

Date: 19 December 2022
Our ref: 407730



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BY EMAIL ONLY

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Dear Caroline Jeffery

Consultation: The Town and Country Planning (Local Planning) (England) Regulations 2012 Regulation 19 - Consultation on Norfolk Minerals and Waste Local Plan: Pre-Submission

Thank you for your consultation on the above dated 26 September 2022.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

In this letter we have commented on the following documents:

- Norfolk Minerals and Waste Local Plan (NMWLP) Publication, dated May 2022;
- NMWLP Habitats Regulations Assessment (HRA) – Test of Likely Significant Effects, dated May 2022 and;
- Sustainability Appraisal Report (made up of NMWLP Draft Sustainability Appraisal Report Part A - Scoping, dated February 2022 and NMWLP Draft Sustainability Appraisal Report –Part B, dated March 2022)

Norfolk Minerals and Waste Local Plan (NMWLP) Publication

Natural England welcome the Plan's emphasis on ensuring Biodiversity Net Gain (BNG) is achieved, enhancing the green infrastructure network, and taking a positive approach to mitigate and adapt to climate change. There is also a clear emphasis on ensuring high quality restoration and after-use of sites to protect Best and Most Versatile (BMV) Agricultural Land and to enhance Norfolk's biodiversity and protect its landscapes. However, we advise that there is scope for the Plan to be more ambitious in its delivery of some of these policies and objectives.

Nature Recovery Network (NRN) and Local Nature Recovery Strategies (LNRSSs)

Natural England commends the NMWLP for acknowledging the potential that restoration and after-use of mineral workings has for the benefit of enhancing landscape, geodiversity and biodiversity. We welcome the reference to contributing, "*to identified strategic green infrastructure corridors and known ecological networks*," made in Policy MP7. We would advise that reference to the [Nature Recovery Network](#) is also included within this policy and also in the Plan vision (pg. 19), Waste Management Strategic Objective WS07 (pg. 20), Minerals Strategic Objective MS09 (pg. 21) and strategic Policy MW1 (Development Management Criteria) (pg. 27). The NRN is a commitment in the government's 25 Year Environment Plan and enacted by the Environment Act 2021. Natural England is working with partners on NRN and the development of [LNRSSs](#). The NRN is used to refer to a single, growing national network of improved joined-up, wildlife rich places which will benefit people and wildlife. LNRSSs will be the key mechanism for planning and mapping local delivery of the NRN.

LNRs will form a new system of spatial strategies for nature that will be mandated by the Environment Act. They will cover the whole of England and will be developed by Responsible Authorities (RAs) appointed by the Secretary of State, usually at a county scale. Each strategy will:

- Map the most valuable existing habitat for nature
- Map specific proposals for creating or improving habitat for nature and wider environment goals
- Agree priorities for nature's recovery

LNRs have also been designed to help local planning authorities deliver existing policy on conserving and enhancing biodiversity and to reflect this in the land use plans for their area.

Biodiversity Net Gain (BNG)

In line with paragraph 174(d) of the NPPF, reference to providing BNG is made throughout the NMWLP, which Natural England commends. BNG will be an important tool in securing investment for nature recovery through the planning system, helping deliver the government's commitment to create a national NRN. However, we advise strengthening this wording by stating the minimum BNG uplift required to be delivered. With regards the upcoming mandatory requirement for a minimum of 10% BNG, we advise that you consider BNG delivery above this level, for example at 15% or 20% BNG. Strategic level viability assessments in [Kent](#) have concluded that this shift will not impact viability in most cases irrespective of onsite or offsite BNG delivery. This is because after the initial cost of securing the minimum 10% BNG, the cost of increase to 15 or 20% is much less and generally negligible. Natural England's [Biodiversity Metric 3.1](#) may be used to calculate biodiversity losses and gains for terrestrial and intertidal habitats and can be used to inform any development project.

It is the government's intention that mandatory BNG will provide a financial incentive for development to support the delivery of LNRs through an uplift in the calculation of biodiversity units created at sites identified by the strategy through the Biodiversity Metric 'strategic significance' scoring.

Policy MW4: The Brecks Protected Habitats and Species

Natural England welcome the inclusion of policy MW4, specific to the Brecks' protected habitats and species. The Brecks is an area rich in biodiversity and is of particular value for a number of ground-nesting bird species including Stone Curlew *Burhinus oedichnemus*.

Natural England are currently in the process of revising our guidance on assessing development effects on Breckland SPA stone curlew populations, which could influence the detail of policy MW4. We would advise the removal of the following paragraph, "A buffer zone has also been defined (indicated in orange hatching on Map 2) that extends 1,500 metres around areas that have a functional link to the SPA, because they support Stone Curlew outside, but in close proximity to the SPA boundary, within which new built development would be likely to significantly affect the SPA population." Whilst at the draft stage of development, Natural England would be happy to discuss the proposed new guidance with Norfolk County Council so that it can be used to inform this policy.

Site Allocations

Natural England commend the consideration of our comments during the initial consultation on the NMWLP in 2018, which has resulted in the removal of MIN 71 and MIN 204 as they are considered unsuitable due to the potential for adverse effects on designated sites.

