

# Newark and Sherwood Allocations and Development Management Development Plan Document – Addendum to the Assessment under the Habitats Regulations

## **Newark and Sherwood District Council**

March 2012



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# QM

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Prepared by	Sean Nicholson  Andrew Malcomson			
Signature				
Checked by	Russell Buckley			
Signature				
Authorised by	Sean Nicholson			
Signature				
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WSP Environmental UK  
One Queens Drive  
Birmingham  
West Midlands  
B5 4PJ

Tel: +44 (0)121 352 4700  
Fax: +44 (0)121 352 4701  
<http://www.wspgroup.com>

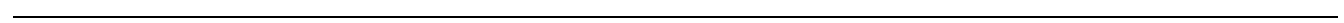
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# 1 Introduction

## 1.1 PURPOSE OF THIS REPORT

1.1.1 Newark and Sherwood District Council is in the process of producing an Allocations and 'Development Management Development Plan Document (A&DM DPD). It consulted on options in 2011. Consultation is now taking place on additional sites and the Development Management Policies. As part of the work, consideration must be given to the potential effects on sites of European importance for nature conservation. WSP Environmental Ltd has been appointed by the Council to consider the potential for such effects and how the A&DM DPD could be amended to avoid or mitigate such effects. This report has been prepared to accompany the latest consultation exercise. This work builds on and has regard to earlier the earlier work undertaken in relation to HRA .

1.1.2 The purpose of this Report is to comment on the implications of the additional sites that are being consulted on and to re-screen the Development Management Policies:

1.1.3 This report only needs to consider potential effects on designated European sites (including any candidate sites). A prospective European site has also been identified in Sherwood Forest. The potential for a new European site was highlighted during the inquiry into a proposed Energy Recovery Facility at Rufford (APP/L3055/V/09/2102006). There is no formal requirement to look at this site from the perspective of compliance with relevant legislation relating to undertaking this assessment; however Planning Policy Statement 121 (PPS12) highlights the need for DPDs to handle contingencies. It was therefore felt appropriate to look at the risks to the A&DM DPD of a new European site being identified in the District over the course of its lifetime. Appendix C of the previous report did that. This addendum report gives further consideration to the issues in the context of the additional consultation exercise being undertaken by the Council.

1.1.4 The previous HRA report set out the background to the work, including the legislative drivers, the role of the A&DM DPD and the characteristics of the sites considered. It is not repeated here.

1.1.5 The Birklands and Bilhaugh SAC is the only European site within the District itself and 15km of the local authority boundary; it is the main focus for this report. It lies within Sherwood Forest, an important ecological and recreational resource.

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<sup>1</sup> Planning Policy Statement 12: Creating Strong Safe and Prosperous Communities Through Local Spatial Planning, DCLG 2008



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## 2 Re-visiting the Assessment

### 2.1 INTRODUCTION

2.1.1 This section summarises the results of a review of the potential for likely significant effects on European sites associated with Development Management Policies and the additional sites that are being consulted on.

### 2.2 RESULTS OF POLICY SCREENING EXERCISE

2.2.1 **Appendix A** presents the results of the screening exercise for the A&DM DPD Development Management Policies and is a repeat of the exercise undertaken previously. The first column identifies the relevant policy and the second column identifies the categories that arose from the initial screening exercise. The third column presents the categories that arose from the re-consideration of elements of the A&DM DPD that could not initially be screened out. It also includes recommendations for those policies that fell within Category C and D.

2.2.2 It is acknowledged that this exercise is subject to value judgements associated with all environmental assessments and although guided by criteria is still subjective.

2.2.3 The key points are:

- At the time of the previous iteration of the SA the Development Management policies the wording of the policies was not as advanced as it is now.
- A policy on special housing needs has been deleted for the reasons set out above – this is not anticipated to have any likely significant effects on European sites;
- A new policy has been added on biodiversity – as a policy that is intended to protect and enhance the natural environment, including European sites the policy is welcomed;
- Four policies on the historic environment were previously proposed – these have been combined into one policy, this change is not anticipated to have any significant effects in terms of impacts on European sites;
- A policy on shop-fronts has been combined into the policies on the historic environment; this is not anticipated to have any significant effects on European sites.

2.2.4 The review does not highlight any potential for likely significant effects on European sites.

### 2.3 RESULTS OF SITE SCREENING EXERCISE

2.3.1 The previous iteration of the HRA considered the potential for impacts associated with:


- Air quality;
- Recreational pressure on the SAC; and
- Water abstraction.

