

Bassetlaw District Council

Local Development Framework

Habitats Regulations Assessment – Screening Report Annex (November 2010)

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Bassetlaw Habitats Regulations Assessment Annex

1. Purpose of Screening Assessment Annex

The Habitats Regulations Assessment (HRA) for Bassetlaw District Council's Local Development Framework Core Strategy comprises a rolling draft that seeks to reflect the evolution of the document and respond to earlier stages of the HRA Screening Assessment.

The additional information contained in this Annex includes:

- Bassetlaw District Council A summary of Natural England's consultation comments on the screening assessment of policies contained in the Bassetlaw Preferred Options Core Strategy and the District Council's response;
- A summary of the screening assessment for policies significantly amended and added to the Core Strategy since the Preferred Options draft; and
- Consideration of the issues likely to affect this DPD if 'Prospective Special Protection Area' status is given to parts of Sherwood Forest

2. Amendments to HRA Screening Assessment

Methodology

Details of the methodology adopted for this assessment can be found in the Bassetlaw District Council Habitat Regulation Assessment Methodology. This screening assessment was undertaken using the matrix from Flow Chart 1/Table 3 in the Methodology and is detailed in Appendix 1 of this document¹.

Consultation feedback on the Preferred Options draft of the Screening Assessment, from Natural England, highlighted the need for a small number of amendments. These have been made in the Screening Assessment Report and are summarised in Figure 1 below.

Figure 1: Summary of consultation

Section of Document	Comment	Response/Amended Text
Section 2	More clarification is required for Section 2 – Recreation Pressure/ Disturbance ... Birklands and Bilhaugh SAC has been identified in Newark and Sherwood District Council's HRA as having potential for damage should visitors numbers increase.	Expanded text to explain acknowledgement of possible recreational pressure/disturbance at Birklands and Bilhaugh. Included wording: <i>'Likewise, the overall growth strategy for Bassetlaw acknowledges the environmental sensitivity of the area immediately to the south of Worksop and beyond (including Birklands and Bilhaugh), seeking to avoid locating development here.'</i>
	... agree with your policies regarding the provision of good quality areas of public open space, within new housing developments,	As above – expanded explanation of issues relating to recreational pressure/disturbance and acknowledging commitment to minimising development on the southern side of Worksop.

¹ Bassetlaw District Council Habitat Regulation Assessment Methodology, prepared by Doncaster Metropolitan Borough Council (May 2010)

	however Sherwood Forest is an exception to this. Whilst there is a gap in visitor survey data, it can be reasonably assumed that the most frequent users of the site travel from settlements up to 20km from the SAC.	
Appendix 1	Where you have identified that an Appropriate Assessment maybe required [with regard to the potential impacts of Air Pollution] depending on the size of development, it should be noted within the last paragraph '...is a AA required?	Text amended, to indicate more clearly, that although the extent of impact of this policy cannot be fully determined at this stage, where proposals for heavy industry come forward an AA may be required to determine the impact of individual planning applications.

These amendments have been incorporated within the screening assessment. The latest draft of the screening assessment is available to view on the Council's website at:

http://www.bassetlaw.gov.uk/services/planning_building/planning_policy/local_development_framework/background_studies/habitat_regulations_assessment.aspx

3. Screening Assessment for Amended/Additional Policies

Following consultation on the Preferred Options document itself, the Council was advised to significantly amend Policy DM13 'Parking Standards' to incorporate a more holistic approach to sustainable transport, while an additional policy to address ground conditions and land stability (DM14) has been included. Screening of these policies (Figure 2) indicated that they will not result in any likely significant effects as they are not policies that will lead to development themselves, rather, they are about design or other qualitative criteria for development. As such, no change is required to the conclusions made in the initial screening report (see link above).

Figure 2: Screening Assessment of Additional/Amended Policies

Section of document, policies or objectives being screened	Policy Reference / Section Reference	Categorisation in initial screening with explanation	Comments and recommendations where initial screening is Category F or G	Following detailed consideration of the issues and taking into account changes to plan or policy, or supporting evidence, is an AA required?
Policy DM13: Sustainable Transport	Section 5.11 (Publication Core Strategy)	Category A This policy will not itself lead to development as it supplements other development policies within this DPD. It simply requires developers	N/A	N/A

		to consider ways of minimising dependency on car-based transport, promoting more sustainable forms of transport and movement, while setting parking standards for new developments. The policy does not control the type or location of development.		
Policy DM14: Ground Conditions and Land Stability	Section 5.12 (Publication Core Strategy)	Category A This policy will not itself lead to development as it only seeks to ensure that full consideration is given to ground conditions and land stability issues in the redevelopment of former coal mining areas.	N/A	N/A

4. Sherwood 'Prospective Special Protection Area'

Background

Since undertaking the initial screening assessment, during the public inquiry into a proposed Energy Recovery Facility at Rufford, in the neighbouring Newark and Sherwood District, the potential for a new European site (a Special Protection Area, which is designated for the presence of important birds in accordance with the Birds Directive (79/409/EEC as amended) and Habitats Regulations 1994 (as amended)) has been identified.

