



Hartlepool Local Planning Framework Emerging Local Plan

Matter 13

Natural Environment



September 2017



Issue 1 – Are the Plan’s policies and proposals in relation to the natural environment soundly based?

Q1. Is the reference to “ecosystems services approach” in Policy NE1 readily understood and clear to users of the Plan document?

Paragraphs 16.24 – 16.27 of the preamble to policy NE1 provide some further detail about an ecosystems services approach and how it could be applied to the local planning process. Paragraph 109 of the National Planning Policy Framework states clearly that the planning system should contribute to and enhance the natural and local environment by.....recognising the wider benefits of ecosystem services. The Borough Council will have regard to best practice emerging from work on an ecosystem services approach when developing and reviewing planning policies, and in considering development proposals.

Q2. Is there evidence to justify protecting areas of the Borough for tranquillity and dark sky purposes? Are the environmental policies of the Plan sufficient to manage associated issues of pollution or are further changes needed?

The Borough Council maintains that the policy wording of RUR1 in conjunction with other policies in the plan provide sufficient control over matters that influence tranquillity and light pollution and there is therefore no requirement to protect specific parts of the rural area for their tranquillity or low levels of light pollution. The Council will resist any potential adverse impact on the tranquillity of the rural environment generally from development in the rural area through undue noise, smell or visual disturbance.

Notwithstanding this, in response to comments from the Campaign to Protect Rural England (CPRE) (Pub0074), as set out on page 444 of the submitted Regulation 22 Consultation Statement (HLP01/4), it is recommended that paragraph 12.20 of the Local Plan Publication Draft (HLP01/1) should be amended to read:

“In the rural area outside the development limits, beyond the agricultural permitted development rights, development may be permitted where it is essential for the purposes of agriculture, forestry, public infrastructure or to meet the social needs of the local community. This and other development that is appropriate to a rural area and supports the rural economy, agricultural diversification, rural tourism or leisure development may be permitted where it respects the tranquillity and character of the local countryside and does not have a significant impact on visual amenity in the setting of the landscape or on the local road network.”

In terms of the reduction of light pollution, it is considered the provisions of policy RUR1, in conjunction with other policies within the plan; provide sufficient control over these matters. The Borough Council will resist any adverse impact on the surrounding area through undue light pollution.

Q3. Would the Council’s suggested change to include a reference to the emerging Natural Capital agenda be a reasonable addition to the Plan?

Yes. The Council is aware of the development and increased Government emphasis on Natural Capital, highlighted with the recent publication of the fourth annual report. The Council is confident the detail of the policies set out in the Natural Environment Chapter support the key objective of the Natural Capital Committee “of being the first generation to leave the natural environment of England in a better state than that in which we found it”. The Natural Environment Chapter of Local Plan is comprehensive in detailing the natural assets within the Borough, and the NE policies aim to protect and enhance all elements of the natural environment. Notwithstanding this, it was considered that, in response to comments from CPRE, the preamble to the chapter should be strengthened to include reference to Natural Capital.

Issue 2 – Internationally designated sites [there is some overlap with the procedural matter 1 on HRA – see also questions 6-11 under Matter1]

- Q4. **Is there agreement that the HRA process and the suggested amendments to policy wording (notably Policy LS1 and various retail, leisure and employment policies) that the appropriate assessment has been undertaken at the plan-making stage? (recognising that further project level assessment may be required for individual developments).**

It is considered that the HRA process and proposed amendments to supporting text and policy wording that the appropriate assessment has been undertaken at the plan making stage. This is reflected by the fact that Natural England have been able to withdraw their objection to the Local Plan following ongoing dialogue with Natural England since the Submission of the Local Plan. They have now stated that they find the plan sound and legally compliant which helps to illustrate that the proposed changes are now satisfactory in terms of the HRA process and that appropriate assessment has been undertaken in the correct manner.

- Q5. **Does the Plan include appropriate avoidance and mitigation measures to ensure no adverse effects on integrity from recreational disturbance arising from development?**

A Mitigation Strategy and Delivery Plan (EX/HBC/60) has been produced to ensure that the indirect likely significant effects in terms of recreational disturbance identified within the HRA process can be appropriately and satisfactorily mitigated against. This is again supported by Natural England withdrawing their objection and concluding that the plan is sound and legally compliant. The Mitigation Strategy and Delivery Plan was endorsed by the Council's Regeneration Services Committee on Friday 15th September 2017.

