

BASSETLAW DISTRICT COUNCIL

Habitat Regulations Assessment

Site Allocations DPD (Preferred Options) –
Draft Screening Report

February 2014



Bassetlaw
DISTRICT COUNCIL
— North Nottinghamshire —

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1. Introduction

The Local Development Framework

- 1.1 Bassetlaw District Council (BDC) is currently preparing the Bassetlaw Local Development Framework (LDF). The aim of the LDF is to provide a clear framework to guide future development and sets out a vision for Bassetlaw which recognises and builds on the area's characteristics, its aspirations and needs. The LDF will comprise a series of individual documents including the Core Strategy & Development Management Policies DPD; the Site Allocations DPD; and Supplementary Planning Documents (SPD).
- 1.2 The main purpose of the Site Allocations DPD (SADPD) is to allocate sufficient land for housing and employment across Bassetlaw to 2028. The SADPD has been written in accordance with the adopted Core Strategy and its approach to settlement growth. When adopted, the SADPD will illustrate the location and size of the allocated sites on a Proposals Map and provide guidelines on how each site should be developed.

Requirement for Habitat Regulations Assessment

- 1.3 This document presents a Screening Report of the Habitat Regulations Assessment (HRA) for the Bassetlaw Site Allocations Development Plan Document (hereafter referred to as the SADPD).
- 1.4 Natura 2000 sites are a network of sites spanning Europe that are considered to represent natural habitats of the highest value for nature conservation. The sites can be important for plants and animals that are rare or considered threatened in a European context. The network of sites, comprising Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) was established under the 1992 Habitats Directive¹ and the 1979 Birds Directive². These sites are often simply referred to as 'European Sites'. SACs are designated for their importance for habitats while SPAs are designated for their importance for birds.
- 1.5 In addition to SPA and SAC sites, Ramsar³ sites are designated areas important for their wetland habitats. The National Planning Policy Framework states that Ramsar sites should receive the same level of protection as other European sites, which means that any Ramsar sites should be taken into account in the HRA process.
- 1.6 Under the provisions of the Habitats Directive, translated into UK law by the Habitats Regulations⁴, a competent authority must carry out an assessment of whether a plan or project will significantly affect the integrity of any European Site, in terms of impacting the site's conservation objectives. The term 'Habitat Regulations assessment' was used in draft

¹ Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora.

² Council Directive 79/409/ECC on the conservation of wild birds (as amended and subsequently codified in Directive 2009/147/EC).

³ Convention on Wetlands of International Importance especially as Waterfowl Habitat. Ramsar (Iran), 2nd February 1971.

⁴ The Conservation (Natural Habitats, &c.) Regulations 1994

guidance by Natural England⁵ to describe the whole process of assessing the effects of a development plan on a European Site. An 'Appropriate Assessment' is simply a step within the Habitat Regulations Assessment. The assessment must be based on a rigorous application of the precautionary principle and therefore requires those undertaking the exercise to prove that the plan will not have a significant impact on the European Site's conservation objectives. Where uncertainty or doubt remains, an adverse impact should be assumed.

Core Strategy Screening Report

- 1.7 The Bassetlaw Core Strategy HRA Methodology⁶, Screening Report and Annex document were prepared during 2010. This 'living draft' or suite of documents assessed all the potential effects of planned future development in the Bassetlaw area on all designated European Sites within a 15km radius of the District's administrative boundary. It was concluded that the plan will have no adverse effects on the integrity of any of the European sites included in the scope of the Screening Report, either alone or in combination with other plans or projects.
- 1.8 The SADPD has been prepared by Bassetlaw District Council in response to the challenges and opportunities facing a predominantly rural area, located on the edge of larger urban conurbations. The SADPD builds on the overarching strategic policy framework set out in the Core Strategy and Development Management Policies DPD, up until 2028. As such, in determining whether the SADPD will give rise to any potential effects on designated European Sites, it is appropriate to consider the scope and conclusions of the already completed HRA work – i.e. the aforementioned Core Strategy HRA Screening Report.

Screening the SADPD

- 1.9 In view of the above, the screening process for the SADPD will primarily need to determine whether the plan raises any issues that were not previously considered in the Core Strategy Screening Report, either alone or in-combination with other plans or projects within Bassetlaw or neighbouring areas. If the matters proposed in the SADPD Preferred Options only reflect those that were previously identified in earlier stages of the HRA process, then further more detailed assessment is not considered necessary. Should screening of the SADPD policies/proposals are determined to have potential effects being identified or if there is uncertainty regarding potential effects, beyond those previously considered, its then further more detailed appropriate assessment is required.

⁵ Draft Guidance on The Assessment of Regional Spatial Strategies and Sub-Regional Strategies under the Provisions of the Habitat Regulations.