2.3.2 The issues are briefly considered below. The aim has been to provide sufficient information to make this addendum free standing, however the previous HRA report provides additional background on the issues and the role of the A&DM DPD in tackling these. The role of the Core Strategy and other policy and legislation is also discussed in the previous report.

#### **Air Quality**

2.3.3 Ecological elements within Birklands and Bilhaugh SAC, such as the diversity of lichen present, are sensitive to changes in air quality.

2.3.4 Analysis suggests that existing point source pollution is more important than pollution associated with traffic on the B6034. The A&DM DPD has no influence on existing point source pollution but could have a role in controlling future sources of point source pollution and future traffic growth.



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2.3.5 The previous HRA report recommended that Policy DM13 'Pollution and Hazardous Materials' of the A&DM DPD (now Policy DM9) could highlight the need for assessments relating to potentially polluting development to consider the potential for effects on European sites and the scope for avoiding or mitigating these. This provision should relate to point source polluters and other activities that have potential to lead to increased deposition of nitrogen, e.g. poultry farms. Developments in the vicinity of the SAC that will lead to potential effects associated with increased road transport should also be assessed for potential impacts on the SAC.

2.3.6 It is noted that the recommendation has not been incorporated in the policy, although the supporting text for policies has not yet been developed and it may be appropriate to include the above recommendation in the supporting text because ecology is identified as a factor to be considered in the policy.

2.3.7 The sites put forward for consultation are put forward for housing, they are not within 200m of a European site. It is not considered that the sites will give rise to likely significant effects on a European site.

### **Recreational Pressure on the SAC**

2.3.8 The housing element of the A&DM DPD has the potential to introduce new residents to the area. A proportion of the total number of new residents will pursue recreational activities on nearby areas of green open space. New employment related activity can also give rise to recreational demand. Areas potentially affected could possibly include designated areas such as Birklands and Bilhaugh SAC, which contains habitats and species that may be sensitive to disturbance from increases in recreational pressure.

2.3.9 The re-location of the visitor centre at Sherwood Forest provides the opportunity to include an area of Suitable Alternative Natural Green Space (SANGS) that will also be attractive to local people and divert pressure from the SAC. This will help relieve pressure on the SAC. An alternative site for SANGS could be identified at Edwinstowe in the event that the visitor centre does not proceed or if development at Edwinstowe proceeds ahead of the visitor centre. A site of 3ha (or two sites of 2ha) should be identified as a minimum functional area for SANGS. The Core Strategy already identifies the need for additional green infrastructure at Ollerton and Boughton that could also serve as SANGS.

2.3.10 The previous HRA concluded that – provided the proposed SANGS is delivered - there will be no likely significant effect (either alone or in combination) as the result of the A&DM DPD being implemented.

2.3.11 Given the location of the additional sites put forward for consideration relative to the SAC it is concluded that the above conclusions and recommendations apply equally to the additional sites.

### **Water Abstraction**

2.3.12 The SAC is located within a Zone III (Total Catchment) Source Protection Zone (SPZ) for various public water supply boreholes. There are two water abstraction boreholes near the SAC.

2.3.13 It is the role of Water Resource Management Plans, which are produced by the water companies (in this case Severn Trent Water), to investigate in far greater detail the impact of water supply and demand on the natural environment. WRMPs are subject to scrutiny under the Habitats Directive.

2.3.14 The previous HRA concluded that Policy ShAP1 in the Core Strategy provides adequate protection in relation to the SAC on this matter – since no development will be allowed that would have an adverse impact on the site. It is concluded that this conclusion applies equally to the additional sites.

## **2.4 IMPLICATIONS OF A PROSPECTIVE SPECIAL PROTECTION AREA**

2.4.1 Appendix C of the previous HRA examined the potential for a new European site. This would be 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)) to be identified in the District (and indeed in the wider Nottinghamshire area) at Sherwood Forest. The potential for a new European site was highlighted during the inquiry into a proposed Energy Recovery Facility at Rufford (APP/L3055/V/09/2102006).

2.4.2 The Appendix included a re-run of the policy screening exercise. The work has been reviewed as part of this addendum. The results are considered to be the same as those for the SAC (which are set out in **Appendix A** of this report) and are not repeated again.



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2.4.3 The following issues were considered:

- 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; and
- Issues associated with lighting.

2.4.4 The relevance of these issues to the additional sites is briefly discussed below:

#### **Air Quality**

2.4.5 The Development Management DPD could highlight the need for AA to consider the potential for effects on European sites associated with additional traffic in proximity to the site or industrial processes and the scope for avoiding or mitigating these. Given that the additional sites are not in proximity to the prospective SPA likely significant effects are not anticipated.