- Q6. **The submitted HRA refers to the RSPBs pathway-receptor model and Natural England [representation Pub00129] refers to a 6km 'buffer zone'. In practical terms is it agreed that all housing proposals within the Borough would result in a likely significant effect on Coastal SPAs and SAC from recreational disturbance?**

No. The HRA, Appropriate Assessment and Mitigation Strategy highlights that the proposed allocations at Wynyard sit 12km from the SPAs, SACs and RAMSAR sites and are therefore not considered to result in a likely significant effect (or indirect effect) from recreational disturbance. As such no mitigation is required from the allocations at Wynyard. All other housing proposals within the Local Plan are required to mitigate their impact on the SPAs, SACs and RAMSAR sites.

- Q7. **Are SANGS accepted as part of a wider package for mitigation for recreational disturbance? Is there any merit in undertaking further research specific to the habitats here?**

Yes, SANGS are a key part of the necessary mitigation package to satisfy Natural England that the plan will not lead to an unacceptable impact on protected habitat along the coastline. The Council does not consider there is any merit in undertaking further research into the specific habitats as Natural England are comfortable that the information provided to date has allowed them to consider the plan sound and legally compliant.

Q8. Is the Council proactively seeking to deliver/secure the mitigation measures that the HRA work identifies and are there coordinated strategies and mitigation actions for the two coastal SPAs and SAC to which developer contributions can be assigned? In terms of research and monitoring is there any on-going or programmed work and is development expected to contribute towards its cost?

The Mitigation Strategy and Delivery Plan identifies where mitigation is necessary; The Council will work with the developers of housing allocations to ensure that SANGs are provided as part of the development where necessary. In terms of other mitigation as set out in the Mitigation Strategy and Delivery Plan, the Council will work proactively with a range of partners such as neighbouring authorities and organisations such as INCA to co-ordinate the delivery of the mitigation as developer contributions are secured.

All public bodies, including Hartlepool BC, must take reasonable steps to conserve and enhance the special features of Sites of Special Scientific Interest (SSSIs) when:

- carrying out statutory duties
- giving others permission for works, such as reviewing planning applications

The Council works with Natural England to achieve this.

By virtue of the fact that part of the T&CC SPA includes marine areas, it is also a European marine site. The Habitats Regulations make provision for relevant authorities to establish a Management Scheme for a European marine site:

“The relevant authorities, or any of them, may establish for a European marine site, a management scheme under which their functions (including any power to make byelaws) shall be exercised so as to secure in relation to that site compliance with the requirements of the Habitats Directive” Regulation 34(1).

The Council is party to the T&CC European marine site Management Scheme 2009, which was coordinated by INCA. The Council intends to refresh this action plan as part of its delivery of HRA mitigation measures.

In terms of research and monitoring, the Council Ecologist undertakes monthly monitoring, from autumn through to spring, of the use of Hartlepool shorelines by SPA birds, including recording disturbance events. Data is compiled into spread sheets and reports produced where necessary to inform planning. The Council Ecologist liaises with the Teesmouth Bird Club and with the RSPB which coordinates the monthly British Trust for Ornithology (BTO) monthly Wetland Bird Survey (WeBS) counts, in order to capture comprehensive bird data for the borough.

Natural England has said that mitigation for harm to protected sites cannot include monitoring (as this does not directly address harm). However, monitoring is undertaken by the Council ecologist and voluntary organisations such as the Teesmouth Bird Club and Durham Bird Club.

Q9. Have mitigation measures been considered as part of the plan-wide viability assessment work?

Yes, the costs of the mitigation works are factored into the Deliverability Risk Assessment (EX/HBC/64) produced by the Council. As they are needed to meet a statutory requirement they are considered as an enabling cost which is non-negotiable.

Q10. What is the status / timeframe of the proposed extension to the Teesmouth and Cleveland Coast SPA (pSPA)? Should the HRA be updated to reflect the pSPA and should it be identified on the proposed Policies Map?

The pSPA has been taken into account in the updated HRA (EX/HBC/59) in assessing the impacts of the policies in the Local Plan.

As of mid-September 2017, the latest update from Natural England is that a 12 week public consultation will start in November 2017 and the expectation is that the extension will be approved by Government by April 2018. Natural England was granted an additional 12 months by Defra to ensure that their preparation was thorough, including setting up the Tees Estuary Partnership (on which the Council is a member), preparing a MoU with partners (including industry), preparing an inter-active map of SPA constraints and holding workshops. This work is now complete.

The Local Plan HRA has taken account of the proposed extension to the SPA, a decision endorsed by the RSPB. The RSPB suggested that if this had not been done then the Council would likely have had to undertake a Review of Consents, including on all of its policies.

Q11. Are employment land proposals under EMP4c and EMP6 deliverable in terms of the pSPA and other local ecological designations?