We do offer comment on the site allocation policies for the following sites:

MIN 12 - land north of Chapel Lane, Beetley and MIN 51 / MIN 13 / MIN 08- land west of Bilney Road, Beetley

We note that for MIN12 it is currently stated that the site is “*proposed to be restored at a lower level and returned to arable agriculture. Restoration would include wide field margins, new hedgerows and some woodland*” and for MIN08, MIN13 and MIN 51 that: “*The site is proposed to be restored at a lower level and the majority returned to arable agricultural. Due to the expected depth of extraction, it is recognised that restoration to arable is likely to require the use of imported inert material to provide a suitable profile. Lagoons to be retained as ponds with planting to create wet woodland habitat. Hedgerow interspersed with oaks is to be planted along the northern boundary alongside Rawhall Lane. A proportion of the site will be restored to woodland and associated grassland habitat*”

These allocations are stated as being of Grade 3 agricultural land quality and so it is unclear as to whether or not this is BMV land (i.e. sub-grade 3a). If not, then it could be beneficial in terms of nature recovery in this area to explore whether the restoration of these sites could further complement/expand on the nature recovery ambitions of the nearby [Wendling Beck Environment Project](#) to deliver more habitat creation in this area which is bigger, better and joined up in line with the Lawton principles¹.

MIN 115 (land at Lord Anson’s Wood, near North Walsham):

Paragraph c. of Specific Site Allocation Policy Min 115, states that there is a requirement for, “*an acceptable full biodiversity survey and report, including bat and badger surveys.*” It is unclear why protected species surveys have been requested specifically for this site. It should be emphasised that protected species surveys will be required at any of the allocated sites where it is likely that a protected species is present. We would recommend reference to our [standing advice](#) of protected species.

MIN 202 (land south of Reepham Road, Attlebridge):

Natural England notes that MIN 202 is adjacent to Mileplain Plantation, a Plantation on Ancient Woodland Site (PAWS) and welcomes the requirement for an Arboricultural Impact Assessment in the Specific Site Allocation Policy MIN 202. We would recommend reference to [standing advice](#) for ancient woodland and ancient and veteran trees, which has been produced by Natural England and the Forestry Commission for further guidance when making decisions that affect ancient woodland, ancient trees or veteran trees.

Habitats Regulations Assessment

Natural England would like to reiterate our comments made in response to the initial consultation on the NMWLP in 2018 (letter dated 13 August 2018, Our ref: 251305) regarding our advice to consider the judgement from the Court of Justice of the European Union, case C-323/17 People Over Wind v Coillte Teoranta (‘People Over Wind’). We note that our advice has been acknowledged and has guided the reassessment of sites MIN 96, MIN 25, MIN69, MIN 207, MIN 202 and MIN 65.

With reference to the HRA screening process for Likely Significant Effects, it is noted that for several policies (including WP2: Spatial Strategy for waste management facilities; MP1: Provision for minerals extraction; and MP2: Spatial strategy for mineral extraction) the phrase, “these impacts could be mitigated through the design and operation of the sites.” has been used frequently. Please note, to reflect the ruling of ‘People Over Wind’, mitigation through design and operation of a site can only be included at screening stage if the design and operation measures are considered integral to the project and have not specifically been included in the plan policies to mitigate impacts to a designated site. We would advise that the wording in the HRA is revised to make this clear.

Natural England agrees with the statement made in paragraph 6.19 of the NMWLP, which states, “*Planning permission for minerals or waste management development affecting an international site (SPAs, SACs or Ramsar sites) will only be granted where the conclusions of a project-level Habitats Regulations Assessment (HRA), where one is required, demonstrate that the proposal will have no adverse impacts on the integrity of any site, either alone or in combination with other plans or projects.*”

¹ [Making Space for Nature: \(nationalarchives.gov.uk\)](http://nationalarchives.gov.uk)

Please note that the Norfolk County Council Planning Officer's comments made in Table 1.3 of the HRA in response to Natural England's comments stating, "*We do not consider that there are any sites now concluded suitable to allocate in the Preferred Options document where a project level HRA would be required,*" implies that a project level HRA would not be required for any of the allocated sites. Natural England advise that the HRA comments are revised to reflect the position made in paragraph 6.19 of the NMWLP that a project level HRA will be carried out when one is required.

It has also been noted that the wrong policy has been referenced in the HRA screening for mineral specific policies. When screening MP2: Spatial strategy for mineral extraction (page 22) it states, "*Proposed sites located in proximity to the Breckland SPA will also need to comply with Policy MW5.*" It is understood that this should be Policy MW4.

Sustainability Appraisal Report

Natural England welcome the inclusion of 'type and area of new habitats created and enhanced post restoration of allocated mineral extraction sites' as a new indicator to support the monitoring of the objective SA6: To protect and enhance Norfolk's biodiversity and geodiversity (NMWLP Draft Sustainability Appraisal Report –Part B, dated March 2022, Table 8.1 Monitoring indicators).

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us. For any queries relating to the specific advice in this letter only please contact me on 07385 969160. For any new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk

Yours faithfully

Emma Hurrell
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