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**BY EMAIL ONLY**

Dear Mr Macrdechian

**North East Cambridge Area Action Plan Draft Habitats Regulations Assessment**

Thank you for seeking Natural England's views on the above in your email of 21 April 2020.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Our comments on the draft Habitats Regulations Assessment (HRA) report prepared by LUC (March 2020) are provided below. These follow on from our response to the North East Cambridge Area Action Plan (NECAAP) Issues and Options 2019 consultation, in our letter dated 25 March 2019 (ref. 273507). It should be noted that we have only been able to undertake a preliminary review of the document given the short consultation period; our comments are therefore focused on key aspects of the report including findings and recommendations.

The HRA report confirms that the area covered by the NECAAP straddles the administrative boundaries of Cambridge City Council and South Cambridgeshire District Council who are taking a coordinated approach to development through provision of a joint AAP for the site. The NECAAP seeks the wider regeneration of this part of Cambridge with the creation of a revitalised, employment focussed area centred on the new transport interchange created by Cambridge North Station. Natural England notes and welcomes that preparation of the NECAAP has been informed by both adopted and emerging plans.

**Chapter 3 Method**

The assessment methodology outlined in Chapter 3 appears to be in general accordance with Conservation of Habitats and Species Regulations 2017 (as amended) requirements for HRA including assessment and interpretation of likely significant effect alone, and in-combination, and Appropriate Assessment. We welcome consideration of relevant case law including the recent '*People over Wind*' ruling which advocates that avoidance and mitigation measures cannot be relied upon at the HRA Screening Stage and must be tested through the Appropriate Assessment.

We generally agree with the European sites scoped in for assessment, identified in Table 2.1 and Figure 2.1 of Appendix 1. These include all sites within 15km of the LPA boundary and those beyond this distance with the potential to be affected by longer pathways for impact such as hydrological effects and recreational pressure. We advise that clarification is required to explain the screening out of Chippenham Fen Ramsar / Fenland SAC. Whilst this site is located beyond the 15km buffer our understanding is that it is dependent upon adequate supply of high quality groundwater from the same chalk aquifer serving the wider area, including NECAAP. The further

effects on water quantity and quality, associated with additional drawdown on the aquifer to meet the needs of all proposed development, i.e. in-combination effects, is a significant concern for water-dependent designated sites, including European sites such as Chippenham Fen Ramsar / Fenland SAC. With reference to the precautionary approach advocated in section 4.6 of the HRA it is not appropriate to screen out these sites on the basis of distance alone. An evidence based approach will need to be applied taking into consideration the findings and recommendations of the emerging Integrated Water Cycle Study being undertaken to inform preparation of the Greater Cambridge Local Plan.

#### **Chapter 4 Screening Assessment**

Natural England agrees that most of the policies within the NECAAP do not promote development and are therefore unlikely to have any significant effect on European sites. We generally support the screening out of those policies listed in sections 4.2 – 4.4. We agree that the policies listed in section 4.5 have pathways to European sites and likely significant effects cannot be ruled out at this stage.

We support the application of a precautionary approach to the use of set distances for assessing impacts, as set out in section 4.6.

#### Physical damage and habitat loss

We agree that there are unlikely to be any significant effects associated with direct physical damage or habitat loss, including to functionally linked land, given that none of the European sites are located within or close to the NECAAP development site. The potential exception to this is Eversden and Wimpole Woods Special Area of Conservation (SAC) given the extensive foraging range of the qualifying barbastelle bat feature.

Section 4.11 of the report identifies that important foraging areas for the barbastelle bat are likely to be focused within 8km of their core breeding zones. We generally agree with this although there doesn't appear to be any evidence to confirm that barbastelles and functional habitat is not located beyond 8km. It is widely known that barbastelles will forage up to 20km from their roost site. On this basis we suggest a more precautionary approach is applied, in line with that generally taken for major developments in the area, to rule out any impacts to SAC functional habitat. A policy requirement for development to confirm no adverse effect on SAC barbastelle functional habitat could suffice.

#### Non-toxic contamination

We generally support the no likely significant effect findings of the assessment presented in section 4.13 - 4.15. However, please see our advice above with regard to Eversden and Wimpole Woods SAC functional habitat.

#### Air pollution

We support the assessment presented in sections 4.16 – 4.34 focusing on emissions associated with increased vehicle traffic on the strategic road network identified in Appendix 3. This confirms that the Ouse Washes SAC, SPA and Ramsar site and Devil's Dyke SAC lie within 15km of the NECAAP boundary and within 200m of a strategic road. We welcome consideration of in-combination air quality effects in line with the requirements of the Wealden judgement<sup>1</sup>. Our advice is that consideration should also be given to any implications for air quality, and potentially water quality, associated with the recent CJEU judgment relating to the Dutch Nitrogen cases<sup>2</sup>.