⁶ Bassetlaw Habitat Regulation Assessment Methodology (May 2010)

2 European Sites Potentially Affected

Designated European Sites

- 2.1 While there are no European Sites within the Bassetlaw administrative area, three existing sites lie within 15km⁷ of the boundary: Birklands and Bilhaugh SAC; Thorne & Hatfield Moors SAC; and Thorne & Hatfield Moors SPA.
- 2.2 No Ramsar sites are likely to be affected by development plans in Bassetlaw. Appendix 1 contains a map showing the location of the above sites in relation to the Bassetlaw administrative area and a 15km radius from the site boundaries.
- 2.3 Sites that lie outside this 15km zone may also need to be considered, depending on the nature of the proposed plan or project.
- 2.4 A brief description and the rationale behind the designation of each of the above sites is provided in Table 2.1 below.

Table 2.1: Features of interest on European Sites

Site name	Summary of features of interest
Birklands and Bilhaugh SAC	Birklands and Bilhaugh SAC is an area of Sherwood Forest designated due to the presence of old acidophilous oak woodland on sandy plains. It is one of only four locations in the UK where this habitat is found and considered to be of outstanding quality. While not a designating feature, the site is notable for its rich invertebrate fauna, particularly spiders, and for having a diverse range of fungal species. The woodland also has a mixed age structure and is important for its dead wood communities
Hatfield Moor SAC	Hatfield Moor SAC is designated due to the presence of degraded raised bog that is considered capable of natural regeneration. It is the second largest site of this type in the UK (after Thorne Moors). The site is relic of a once extensive area of bog and fen peatlands in the Humberhead Levels. Historical peat extraction on the site means little of the original habitat remains however, since mineral working ceased the bog is being restored. The site includes birch woodland, dwarf shrubs such as heathers, bog species and sphagnum mosses. It is also notable for its invertebrate species including the mire pill beetle
Thorne Moor SAC	Thorne Moor SAC is designated due to the presence of degraded raised bog considered capable of regeneration. It is the largest area of this habitat type in the country. Due to restoration work, a small proportion of the site contains active raised bog, a second reason for the site designation. A variety of species are present including sphagnum mosses, cotton grasses, heather, cranberry and bog rosemary
Thorne and Hatfield Moor SPA	Parts of Thorne and Hatfield Moors are designated as an SPA as the area regularly supports a population of Nightjar during the breeding season. Thorne and Hatfield Moors is the most northerly site designated an SPA because of the presence of breeding nightjar. The site supports approximately 1.8% of the national population of this species

- 2.5 Natural England has defined conservation objectives for the three European designated sites within 15km of the Bassetlaw boundary. The conservation objectives describe the state

⁷ No set distance is prescribed in the HRA process, however 15km is considered reasonable in this instance.

in which a habitat or feature on a site should ideally be maintained. Conservation objectives relate specifically to the features of a site that provide the reason for that site being designated (as set out above).

2.6 Appendix 2 of the Bassetlaw Habitat Regulation Assessment Methodology contains the conservation objectives in full, as produced by Natural England for each of the sites under consideration. Table 2.2 (below) provides a summary of these objectives.

Table 2.2: Summary of European Sites' conservation objectives

Site name	Conservation objectives
Thorne and Hatfield Moors SAC	<ul style="list-style-type: none"> • To have no loss in area of lagg fen and bog. • To have no obvious modification in habitat structure. • To maintain vegetation composition. • To maintain species indicating local distinctiveness.
Thorne and Hatfield Moors SPA	<ul style="list-style-type: none"> • To monitor the number of calling male birds each year and maintain a stable or increasing population. • To not lose any more than 5% of the current nightjar habitat. • To maintain a mosaic of habitat types.
Birklands and Bilhaugh SAC	<ul style="list-style-type: none"> • To maintain the extent of the area covered by ancient semi natural wood pasture. • To maintain the age and size class distribution. • To not have any reduction in the number of veteran trees. • To maintain areas of open habitat. • To ensure dead wood habitat is maintained. • To ensure regeneration of young trees. • To ensure species composition is desirable. • Ensure that less than 5% of native oaks above a set size show signs of stress. • To maintain local distinctiveness. • To ensure associate fungi and invertebrates show no sign of significant decline.

2.7 The vulnerabilities of each site (identified by considering issues that might compromise the site's conservation objectives and hence threaten the site's integrity) are detailed in Table 2 in the Methodology document.