On 28 June 2010 Natural England issued the following advice note to Local Planning Authorities:

'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 ongoing Public Inquiry into the 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 is currently adjourned and the issue has yet to be resolved'.

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 2010 Regulations') (formerly the Conservation (Natural Habitats & c.) Regulations 1994) 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 by local planning authorities of a retrospective review 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.

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.

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 have been 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>).

Natural England is of the view that taking such an approach 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.

Should Natural England be in a position to revise these views and advice, we will do so and notify you accordingly.'

Extent of the area potentially affected

As yet, no assessment has been made of the potential boundary of any future SPA, although Natural England have 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 3, below. Natural England emphasise that this is not a pSPA boundary, not least because there is ongoing consideration of an additional qualifying Annex 1 species (Honey Buzzard) in the northernmost area 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 3 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.

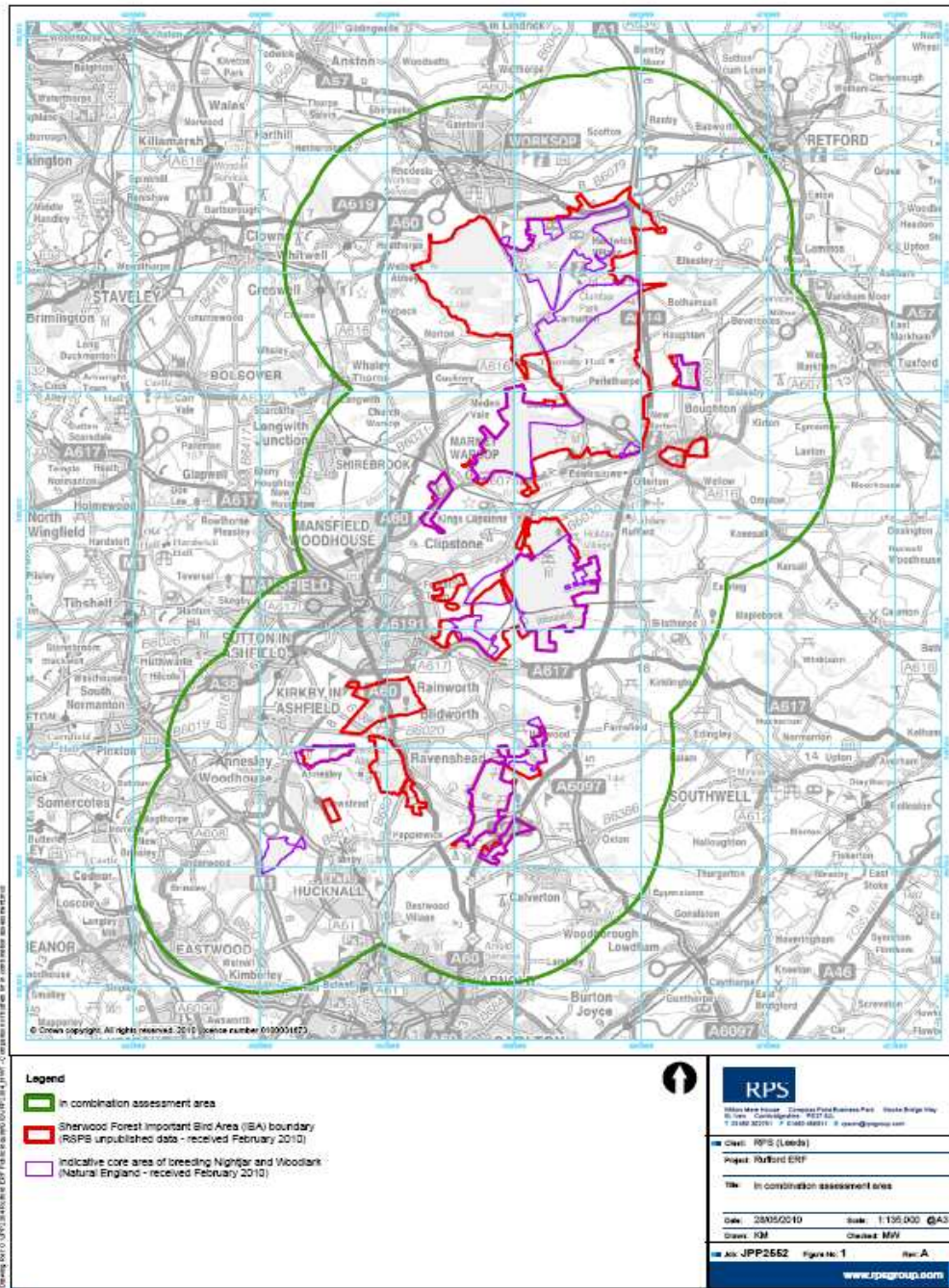


Figure 3: Map of the Sherwood Forest Prospective SPA (courtesy of Nottinghamshire Wildlife Trust)

5. Assessing potential impacts on the Sherwood Prospective Special Protection Area

While there will almost inevitably be subsequent implications for the Bassetlaw Local Development Framework, should the area described above be formally designated a pSPA, the Council already acknowledges the sensitivity of the area with much of the Sherwood Forest area in Bassetlaw incorporating Clumber Park and the Welbeck estate, large parts of which are identified as Sites of Special Scientific Interest

(SSSI). This is reflected in the spatial strategy and policies within the draft Core Strategy.

A detailed screening assessment has not been undertaken at this stage. However, in line with the guidance issued by Natural England, the following section of this Annex to the Bassetlaw HRA considers the likely effects of the Bassetlaw Core Strategy in combination with those identified in Newark and Sherwood District Council's HRA². These effects include:

- Air quality
- Recreational pressure (including potential for disturbance of ground nesting birds)
- Water abstraction
- Issues associated with pet predation
- Potential for effects associated with habitat loss and fragmentation
- Issues associated with lighting
- Noise³.

Air Quality

Issues

