1. Introduction

1.1 This paper provides a response by Natural England to Matters and Issues\(^1\) which relate to the natural environment and in particularly those issues relating to the Habitats & Species Regulations 2010 (as amended) (the “Habitats Regulations”), in relation to the Redcar and Cleveland Local Plan examination.

2. Matter 1 – Compliance with the Local Development Scheme, Consultation, Habitats Regulations, the Act and Regulations and national planning policy

Issue 5 - Habitats Regulations

2.1 3) The most up-to-date Appropriate Assessment concludes that there is potential for adverse effects on the integrity of the Teesmouth and Cleveland Coast SPA and Ramsar site as a result of recreational disturbance from policies and allocations in the Local Plan. In response to the Inspector’s Initial Questions the Council advised that an Interim Mitigation Strategy and Foreshore Management Plan were in preparation.

2.1.1 Q1. What is the latest position regarding these documents, who has been involved in their preparation and have they been prepared?

2.1.2 Answer: Natural England responded to the consultation for the publication stage of the Local Plan, including the Habitats Regulations Assessment (HRA), stating that we did not find the Local Plan to be legally compliant and therefore unsound. We concurred with the conclusions of the HRA that there is potential for adverse effects on the integrity of the Teesmouth and Cleveland Coast Special Protection Area (SPA) and Ramsar Site due to recreational disturbance, as a result of housing and recreational policies and/or allocations. We also agreed that the mitigation proposed was appropriate in principle to prevent these effects, but some essential details regarding the delivery of the mitigation were lacking, including funding of mitigation and an interim approach before the final mitigation strategy would be finalised. We also recommended referring to a strategic mitigation approach in policy N4.

Since our response to the consultation, we have had regular contact with planning officers at Redcar and Cleveland Council, which has resulted in the following additional information being provided:

- A document explaining how mitigation measures will be funded (4 May 2017), which will be a combination of Council funding and developers’ contributions. As the developer contributions Supplementary Planning Document (SPD) is forthcoming, we requested further information with regards to how funds are going to be collected. This information was provided on 22 August, after which we provided further comments on 23 August with regards to the viability of collecting contributions. The Council provided further information on viability in an email dated 23 August. As stated in the Joint Position Statement between Redcar and Cleveland Council and Natural England (section 3.3 and 4.3), the Council is committed to working together with Natural England on developing this SPD. In addition, the finalisation of the SPD before the adoption of the Local Plan is not considered necessary provided the Recreation Management Plan (see below) is in place.

- An interim Recreation Mitigation Strategy: we provided no further comments on its latest draft (1 August 2017).

- A Recreation Mitigation Plan (RMP) (formerly called the Foreshore Management Plan): we provided comments, which have been included in the latest draft of the RMP (23 August 2017). Comments were made regarding details of the improvements and the maintenance and management of the alternative greenspace, which are to be addressed as part of a site management plan within the RMP; Coatham Marsh improvements, which are being reconsidered; mitigation at South Gare for little terns, which will be clarified; and monitoring, which is being addressed through a monitoring schedule within the RMP.

Therefore, further work is required to finalise the RMP, but subject to our comments being taken forward, Natural England is satisfied that there will be no adverse effects on the integrity of the Teesmouth and Cleveland Coast SPA and Ramsar site. We will, therefore, be able to revise our position accordingly to say that we find the Local Plan legally compliant and sound with regards to the Habitats Regulations.

2.1.3 Q2. How will the Interim Mitigation Strategy and Foreshore Management Plan prevent potential adverse effects on the integrity of the Teesmouth and Cleveland Coast SPA and Ramsar Site from recreational disturbance? Who will be responsible for its implementation, monitoring and review?

2.1.4 Answer: Natural England is satisfied that the RMP will prevent adverse effects on the integrity of the Teesmouth and Cleveland Coast SPA and Ramsar site. The RMP correctly identifies potential impacts and includes effective mitigation measures, whilst a funding mechanism is provided as part of the forthcoming SPD, which ensures deliverability of the mitigation.

2.1.5 Q3. When will the plans be put in place, and will they adequately mitigate the impacts of planned housing growth and policies?
2.1.6 Answer: Natural England is satisfied that the measures included in the RMP will ensure that impacts of planned housing growth and other policies are adequately mitigated in a strategic and coherent manner in accordance with the Habitats Regulations and requirements of Policy N4 (including a main modification to include reference to the RMP in Policy N4).

