



Babergh and Mid Suffolk

Joint Local Plan

Hearing Statement – Matter 1b

Legal Compliance (Habitats Regulations
Assessment)

August 2021



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Introduction

This Hearing Statement has been produced by the Councils for the Babergh and Mid Suffolk Joint Local Plan (JLP) Examination in response to the Inspectors' Matters and Questions. The entire Core Document Library for the JLP Examination can be accessed online.

For further information please visit the Council's JLP Examination webpages below:

<https://www.babergh.gov.uk/planning/planning-policy/new-joint-local-plan/joint-local-plan-submission/joint-local-plan-examination/>

<https://www.midsuffolk.gov.uk/planning/planning-policy/new-joint-local-plan/joint-local-plan-submission/joint-local-plan-examination/>



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Question 1.8

- ***Is the Habitats Regulations Assessment robust and does the plan include all the recommendations identified in the assessment as necessary to ensure compliance with the Habitats Regulations?***

- 1.01 Yes. The Habitats Regulations Assessment (HRA) including Appropriate Assessment (October 2020) ([Document A05](#)) has been prepared to comply with Regulation 63 of The Conservation of Habitats and Species Regulations 2017 (as amended). As the policies contained in the Babergh and Mid Suffolk Joint Local Plan (JLP) cannot rule out Likely Significant Effects on Habitats (European) Sites at Stage 1 HRA, there was a need for further assessments of impacts and Stage 2 Appropriate Assessment (AA).
- 1.02 In paragraph 5.1.3, the HRA including AA made a number of recommendations. Embedding mitigation into the JLP is set out in the relevant sections of the HRA including AA document. Appendix 1 to this document identifies the recommended embedded mitigation and the Councils' response. The recommended strategic mitigation for residential sites within the 13km Zone of Influence is set out in Policy SP09 as well as Policy LP30 requiring developments in excess of 1 hectare to provide open space provision.
- 1.03 The Recreational disturbance and Avoidance Mitigation Strategy (RAMS) has been produced to provide a mechanism to secure mitigation by the Councils together with East Suffolk Council and Ipswich Borough Council. This is detailed in section J of the Ipswich Strategic Planning Area (ISPA) Statement of Common Ground ([Document ES18](#)), to which Natural England are also a signatory.
- 1.04 The HRA including AA also recommended monitoring for potential air quality impacts for roads with 200m of Habitats Sites. To address this recommendation, an air quality monitoring plan has been agreed with Natural England, which is appended to a Statement of Common Ground between the Councils and Natural England agreed in June 2021 ([Document H09](#)). This Statement of Common Ground is in addition to one agreed in March 2021 ([Document ES10](#)), which included a HRA Addendum to address the concerns raised in Natural England's representation and a HRA Technical Note providing helpful analysis on air quality matters.
- 1.05 The Councils are committed to undertaking the air quality monitoring and have appointed consultants to prepare sampling equipment and to analyse the data collected. The monitoring will take place from September 2021 for a period of 12 months and the results will be available in November 2022. As detailed in the June Statement of Common Ground ([Document H09](#)), the monitoring will allow for sufficient baseline data to be collected prior to any plan related air quality effects taking place. Natural England has also advised that the

monitoring should only be used as an early warning mechanism, and therefore recommended that clear plans are in place for action in light of monitoring findings, and with sufficient certainty that such action will be effective. Natural England has agreed that the Local Plan review which is expected to occur five years after plan adoption, will provide an appropriate stage and timescale to determine whether the Plan's policies are having (or could have) an adverse effect on the integrity (AEOI) of the relevant 'Habitats Sites'.