Although there are various sources of air pollution, those that are considered most likely to impact the pSPA are related to industry and road traffic.

In acknowledging the sensitivity of this area in spite of potential future designation as a pSPA, the Council is keen to avoid harmful types of development, particularly to the south of Worksop. However, while development in this area may be limited the current guidance that is used when assessing point source emissions is the IPPC H1 Guidance for the Environmental Assessment and Appraisal of BAT⁴. This guidance indicates that designated sites (including European sites), which are located within 10km of a pollution source, should be considered as sensitive receptors within an assessment. Major emitters such as large power stations, refineries, or iron and steelworks should extend this distance to 15km.

Also, the fact cannot be ignored that the road network here is critical for existing and future industrial development in Bassetlaw. In terms of road traffic, there are a number of major roads running through the Bassetlaw area including the A1/A1(M), A57, A614, A60 and part of the A616. An increased volume of traffic from a growing population within Bassetlaw itself and from the immediate area and beyond, with traffic crossing the District to access the A1, has the potential to significantly increase emission concentrations.

Implications

While evidence from Natural England suggests that emissions from road traffic are unlikely to have a significant effect at a distance of over 200 metres the effect of any future industrial development cannot be fully determined at this stage and future proposals within 10km (or 15km for major scale emitters) should undertake a

² 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

³ Recommended for inclusion by Nottinghamshire Wildlife Trust following consultation

⁴ <http://www.environment-agency.gov.uk/business/topics/pollution/37231.aspx>

screening (and possibly more detailed) assessment at the project stage. Such assessments must take into account the effect of the development itself and the effects it may have in-combination with those occurring in neighbouring areas.

The in-combination effect of increasing the level of housing provision in Bassetlaw along with housing provision in the wider Sherwood area (primarily within Newark and Sherwood's administrative area, but possibly including Mansfield to a lesser extent) will result in an increase in the volume of traffic on the major roads in the area. Bassetlaw's Core Strategy seeks to address this matter as far as possible by locating new development so as to reduce dependency on car-based travel. However, it is acknowledged that the rural nature of the District makes this more difficult to achieve than might be achievable in the surrounding conurbations. As such, if the pSPA is formally designated, closer examination of the potential effects of developments on air quality as a result of traffic generation may be required.

