

consultations@naturalengland.org

Via email only, no hard copy to follow
September 2019

Dear Sir/Madam

FOR INFORMATION ONLY

The Daventry Part 2 Local Plan was submitted to the Secretary of State on 19th December 2018. The Planning Inspectorate appointed an Inspector to examine the plan for soundness. Local Plan hearing sessions were held in June 2019. During the hearing sessions the Inspector identified some issues of soundness and following the hearing sessions, the Inspector provided a post hearing note (EXAM 28) that set out that he considered that the plan as submitted had deficiencies in respect of soundness. However subject to a series of Main Modifications, discussed at the hearings and set out in the note, the plan could be considered to be legally compliant and sound.

The Main Modifications have been reviewed to consider whether they would change the results of the SA and the HRA and a report has been produced and published on the Council's website¹. This review concluded that the Main Modifications will not change the results of the SA or the HRA screening exercise . Please note that the amended HRA screening letter (dated July 2018) is shown below for ease of reference.

Yours faithfully



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Director

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¹ Ramboll (September 2019): DAVENTRY LOCAL PLAN MAIN MODIFICATIONS SA/HRA SCREENING REPORT.

Via email only, no hard copy to follow
July 2018

Dear Sir/Madam

**HABITATS REGULATIONS ASSESSMENT (HRA) SCREENING OF THE
DAVENTRY LOCAL PLAN PART 2 – AMENDED SCREENING LETTER**

This letter presents the findings of an HRA screening exercise of the above-mentioned Local Plan. The screening exercise has considered potential Likely Significant Effects (LSEs) of the above-mentioned Local Plan on the Upper Nene Gravel Pits SPA and Ramsar site, as agreed with Natural England in email correspondence with Roslyn Deeming on 13 March 2013 (reference: 77555) – see Appendix A.

The letter has been amended to ensure that it is legally compliant in light of the legal ruling *People over Wind*, Peter Sweetman v Coillte Teoranta.

Implications of *People over Wind*, Peter Sweetman v Coillte Teoranta

People over Wind, Peter Sweetman v Coillte Teoranta concerns a judgement by the Court of Justice of the European Union (CJEU). The Court held that that Article 6(3) of the Habitats Directive requires that measures which are intended to avoid or reduce the harmful effects of a plan or project on a European Protected Site should *not* be taken into consideration at the screening stage. As such, it is considered that the Conservation of Habitats and Species Regulations 2017 should be construed and applied accordingly.

The Daventry Local Plan has already undergone HRA screening processes and the result of this process is that there are unlikely to be significant effects on identified European sites and therefore the Local Plan does not require advancement to appropriate assessment. However, the reasoning behind this conclusion requires review to ensure that the conclusion of no likely significant effect was not reliant on the type of avoidance or reduction measures which, following *People over Wind*, now fall to be discounted at the screening stage.

The Daventry Local Plan Part 2

The Local Plan builds on the West Northamptonshire Joint Core Strategy (WNJCS) by providing local detail. The Local Plan covers the entire administrative area of Daventry, including areas within the Northampton Related Development Area (outlined in the WNJCS).

On adoption, the Local Plan will replace the 1997 Daventry Local Plan and will make provisions for the district up to 2029.

The Local Plan will: set the settlement hierarchy and spatial strategy; allocate land for specific uses (such as housing and employment); provide approaches to rural housing and other countryside uses, set policies to help meet the need of gypsies, travellers and travelling showpeople, designate locally protected areas; set out policies for the regeneration or enhancement of the town centre; and provide planning policies to guide development. The Local Plan contains a separate Policies Map that will display the areas covered by the spatial strategies.

The Need for HRA

HRA is required under the EU Habitats Directive (92/43/EEC) and the Conservation of Habitats and Species Regulations 2017 (as amended) for any proposed plan or project which may have a significant effect on one or more European designated sites.

The Conservation of Habitats and Species Regulations 2017 transposes into English Law the requirement to carry out Appropriate Assessment for land use plans. Regulation 105 of the Conservation of Habitats and Species Regulations 2017 sets out that “the plan-making authority for that plan shall, before the plan is given effect, make an appropriate assessment for the implications for the site in view of that site’s conservation objectives”.

Regulation 63 of the Conservation of Habitats and Species Regulations 2017 requires Appropriate Assessment of plans and projects likely to have a significant effect on a European site. This means that the effects of such plans/projects on European sites designated for their nature conservation value (Natura 2000 sites (SPAs, SACs), Ramsar sites²) need to be assessed to ensure that the integrity of these sites is maintained.

