

<b>Habitats Regulations Assessment (HRA) – Updated June 2018</b>
<b>F/2013/0394/OUT</b>
<b>Land West of Eriswell Road</b>
<b>Residential development of up to 140 dwellings with associated open space provision, landscaping and infrastructure works. (Major Development, Departure from the Development Plan and Development Affecting a Public Right of Way)</b>

## 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 F/2013/0394/OUT, 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.

## Consultation

- 5 In undertaking the HRA the local planning authority has had regard to information submitted by the applicant and the advice of Natural England (Natural England Letters of 13 August 2013, 30 September 2014, and 4 June 2015) and other correspondence received in matters concerning the European sites.
- 6 Previously Natural England had provided advice and was satisfied 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 England 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

**Table 1 Breckland Special Protection Area Information**

<b><i>Breckland Special protection Area (SPA)</i></b>
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 <input type="checkbox"/> The structure and function of the habitats of the qualifying features <input type="checkbox"/> The supporting processes on which the habitats of the qualifying features rely <input type="checkbox"/> The population of each of the qualifying features, and, <input type="checkbox"/> The distribution of the qualifying features within the site.

**Table 2 Breckland Special Area of Conservation Information**

<b><i>Breckland Special Area of conservation (SAC)</i></b>
The nearest component sites: RAF Lakenheath SSSI - 425m to the east Lakenheath Warren SSSI 2.1km
Qualifying Features: H2330. Inland dunes with open <i>Corynephorus</i> and <i>Agrostis</i> grasslands; Open grassland with grey-hair grass and common bent grass of inland dunes H3150. Natural eutrophic lakes with <i>Magnopotamion</i> or <i>Hydrocharition</i> -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 ( <i>Festuco</i> -

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;

- ☐ The extent and distribution of qualifying natural habitats and habitats of qualifying species
- ☐ The structure and function (including typical species) of qualifying natural habitats
- ☐ The structure and function of the habitats of qualifying species
- ☐ The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely
- ☐ The populations of qualifying species, and,
- ☐ 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?**

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

**Direct effects**

- 8 The development is located outside of the SPA and is not within the 400m buffer for woodlark and nightjar or the 1500m Stone Curlew buffer zone.
- 9 The site is located within the revised buffer surrounding those parts outside of the SPA which have supported 5 or more nesting attempts by the Stone Curlew. Recent stone curlew data (2011-2015 inclusive) were used to review the constraint zones relating to supporting habitat outside the SPA. However in advising on direct impacts of this planning application upon the 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 affect Natural England's advice nor the Councils HRA screening. In addition the development is screened from the SPA by existing development and is separated from the SPA and associated stone curlew habitat by the B1112 Eriswell Road. No significant direct effects are likely
- 10 The site is located outside of Breckland SAC and beyond the 200m buffer; RAF Lakenheath SSSI is within the fenced airbase with no access for the public and consequently with no risk of impacts from fly tipping, trampling or other anti-social behaviour. No direct likely significant effect on the SAC have been identified

## **Indirect effects**

- 11 The potential for indirect recreational impacts on the SPA associated with increased residential properties within the vicinity has been considered. The indicative plan for the site provides opportunities for dog walkers within the site to reduce the need for dogs to be exercised on more sensitive sites, and there are a number of footpaths in the area available for public access. In addition this site is immediately adjacent to the playing fields which would also be available for informal recreational use. The increase in population resulting from this development is relatively small and no significant effects are likely from residents walking or driving into the SPA as a result of the proposed development alone.

## **In-combination effects**

- 12 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)

- 13 The total number of dwellings currently being considered significantly exceeds the total which was tested in the Forest Heath District Council Core Strategy Habitats Regulation Assessment<sup>1</sup> which for Lakenheath was 670 homes. 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 traffic movements.

- 14 Natural England's internal advice on in-combination effects<sup>2</sup> 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 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.

