

Habitat Regulations Assessment (HRA) Revised Screening Opinion for the Uffington and Baulking Neighbourhood Plan

8 April 2019

INTRODUCTION

1. The Local Authority is the “competent authority” under the Conservation of Habitats and Species Regulations 2017, and needs to ensure that Neighbourhood Plans have been assessed through the Habitats Regulations process. This looks at the potential for significant impacts on nature conservation sites that are of European importance¹, also referred to as Natura 2000.
2. This revised Screening Assessment relates to a Neighbourhood Development Plan that will be in general conformity with the strategic policies within the development plan² (the higher-level plan documents for town and country planning and land use). This Screening Assessment uses the Habitats Regulations Assessment for the Vale of White Horse District Council’s Local Plan 2031 Part 2 (June 2018 Final Report), as its basis for assessment. From this, the Local Authority will determine whether the Uffington and Baulking Neighbourhood Development Plan (NDP) is likely to result in significant impacts on Natura 2000 sites either alone or in combination with other plans and policies and, therefore, whether an ‘Appropriate Assessment’ is required.
3. The original HRA Screening report was published in January 2018 informed by the Local Plan 2031 Part 1 HRA however the Council considers it prudent to revisit the HRA Screening to reflect the most up to date information. Since the initial HRA Screening in January 2018, the Council has undertaken a HRA on the Local Plan 2031 Part 2 (June 2018 Final Report) which has assessed the cumulative growth within both Local Plan 2031 Part 1 and Part 2. It also reflects a recent judgement from the Court of Justice of the European Union ‘People over Wind, Peter Sweetman v Coillte Teoranta (Case C-323/17)’ (to be referred to in this document thereafter as the ‘Sweetman’ case). This judgement ruled that Article 6(3) of the Habitats Directive should be interpreted as meaning that mitigation measures should be assessed as part of an Appropriate Assessment and should not be taken into account at the screening stage. The precise wording of the ruling is as follows:
“Article 6(3)must be interpreted as meaning that, in order to determine whether it is necessary to carry out, subsequently, an appropriate assessment of the implications, for a site concerned, of a plan or project, it is not appropriate, at the screening stage, to take account of measures intended to

¹ Special Protection Areas (SPAs) for birds and Special Areas of Conservation (SACs) for other species, and for habitats.

² The saved policies of the Vale of White Horse Local Plan 2011 and the Vale of White Horse Local Plan 2031 Part 1 (December 2016).

avoid or reduce the harmful effects of the plan or project on that site.” This report presents the findings of the updated HRA screening.

LEGISLATIVE BASIS

4. Article 6(3) of the EU Habitats Directive provides that:

“Any plan or project not directly connected with or necessary to the management of the [European] site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site’s conservation objectives. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public.”

5. Regulations 105-106 of the Conservation of Habitats and Species Regulations 2017 state:

“105.—(1) Where a land use plan—

(a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and

(b) is not directly connected with or necessary to the management of the site, the plan-making authority for that plan must, before the plan is given effect, make an appropriate assessment of the implications for the site in view of that site’s conservation objectives.

(2) The plan-making authority must for the purposes of the assessment consult the appropriate nature conservation body and have regard to any representations made by that body within such reasonable time as the authority specifies.

(3) The plan-making authority must also, if it considers it appropriate, take the opinion of the general public, and if it does so, it must take such steps for that purpose as it considers appropriate.

(4) In the light of the conclusions of the assessment, and subject to regulation 107, the plan-making authority must give effect to the land use plan only after having ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be).

(5) A plan-making authority must provide such information as the appropriate authority may reasonably require for the purposes of the discharge by the appropriate authority of its obligations under this Chapter.

(6) This regulation does not apply in relation to a site which is—

(a) a European site by reason of regulation 8(1)(c), or

(b) a European offshore marine site by reason of regulation 18(c) of the Offshore Marine Conservation Regulations (site protected in accordance with Article 5(4) of the Habitats Directive).

106.—(1) A qualifying body which submits a proposal for a neighbourhood development plan must provide such information as the competent authority may reasonably require for the purposes of the assessment under regulation 105 or to enable it to determine whether that assessment is required.

