greenspace would also help to inform future decision making in respect to strategic mitigation. These avoidance and reduction measures are sufficient to avoid and reduce recreation pressure such that there will be no adverse effect on the integrity of the SPA, in combination with other projects and plans.
- 39 The concern in relation to in-combination traffic impacts is that road improvements will be required to roads and junctions close to or adjacent to the Breckland SPA or SAC and these could have an effect. There are two junctions where the potential for effects has been identified as follows; B1112 / A1065 priority cross-roads, and Wangford Road / A1065 Brandon Road signalised junction. An overview of the cumulative traffic studies¹⁸ undertaken on behalf of the local highway authority to assess the impact of the various proposals has been published (7 June 2016). This confirms that the level of proposed development being considered in Lakenheath could be delivered without any effects on the Wangford Road / A1065 Brandon Road signalised junction. With regard to the B1112 / A1065 priority cross-roads, the study indicates that 663 dwellings (the total within the submitted planning applications that are being supported by the council) could also be accommodated and would not trigger improvements to the junction, however development amounting to 1465 dwellings would result in a severe traffic impact on this junction and hence mitigation would be required. The

¹⁸ Lakenheath Cumulative Traffic Study – Study Overview AECOM 7 June 2016

identified mitigation would be advanced warning signage and significant in-combination effects are not likely.

Conclusion

- 40 No likely significant direct effects on the Breckland SAC or SPA have been identified, and no significant effects are likely in relation to the implementation of road improvements required as a result of cumulative traffic in combination with other projects or plans.
- 41 The avoidance and reduction measures described in paragraph 35 above are sufficient to avoid and reduce recreation pressure such that there will be no adverse effect on the integrity of Breckland SPA, alone and in-combination with other projects and plans.