The preparation of the above-mentioned plan needs to be subject to HRA to ascertain if there is potential for LSEs on any European site as a result of the plan.

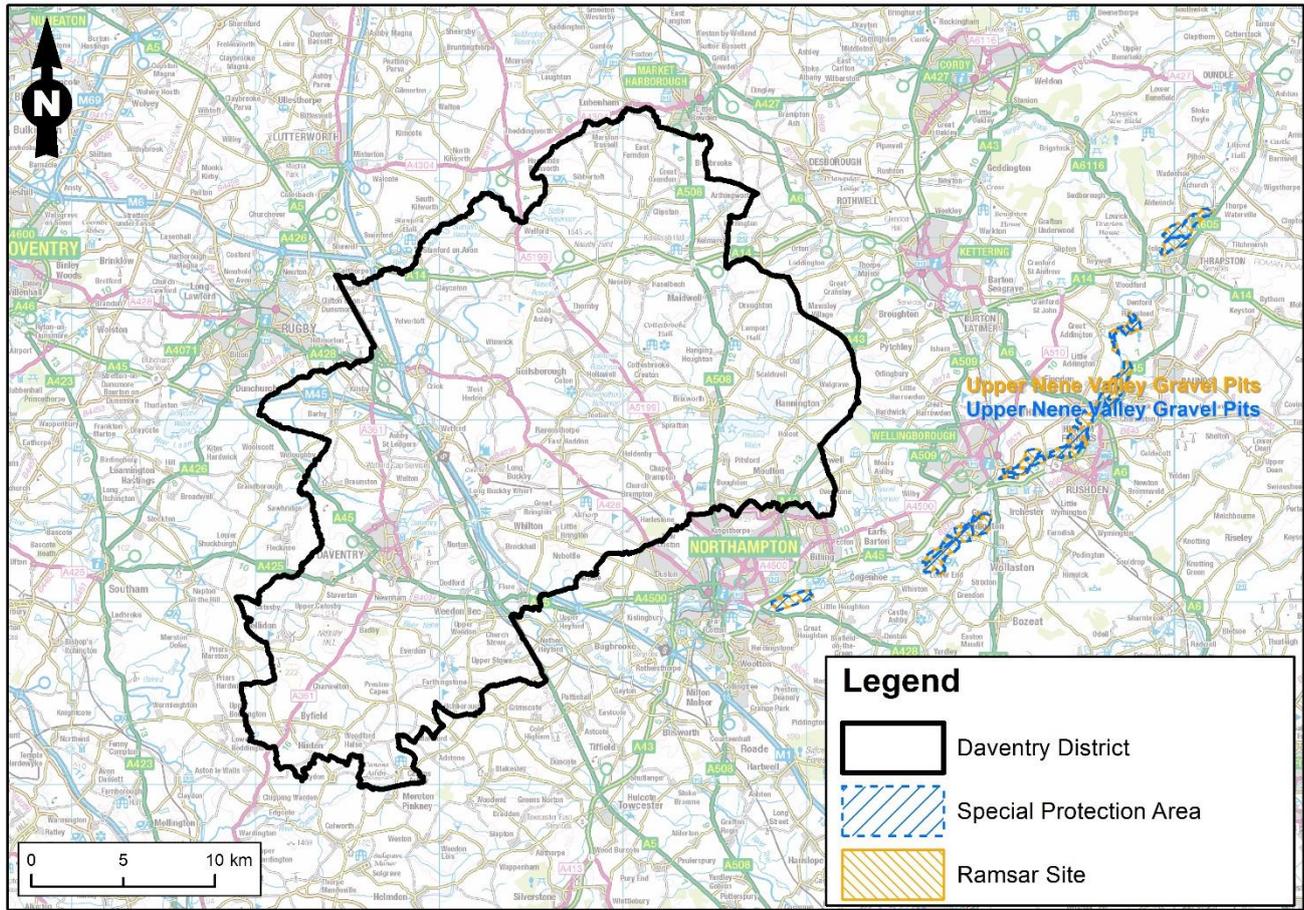
European Sites

This screening exercise has only considered the Upper Nene Gravel Pits SPA and Ramsar site. This is because other European sites have been screened out in the Appropriate Assessment of the West Northamptonshire Joint Core Strategy. This reasoning was confirmed by Natural England in its letter of 13 March 2013 which stated that as the Daventry Part 2 Local Plan will need to be in conformity with the Joint Core Strategy this reasoning is sound.