Prospective Special Protection Area

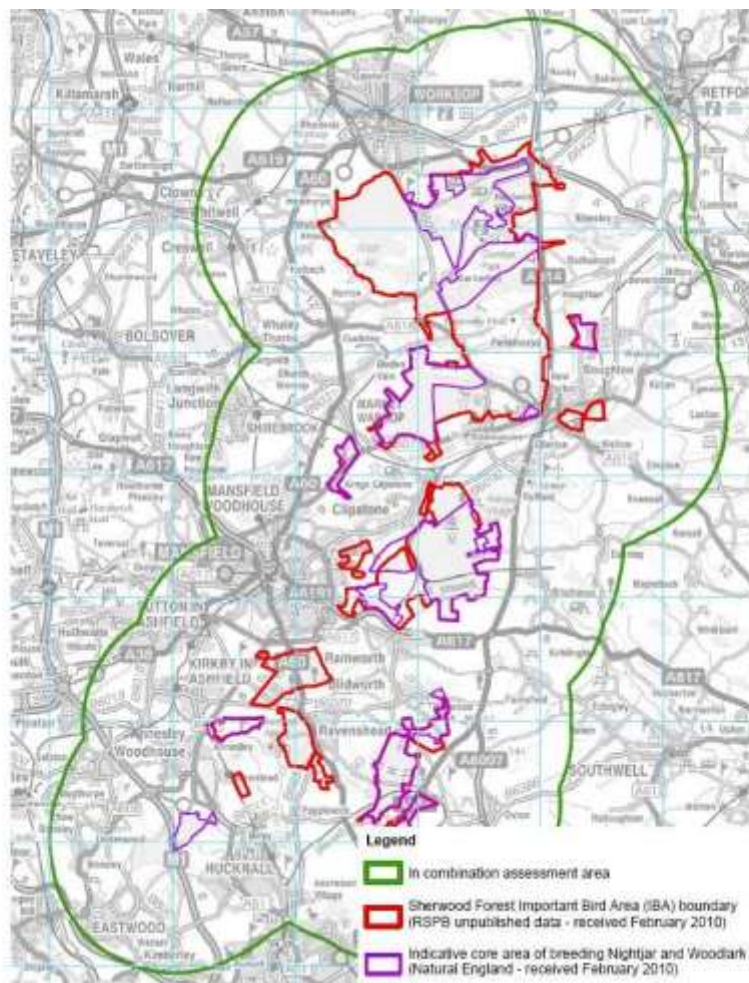
2.8 Whilst preparing the Screening Report for the Core Strategy it emerged that the Council needed to give consideration to the potential for a new European site (a Special Protection Area, in accordance with the Birds Directive (79/409/EEC as amended) and Habitats Regulations 1994 (as amended)) and subsequent potential effects that may arise as a result of development proposed in the plan. The potential for a new European site was highlighted during the inquiry into a proposed Energy Recovery Facility at Rufford⁸, in neighbouring

⁸ Planning appeal (APP/L3055/V/09/2102006)

Newark and Sherwood District. This prospective SPA covers large parts of Sherwood Forest, some of which extends in to Bassetlaw.

- 2.9 The site potentially qualifies as a SPA because of the presence of breeding nightjar and woodlark. The populations in the Sherwood Forest region are believed to represent more than 1% of their total breeding populations in the UK. While referred to as a 'site' the site comprises a number of small areas which appear to provide optimal breeding habitat.
- 2.10 As yet, no assessment has been made of the potential boundary of any future SPA. Natural England has however identified an indicative boundary around what is thought to represent the core area for nightjar and woodlark breeding populations in the Sherwood Forest area. This is shown in Figure 1, below. Natural England emphasise that this is not a pSPA boundary, not least because there is ongoing consideration of an additional qualifying species (Honey Buzzard) in the northernmost area (notably, within Bassetlaw) of Sherwood Forest. Including this species within any future SPA may, therefore, require the inclusion of additional lands and need wider consultation with landowners, stakeholders and partners on a pSPA site boundary.

Figure 1: Map of the Sherwood Forest Prospective SPA (courtesy of Nottinghamshire Wildlife Trust)



- 2.11 Figure 1 also shows an additional boundary that represents the extent of the ‘in-combination assessment area’. The extent of this boundary has potentially significant implications for the future growth of Worksop and the western edge of Retford, although the formal designation process will take place over a number of years, set within the context of a wider review (led by Natural England) of sites and policy across the country.
- 2.12 An Annex to the HRA for the Core Strategy considered the potential implications of a new SPA at Sherwood Forest. Given the current non-statutory status of the site, this was not integrated within the main HRA in order to avoid confusing the two elements and the term ‘prospective SPA’ is used to refer to this area. The Annex assessment applies a risk based approach (advocated by Natural England⁹), examining the implications of the possible designation of a new SPA over the course of the Core Strategy period. The assessment considers the likely effects of the Bassetlaw Core Strategy in-combination with those identified in Newark and Sherwood District Council’s HRA¹⁰.
- 2.13 In the absence of formal conservation objectives for the prospective SPA, Natural England has indicated that consideration should be given to the following issues which have the potential to affect the integrity of the site:
- Air quality
 - Recreational pressure (including potential for disturbance of ground-nesting birds)
 - Water abstraction
 - Pet predation
 - Issues associated with lighting
 - Noise

3 Identifying Potential Effects

- 3.1 The Core Strategy HRA Screening Report concluded that the Vision, the Strategic Objectives, Core Policies and Development Management Policies will not have any adverse effects on the integrity of any of the European sites included in the scope of the assessment, either alone or in combination with other plans or projects. The scope of the Core Strategy does not therefore need to be examined again at this stage.
- 3.2 The question exists, however, as to whether the SADPD includes policies or proposals that create new issues which are in need of Appropriate Assessment. To address this it is necessary to consider whether: a) this DPD is in conformity with the Core Strategy; and b) if there are any additional matters arising from the proposals for the individual site allocations.