(2) In this regulation, “qualifying body” means a parish council, or an organisation or body designated as a neighbourhood forum, authorised for the purposes of a neighbourhood development plan to act in relation to a neighbourhood area as a result of section 61F of the TCPA 1990 (authorisation to act in relation to neighbourhood areas)(159), as applied by section 38C of the 2004 Planning Act (supplementary provisions)(160).

(3) Where the competent authority decides to revoke or modify a neighbourhood development plan after it has been made, it must for that purpose make an appropriate assessment of the implications for any European site likely to be significantly affected in view of that site’s conservation objectives; and regulation 105 and paragraph (1) apply with the appropriate modifications in relation to such a revocation or modification.

(4) This regulation applies in relation to England only.”

ASSESSMENT

6. The following SAC is in close proximity to the NDP Area with potential likely significant effects having been assessed through the Local Plan 2031 Part 2 Habitats Regulations Assessment:

- Hackpen Hill SAC approx. 3.5 km to the east of the NDP area

7. The River Lambourn SAC is within approximately 4.2km of the NDP area however the Local Plan 2031 Part 2 scoped out this site as it was deemed that no actual pathway existed connecting it to development under the Local Plan 2031 Part 2. Therefore, this site is not within the scope of this HRA Screening.

8. The Local Plan 2031 Part 2 HRA, considers the specific pressures on the site identified above. The emerging Local Plan 2031 Part 2, HRA can be viewed on the link below:

<http://www.whitehorsedc.gov.uk/services-and-advice/planning-and-building/planning-policy/local-plan-2031-part-2>

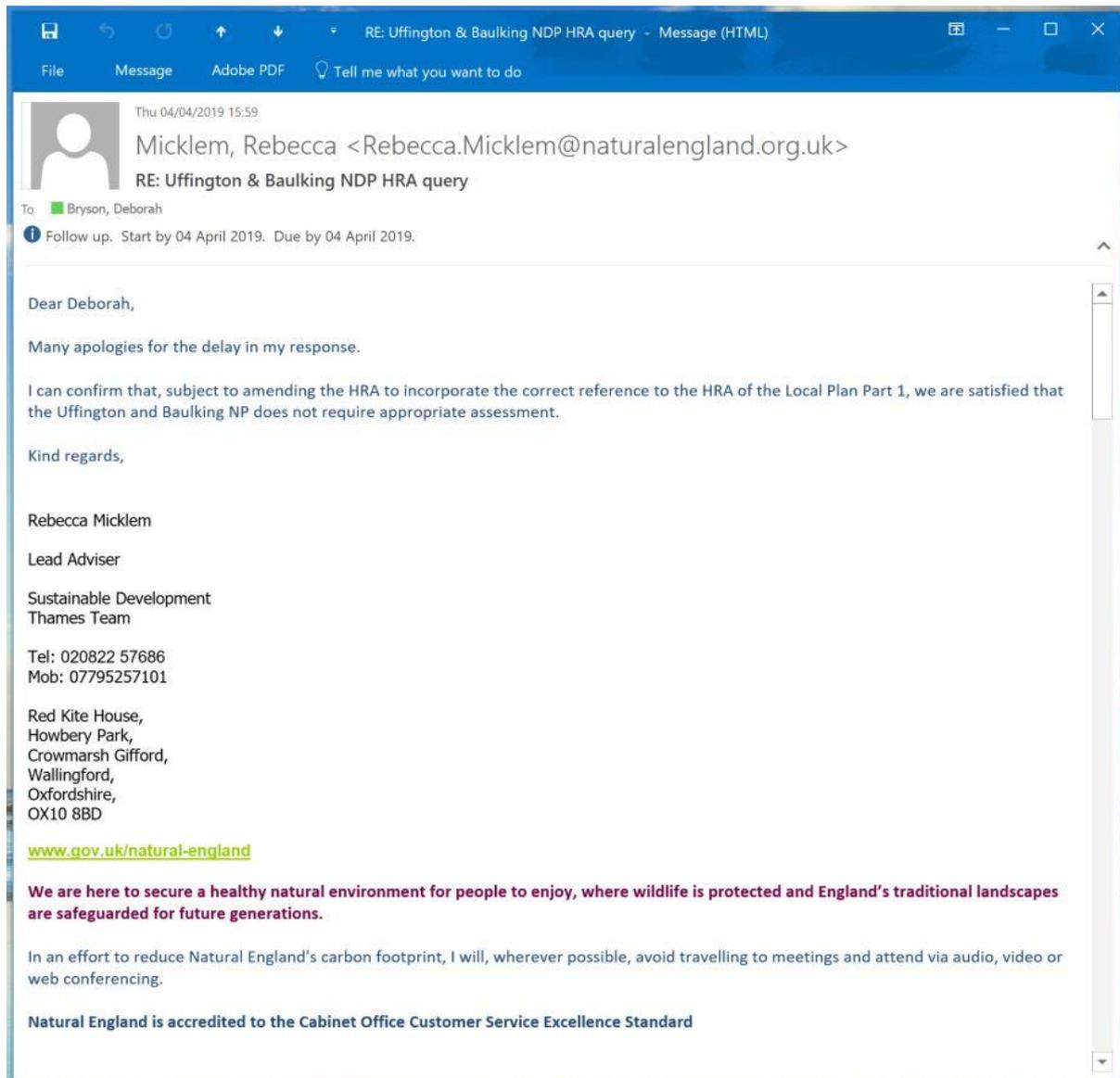
It should be noted that although the NDP does not specifically allocate housing development, support is given for development for at least 19 dwellings over the Plan period subject to a number of criteria set out in other NDP policies.