- 1.06 Therefore, the Councils' emphasise their commitment to reviewing the Joint Local Plan if it is deemed necessary by the results of the air quality monitoring. The Councils are of the view based on the work already undertaken as reported in the HRA Addendum (included within [Document ES10](#) as Appendix 1) and the HRA Technical Note (included within [Document ES10](#) as Appendix 2) that there will not be a likelihood of an AEOI of the relevant 'Habitats Sites' in the interim period, and that this has no impact on the Joint Local Plan being examined. However, the Councils do consider this is a matter for Local Plan review if it is deemed necessary in the light of the monitoring outcomes. Therefore, if the Inspectors consider an amendment needs to be made to the Joint Local Plan, the Councils would be content to suggest the following text:

Suggested text ref ST23:

12.19 The Councils commenced the monitoring of air quality from traffic on roads within 200 metres of Protected Habitats Sites in September 2021. An Air Quality Monitoring Plan was agreed with Natural England for the collection of Nitrogen Dioxide (NO₂) and Ammonia (NH₃) emissions over a 12-month period from September 2021. The results of which would be available in November 2022. Any Local Plan Review will provide an appropriate stage and timescale to determine whether the Plan's policies are having (or could have) an adverse effect on the integrity (AEOI) of the relevant 'Habitats Sites'.

Suggested text ref ST24:

SP09(4) Should the monitoring of air quality from traffic on roads within 200 metres of Protected Habitats Sites demonstrate an adverse effect on their integrity, then the Councils will commit to an immediate review of their Local Plan to address any mitigation measures required.

- 1.07 Policy LP18 2a) provides that any proposed development which is likely to have an adverse impact on a designated site will not be supported by the Councils. This includes development which may result in AEOI of Protected Habitats Sites, for example from emissions due to an increase in traffic. This policy will be used to require a project-level Habitats Regulations Assessment where

appropriate in order for the Councils to be satisfied there would be no AEOI of any Protected Habitats Site. A case by case judgment would be made, having regard to the scale and location of the development and its likely traffic distribution relative to the Protected Habitats Sites, as to whether to require a project-level Habitats Regulation Assessment, in the period between adoption of the Joint Local Plan and any Local Plan review.

Additional note

1.08 Please note the Councils omitted to undertake HRA on three sites, shown in the table below, that were included in the Joint Local Plan.

Site Ref	Site Name	District	Site size	Approximate number of dwellings
LA110	Land north of Millfield, Eye	Mid Suffolk	1.3ha	34
LA111	Allotments north of Millfield, Eye	Mid Suffolk	1.4ha	72
LA114	Land north of Red Hill Road / Malyon Road, Hadleigh	Babergh	3.2ha	75

1.09 HRA has been undertaken on these sites and concludes that sites LA110 and LA111 are screened out at Stage 1 HRA. Eye lies outside the Impact Risk Zones of any Habitats Sites as shown in Table 6 of the Eye Neighbourhood Plan Strategic Environment Assessment (SEA) / HRA Screening report (December 2018) ([Document H19](#)).

1.10 Site LA114 is screened in for further assessment at Stage 2 Appropriate Assessment as it is a residential site which lies within the 13km Zone of Influence of the Suffolk Coast RAMS. The strategic mitigation necessary to avoid impacts from recreational disturbance on the Habitats Sites within scope of the HRA Appropriate Assessment, will be secured at application stage. As this allocation is over 50 dwellings, the development will need to secure both access to sufficient greenspace on site and mitigation to be delivered at the Habitats Sites by the strategic solution identified in Policy SP09.