Assessing compliance with the Core Strategy

- 3.3 The SADPD will implement the Core Strategy by identifying the number of houses that are to be built across the different tiers of the settlement hierarchy. Section 1 of the SADPD

⁹ Natural England guidance (see Appendix 2)

¹⁰ Newark and Sherwood Publication Core Strategy, Habitats Regulations Assessment, Appendix C – Implications of a Prospective Special Protection Area, Newark and Sherwood District Council/WSP April 2010

Preferred Options¹¹ proposes to deliver the Core Strategy’s residual housing requirements to 2028, in accordance with the spatial strategy in Policy CS1. The residual figures take in to account: previous planning permissions that have been completed between 2010 and 2013; other deliverable sites which either have planning permission but are yet to be implemented, or are located where the principal of housing development has already been established through pre-application or earlier allocations; sites with planning permission are under construction (as of 31 March 2013); an additional 20% of the housing targets¹² to be allocated to ensure choice and competition in the market for the delivery of housing land; and redistribution of a proportion of the growth target from the Rural Services Centre development tier, in line with consultation responses.

- 3.4 While the figures above do represent a minor change from those set out in the Core Strategy there are as a direct result of the flexibility of the DPD and therefore do not result in non-conformity.
- 3.5 In view of the above, the SADPD only contains policies that list the site allocations and the proposed use. It makes it clear that all planning applications relating to specific site allocations will need to comply with the policies within the Core Strategy. The strategic implications of the SADPD on European Sites outside of the area are therefore regarded as being consistent with the Core Strategy.

Identifying further issues

- 3.6 On the basis that the SADPD has been prepared in conformity with the Core Strategy it is necessary to determine whether there are any aspects of the emerging document which have not previously been considered in the earlier parts of the HRA. It is then necessary to determine whether or not any identified issues might give rise to new issues in need of testing for likely effects on protected habitats or species.
- 3.7 The SADPD sets out potential allocation sites by settlement, allocation policies setting out any site specific requirements to be delivered through the development process. This level of information is of particular importance on large sites or those with complex issues affecting delivery.
- 3.8 Table 3.1 shows the assessment undertaken to identify proposed land allocations in relation to the relevant sections of the Core Strategy and the potential effects on European Sites.

Table 3.1: Assessing the effects of proposed allocations

Potential allocations within 15km	Relevant Core Strategy policy	Potential threat to the site	Commentary	Likely significant effects arising?
Thorne & Hatfield Moors SAC				
Harworth and Bircotes: H8 (182), H9 (194), H10 (192), H11 (186/211), H12	SO1, SO2, SO3, SO4, SO5 Policy CS4:	Water abstraction	Principle agreed via Core Strategy – Bassetlaw Water Cycle Study indicated that these sites	None

¹¹ Bassetlaw Site Allocations Preferred Options (February 2014)

¹² In accordance with the National Planning Policy Framework (2012) Paragraph 47

Potential allocations within 15km	Relevant Core Strategy policy	Potential threat to the site	Commentary	Likely significant effects arising?
(190), C1 (187), E2 (H4), E3 (H6) Everton: H21 (408), H22 (296), H23 (477) Mattersey: H24 (428) Misson: MU4 (480) Walkeringham: H31 (438)	Harworth and Bircotes Policy CS7: Misterton Policy CS8: Rural Service Centres		are not hydrologically connected to any features within the district that are likely to be used for Public Water Supply to new housing, therefore unlikely to have an impact on European Sites. No new issues identified.	
		Climate change	Principle agreed via Core Strategy – policies collectively seek to minimise impact of new development on climate change. No new issues identified.	None
		Air pollution	Core Strategy screening acknowledges population growth will result in increased car use, contributing to air pollution. LDF, however, has limited scope to address car use and relies on the LTP to promote alternative means of travel. Industrial development may give rise to polluting uses. No new issues identified.	None Site specific assessments may however be required, depending on uses that come forward on allocated employment sites
		Recreational pressure	Principle agreed via Core Strategy – although an increase housing numbers in Harworth Bircotes and cumulatively in villages to the north of the District will increase the number of people living near to Thorne & Hatfield Moors, Core Strategy Policy will ensure quantitative and qualitative growth in green infrastructure, diverting potential recreational pressure. No new issues identified.	None
Thorne & Hatfield Moors SPA				
Harworth and Bircotes: H8 (182), H9 (194), H10 (192), H11 (186/211), H12 (190), C1 (187), E2	SO1, SO2, SO3, SO4, SO5 Policy CS4: Harworth	Loss of foraging habitat	BDC HRA Methodology indicates that the distance of the district boundary from Thorne & Hatfield Moors is such	None