The Ouse Washes SAC, SPA and Ramsar site has been screened out as having no likely significant effect alone, and in-combination, on the basis that <1% of the site lies within 200m of a

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<sup>1</sup> [2017] Env LR 31, [2017] EWHC 351 (Admin)

<sup>2</sup> Judgment in Joined Cases C-293/17 and C-294/17 *Coöperatie Mobilisation for the Environment UA and Others v College van gedeputeerde staten van Limburg and Others*, found at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62017CJ0293>

strategic road. We have concerns with this approach to screening out likely significant effect to European sites based on a minimum area of impact threshold, without any consideration as to whether the area supports qualifying features that are sensitive to the pollutants concerned. We are not aware of best practice guidance advocating this approach. Based on Natural England air quality guidance our advice is that the HRA should establish whether Ouse Washes qualifying features are present within 200m of the road and whether any such features are sensitive to pollutants from traffic emissions. If this is the case then further screening should be undertaken to identify whether sensitive qualifying features are likely to be exposed to emissions. Where this is the case screening thresholds, such as AADT and/or predicted emissions (process contributions) should be applied to identify whether predicted change is likely to be significant. If the screening is unable to conclude that predicted change alone, and/or in-combination, is unlikely to be significant, or where uncertainty remains, further detailed consideration of air quality impacts should be progressed through the Appropriate Assessment.

In our response to the Greater Cambridge Local Plan consultation we advised that the HRA should provide sufficient evidence to demonstrate no credible risk of air pollution impacts to Wicken Fen Ramsar and Fenland SAC, given that the sites lie just beyond the 200m screening distance. This is referenced in section 4.31 of the HRA and the assessment consequently applies a precautionary approach in its consideration of the issue. Natural England welcomes this and notes the confirmation that Wicken Fen is actually located 300m from the main A1123 at its nearest point. On this basis we support the conclusion that air pollution is unlikely to have a significant effect on Wicken Fen Ramsar and Fenland SAC.

#### Recreation

Natural England agrees with the screening out of likely significant effects for the Ouse Washes SAC, SPA and Ramsar site, Eversden and Wimpole Woods SAC and Devil's Dyke SAC based on limited impact pathways due to distance, in accordance with Natural England's SSSI Impact Risk Zones (IRZs).

Section 4.41 of the report suggests that Natural England has not set a recreational IRZ for Wicken Fen Ramsar and Fenland SAC since these sites are not considered to be at significant risk from recreational pressure. This is not quite accurate. Natural England has delayed setting a recreational pressure IRZ for the site pending analysis of the findings of the recently published Footprint Ecology Wicken Fen Visitor Survey<sup>3</sup> commissioned by the National Trust. In the meantime we would expect the findings and recommendations of this study to inform the assessment of recreational pressure impacts as part of the HRA process for relevant development proposals and plans. We therefore welcome application of a precautionary approach in assuming a 20km zone of influence for recreational impacts to Wicken Fen. Since NECAAP lies within 10km of the site we agree with the screening of likely significant effect.

#### Water Quantity and Quality

We agree that to fully understand the potential impacts of proposed development on European sites a review of relevant Water Cycle Studies (WCS) and liaison with the Environment Agency and relevant water companies will be required. This will need to include consideration of any potential implications for water quality associated with the CJEU ruling on the Dutch Nitrogen cases.

Please note our comments in relation to Chippenham Fen Ramsar and Fenland SAC above. The HRA will need to be informed by relevant evidence emerging from the Integrated Water Study, incorporating a Water Cycle Study, being prepared for the Greater Cambridge Local Plan.

Numerous designated sites within the district and beyond, including internationally designated sites such as Chippenham Fen, are dependent on adequate supply of high quality ground and/or

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<sup>3</sup> Saunders P., Lake S., Lily D., Panter C., (2019) Visitor Survey of the National Trust's Wicken Fen 100 Year Vision Area. Unpublished Report by Footprint Ecology.

surface water supplied by the underlying chalk aquifer. The aquifer is under significant pressure from current abstraction; effects on water quantity and quality is already having an impact on many of these sites and the wider natural environment. Current abstraction rates are clearly not sustainable and the WCS will need to identify how growth requirements can be met in light of this. Alternative options to limit, and ideally reduce abstraction, will be required to ensure no further impact to the natural environment and deterioration in condition of designated sites. Natural England's advice is that it is not appropriate to screen out impacts to European sites that are dependent on the underlying aquifer, on the basis of distance alone; the assessment should await further evidence and recommendations emerging through the WCS.

