

# Huntingdonshire Local Plan to 2036 Examination

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**Hearing Statement Matter 1:**

**Procedural/ legal requirements**

**Huntingdonshire District Council**

**June 2018**



## Issue

Whether the Council has complied with relevant procedural and legal requirements.

### 1. Plan preparation

#### **Question 1: has the preparation of the Local Plan been in accordance with the Local Development Scheme in terms of its form, scope and timing?**

- 1.1. Yes. The Local Plan has been prepared in accordance with the LDS (December 2017) (CORE/10) . Section 3 of that document sets out the production programme, with paragraph 3.2 specifically identifying that the submission of the Plan would be take place in March 2018. That timescale has been met.
- 1.2. The LDS has been available on a dedicated page of the Council’s website titled ‘New Local Plan to 2036’ where any interested party could follow the progression of the Local Plan through the various stages. The LDS clearly sets out the process and programme and has been updated accordingly through the process to ensure as the timescales are as accurate as possible.

#### **Question 2: Have requirements been met in terms of the preparation of the Local Plan, notification, consultation and publication and submission of documents?**

- 1.3. The Local Plan has been subject to extensive engagement throughout its preparation. Records of this are presented in the Legal Compliance Checklist (CORE/13), the Soundness Self-Assessment Checklist (CORE/14) and the Statement of Consultation (CORE/05) which addresses all engagement under Regulation 18. At each stage of preparation of the Local Plan material has been published on the Council’s website and electronic consultation portal, paper copies made available at the Council’s main office, key documents made available in all public libraries within the district and publicity material included within local newspapers.
- 1.4. All relevant specific and general consultation bodies are registered within an electronic database and notifications sent of each specific opportunity for engagement. A wide range of other interested parties are also notified through this system. Each engagement opportunity has also been promoted through the Council’s website and material provided in all public libraries within the district.
- 1.5. Details of engagement with the specific and general consultation bodies are set out in the Statement of Consultation (CORE/05). Stages 1-3 reflect the earlier stages of plan preparation and stages 4-6 reflect engagement on further evolutions of the plan and detailed matters relating to wind energy development.

- 1.6. Consultation on the draft Scoping Report for the Sustainability Appraisal of the Local Plan was carried out in February – March 2012 including the statutory bodies of the Environment Agency, Natural England and English Heritage; this was widened to all registered consultees to maximise the opportunities for input at the earliest stage (CORE/07, paras 3.47-3.53). A Sustainability Appraisal has been prepared to accompany each main stage of the Local Plan’s preparation and consultation.
- 1.7. The Legal Compliance Checklist (CORE/13) and the Statement of Representations (CORE/04) provide details of the representations procedure at the publication stage of the Local Plan and addresses representations received in response to this. A formal Statement of Representation Procedure was published both on the Council’s website and on the electronic consultation portal. All material was available through the Council’s website and consultation portal with paper copies of key documents supplied to all public libraries in the district and made available at the Council’s main office.
- 1.8. The Local Plan was submitted at the end of March 2018 with a formal Notice of Submission published on the Council’s website on the day of submission and all relevant documents made available as soon as possible following this.

### **Question 3: Has the preparation of the Local Plan complied with the Statement of Community Involvement?**

- 1.9. The Statement of Community Involvement (SCI) was published in 2012 and it is considered that that consultation has been undertaken in accordance with that Statement and any legislative requirements. The SCI has now been included in the list of supporting documents under Local Plan Preparation Documents as PREP/11.

## **2. Sustainability Appraisal**

### **Question 4: How has the Sustainability Appraisal (SA) informed the preparation of the Local Plan at each stage and how were options considered?**

- 2.1. An SA Scoping Report was prepared in 2012 which established the baseline sustainability position for Huntingdonshire and developed the framework to be used for testing the options and alternatives to be considered in the course of plan preparation.
- 2.2. Stage B of the Final SA Report (CORE/07) details how the initial development of options and objectives for the HLP2036 was tested through the SA. This was an iterative process with options on variable growth levels being tested initially (CORE/07, para 4.14ff) followed by testing of strategic options for the amount of growth (CORE/07, para 4.21ff) based on further evidence on housing need and then the testing of strategic options for the distribution of growth (CORE/07, para 4.25ff).
- 2.3. An Initial Sustainability report was prepared for consultation alongside the HLP2036 Stage 3 (PREP/05). The was accompanied by Environmental Capacity Studies for all proposed Spatial

Planning Areas and Key Service Centres including site specific SA of each proposed development site which informed the proposed site allocations in the draft HLP2036 Stage 3 (PREP/05). Further elements of the SA have been published for consultation within the Environmental Capacity Study: Additional Site Assessments (8 November – 6 December 2013), the Housing and Economic Land Availability Assessment: Additional Sites Consultation 2016 (26 September – 7 November 2016) and the Huntingdonshire Local Plan to 2036: Wind Energy Developments (21 November 2016 – 16 January 2017). At each of these stages of preparation the outcomes of the SA have been used to shape decision making on the most sustainable options available and achievable and to amend wording on policies to ensure the maximum sustainability benefits can be derived from their implementation.