Appendix 01

HRA recommended embedded mitigation to Local Plan	Councils' response
Loss of Functionally Linked Land / Impact on Features on Land outside Habitats Sites	
<p>Para 4.9.6: To ensure certainty that a Loss of Functionally Linked Land will not be caused by Policy LP09, it is still recommended that the Policy wording is amended to ensure that any allocation sites for Gypsy and Traveller and Travelling Showpeople will be chosen in areas which will not impact Functionally Linked Land. This should outline that the LPA will need to prepare a project-level HRA to assess the likely impacts from development if proposed sites are situated within the SSSI ZOI of Habitats Sites.</p>	Criteria added to Policy LP09 3)
<p>Para 4.9.7: All allocations sites must have a project level HRA if they are proposed within the ZOI of coastal Habitats Sites (Stour and Orwell Estuaries SPA and Ramsar & Deben Estuary SPA and Ramsar) to avoid impacts from recreational disturbance, in combination of other plans and projects. However, if an allocated site is situated within the agricultural land in Wherstead, a project level HRA will also assess the additional impacts from the development alone and therefore will also identify whether allocated sites will result in a likely significant effect to functionally linked land.</p>	Policy SP09 addresses these requirements.
Water Quality	
<p>Para 4.10.24: To ensure certainty that impacts from water quality to Habitats Sites will be avoided by Policy LP09, it is, as previously recommended, that the Policy wording is amended to ensure that any allocation sites for Gypsy and Traveller and Travelling Showpeople will be chosen in areas which will not impact Functionally Linked Land. This should outline:</p> <p><i>if proposed sites are situated within the SSSI ZOI of Habitats Sites, then the LPA will need to prepare a project-level HRA to assess the likely impacts from development.</i></p> <p>Any project level HRA provided for these allocated sites will then assess the potential impacts from Water quality and will determine the need for further mitigation if required. This will be covered by Environmental Policy LP17.</p>	Criteria and recommended wording added to Policy LP09 3)

<p>Policy LP24 - New Agricultural / Rural Buildings in the Countryside</p> <p>Para 4.10.25: To ensure certainty that adverse effects to site integrity will be avoided to Habitats Sites from the provision of new Agricultural Buildings, it is recommended that the Policy wording is amended to ensure that adverse effects to site integrity will be avoided via water quality. This is imperative for new or amended large scale and/or intensified agricultural practices for livestock (i.e. pig or poultry farming). This will be covered by Environmental Policy LP17.</p> <p>Para 4.10.26: As a result, it is proposed that bullet point ‘2.’ is changed to the following wording: The nature of any proposal in the locality and its relationship and impacts with surroundings (including but not limited to Habitats Sites and protected species, listed buildings and settings).</p> <p>In addition, it is proposed that bullet point ‘6.’ is changed to the following wording: proposals for large scale and/or intensified agricultural activity within rural areas must provide safe access. It must be demonstrated that such proposal would not create or cause significant levels of traffic, particularly lorries/HGV’s on rural roads.</p> <p>The proposal must also ensure the location, design and scale of the proposal does not have a significant adverse effect on the character and appearance of the locality; must not cause any significant amenity impacts; must avoid adverse effects to site integrity to Habitats Sites via reductions in air or water quality; and must not cause any conflict of uses through any impacts on existing rural commercial activity/business.</p>	<p>Policy LP24 2b) amended to include reference to Habitats sites and protected species.</p> <p>Referred to in paragraph 15.42 supporting Policy LP24.</p> <p>Referred to in paragraph 15.43 supporting Policy LP24.</p>
Air Quality	
<p>Para 4.11.8: Therefore, all applications which involve pig or poultry farming should contain an Air Quality Report to accompany the planning application. This should screen the proposal to check for the likelihood of significant effects from aerial emissions on the highlighted designated sites. This should particularly consider impacts from the development alone from ammonia and must conclude that the proposal will result in ammonia concentrations would be below the Natural England advisory criterion of 1% of the Critical Level OF 3.0 µg/m³ and the Critical Load of 10.0 kg/ha at the</p>	

