

# External Memo: technical note

To	Matthew Tubb, Newark and Sherwood District Council
From	Joseph Evans, Lepus Consulting
Subject	Response to Inspector r/e air pollution
Code	LC229 NSDC HRA
Date	8 <sup>th</sup> November 2017
CC	Neil Davidson, Lepus Consulting



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## Acronyms

- **AADT** - Average Annual Daily Traffic
- **CLG** - Department for Communities and Local Government
- **DMRB** - Design Manual for Roads and Bridges
- **DC** - District Council
- **HRA** - Habitat Regulations Assessment
- **LPR** - Local Plan Review
- **LSE** - Likely Significant Effect
- **NSDC** - Newark and Sherwood District Council
- **SAC** - Special Area of Conservation
- **SoS** - Secretary of State

## Summary

*Lepus Consulting confirms that the findings of Wealden DC v SoS for CLG and Others [2017] was taken into consideration in the assessment of air quality impacts caused by the Newark and Sherwood Local Plan Review in relation to Birkland & Bilhaugh SAC.*

## Inspector's query

1. Lepus received the following query from Mr Griffiths, who is acting as the Inspector for the purposes of the Newark and Sherwood Local Plan Review Examination procedure, on 3<sup>rd</sup> November 2017 from Matthew Tubb at Newark and Sherwood District Council:

*"Reference is made to DMRB (in 5.7.6) and the need for further consideration only if the number of additional car movements exceeds 1,000 AADT (in 5.7.9). However, the High Court in Wealden DC v SoS for CLG and Others [2017] EWHC 351 (Admin) found that approach to be unacceptable. Can you please confirm that the In-Combination Assessment, Former Thoresby Colliery, Edwinstowe, carried out by Redmore Environmental Ltd., dated 7 June 2017, referred to in the HRA, took the judgement into account in reaching its conclusions?"*

## Background to the HRA

2. Lepus was commissioned to prepare the HRA for the Newark and Sherwood Local Plan Review in 2016. The screening report initially concluded that an LSE on Birkland & Bilhaugh SAC as a result of air pollution could not be ruled out at that time. This was because of the impact of traffic increases, potentially caused by the LPR and in particular the proposed redevelopment of the Thoresby Colliery, on the B6034.
3. The B6034 runs within 200m of the SAC, parallel to its eastern perimeter. Lepus had considered it to be likely that the LPR would increase traffic on this road to a minor extent because of the proposed Thoresby Colliery redevelopment. Whilst it appeared to be unlikely to be a significant increase, the SAC is currently exposed to nitrogen deposition that significantly exceeds its critical loads. To be confident that conditions at the SAC would not be exacerbated by air pollution caused by traffic increases on the B6034 as a result of the LPR, Lepus specifically sought Natural England's advice on the matter. Natural England agreed in their initial response to the HRA screening that further evidence would be required to rule out an LSE on the SAC due to air pollution caused by traffic increases as a result of development proposed in the LPR.
4. The further evidence required for this purpose would typically come in the form of traffic modelling, to determine the extent of traffic increases, and air quality modelling, to determine the extent of subsequent air pollution increases.
5. If a development plan or project increases the AADT of a road by 1,000 or more, that road is classified as being 'affected'. This is in accordance with the criteria for affected roads in the Design Manual for Roads and Bridges (*volume 11, Environmental Assessment Section 3, Environmental Assessment Techniques*).
6. If an affected road is within 200m of a Natura 2000 site, then air quality modelling is required to determine if the affected road will be likely to have a significant impact on the Natura 2000 site due to air pollution. The 1,000 AADT increase threshold is a means of avoiding unnecessary air quality assessments by showing that a road will be unaffected by development (i.e. AADT increase is less than 1,000). Ultimately, it is the air quality modelling which determines if there will be a significant effect. Lepus subsequently recommended to Newark & Sherwood District Council (NSDC) that it would be necessary to acquire further evidence to determine potential impacts on the SAC.

## No significant effect

7. NSDC subsequently agreed that further evidence was necessary to determine if traffic increases on the B6034 could potentially have a significant effect on the SAC. In February, May and June 2017, NSDC provided Lepus with the results of air quality modelling, completed by Redmore Environmental on behalf of Rodgers Leask Limited.
8. Redmore Environmental used Department for Transport figures to establish a baseline of traffic data. They then projected this forward using TEMPro to determine future traffic increases on the B6034. TEMPro is a software package developed by the Department for Transport. The air quality dispersion modelling assessed the impacts of the Thoresby Colliery redevelopment alone, and in combination with relevant plans and projects, on nitrogen deposition at the SAC.

9. The air quality dispersion modelling found that the increase in air pollution at the SAC, as a result of the proposed development either alone or in-combination, would not constitute a significant effect.
10. The increase in nitrogen deposition caused by the development, when considered alone, would result in less than 1% of the critical load at all receptors of the SAC. When considering the impacts of the proposed development in-combination with relevant plans and projects, the increase in nitrogen deposition constitutes less than 10% of the critical load at all receptors.
11. As the increase in deposition would be less than 1% when assessed alone, and less than 10% when assessed in-combination, an LSE as a result of air pollution can be objectively ruled out at this stage. These thresholds are in accordance with the AQTAG21 guidance – a joint publication from the Environment Agency, Natural England and Natural Resources Wales. They are also in accordance with the advice Natural England gave Redmore Environmental during a telephone consultation between Eric Steer at Natural England and Redmore Environmental on 2<sup>nd</sup> March 2017.