Section 4.4 of the report concludes no likely significant effect on the Ouse Washes SAC, SPA, Ramsar site based on distance and limited hydrological connectivity with proposed NECAAP development. Natural England advises that consideration should be given to any likely changes in the flow and volume of water entering the River Cam and Ely Ouse associated with the proposed development. Reduced flows would have the potential to exacerbate siltation problems downstream of Denver. Siltation causes the Hundred Foot river to back up and this plays a significant role in the increased and prolonged flooding of the Ouse Washes. Whilst the Ouse Washes is screened as no likely significant effect we note that impacts are considered further through the Appropriate Assessment, which is then unable to conclude no adverse effect on the integrity of the European site. Water quantity impacts to the Ouse Washes therefore requires further review and the relevant sections of the HRA need to be updated accordingly. We suggest this is informed by the detailed findings and recommendations of the WCS.

Devil's Dyke SAC is not water-dependent hence we support the no likely significant effect conclusion.

Wicken Fen Ramsar and Fenland SAC are highly sensitive to changes in water quantity and quality. Based on this and hydrological connectivity with the River Cam we agree there is potential for development through NECAAP to have a likely significant effect alone, and in-combination.

We support the no likely significant effect conclusion in relation to Eversden and Wimpole Woods SAC given that the qualifying barbastelle bat SAC feature is not susceptible or hydrologically connected to water resources that could be impacted by the development.

## **Section 5 Appropriate Assessment**

Natural England welcomes the approach to considering the impacts of the plan (either alone or in combination with other projects or plans) on the integrity of European sites with respect to their conservation objectives and to their structure and function. We welcome reference to Natural England's European site Site Improvement Plans and suggest that reference is also made to any additional information in the relevant Supplementary Advice Packages (SAPs).

### Air quality

Please see our comments above regarding the need for further consideration of air quality impacts to the Ouse Washes SAC, SPA and Ramsar site.

Section 5.11 states that APIS data indicates nitrogen levels at Devil's Dyke SAC are within the lower half of the critical load range between 15 and 25 Kg N/ha/year at 15.6 Kg N/ha/year. Our advice is that for the purpose of assessing air quality impacts to designated site the lower critical load limit of the APIS range should be applied. Based on this nitrogen levels at the SAC are already exceeding the site critical load hence we welcome the proposal for further assessment of air quality impacts.

We agree with the statement in section 5.12 that NECAPP policies could provide some level of mitigation, for example Policy 14: Sustainable Connectivity, which will provide networks for sustainable modes of transport and will encourage active transport. However, we would advocate caution in relying on the mitigating effects of a policy which simply has the potential to limit the

level of increase in vehicles and associated emissions. In the absence of strict requirements the mitigating effects of this are, at best, uncertain. However, we support the proposal to use AADT traffic modelling data to fully inform the assessment of in-combination effects and to undertake air quality modelling if the 1,000 AADT threshold is exceeded, to assess adverse effect and the efficacy of any required avoidance and mitigation measures.

### Recreation

We welcome reference to the Footprint Ecology Wicken Fen Visitor Survey. In light of the findings of this report and the significant level of growth proposed through NECAAP in-combination with growth in adjoining districts, we would advocate caution in assuming that existing management measures by the National Trust are sufficient to mitigate increased recreational pressure. Wicken Fen is a relatively small but popular 'destination site' where access is not entirely controlled through entry permit; there are numerous open access points and several public rights of way across the site. We strongly recommend that the consultants seek further advice on this from the National Trust as owners and managers of the site.

We agree that NECAAP policies such as Policy 23 Open Space could provide some safeguards and mitigation measures for recreational pressure. We particularly support the recommendation for strengthening of policy wording to include a commitment for development of 8,500 homes within 20km of a European site to provide greenspace specifically designed and managed to alleviate recreational pressure on European sites. However, our advice is that quantity of provision and long-term management, rather than simply the design of greenspace, will be critical to mitigating off-site recreational pressure impacts. Therefore, to provide the certainty required to demonstrate no adverse effect on the integrity of sites such as Wicken Fen, the HRA will need to provide additional clarity on mitigation to be delivered through this policy i.e. quantity and quality of open space provision and how delivery and management in-perpetuity will be secured.