Recreational Pressure

Issues

Through the Core Strategy, new housing provision in Bassetlaw will result in population growth. With the screening assessment of the Preferred Options having indicated that Sherwood Forest (including Clumber Park, Rufford Country Park and Sherwood Forest Visitor Centre) already draws visitors from up to 20km away for recreation and leisure, the likelihood is that the overall number of visitors will increase. Given that nightjar and woodlark are ground-nesting birds they are particularly vulnerable to increased human activity and susceptible to disturbance from dogs.

Implications

The Bassetlaw Core Strategy broadly corresponds with the Newark and Sherwood Core Strategy by specifically addressing the need to both protect and enhance green infrastructure and biodiversity assets within the District. This will primarily be through policy DM9 and Strategic Objective 8. While the initial screening assessment of the Preferred Options indicates that qualitative and quantitative growth of the green infrastructure network will help create alternative recreational areas, planning policy is limited in terms of the extent to which it can ultimately influence the behaviour of people in the area. Given the strong cultural heritage of the Sherwood area it carries particular appeal as a recreational space.

Securing funding from Developer Contributions (Policy DM11) will be key to delivery of green infrastructure that will avoid or mitigate issues arising from recreational pressure/disturbance.

Water Abstraction

Issues

While the habitats present in the Sherwood pSPA do not specifically rely on water, they could be vulnerable to stress if subject to low groundwater levels. Although located over the Sherwood Sandstone Aquifer, the Bassetlaw Water Cycle Study – Outline Report (Scott Wilson, March 2010), para. 8.2.1 indicates that this area is not hydrologically connected to any features within the District that are likely to be used for Public Water Supply to new housing.

Implications

Although it is considered that water abstraction will not result in a significant impact to this habitat from Bassetlaw alone, the recommendations of the Newark and Sherwood HRA suggest that in-combination effects, particularly in light of Newark's status as a growth point must be considered. The suggested implications for their Core Strategy '... [include a] caveat that regard will need to be had to potential effects on the prospective SPA associated with any potential for increased water abstraction. With this in place, combined with the measures relating to reduction of water consumption that are already in the Core Strategy it can be concluded that there will be no likely significant effect (either alone or in combination) as the result of the Core Strategy being implemented'.

In addition, consultation⁵ brought forward the recommendation that the Council liaise with Natural England, the Environment Agency and water the utility company to re-evaluate the likely impacts of the Core Strategy on water abstraction if/when the site comes forward as a formally proposed SPA.

Pet Predation

Issues

The RSPB⁶ indicate that cat predation could potentially be damaging where housing is next to habitats of ground-nesting birds, such as the nightjar and woodlark. Cats will catch prey even if they are not hungry. Cats from developments as far as 1 kilometre from the protected area could travel to the area albeit with diminishing levels with distance from the source. Natural England considers that developments within 400 metres from the pSPA may lead to a significant level of cat predation whereas the level of cats travelling from over 400 metres is a minority.

There is currently only limited housing in Worksop in close proximity to the area identified as potential nightjar and woodlark habitat. Given the much of the area's current designation as SSSI, the Core Strategy already acknowledges the sensitivity of this area and the need to protect it as a key green infrastructure asset.

Implications

Should the pSPA be formally designated it may be necessary to support the distribution of growth policies with measures to minimise the effects of pet predation. Natural England urges the Council to be mindful of advice relating to a risk-based approach. While it is acknowledged that cats from developments as far as 1 kilometre from the protected area could travel to the area, policy provisions prohibiting residential development within 400 metres of the protected area's boundary (as used for other SPAs) may be required. Further advice will be sought from Natural England, as and when necessary, although unless advised otherwise, it is felt that an exclusion zone of a distance greater than 400 metres would be too restrictive for housing growth in the area.

It should, however, also be borne in mind that any residential development and subsequent pet predation to the south of Worksop⁷ is severely restricted by the A57

⁵ Consultation with Natural England on Publication Core Strategy and HRA Annex

⁶ Royal Society for the Protection of Birds (2002) Cats and Garden Birds Wildlife Information Leaflet. RSPB.

⁷ Land to the south of Worksop has the greatest geographical connection with the area identified as the nightjar/ woodlark habitat

Worksop bypass, while the Bassetlaw SHLAA⁸ indicates there is limited land available to the south of Worksop. While Natural England does not support the use of cat-proof fencing to prevent cats entering sensitive sites holding ground nesting birds, as it is not considered to be a viable mitigation measure⁹, the impact of this road is such that other mitigation measures may be rendered unnecessary.