Potential allocations within 15km	Relevant Core Strategy policy	Potential threat to the site	Commentary	Likely significant effects arising?
(H4), E3 (H6) Everton: H21 (408), H22 (296), H23 (477) Mattersey: H24 (428) Misson: MU4 (480) Walkeringham: H31 (438)	and Bircotes Policy CS7: Misterton Policy CS8: Rural Service Centres		that development within Bassetlaw will not impact upon nightjar foraging habitat. No new issues identified.	
		Recreational disturbance	Principle agreed via Core Strategy – although an increase housing numbers in Harworth Bircotes and cumulatively in villages to the north of the District will increase the number of people living near to Thorne & Hatfield Moors, Core Strategy Policy will ensure quantitative and qualitative growth in green infrastructure, diverting potential recreational users and the subsequent threat to habitat. No new issues identified.	None
Birklands and Bilhaugh SAC				
Worksop: H1 (35), H2 (90), H3 (30), H4 (9), MU1 (195/343/W8), MU2 (28/W6), E1 (W1) Retford: H6 (37), H7 (7), H8 (46/309), MU3 (51/R7) Tuxford: H13 (122), H14 (490) Cuckney: H17 (399) East Markham: H18 (108), H19 (141) Elkesley: H20 (247) Nether Langwith: H25 (256)	SO1, SO2, SO3, SO4, SO5 Policy CS2: Worksop Policy CS3: Retford Policy CS6: Tuxford Policy CS8: Rural Service Centres	Recreational pressure	Principle agreed via Core Strategy – although an increase housing numbers principally in Worksop, but also in Retford and Tuxford, will increase the number of people living near to Birklands and Bilhaugh, Core Strategy Policy will ensure quantitative and qualitative growth in green infrastructure, diverting potential recreational pressure. No new issues identified.	None
		Air pollution	Core Strategy screening acknowledges population growth will result in increased car use, contributing to air pollution. LDF, however, has limited scope to address car use and relies on the LTP to promote alternative means of travel. Industrial development may give	None Site specific assessments may however be required, depending on uses that come forward on allocated employment sites

Potential allocations within 15km	Relevant Core Strategy policy	Potential threat to the site	Commentary	Likely significant effects arising?
			rise to polluting uses. No new issues identified.	
		Water abstraction	Principle agreed via Core Strategy – Bassetlaw Water Cycle Study indicated that these sites are not hydrologically connected to any features within the district that are likely to be used for Public Water Supply to new housing, therefore unlikely to have an impact on European Sites. No new issues identified.	None

Assessment outcomes

- 3.9 The above analysis confirms that the potential effects of the proposed site allocations will not give rise to further issues, principally on the basis of the Core Strategy and Development Management Policies ensuring appropriate measures are put in place to address any of the issues arising through the development process. As noted in the previous Screening Report and Annex document, the Council’s spatial strategy acknowledges the existence and relative proximity of areas of high sensitivity (both within and beyond the District boundary) and seeks to avoid development in locations that would give rise to adverse effects.
- 3.10 It should be noted that the SADPD clarifies the number of dwellings that will be built in the Rural Service Centre tier of the settlement hierarchy. While the Core Strategy indicates that this tier will deliver *up to* 10% of the District’s residual housing target, the actual figure, in line with consultation feedback, is closer to 4%. The shortfall is redistributed to Worksop (receiving one third) and Harworth Bircotes (receiving two thirds). The increase in the number of dwellings in these settlements is not regarded as significant or therefore problematic in terms of the overall potential effect(s) on European sites, with the Core Strategy being designed from the outset to be flexible and respond to such changes. Set in the context of the whole plan, the proposed number of dwellings in rural areas within the Screening Report area of search is negligible, notwithstanding the growth targets for Worksop, Retford and Harworth Bircotes. In the current draft of the SADPD there are only 345 additional dwellings proposed for allocation within 15km of Birklands and Bilhaugh SAC (including Tuxford, Cuckney, East Markham, Elkesley and Nether Langwith). Likewise, only 58 additional dwellings are proposed in the Rural Service Centre settlements within 15km of Thorne & Hatfield Moors SAC and SPA (including Everton, Mattersey, Misson and Walkeringham).
- 3.11 While it may be determined that the proposed employment allocations may give rise to additional issues at this stage, with no end users yet identified, the same approach should be applied to the SADPD as to the Core Strategy Screening Report – i.e. site specific Screening/Appropriate Assessments may be required at application stage, depending on the

use and potential effects. It is likely that certain industrial processes and schemes which result in significant increases in road traffic along relevant transport corridors may trigger the need for a more detailed appraisal.