Natural England provided detailed advice on the requirements for open space and green infrastructure provision in response to the NECAAP Issues and Options Consultation. Our advice is that the extent of accessible natural greenspace provision (i.e. excluding formal sports areas) should be proportionate to the scale of development, for example 8ha /1000 population is advocated through the Suitable Alternative Natural Green Space (SANGS) [guidance](#) to meet people's needs and protect more sensitive designated sites including European sites and SSSIs. Whilst quantity of provision should be broadly aligned with SANGS guidance, green infrastructure design should seek to achieve the Natural England Accessible Natural Greenspace Standards, detailed in [Nature Nearby](#), including the minimum standard of 2ha informal open space within 300m of everyone's home. Green infrastructure provision should seek to contribute towards the delivery of the objectives of the [Cambridgeshire Green Infrastructure Strategy](#) for habitat enhancement and improved connectivity. The AAP should not rely on existing green space such as Milton Country Park to meet people's recreational needs; the AAP should seek provision of similar area of open space to complement and connect the Country Park.

### Water Quantity

Natural England agrees that a Water Cycle Study is required to fully assess the impacts of increased water demand through NECAAP, in-combination with other plans and policies, on Wicken Fen Ramsar and Fenland SAC and the Ouse Washes SAC, SPA and Ramsar site. As discussed above, this is currently being undertaken as part of the Integrated Water Study for the Greater Cambridge Local Plan.

Consideration should be given to our comments above regarding potential impacts to the Ouse Washes through reduction in flows in the River Cam and Ely Ouse.

We agree that NECAAP water-related policies have the potential to mitigate any water quantity related adverse effects to European sites. Our advice is that policy wording should be guided by the findings of the WCS. Where required, details of measures to mitigate adverse effects will need to be clearly specified along with a mechanism and timescale for delivery.

Please note our advice above with regard to impacts on the natural environment, including sites such as Chippenham Fen Ramsar and Fenland SAC, through over-abstraction from the underlying chalk aquifer. Alternative options are required to address current pressures and to ensure that future growth needs, including water demand, can be sustainably met without adverse effect on European sites and supporting habitat.

### Water Quality

Water quality is critically important for Wicken Fen, which is largely rainwater-fed, and Chippenham Fen which is groundwater fed. Again we agree that the findings and recommendations of the emerging WCS are required to fully assess the impacts of increased demand for wastewater treatment through NECAAP, in-combination with other plans and policies, on Wicken Fen Ramsar and Fenland SAC, and also Chippenham Fen Ramsar. Reduced water quality, associated with lower volumes of water due to over-abstraction of the chalk aquifer, and the effects of this on both sites requires detailed consideration through robust modelling.

We agree that NECAAP policies, particularly *Policy 24 Water Quality, Demand and Efficiency in North East Cambridge*, have some potential to mitigate any water quality related adverse effects to European sites. We support the recommendations in section 5.35 for strengthening of policy wording, the most important of these being inclusion of a requirement for a higher standard of discharge to be met to ensure improved water quality in the River Cam. Our advice is that policy wording should be further guided by the findings of the WCS; details of measures to mitigate any adverse effects should be clearly specified along with a mechanism and timescale for delivery.

### **Conclusions and recommendations**

We generally support the recommendations set out in section 6.4 of the HRA; however, please refer to our advice above with regard to:

- Inclusion of further consideration of air quality impacts to the Ouse Washes SAC, SPA and Ramsar site in addition to Devil's Dyke SAC;
- Consideration of potential reduced river volume/flow to impact on the Ouse Washes;
- Adoption of a more precautionary approach to impacts on Eversden and Wimpole SAC functional habitat;
- Further consideration of measures to mitigate recreational pressure impacts to Wicken Fen through discussion with the National Trust and robust policy wording (Policy 23) to ensure sufficient quantity, quality and long-term management of alternative natural greenspace;
- Updating the report in line with the findings and recommendations of the emerging WCS. This should be used to clarify hydrogeological connectivity (both surface and groundwater) between NECAAP and Wicken Fen and Chippenham Fen Ramsar sites through the HRA, to demonstrate that there will be no adverse effects on these components of Fenland SAC, through changes in water quantity and quality.

Natural England will be pleased to review further iterations of the HRA in due course through our [Discretionary Advice Service](#) (DAS). Given the short consultation period we have had limited opportunity to liaise with colleagues and the Environment Agency. Consequently we may raise additional comments through later stages of consultation.

I hope the above comments are helpful. If you have any queries relating to the advice in this letter please contact me on 020 802 65894.

Yours sincerely

Janet Nuttall  
Sustainable Land Use Adviser