<p>above designated sites. In addition, a project level Habitats Regulations Assessment – Appropriate Assessment should be undertaken by the Local Authority, to be reviewed by Natural England as the Nature Conservation Body.</p> <p>Para 4.11.9: Policy LP24 - New Agricultural / Rural Buildings in the Countryside</p> <p>As a result, same wording recommended as above in water quality.</p>	<p>See above.</p>
<p>Disturbance</p>	
<p>Para 4.12.10: The proposed mitigation measures for the indicated policies will be covered by Environmental Policy LP17.</p>	<p>No changes required.</p>
<p>Recreational Disturbance</p>	
<p>Para 4.13.13 and Para 4.13.14: Residential allocations for over 50 dwellings within the 13km ZOI of Suffolk Coast RAMS.</p> <p>Policies for residential site allocations for over 50 dwellings</p> <ul style="list-style-type: none"> • LA003 – Land south of Church Lane, Claydon • LA006 – Land south of Fitzgerald Road, Bramford • LA007 – Land east of The Street, Bramford • LA008 – Land south east of Back Lane, Copdock and Washbrook • LA012 – Land north of Burstall Lane and west of B1113, Sproughton • LA013 – Land north of the A1071, Sproughton • LA014 – Land at Poplar Lane, Sproughton • LA016 – Land west of Bourne Hill, Wherstead • LA027 – Former Babergh District Council Offices, Hadleigh • LA028 – Land north east of Frog Hall Lane, Hadleigh • LA054 – Land east of Longfield Road, Capel St Mary • LA055 – Land south-west of Rembrow Road, Capel St Mary • LA060 – Land north west of Moores Lane, East Bergholt <p>need to secure access to sufficient greenspace at application stage in line with Natural England advice by adding to supporting text and requiring project level HRA.</p>	<p>Developments in excess of 1 ha will be required to provide on-site open space provision as set out in Policy LP30 2)</p> <p>Development that create new dwelling(s) within the identified Protected Habitats Sites Mitigation Zone will be required to make appropriate contributions through legal agreements towards management projects and/or monitoring of visitor pressure and urban effects on Habitats Sites and be compliant with the HRA Recreational disturbance and Avoidance Mitigation Strategy. Development will otherwise need to submit separate evidence of compliance with the Habitats Regulations Assessment regarding predicted impacts upon relevant designated sites as set out in Policy SP09.</p>

<p>Para 4.13.15: Policy LP10 – Moorings, Marinas and Houseboats – To ensure certainty that impacts from water quality to the Stour and Orwell Estuaries SPA & Ramsar, it is recommended that policy text has the following minor amendment as follows:</p> <p><i>“Outside of the defined moorings and marinas located at Pin Mill, Woolverstone, Shotley and Fox’s at Wherstead, there will be no introduction or extension of moorings, marinas and houseboats or the ancillary land based activities across the Stour and Orwell estuaries SPA and Ramsar site (Suffolk Coast RAMS zone of influence).”</i></p>	<p>In Policy LP10 1)</p>
<p>Para 4.13.16: Policy LP10 – Moorings, Marinas and Houseboats – Within the defined moorings and marinas, planning permission will only be granted if all of the following criteria are met to the satisfaction of the LPA:</p> <p><i>“The proposal will not result in any adverse effect (either through construction and or operation) on the integrity of the Stour and Orwell SPA and Ramsar and the Suffolk Coast and Heath AONB. If planning permission is granted a Construction Management Plan must be agreed prior to commencement of development to demonstrate mitigation of construction impacts.”</i></p>	<p>In Policy LP10 2a)</p>

Appendix 02

Main issues raised from R19 JLP consultation statement (Ref A06)

HRA main issue

HRA. Main Issue	Council brief response
The HRA is not sufficiently rigorous or robust, and it is not possible to ascertain that the proposals will not result in adverse effects on relevant sites.	Through discussion the Councils and Natural England have resolved a number of matters as identified in their Statement of Common Ground (March 2021) and appendices (Document ES10).
The use of the Zone of Influence boundaries and Impact Risk Zones for the scoping of the assessment needs to be reviewed.	See (Document ES10).
The approach to screening on impact pathways concerning water quality, water quantity and air quality need further review.	See (Document ES10).
The HRA Tables 7 and 8 need further detail to explain the scoping decisions made.	See (Document ES10).
Effective monitoring of air quality needs to be identified to prevent adverse impacts.	See (Document ES10) and the Statement of Common Ground between the Councils and Natural England dated June 2021 including Appendix 1 (Document H09).