2.1.7 Q4. In order to be effective should the Local Plan refer to the Foreshore Management Plan and/or other mitigation strategies through a particular policy, with clear, criteria-based requirements for decision-makers and developers to follow?

2.1.8 Answer: In line with our response to the publication Local Plan, we consider that adding reference to the RMP within policy N4 would provide a clear link between this strategic mitigation plan and the Local Plan; we therefore support a main modification to this effect.

2.2 4) With regard to other sites;

2.2.1 Q5. What is the justification for referring to the need for an Appropriate Assessment within different policies throughout the Local Plan, rather than having a criteria-based policy dealing specifically with the Teesmouth and Cleveland Coast SPA and Ramsar Site and the North Yorks Moors SAC and SPA?

2.2.2 Answer: Natural England supports the Council’s statement\(^2\) to this question that it is considered appropriate to remove the multiple references to Screening and Appropriate Assessment within different policies of the Local Plan and replace them with reference to Policy N4, either within the policy, or where relevant the supporting text.

2.2.3 Q6. What effects will policies and allocations in the Local Plan have upon the North Yorks Moors SAC and SPA?

2.2.4 Answer: Natural England concurs with the conclusions of the Local Plan HRA, that the Local Plan will not have adverse effects on the integrity of the North York Moors Special Area of Conservation (SAC) and SPA, based on the reasons explained in the HRA.

2.2.5 Q7. How will any effects on the integrity of the North York Moors SAC and SPA be mitigated?

2.2.6 Answer: Natural England is satisfied that any potential impacts on the North York Moors will be mitigated through Local Plan policies and the existing North York Moors Management Plan and other measures taken by the National Park Authority.

2.2.7 Q8. In summary, have the requirements of the Habitats and Species Regulations 2010 been complied with, having regard to relevant national policy and guidance?

2.2.8 Answer: Natural England is of the view that the requirements of the Habitats and Species Regulations 2010 have been complied with in full, having regard to the National Planning Policy Framework and Planning Practice Guidance.

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3. Matter 18 – Landscape, Green Infrastructure, Provision of Open Space and Recreation Facilities and Biodiversity and Geological Conservation (Policies N1, N2, N3 and N4)

Issue 4 – Biodiversity and Geological Conservation - Policy N4

3.1 Policy N4

3.1.1 Q3. How have the effects of new development on the integrity of the North York Moors SPA and SAC been considered? Where is this set out?

3.1.2 Answer: Natural England had no comments regarding Policy N4 and the North York Moors SAC and SPA. However, we support the Council’s proposals regarding the main modifications to Policy N4 (under Matter 1, Issue 5, Q4 and Q5\(^3\)) and consider this adequately takes account of effects from new development on North York Moors SAC and SPA.

3.1.3 Q4. How have the effects of new development on the integrity of the Teessmouth and Cleveland Coast SPA and Ramsar Site been considered? Where is this set out?

3.1.4 Answer: Please refer to the answers to Q5 and Q6 below.

3.1.5 Q5: Is Policy N4 sound without reference to the implementation of mitigation strategies such as the proposed Foreshore Management Plan?

3.1.6 Answer: In line with our response to the publication Local Plan, Natural England considers that adding reference to the RMP within Policy N4 would provide a clear link between this strategic mitigation plan and the Local Plan. The RMP ensures that the conclusion of the HRA is valid and the Local Plan is sound, but rewording the policy provides more clarity on the presence of the RMP. We therefore support a main modification to this effect, such as:

“(MM49) a. it can be determined through Appropriate Assessment at the design stage, taking into account mitigation and the Recreation Management Plan, the proposal would not result in adverse effects on the site’s integrity, either alone or in combination with other plans or projects. Where appropriate a management plan will need to be prepared that sets out how the proposed mitigation measures will be delivered; or...”

3.1.7 Q6. What is the justification for suggested Main Modifications MM48-52? Are they necessary in the interests of soundness?

3.1.8 Answer: Natural England is of the opinion that main modification MM49 strengthens the link between the RMP and Policy N4. It is considered that this modification would make the policy more effective and would increase the soundness of the plan. Natural England has no comments regarding main modifications MM48 and MM50-52.

\(^3\) Included in the ‘Draft Redcar and Cleveland statement on Matter 1 Issue 5’, sent to Natural England on 23 August 2017.