Within the updated HRA (EX/HBC/59), the stage 1 screening (Part B) process has provided additional information and assessment, including consideration of the pSPA, in relation to Policy EMP4 and additional comment specifically in relation to EMP4c (Philips Tank Farm) to consider if there is any Likely Significant Effect (LSE) on European sites. The assessment concluded that there was no likely significant effect as a result of the policy.

In terms of EMP6 there was again an amendment in the updated HRA which has identified that there is a piece of land within Greenabella Marsh with no environmental designation where an access could be provided to EMP6 to avoid building structures on an area which would lead to a loss in habitat and thus avoiding direct LSE

The assessment is considered to be fair and reasoned and this is reflected in Natural England being satisfied with the amended HRA and the proposed amendments to that and the Local Plan and the proposed Mitigation Strategy and Delivery Plan and therefore withdrawing their objections to the Local Plan and stating they now consider the plan to be sound and legally compliant.

Q12. Given the focus of the Tees estuary for specialised industries, is there a clear strategy (e.g. through the Tees Estuary Partnership) to enable their adaptation and expansion in a way which avoids conflict with the sensitive ecological value of the area?

Yes, as part of the Tees Estuary Partnership (TEP) (involving all five Tees Valley Local Authorities, Government organisations, NGOs and industry), work is on-going to identify areas suitable for mitigation and compensation in advance of planning applications and HRAs. A sub-group has been set up to develop a habitat banking model (on which the Council ecologist sits). Further, TEP partners will sign a MoU on 31/10/2017, ensuring cooperation between economic development and nature conservation (European Sites) interests so that both benefit. All of the consenting authorities are in the TEP, including the MMO and Environment Agency, as well as Natural England and the Hartlepool Port Authority.

Issue 3 - Landscape & Green Infrastructure

- Q13. **Is the concept of a Special Landscape Area (in Policy NE1) justified by the evidence and consistent with the NPPF (paragraph 17 – the intrinsic character and beauty of the countryside, paragraph 109 – protecting and enhancing valued landscapes, and paragraph 113 – criteria based policies for landscape areas (reflecting hierarchy))?**

The two Special Landscape Areas, as identified in emerging Local Plan policy NE1 and set out on the Proposals Map (HLP01/2) (comprising the wooded area of Thorpe Bulmer Dene (to the north) and the woodland in the Wynyard area, together with other woodland pockets and farmland running between Newton Hanzard and Crookfoot Reservoir), are a longstanding natural environment allocation. The Special Landscape Areas pre-date the previous adopted Hartlepool Local Plan 2006, having been identified as areas for special protection, given their high landscape value, through the Tees Valley Structure Plan (2004).

The Hartlepool Landscape Assessment 2000 (HLP10/6) evaluated the quality of the countryside, including a comprehensive analysis highlighting differences in the visual and amenity value of the landscape, setting out seven distinctive character areas. The landscape value scoring was used to determine and redefine the boundary of the Special Landscape Areas. The Special Landscape Areas are highlighted in the assessment as having a visual importance in the landscape and as such it was considered particular care needs to be taken in considering whether new development contributes to the special character and minimises the impact on landscape and amenity. A more detailed description of the special features of these areas is set out in paragraph 16.39 of the Local Plan Publication Draft (HLP01/1).

Whilst the 2000 Landscape Assessment remains the most recent evidence base document with respect to this, the Council maintains that the assessment remains relevant given the limited degree of change in the landscape of the majority of the rural area since the assessment was produced. Whilst it is acknowledged there has and will continue to be new development within the vicinity of the Special Landscape Area at Wynyard, the Council considers that this underlies the importance of ensuring the existing areas of high value landscape in this area remain protected from inappropriate development.

The Council therefore considers that the continued protection of the Special Landscape Areas as set out above is consistent with the NPPF with respect to taking into account the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside (paragraph 17) and protecting and enhancing valued landscapes (paragraph 109). The Council also considers that the hierarchy of designated sites set out in emerging policy NE1 and subsequent criteria against which to assess development that may impact on the different types of natural environment designation listed are consistent with the requirements of paragraph 113 of the NPPF.

- Q14. **Should Policy NE4 on ecological networks be illustrated on the Policies Map by virtue of having a spatial application?**

The Council considers that this would not be appropriate as, given the level of detail already on the Proposals Map (HLP01/2), adding further layers would likely make the map more difficult to read. However, the Council recognises the value in the spatial identification of ecological networks and, as such, a map identifying these has been prepared and is included in Diagram 5 of the Local Plan Publication Draft (HLP01/1).