4 In Combination Effects

- 4.1 As well as assessing the Site Allocations Document for any likely significant effects, an assessment also needs to be undertaken 'in combination' with other plans to assess whether the in combination effects will create a likely significant effect on any of the identified European Sites.
- 4.2 The Bassetlaw HRA Methodology and Core Strategy Screening Report identified other relevant plans and projects and discussed the potential for them to have in combination effects on a European Site. While in combination effects were ruled out for all issues at this level it was determined that site specific assessments may be required for employment allocations, depending on the nature of the use proposed. As such, employment developments particularly in Worksop, Retford, Harworth Bircotes and Tuxford should give full consideration to the direct and in combination effects of air pollution.

5 Sherwood Prospective Special Protection Area

- 5.1 While no further decision has been made on the designation of the Sherwood SPA the Secretary of State (SoS) dismissed the appeal against refusal of planning permission for construction of the Energy Recovery Facility (ERF) on land at the former Rufford Colliery, which brought this issue to light. The ERF Appeal Decision stated that the SoS agreed with the Inspector's reasoning and conclusions on nature conservation that, whilst the application site is within an area not currently identified as a Special Protection Area, there is merit in following a (Conservation of Habitats and Species) Regulation 61 approach towards considering the impact of the ERF scheme on the use of this area by the identified Annex 1 bird species (a "risk based approach"). Furthermore, having carefully considered the Inspector's assessment of the proposal on this basis (by way of a "shadow assessment"), the SoS agrees that the effect of the mitigated scheme, in combination with other plans and projects, is likely to be significant.
- 5.2 As such, the Council maintain the precautionary approach prescribed by Natural England and set out in the initial screening of policies in the Core Strategy. Although the SADPD is in conformity with the Core Strategy and development on allocated sites must comply with the relevant policy criteria, assessment of the potential effects of the Core Strategy suggested that development in Bassetlaw may give rise to likely significant effects in combination with the growth occurring within Newark and Sherwood's administrative area, if the SPA were designated. The Annex to the Core Strategy Screening Assessment concluded that the likely significant effects of the DPD on the conservation issues of concern will most likely be as a result of changes in air quality associated with an increased volume of traffic. With road use intensifying directly as a result of development occurring in Bassetlaw, it is the in-

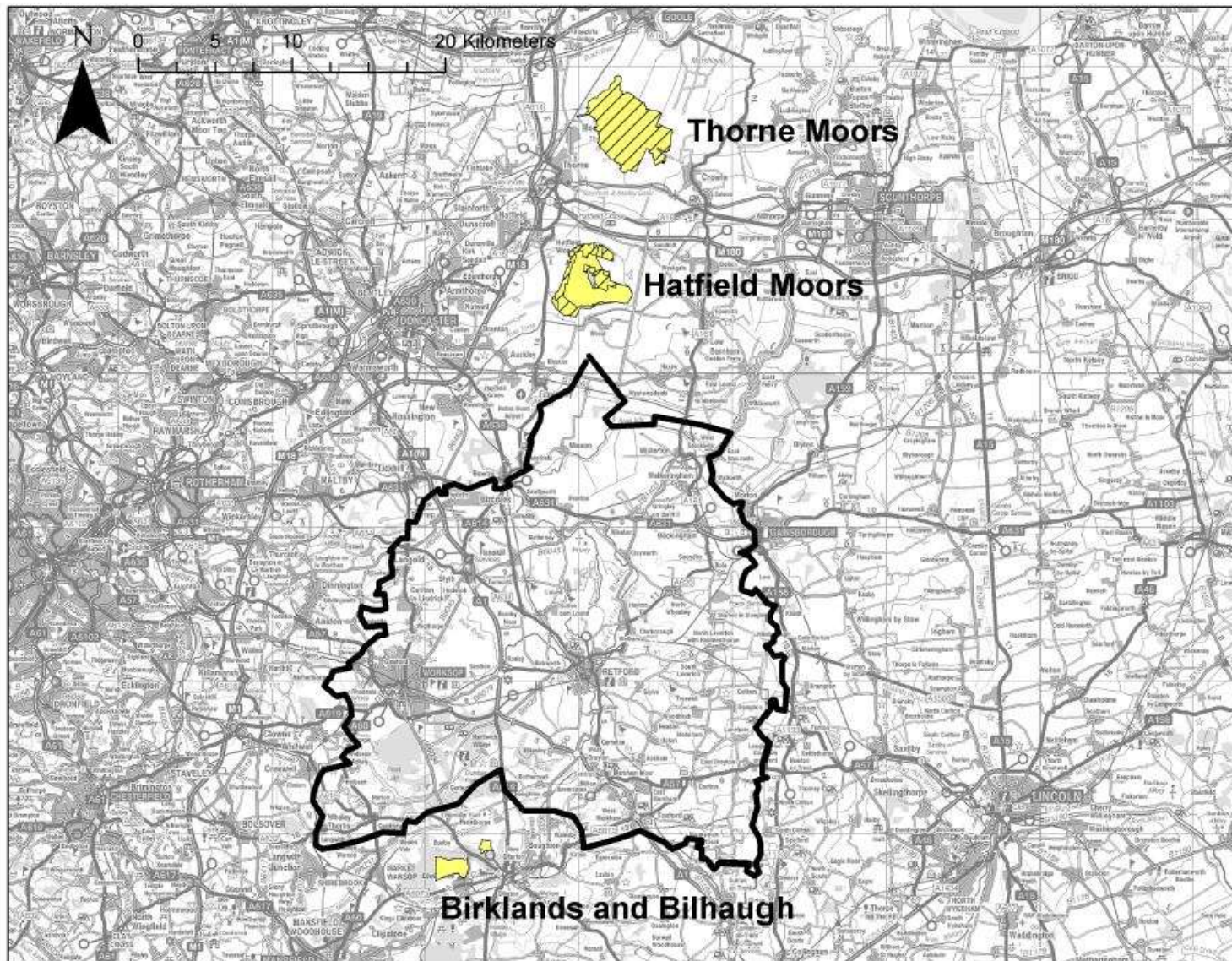
combination effect with the growth occurring in Newark and Sherwood that may give rise to the need for an Appropriate Assessment if the prospective SPA is designated.