- 15 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. Assessment of this application alone concluded that significant effects are unlikely. The potential for in-combination effects to occur is most likely with other adjacent developments in the north of Lakenheath. In addition there is concern that residents from all of the sites drive to the forest and heathland

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<sup>1</sup> Habitats Regulations Assessment: Forest Heath District Council Core Strategy DPD(March 2009)

<sup>2</sup> NE letter of 4 June 2015

elements of Breckland SPA for recreation and in particular to exercise their dogs in the absence of accessible local green space.

- 16 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.
- 17 In 2010 a visitor survey of Breckland SPA<sup>3</sup> 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.
- 18 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 proximity to a new development would contribute to the reduction of these trips.
- 19 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 7.5km<sup>4</sup>. 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.
- 20 An additional unpublished recreation study (January 2017)<sup>5</sup> 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

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<sup>3</sup> Fearnley, H., Liley, D. and Cruickshanks, K. (2010). Visitor survey from results Breckland SPA. Footprint Ecology.

<sup>4</sup> NE letter of 1 July 2016

<sup>5</sup> 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.

attractive local space for activities, but notably there is little awareness of the nature conservation importance of the sites.

- 21 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.
- 22 This site is located 3.6km from the closest forest component of the SPA and 2.1km from the closest heathland component of Breckland SPA, and has the potential to contribute to in-combination 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.
- 23 In response, and to support the FHDC Site Allocation Local Plan<sup>6</sup>, the Council has undertaken a Natural Greenspace Study<sup>7</sup> which, based on the existing accessible natural greenspace available in each settlement, recommends an approach to mitigation for each settlement identifying some of the 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 Maidscross 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 Maidscross 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 Maidscross 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.
- 24 The indicative plan for the site provides opportunities for dog walkers within the site to reduce the need for dogs to be exercised on more sensitive sites. This plan also shows areas of open space, including green corridors and natural greenspace. However, this is an outline application and the development layout at this stage is only indicative. Policy DM42 of the Joint Development Management Policies Document requires the provision of open space where this is necessary to the acceptability of the development and the FHDC Open Space

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<sup>6</sup> Proposed Forest Heath District Council Submission Site Allocations Local Plan, January 2017

<sup>7</sup> 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

SPD provides a basis to calculate the amount of open space. In this case the layout of the development should be consistent with these policies and a condition should secure this provision.

- 25 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 development, if consented would make a proportionate contribution to this project through a section 106 contribution. The elements that would be delivered through this project would include footpath connection from the site on the periphery of the village recreation ground to the children's play park, and improvements to footpaths to the south of the site, to the south of Undley Road. These avoidance and reduction measures which will form part of the strategic improvement scheme to be implemented in the village, 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.
- 26 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 Breckland SPA or SAC. 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 studies undertaken on behalf of the local highway authority to assess the impact of the various proposals has been published (7 June 2016)<sup>8</sup>. 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 identified mitigation would be advanced warning signage and significant in-combination effects are not likely.

## **Conclusion**

- 1 The proposals alone would not result in likely significant effects on Breckland SPA.
- 2 In-combination adverse effects on the integrity of Breckland Special Protection Area can be avoided if the applicant provides policy compliant open space on the site (secured through a condition) and makes a proportionate contribute to influence recreation in the area to avoid a damaging increase in Visitors to Breckland SPA through provision of offsite measures and through an agreed section 106 contribution.

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<sup>8</sup> Lakenheath Cumulative Traffic Study – Study Overview June 2016



## **European Site Conservation Objectives for Breckland Special Protection Area Site Code: UK9009201**

With regard to the SPA and the individual species and/or assemblage of species for which the site has been classified (the 'Qualifying Features' listed below), and subject to natural change;

**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;**

- **The extent and distribution of the habitats of the qualifying features**
- **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.**

This document should be read in conjunction with the accompanying *Supplementary Advice* document, which provides more detailed advice and information to enable the application and achievement of the Objectives set out above.