The Upper Nene Gravel Pits SPA and Ramsar Site

A component site of the Upper Nene Valley Gravel Pits SPA and Ramsar Site is situated to the South-east of Northampton. The location is shown on Figure 1.

² Under the National Planning Policy Framework 2012 (para 118), Ramsar Sites, and possible SACs/ proposed SPAs must be given the same protection as SACs and SPA fully designated under international and domestic legislation



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Figure 1: Location of Upper Nene Valley Gravel Pits SPA and Ramsar Site in Relation to Daventry

The SPA site stretches discontinuously from Northampton to Thrapston, and has been designated as an SPA on the strength of the assemblage of overwintering water birds. The site supports nationally important numbers of two overwintering Annex I species (great bittern *Botaurus stellaris* and golden plover *Pluvialis apricaria*), and a population of overwintering gadwall *Anas strepera* which exceeds the 1% limit for the biogeographical population that is set in Article 4.2 of the Birds Directive (79/409/EEC).

The integrity of the SPA site depends on maintenance of extensive reed beds with a wet base and open channels suitable for bittern, a high water table in winter and the maintenance of varied topography and water levels as well as a continued variety of vegetation and prey species for the various bird species using the site.

The Ramsar Site has been designated based on the criterion of supporting an overwintering water bird assemblage and supporting significant populations of mute swan *Cygnus olor* and gadwall *Anas strepera*. Factors with potentially adverse impacts on this site are:

- Loss of supporting habitat through land take;
- Reduced water quality (through increase in sewage, surface water runoff and pollution);
- Disturbance by light, activity and noise of urbanisation, affecting bird species;
- Increase in visitor pressure leading to erosion and disturbance of bird species; and
- Potential in combination effects with projects and development in the central area.

The part of the SPA nearest Northampton is one of the most sensitive areas as it supports circa 40% of the golden plover throughout the SPA. According to Natural England, the golden plover prefer to use the flood storage area at Clifford Hill (Northamptonshire Washlands, see Figure 1) and are already subject to significant recreational disturbance, in particular dog walkers. This has been supported by bird disturbance

survey work undertaken as a part of the Appropriate Assessment (AA) of the WNJCS. A summary of the findings of the AA for the WNJCS is provided in Box 1.

Box 1

The AA of the *Emergent* Joint Core Strategy identified that the plan could have an adverse effect on the SPA and Ramsar site due to the proximity of development and quantum of development proposed in Northampton. However, in the *Submission* WNJCS and the *Proposed Changes* WNJCS, the quantum of development in Northampton was reduced and, in particular, a previously proposed Southeast Sustainable Urban Extension option which was in close proximity to the SPA and Ramsar site to the southeast of Northampton, was not included. Impact avoidance measures, such as policy wording to minimise potable water use in new developments and the inclusion of a 250m zone to Policy BN4 (shown in Figure 7 of the WNJCS) addressing the potential for building height and sightlines to affect the SPA birds, have been added to the WNJCS and the AA concluded that the WNJCS would not result in any adverse effects on European designated sites.

The Findings of HRA Screening for the Daventry Local Plan Part 2

Assessment of the likely effects has indicated that there is no likely pathway to the Upper Nene Valley Gravel Pits SPA and Ramsar Site. All of the allocated sites within the plan are focused on Daventry which is separated from the SPA and Ramsar Site by over 30km. Readers should refer to the Proposals Map within the Local Plan Part 2 for more details of the allocations. The distance between the allocations and the SPA and Ramsar Site means that there is no likelihood of the Plan causing the following direct effects:

- Loss of supporting habitat through land take;
- Increase in visitor pressure leading to erosion and disturbance of bird species and
- Disturbance by light, activity and noise of urbanisation, affecting bird species.

With regard to reduced water quality (through increase in sewage, surface water runoff and pollution) and increase in visitor pressure, the following observations can be made:

- Reduced water quality (through increase in sewage, surface water runoff and pollution): All development will need to comply with Policy BN7a and Policy BN9 of the West Northamptonshire Joint Core Strategy. Please note that these policies are of general application and are intended to address the broader effects of development, including to ensure sustainability. That the operation of these policies has not been discounted at screening stage, is considered appropriate and consistent with the European Court's decision since such general policy requirements are not considered to amount to measures intended to avoid or reduce the harmful effects on European Protected Sites.

Since the plan has been found to not have a viable effect pathway to the European Sites, it cannot contribute to in-combination effects. Therefore, no Likely Significant Effects to the Upper Nene Valley Gravel Pits SPA and Ramsar Site are considered to result from the implementation of the Part 2 Local Plan for Daventry.

Yours faithfully



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