Habitat Loss or Fragmentation

Issues

Loss or increased fragmentation of habitat for nightjar and woodlark would result in reduced capability of the area to sustain these species. Loss of nesting sites and habitat for insects on which nightjar and woodlark feed, leads to impacts on the ability of these species to both survive and breed.

Implications

The in-combination effect of habitat loss or fragmentation across the Sherwood area would have a significant detrimental impact on these species. As such, the Core Strategy seeks to avoid loss of key habitats and, indeed, pursue a net increase in green infrastructure and biodiversity, with significant emphasis on the connectivity of habitat. Targeted enhancement of areas both within the identified pSPA area and beyond the identified boundary would reduce the extent of loss and fragmentation. Developer contributions may serve as a significant means of achieving this. No likely significant effect should occur, however, subject to the combined effect of the Core Strategy policies.

Lighting

Issues

Lightspill from developed areas, in addition to light on and adjacent to highways, can create significant threats to nightjar as they are a nocturnal species. Although the above issues may not necessarily directly affect nightjar, prey, such as moths, are attracted to light, therefore increasing the chances of birds coming into conflict with human activity.

Implications

Issues of lighting are not easily addressed through introduction of buffer zones around protected areas alone. Development occurring in proximity to identified habitat should incorporate design features to minimise the impact of lighting on species of identified importance. While it is not anticipated that any likely significant effect will occur solely as a result of lighting (including through in-combination effects), potential impacts should be assessed in detail at the application stage of development proposals and consideration of these issues should be given to any supplementary planning documents for design.

⁸ Bassetlaw District Council, Strategic Housing Land Availability Assessment (June 2010)

⁹ Having initially suggested cat-proof fencing as a mitigation measure, Natural England's consultation response indicated that such an approach is not favoured as it is very difficult to enforce its continued maintenance, and its effectiveness is not proven

Noise

Issues

The noise assessment¹⁰ accompanying the application for the ERF itself indicates that there will be numerous causes of increased noise generation directly as a result of the proposed development with operations in the construction phase deemed to have the potential to cause short-term disturbance to nearby receptors, including:

- Site establishment/groundwork activities involving earth moving machinery
- Building construction using large-scale equipment
- Construction traffic resulting in short-term increases in traffic movements on surrounding highways

In the longer-term, however, noise generated by the operations of the proposed development includes:

- 24-hour equipment activity, both within and outside buildings on the site
- 24-hour HGV traffic and overall increased volume of traffic on roads on the site and surrounding area

Development that would result in an operational or construction noise levels greater than 40dBA has been recorded as having impacts on breeding birds of a range of species, including both nightjar and woodlark.

Implications

Should the pSPA be designated, it may be necessary for any development within a defined radius of the habitat to undertake a noise assessment to determine the likely impacts of both construction and operation.

6. Conclusions

Summary of effects of Bassetlaw Core Strategy on Sherwood pSPA

Initial assessment of the likely effects of the Core Strategy on the conservation issues of concern, highlighted by Natural England, relating to the proposed SPA for Sherwood indicates that most likely significant effects will be as a result of changes in air quality associated with an increased volume of traffic. While forecasts¹¹ for modal patterns indicate road use will intensify directly as a result of development occurring in Bassetlaw, it is the in-combination effect with the growth occurring in Newark and Sherwood's administrative area that may give rise to the need for an Appropriate Assessment if the pSPA is designated.

Other areas of potential conflict between the conservation issues for the pSPA and the proposals within the Core Strategy include recreational pressure and lighting from developed areas and the road network in the area. However, with regard to these issues, it is 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 Core Strategy actively seeks to avoid harm to features of identified importance for biodiversity in the District

¹⁰ http://www.nottinghamshire.gov.uk/large-static/erf/esvol1/es1144_cd_es_chapter_12_noise.pdf

¹¹ Bassetlaw Transport Assessment (WYG, November 2010)

by protecting and enhancing green infrastructure in association with other developments.

Although issues associated with habitat loss and fragmentation, pet predation and water abstraction have been highlighted as being issues that may incur impacts on any forthcoming pSPA/SPA we are satisfied that on the basis of available evidence and potential mitigation measures that may be imposed, significant effects can be avoided.

Overall Conclusion

Having considered the above potential effects of the Bassetlaw Core Strategy and screened the additional policies against the existing SACs/SPAs using the Council's methodology, it can be demonstrated, as with the initial screening assessment, that the plan will not have any adverse effects on the integrity of European sites. 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 Core Strategy and Development Management Policies DPD and consider the likely significant effects of other DPDs.