#### **Recreational Pressure**

2.4.6 If a SPA is proposed there may be a case for introducing developer contributions to help fund the provision of SANGS and management of sites and in particular help manage potential conflicts between recreational use and ecology. The provision of SANGS as part of developments may also be an appropriate response. The level of provision and the evidence base for it will need to be discussed with Natural England.

2.4.7 There may also be a need to introduce a presumption against residential development within 400m of the site. The A&DM DPD would be the place to do that.

2.4.8 Given that the additional sites are not in proximity to the prospective SPA likely significant effects are not anticipated.

#### **Water Abstraction**

2.4.9 The Core Strategy includes measures to reduce the demand for water and reduce water consumption in new housing (through adoption of the Code for Sustainable Homes) and other development (through BREEAM). The need for any additional measures will be contingent on finalisation of the WRMP.


2.4.10 Shap 1 of the Core Strategy was amended to include a commitment to prevent development that would harm the existing European site. If a new European site were to be allocated it could prompt a review of the LDF and Shap 1 could be amended to recognise the new SPA and protect it in the same way. No additional modifications to the A&DM DPD are suggested and the additional sites are not anticipated to give rise to significant effects.

#### **Pet Predation**

2.4.11 An established response to this issue is to prohibit residential development within 400 metres of the boundary of a site unless there are physical obstructions to cat movement, for example the Thames Basin Heaths Delivery Plan adopts this approach. **The A&DM DPD would be the place to identify such a policy if the SPA was designated.** Given that the additional sites are not in proximity to the prospective SPA likely significant effects are not anticipated.

#### **Habitat Loss and Fragmentation**

2.4.12 The appropriate response to the risk of habitat loss and fragmentation is to preserve and enhance existing areas of supporting habitat – supporting habitat may occur outside of the SPA boundary and creation of new areas of supporting habitat outside the SPA is also a possibility. Supporting habitat need not be physically connected to existing sites but close enough to create a stepping stone effect.



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2.4.13 Project level Appropriate Assessment would be required to help establish if sites could serve as supporting habitat. The Development Management DPD could highlight the need for this approach. Developer contributions may be required to help manage and maintain existing sites and create new ones.

2.4.14 Given that the additional sites are not in proximity to the prospective SPA likely significant effects are not anticipated.

### **Lighting**

2.4.15 The issues associated with lighting are capable of being assessed and resolved through the provision and implementation of design guidance. The guidance could identify the areas where such issues would need to be considered at the project level through AA.

2.4.16 The A&DM DPD could highlight the need for AA to consider the potential for effects on European sites associated with new sources of lighting and the scope for avoiding or mitigating these.

2.4.17 Given that the additional sites are not in proximity to the prospective SPA likely significant effects are not anticipated.





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## 3 Conclusions

3.1.1 A process has been followed which follows advice provided by Natural England. This process has been termed an 'assessment under the Habitats Regulations' (or a 'Habitats Regulations Assessment'). This work has been undertaken as an addendum to the previous HRA screening exercise for the A&DM DPD.

3.1.2 The process has examined each policy within the A&DM DPD in turn to identify whether there is a potential for it to give rise to significant effects on European sites. For this part of the process a screening table has been used based on guidance produced by Natural England. Specific issues have been examined in detail and the contribution of the A&DM DPD to these issues and opportunities for avoidance and mitigation measures identified. An important element of completing the matrices has been the consideration of the risk of potential effects occurring, in accordance with the EC's position statement on the Precautionary Principle<sup>2</sup>. This process has taken account of existing avoidance and mitigation measures including relevant policies in the Core Strategy.

3.1.3 This process has also highlighted that the position of the A&DM DPD within the tiers of documents which make up the LDF (including the Core Strategy), as well as with other plans, programmes and projects is important when assessing the level of risk of significant effects occurring.

3.1.4 The key point is that the A&DM DPD will not in itself result in any change to or effect on any European site. Nothing will happen unless and until there is a planning permission for individual development sites. Whilst the Core Strategy can set a framework for these later decisions (and so to that extent influence them, as found in the Commission v UK decision), provided that framework makes it clear that (i) the requisite requirements of the Directive/Habitats Regulations will have to be satisfied at those later stages; and (ii) that the Core Strategy policies do not provide support for any proposal which would have an adverse effect on the integrity of any European site (and the Core Strategy clearly does not support such development), the A&DM DPD should not impact on any European site.

