

**GREATER NOTTINGHAM
ALIGNED CORE STRATEGIES**

SUPPLEMENTARY INFORMATION

**HABITATS REGULATIONS APPRAISAL
SCREENING RECORD**

Prepared by
David Tyldesley and Associates
Edited for local content by Broxtowe Borough Council



David Tyldesley and Associates

Sherwood House
144 Annesley Road
Hucknall
Nottingham
NG15 7DD

Tel: 0115 9680092
Fax: 0115 9680344
Email: dta@dt-a.co.uk

Background

1. This report provides supplementary information to the Habitats Regulations Appraisal (HRA) record for the Greater Nottingham Aligned Core Strategies (GNACS), February 2010 option for consultation¹. It should be read and interpreted in conjunction with the original report.
2. The original HRA was undertaken in accordance with the opinion of Advocate General Kokott given to the European Court of Justice in Case C-6/04 EC vs UK. Paragraph 49 states that “*adverse effects on areas of conservation must be assessed at every relevant stage of the procedure to the extent possible on the basis of the precision of the plan. This assessment is to be updated with increasing specificity in subsequent stages of the procedure*”. With three specific exceptions, the original HRA concluded that the ACS, including the overall level of growth, would not be likely to have a significant effect on any European site, alone or in-combination with other plans or projects.
3. One of the three exceptions identified uncertainties as to the effects of the proximity of development to the Sherwood Forest prospective SPA. Paragraphs 1.20 to 1.23 of the original screening report explained why and how the prospective Sherwood Forest SPA should be included in the assessment, on a risk-based approach, applying the terms of Article 4(4) of the Birds Directive. It concluded in paragraph 1.23 as follows

Before formal classification the area would first be a pSPA, and may remain of that status for some time. Owing to judgments in the European Court of Justice, a plan may only be adopted if it is certain that the plan will not cause pollution or deterioration of a pSPA or significant disturbance of the bird species for which a pSPA has been proposed (either alone or in combination with other plans or projects) and the derogation provisions of Article 6.4 (regulation 103) do not apply². This is a more strict protection than that in regulations 102 and 103 of the Habitats Regulations applying to classified SPAs. In light of this, and in order to ‘future-proof’ the ACS, it has been decided that, on a precautionary basis, this appraisal will treat the prospective Sherwood Forest SPA as if it was a pSPA, thus affording it the equivalent to the highest level of protection during appraisal that it would have at any stage in its potential route to classification.

4. The original HRA was only able to assess general information on the development locations for the allocation of 52,050 new homes. Information available at the time of the assessment was given in policy 2 of the spatial strategy which provided for:
 - a. 25,320 homes in the Principal Urban Area of Nottingham
 - b. 4,200 new homes in each of two SUEs East of Gamston and South of Clifton

¹ David Tyldesley and Associates, Sept 2010. Greater Nottingham Aligned Core Strategies Habitats Regulations Appraisal record, February 2010 option for consultation

² European Court of Justice in Case C-244/05 *Bund Naturschutz in Bayern eV and others v Freistaat Bayern*. European Court of Justice in Case C-374-98 *Commission v French Republic* (“*Basses Corbieres*”)

- c. 1,480 new homes in one or more SUE in Broxtowe yet to be determined
 - d. 4,090 homes in or adjoining Hucknall Sub Regional Centre including SUEs at Top Wighay Farm and north of Papplewick Lane in Gedling
 - e. 4,420 new homes in or adjoining Ilkeston Sub-Regional Centre (including a SUE at Stanton)
 - f. Up to 8,340 new homes elsewhere in Greater Nottingham
5. The original HRA was undertaken to the extent possible on the basis of the precision of the plan and the general development locations identified. Section 5 considered each of the development locations identified above; paragraph 5.7 stated “a conclusion of no likely significant effect as a result of proximity of urban development to the prospective SPA cannot be determined without checking to see where the ACS is directing new development”. Paragraph 5.13 recommended that, in the absence of more detailed analysis, a precautionary approach should be adopted and Policy 2(1)(e) should preclude urban extensions north of the B6386 north of Calverton, and west of the A60 and north of Ricket Lane at Ravenshead.
 6. The effects of the overall increase in dwellings within the Greater Nottingham area was assessed as part of the original HRA; further assessment is not therefore required in relation to increases in population.

Air pollution effects

7. The effects of air pollution generally on the prospective SPA are discussed in paragraphs 4.4 to 4.30 of the original appraisal. The potential allocations are all too distant from the prospective SPA to have air pollution effects other than those associated with increased traffic movements. The effects of increased traffic are limited to increases on roads which lie within 200m of the prospective SPA.
8. The potential allocations are currently being subject to transportation modelling. Consequently, at this stage, the effects on air pollution can only be based on the general location of the development relative to the habitats of the prospective SPA and likely traffic routes and increases that could affect the prospective SPA as may be judged by commonsense and local knowledge.

Conclusions

9. As indicated above, we are aware that Ashfield and Mansfield Councils are currently undertaking their own HRAs which we do not have access to. Potential in-combination effects with development provided for in Ashfield and Mansfield are considered to be unlikely but cannot be excluded without further reference to relevant information on proposed development locations.
10. If adequate avoidance and mitigation measures were built into the plan before it was next screened for likely significant effects, it would not require appropriate assessment before being adopted. We therefore turn to potential mitigation measures.

11. The above assessment assumes that the Coal Authority land between the B6386 and the prospective SPA remains closed to public access, and therefore acts as a 'buffer' protecting the prospective SPA. However, opening the area for managed public access in a planned way, could also be seen as a positive measure, because this area would be likely to act as an alternative to the prospective SPA, potentially of at least equal, if not greater, attraction for dog walkers, especially if the mitigation measures described above were in place and safe and convenient access on foot from Calverton and / or the B6386 was provided. A threat to the prospective SPA could come from a gradual attrition of the impediments to access, such that public access grew steadily without being managed in association with the prospective SPA plantations. This could lead to an unmanaged increase in visitors to the area, the effects of which the Wildlife Trust and FC may find more difficult to manage on their land.
12. If an appropriate assessment is undertaken it should be informed by improved evidence in relation to (at least) the following key issues:
 - a. records of the number and distribution of territories of Nightjar and Woodlark in the Foxcovert and Watchwood plantations and any occurrences outside these areas;
 - b. the (cyclical) distribution of potential breeding habitats for Nightjar and Woodlark in the plantations relative to footpaths;
 - c. a structured visitor survey to establish likely numbers, characteristics, timing, duration, walking route and origin of visitors and purpose of visit to the prospective SPA and surrounding areas, including the arable fields and Gravelly Hollow lane;
 - d. the mitigation measures described above;
 - e. the likely long-term future of the Coal Authority land; and
 - f. how the access and habitat management of the prospective SPA could be coordinated to maximise recreation potential whilst ensuring no significant adverse effect on the breeding populations of Annex 1 birds for which it may be classified.