9. With regard to the Hackpen Hill SAC, the qualifying habitats for this SAC are the unimproved chalk grassland and the dune gentian. The site is popular with visitors and lies within the typical distance that visitors from any development in these three parishes may travel for a day visit (minimum of 3.5km).
10. The HRA for the Local Plan 2031 Part 1, which assessed the cumulative level of development across the district, was able to conclude that likely significant effects will not arise from air quality issues on the Hackpen Hill SAC as a result of development within the Vale of White Horse District. It identified there is a small risk of increased recreational pressure on Hackpen Hill SAC which may trigger the need for enhanced access management to the site. However, the appropriate assessment for the Local Plan 2031 Part 1 concluded this can be appropriately addressed through the Infrastructure Delivery Plan (IDP) and the Community Infrastructure Levy (CIL). The HRA for the Local Plan 2031 Part 2 concluded that likely significant effects will not arise on the Hackpen Hill SAC as a result of development within the Vale of White Horse District.
11. In regard to in-combination effects on Hackpen Hill SAC from other plans and projects, the Local Plan 2031 Part 2 HRA concludes:
- that no in-combination assessment is required regarding local air quality from road traffic as this has been ruled out as an impact pathway, and
 - that in-combination effects are unlikely relating to recreational impacts due to the location of development within neighbouring districts lying well outside the probable core recreational catchment.

CONCLUSION

12. This updated HRA screening of the Uffington and Baulking NDP has been undertaken in accordance with most up to date information presented in the Local Plan 2031 Part 2 Habitats Regulations Assessment which is in accordance with the 'Sweetman' case as referenced in paragraph 3 above. Given the above findings, the Uffington and Baulking NDP is unlikely to have significant effects on Natura 2000 sites, therefore, an Appropriate Assessment for the Uffington and Baulking NDP is not required. This has been confirmed by Natural England (Appendix A)

APPENDIX A:



The screenshot shows an email interface with a blue header bar. The title bar of the browser window reads "RE: Uffington & Baulking NDP HRA query - Message (HTML)". The email header includes a profile picture of a person, the date and time "Thu 04/04/2019 15:59", and the sender's name and email address: "Micklem, Rebecca <Rebecca.Micklem@naturalengland.org.uk>". The subject line is "RE: Uffington & Baulking NDP HRA query". The recipient is listed as "To: Bryson, Deborah". A follow-up notification is present: "Follow up. Start by 04 April 2019. Due by 04 April 2019." The main body of the email contains the following text:

Dear Deborah,

Many apologies for the delay in my response.

I can confirm that, subject to amending the HRA to incorporate the correct reference to the HRA of the Local Plan Part 1, we are satisfied that the Uffington and Baulking NP does not require appropriate assessment.

Kind regards,

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www.gov.uk/natural-england

We are here to secure a healthy natural environment for people to enjoy, where wildlife is protected and England's traditional landscapes are safeguarded for future generations.

In an effort to reduce Natural England's carbon footprint, I will, wherever possible, avoid travelling to meetings and attend via audio, video or web conferencing.

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