3.1.5 In addition, the potential for in-combination effects has been considered and as part of this process the results of the HRA work undertaken for the Regional Spatial Strategy on the overall level of growth has been examined and account has been taken of the recommendations contained within that HRA Report.

3.1.6 In this particular instance, a range of potential effects have been considered and discounted for the reasons set out in Section 2 of this report. These comprise potential effects associated with recreational pressure, issues associated with air pollution and water abstraction. These reflect the issues identified at the Regional level, which apply to a broader geographical area.

3.1.7 If the proposed modifications summarised in this report are incorporated into the Development Management DPD it can reasonably be concluded that there will be no likely significant effect (either alone or in combination) as a result of the A&DM DPD being implemented.


3.1.8 On the basis of the work undertaken it is concluded that an Appropriate Assessment of the A&DM DPD will not be required if the measures outlined in this report are incorporated in the final version of the A&DM DPD. This report will be consulted on with Natural England and other consultees and should be updated in light of their comments and updated as the A&DM DPD develops.

3.1.9 The additional sites put forward for consideration are not anticipated to give rise to likely significant effects on European sites.

3.1.10 Consideration has also been given to the implications of a prospective SPA at Sherwood Forest. The policies and additional sites being consulted on are not anticipated to give rise to likely significant effects on the prospective SPA.

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<sup>2</sup> Communication from the Commission on the Precautionary Principle (2000), Commission of the European Communities



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# Appendix A Detailed Assessment of the Development Management Policies

## Key to Table One

- Category A1: The policy will not itself lead to development e.g. because it relates to design or other qualitative criteria for development;
- Category A2: The policy is intended to protect the natural environment;
- Category A3: The policy is intended to conserve or enhance the natural, built or historic environment;
- Category A4: The policy would positively steer development away from European sites and associated sensitive areas;
- Category A5: The policy would have no effect because no development could occur through the policy itself, the development being implemented through later policies in the same plan, which are more specific and therefore more appropriate to assess for their effects on European Sites and associated sensitive areas.
- Category B – no significant effect;
- Category C – likely significant effect alone; and
- Category D – Likely significant effects in combination.

Note that categories C and D are not used in this instance.

**Table One: Detailed Assessment of Development Management Policies**

	Policy(s)	Categorisation in the initial screening	Comments and Recommendations – comments not included in the previous report are shown in bold.
<b>Policy Area: Agenda for Managing Growth</b>			
DM1.	Development within settlements central to delivering the Spatial Strategy.	This has the potential to include settlements within close proximity to the SAC. This is judged to fall under category C/D	Provision of Suitable Alternative Natural Greenspace (SANGS) associated with the relocated Sherwood Forest Visitor Centre would help avoid such impacts in combination with existing Green Infrastructure provision.
DM2.	Developer Contributions	This relates Developer Contributions and is judged to fall under category A1	
<b>Policy Area: Sustainable Development &amp; Climate Change</b>			
DM3.	Renewable Energy	This policy includes consideration of ecological impact and is therefore considered to fall under category A1/A2	
DM4.	Design	This policy relates to criteria with which to assess proposals and is therefore considered to fall under category A1	
DM5.	Householder Development	This relates to criteria for assessment and will be further defined in a linked SPD. This is considered to fall under category A1/A5	
DM6.	Biodiversity and Green Infrastructure	Development proposals will be supported where their principle objective is to conserve or enhance biodiversity. Other proposals within or affecting sites or features of biodiversity value should be accompanied by an investigation of their impact. Development should be designed to maximise opportunities to incorporate features of biodiversity value or avoid, mitigate or compensate for any adverse impacts. Proposals that cannot as a minimum compensate for any adverse impact will be resisted. This is judged to fall under Categories A3/A4	
<b>Policy Area: Natural &amp; Built Environment</b>			
DM7.	Development in the Open Countryside	Reference to DM4 means that this policy relates to criteria with which to assess proposals and is therefore considered to fall under category A1	
DM8.	Protecting and Enhancing the	This policy relates to protecting and enhancing	



	<b>Policy(s)</b>	<b>Categorisation in the initial screening</b>	<b>Comments and Recommendations – comments not included in the previous report are shown in bold.</b>
	Historic Environment	the historic environment and is considered to fall under category A3	
DM9	Pollution & Hazardous Materials	This policy includes consideration of ecological impact and is therefore considered to fall under category A1/A2	The policy could highlight the need for sources of point source pollution that will require planning permission to consider the impact on the SAC.
	<b>Policy Area: Economic Growth</b>		
DM10	Retail	Reference to DM4 means that this policy relates to criteria with which to assess proposals and is therefore considered to fall under category A1	