- Q15. **Is the evidence on playing pitches up-to-date? Has the 2012 strategy been updated?**

The Council has commissioned Neil Allen Associates to prepare a new Playing Pitch Strategy and an Indoor Sports Facilities Study. Work has been ongoing over the past ten months or so and has involved Sport England from the outset to help guide the work. The Playing Pitch Strategy is now at an advanced stage and

will hopefully be completed shortly. The Council is confident that the playing pitch strategy work that is being produced will address concerns raised by Sport England through their representation (Pub0089) set out in the Regulation 22 Consultation Statement (HLP01/4). The Council is currently awaiting confirmation that Sport England can now agree to withdraw its objection to the Hartlepool Local Plan, in light of the advanced stage of production of the new Playing Pitch Strategy, and this will be uploaded to the Examination Library upon receipt.

Q16. What is the appropriate approach to land east of Catcote Road between Hartlepool VI Form College and West Hartlepool's RFC ground? Is it outdoor sports space?

With respect to the site east of Catcote Road between Hartlepool VI Form College and West Hartlepool RFC's ground, this has been identified as an error in the drawing of the Proposals Map and as such it is recommended that the map be amended to reflect the NE2d (outdoor sport including playing fields) allocation on this site. This has been proposed as part of amendments to Proposal Map Document (EX/HBC/78) as amendment PM/CHP16/05.

Q17. Is the Council proposing amendments to the wording of the criteria in Policy NE5 in response to the representation from Sport England [Pub 0089]. Are these revisions necessary for soundness (consistency with national policy)?

The Council's response to Sport England's representation [Pub0089] and recommended amendments to the policy wording is set out in full in the Regulation 22 Consultation Statement (HLP01/4). The Council agrees that the wording of Policy NE5 should be amended to reflect Sport England's comments, albeit reference should remain in criterion 3 to the Open Space/Recreation Assessment as the policy applies to more than just playing pitches. This proposed change is set out in the Proposed Main Modifications Document (EX/HBC/81) under modification MM/CHP16/04). The addition of a criterion 5, which allows for the development of built sports facilities provided they are of greater benefit to sport than the playing field they replace (the needs for which clearly outweigh the loss), brings the policy in line with paragraph 74 of the NPPF. The additional revisions proposed, whilst not necessarily required for consistency with national policy, ensures the policy also aligns with Sport England's exceptions tests for development affecting playing fields, and will assist in ensuring the policy guards against the unnecessary loss of valued facilities and services, in line with paragraph 70 of the NPPF.

Supplementary Questions (with some overlap with Matter 1 – Procedural: Habitat Regulations Assessment)

SQ5: Has the Mitigation Strategy and Delivery Plan been reported to, or signed off by, the Council? Will it be delivered? Are elements provided within existing programmes or resources (for example the foreshore management responsibilities)?

Yes, the Mitigation Strategy and Delivery Plan has been reported to, and endorsed by, the Council's Regeneration Services Committee on the 15th September 2017. Given the statutory requirement for the mitigation it is considered an essential element in terms of planning permissions and has been considered as such in the Council's Deliverability Risk Assessment (EX/HBC/64).

The Mitigation Strategy and Delivery Plan will be delivered. The remit for coordinating the action plan will largely fall to the Council's Ecologist, with wider responsibilities spread through the Countryside and Heritage Team (which includes some foreshore services such as seafront paddling pools, play areas, lifeguards and signage). Additional time and resource will be required from the Council's enforcement officers and environmental services section (covering enforcement, beach cleaning, information, etc). While this can be managed within existing Council resources, currently none of the Council services have published programmes of work into which these actions can be slotted.

SQ6: Has there been discussion with other authorities and agencies on the Mitigation Strategy and Plan? (such as a wider Durham Coast Warden).

The Council Ecologist has engaged in discussion with other NE region local authority ecologists, through a Local Plan HRA forum. This has involved joint meetings, but also individual meetings and conversations with Durham CC and Sunderland Council ecologists. The Council Ecologist has also engaged with the Durham Heritage Coast Officer (regarding a joined up wardening approach), INCA officers (especially regarding little tern wardening) and officers at Redcar and Cleveland BC (regarding shared issues).

SQ7: Have the mitigation funding formulas been factored into the Plan wide viability work?

Given the statutory requirement for the mitigation it is considered an essential element in terms of planning permissions and has been considered as an enabling cost in the Council's Deliverability Risk Assessment (EX/HBC/64) and has been illustrated to be deliverable on all of the allocations in the Local Plan.

SQ8: As a consequence of the updated HRA work are any main or additional modifications likely to be proposed to the Plan?

There is a requirement for main and additional modifications as a result of the updated HRA. These will be set out in the next version of modification documents.