- 5.3 Other areas of potential conflict between the conservation issues for the prospective SPA and the Core Strategy include recreational pressure and lighting from developed areas and the road network in the area. With regard to these, however, it was felt that there is sufficient scope within the range of existing policies in the Core Strategy (or supplementary planning documents where they are deemed necessary) to mitigate any likely significant effects. Indeed, the Council is satisfied that the settlement hierarchy and subsequent proposed distribution of housing and employment growth set out in the SADPD avoids significant direct impact and while these issues may subsequently require an Appropriate Assessment, there is sufficient flexibility within the Core Strategy to ensure delivery of suitable mitigation strategies.
- 5.4 At present, given that nightjar and woodlark are Protected Species, they will be afforded due consideration as a material consideration in the planning process.

6 Conclusions

- 6.1 Having previously considered the potential effects of the Bassetlaw Core Strategy by screening policies against the existing European Sites, using the Council's methodology, it can be demonstrated that the SADPD will not have any adverse effects on the integrity of European sites.
- 6.2 Given that the SADPD will facilitate delivery of housing, employment and mixed use sites in locations consistent with the spatial strategy and all applications forthcoming on allocated sites must comply with relevant policies; these allocations are judged to not have adverse impacts on European Sites, either alone or in combination.
- 6.3 Subject to on-going consultation with Natural England and other consultees, along with clarification of the classification of Sherwood as a pSPA/SPA, the necessary steps will be taken to amend the SADPD and other DPDs to fully consider the likely significant effects accordingly.

Appendix 1: Map of European Sites



Doncaster
Metropolitan Borough Council

Key :

Legend

-  Bassetlaw Boundary
-  SPA
-  SAC

Notes :

Title :
Location of European Sites

Completed By :
Helen Markland

Reference :

Date :
13 May 2010

Scale :
1:365,553

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Appendix 2: Natural England Advice Note to Local Planning Authorities regarding the consideration of effects on the breeding population of nightjar and woodlark in the Sherwood Forest region.

This advice note updates and replaces the previous note dated 28 June 2010.

Natural England recommends that those Local Planning Authorities within and in close proximity to the Sherwood Forest region of Nottinghamshire, in the course of exercising their statutory functions, are mindful of the outcome of the Public Inquiry into the proposed Rufford Energy Recovery Facility (ERF) development and the matter arising as to whether the substantial breeding population of nightjar and woodlark in the Sherwood Forest region warrants its classification as a Special Protection Area ('SPA') under the EU Birds Directive, or at least its identification as a potential SPA ('pSPA').

The Inquiry Inspector recommended that planning permission be refused for the Rufford ERF and on 26 May 2011 the Secretary of State agreed and decided to refuse permission. The Secretary of State cited the nature conservation matter outlined above as one of the key material considerations in his decision and concluded that the potential for harm to the integrity of habitats used by woodlark and nightjar weighed significantly against the ERF proposal

(<http://www.communities.gov.uk/planningandbuilding/decisionsplanning/secretarystate/centsecretary/>).