### **Qualifying Features:**

- A133 *Burhinus oedichnemus*; Stone-curlew (Breeding)
- A224 *Caprimulgus europaeus*; European nightjar (Breeding)
- A246 *Lullula arborea*; Woodlark (Breeding)



## Explanatory Notes: European Site Conservation Objectives

These Conservation Objectives are those referred to in the Conservation of Habitats and Species Regulations 2010 (the “Habitats Regulations”) and Article 6(3) of the Habitats Directive. They must be considered when a competent authority is required to make a ‘Habitats Regulations Assessment’ including an Appropriate Assessment, under the relevant parts of this legislation.

These Conservation Objectives and the accompanying Supplementary Advice (where this is available) will also provide a framework to inform the management of the European Site under the provisions of Articles 4(1) and 4(2) of the Wild Birds Directive, and the prevention of deterioration of habitats and significant disturbance of its qualifying features required under Article 6(2) of the Habitats Directive.

These Conservation Objectives are set for each bird feature for a [Special Protection Area \(SPA\)](#). Where the objectives are met, the site will be considered to exhibit a high degree of integrity and to be contributing to achieving the aims of the Wild Birds Directive.

**Publication date:** 30 June 2014 (Version 2). This document updates and replaces an earlier version dated 29 May 2012 to reflect Natural England’s Strategic Standard on European Site Conservation Objectives 2014. Previous references to additional features identified in the 2001 UK SPA Review have also been removed.



## European Site Conservation Objectives for Breckland Special Area of Conservation Site Code: UK0019865

With regard to the SAC and the natural habitats and/or species for which the site has been designated (the 'Qualifying Features' listed below), and subject to natural change;

**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;**

- The extent and distribution of qualifying natural habitats and habitats of qualifying species
- The structure and function (including typical species) of qualifying natural habitats
- The structure and function of the habitats of qualifying species
- The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely
- The populations of qualifying species, and,
- The distribution of qualifying species within the site.

This document should be read in conjunction with the accompanying *Supplementary Advice* document, which provides more detailed advice and information to enable the application and achievement of the Objectives set out above.

### 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

\* denotes a priority natural habitat or species (supporting explanatory text on following page)

## **\* Priority natural habitats or species**

Some of the natural habitats and species listed in the Habitats Directive and for which SACs have been selected are considered to be particular priorities for conservation at a European scale and are subject to special provisions in the Directive and the Habitats Regulations. These priority natural habitats and species are denoted by an asterisk (\*) in Annex I and II of the Directive. The term 'priority' is also used in other contexts, for example with reference to particular habitats or species that are prioritised in UK Biodiversity Action Plans. It is important to note however that these are not necessarily the priority natural habitats or species within the meaning of the Habitats Directive or the Habitats Regulations.

## **Explanatory Notes: European Site Conservation Objectives**

These Conservation Objectives are those referred to in the Conservation of Habitats and Species Regulations 2010 (the "Habitats Regulations") and Article 6(3) of the Habitats Directive. They must be considered when a competent authority is required to make a 'Habitats Regulations Assessment', including an Appropriate Assessment, under the relevant parts of this legislation.

These Conservation Objectives and the accompanying Supplementary Advice (where available) will also provide a framework to inform the measures needed to conserve or restore the European Site and the prevention of deterioration or significant disturbance of its qualifying features as required by the provisions of Article 6(1) and 6(2) of the Directive.

These Conservation Objectives are set for each habitat or species of a [Special Area of Conservation \(SAC\)](#). Where the objectives are met, the site will be considered to exhibit a high degree of integrity and to be contributing to achieving Favourable Conservation Status for that species or habitat type at a UK level. The term 'favourable conservation status' is defined in Article 1 of the Habitats Directive.

**Publication date:** 30 June 2014 – version 2. This document updates and replaces an earlier version dated 29 May 2012 to reflect Natural England's Strategic Standard on European Site Conservation Objectives 2014.