It is current Government policy (expressed in PPS9 paragraph 6) that pSPAs should be treated as if they had already been fully classified as SPAs. This has the result, in the case of planning applications in the vicinity of pSPAs, that the provisions of the Conservation of Habitats and Species Regulations 2010 ('the Habitats Regulations') are applicable. The Regulations impose duties on all public bodies, including local planning authorities, to follow strict regulatory procedures based on a precautionary approach in order to protect European Sites such as SPAs from significant adverse effects. This includes the undertaking of a retrospective review by local planning authorities of those extant planning consents which may affect the site.

It is presently Natural England's view that based on Government's previous practice, the Sherwood Forest region is not a pSPA and therefore the provisions of the 2010 Regulations do not presently apply. Natural England has not so far provided any advice to the Secretary of State on the selection of any SPA in the Sherwood Forest area. Given that it is Natural England's view that current practice would be not to treat the Sherwood area as a pSPA, we are therefore bound to advise your authority to that effect.

However it is also our view that there currently remains a possibility of an area of Sherwood Forest being recommended for future classification as a SPA on the basis of the evidence from recent national nightjar and woodlark surveys and the interpretation of that data. It remains under consideration as part of a UK-wide SPA Review Programme led by Defra and due to be completed by 2012

(<http://archive.defra.gov.uk/rural/documents/protected/spareview-tor.pdf>).

We recognise that this uncertainty and the consequences of a possible future classification of an SPA in the Sherwood Forest area places a difficulty on Local Planning Authorities with regard to how they should consider land allocations and policies in forward plans and how

they should consider individual planning applications within the Sherwood Forest area. How local authorities choose to confront this issue is a matter for them. However, in the circumstances, Natural England would advise that they may wish to adopt a „risk based approach“ or similar to provide decision-making with a degree of future-proofing until such a time that there is more certainty on whether the Sherwood Forest area is to be afforded pSPA or SPA status and whether the provisions of the 2010 Regulations are to take effect.

This approach advocated by Natural England has been endorsed by the Secretary of State in coming to his decision on the Rufford ERF, when he stated that whilst the Sherwood Forest area is not currently identified as a SPA, there was “merit” in following this risk-based approach in considering the effects of the proposed development on the breeding populations of nightjar and woodlark.

We therefore advise that Local Planning Authorities should seek to satisfy themselves that planning applications contain sufficient objective information to ensure that all potential impacts on the breeding nightjar and woodlark population have been adequately avoided or minimised as far as is possible using appropriate measures and safeguards, at this stage, in order to ensure that any future need to review outstanding permissions under the 2010 Regulations is met with a robust set of measures in place.

Natural England suggest that as part of a risk-based approach to forward planning and decision-making, development plans and proposals are accompanied by an additional and robust assessment of the likely impacts arising from the proposals on breeding nightjar and woodlark in the Sherwood Forest area. This should ideally cover the potential direct, indirect and cumulative impacts which may include, but may not be limited to, the following;

- disturbance to breeding birds from people, their pets, noise, traffic and/or artificial lighting;
- loss, fragmentation and/or damage to breeding and/or feeding habitat;
- bird mortality arising from domestic pets and/or predatory mammals and birds;
- bird mortality arising from road traffic and/or wind turbines pollution and/or nutrient enrichment of breeding habitats

No formal assessments of the boundary of any future SPA have been made; therefore we cannot definitely say whether individual application sites would fall inside or outside any possible future designated area. However, maps which highlight the areas of greatest ornithological interest for breeding nightjar and woodlark were submitted as evidence to the Rufford ERF Public Inquiry and could be of assistance to your Authority in this regard (<http://www.nottinghamshire.gov.uk/home/environment/planningmatters/homepage-newpage/efrcoredocuments/efrrepresentations.htm>). It is worth noting that the Inspector of the Rufford ERF Inquiry decided it appropriate to consider both boundaries to inform his recommendations.

Natural England is of the view that taking such the approach outlined above represents good planning practice. It will assist your Authority should the site be classified as SPA in limiting the number of plans and projects which would need to be re-considered as part of

the review of consents process required by the 2010 Regulations. It will also assist your Authority fulfil its statutory duty to conserve biodiversity, as it is already critical to consider the impact of development on nightjar and woodlark owing to their inclusion as Priority Species within the UK Biodiversity Action Plan. Both species therefore already represent a material consideration when considering planning applications, regardless of whether the Sherwood area is put forward for classification as SPA in due course.

Whilst Natural England will continue to comment on the potential effects of proposals in the context of wildlife and biodiversity legislation, our role relating to development plans or projects that may affect any future European site can only be advisory at this stage. As Sherwood has not yet been formally proposed as an SPA, Natural England will therefore not formally object to proposals that have the potential to affect a future European site that is not yet proposed.

Similarly Natural England will not give detailed advice on each proposal, so the development of a risk based approach to decision making is therefore encouraged. Your authority should ensure applicants provide sufficient information to inform the consideration of risks and we recommend your authority seeks independent ecological advice where appropriate. Should Natural England be in a position to revise these views and advice, we will do so and notify you accordingly.