- 2.4. Changes to policies and proposals put forward as the plan evolved were considered to determine if the change was significant and revised policies and proposals reassessed where appropriate (CORE/07, D2, pages 579-754). Of particular importance at this stage in terms of options was the modelling undertaken through the Strategic Transport Study (INF/09) testing potential development scenarios and the transport related mitigation packages necessary to support their delivery. Consideration of this and its relationship with the SA process is presented in CORE/07, paras 6.23ff and 6.27ff. Although the Strategic Transport Study itself is not subject to SA, testing of the potential development scenarios has a clear relationship with SA objective 21: to reduce the need to travel and promote necessary infrastructure improvements and sustainable modes of transport (walking, cycling and public transport). The development scenario selected for inclusion in the HLP2036: Consultation Draft 2017 (PREP/02) was considered the most sustainable in terms of this objective as it maximises use of existing/ planned highway improvements, eliminates the need for construction of either a major realignment of the A141 or an additional crossing over the River Great Ouse and focused growth in locations with greatest access to public transport and cycleways. A draft Final SA was published for consultation alongside PREP/02 in July 2017.
- 2.5. Section 7 of the Final SA (CORE/07) demonstrates how the SA influenced amendments to the proposed submission HLP2036 (CORE/01). The same iterative process of assessing significant changes was carried out and is presented in (CORE/07, D2, pages 761-930).

### **Question 5: How has the SA been reported?**

- 2.6. To start the SA process a Scoping Report was prepared and issued for consultation between 24 February and 30 March 2012. Following amendments arising from the responses, the Scoping Report was endorsed by Cabinet on 19 April 2012.
- 2.7. Table 1 below lists the reporting specifically relating to the SA during preparation of the HLP2036. In addition Cabinet resolved to receive quarterly updates on preparation of the HLP2036, its supporting evidence base and infrastructure projects from 19 November 2015. Cabinet appoints a cross-party Development Plans Policy Advisory Group (DPPAG) to provide day to day overview of preparation of the Local Plan and its supporting documents; DPPAG meetings are not open to the public, their role is solely to advise both officers and the relevant Portfolio Holder. DPPAG meetings are only included in Table 1 below where they

provided specific oversight of consultation material relevant to the SA prior to public consultation which was not then presented to a decision making committee.

**Table 1: Reporting of the Sustainability Appraisal**

Meeting	Date	SA related item
Over view and Scrutiny Panel	10 April 2012	SA Scoping Report
Cabinet	19 April 2012	
	19 July 2012	Strategy and Policy consultation incorporating sustainability appraisal of potential site allocations in the Environmental Capacity Study
Cabinet	16 May 2013	Initial SA presented alongside the first full draft of the Local Plan
Development Plans Policy Advisory Group	4 November 2013	Environmental Capacity Study: Additional Sites Assessments incorporating sustainability appraisal of potential site allocations
Overview and Scrutiny Panel	4 February 2015	Targeted Local Plan consultation draft reflecting changes from previous stages but without an updated SA
Development Plans Policy Advisory Group	20 September 2016	Housing and Economic Land Availability Assessment: Additional Sites 2016 incorporating sustainability appraisal of potential site allocations
Development Plans Policy Advisory Group	15 November 2016	Wind Energy Development consultation document including SA of the 4 main options and additional option A
Development Plans Policy Advisory Group	23 May 2017	Overview of the SA process and discussion of progress of preparation of the draft Final SA
Over view and Scrutiny Panel	20 June 2017	HLP2036: Consultation draft 2017, draft Final SA, consolidated HELAA (June 2017) and call for sites.
Cabinet	22 June 2017	
Overview and Scrutiny Panel	12 December 2017	Proposed submission HLP2036 and accompanying Final SA for approval for proposed submission
Cabinet	13 December 2017	
Council	13 December 2017	

- 2.8. Each iteration of the SA has included a summary of the comments received upon in the previous consultation and responses on how it has been amended accordingly.

**Question 6: Has the methodology for the SA been appropriate? What concerns have been raised and what is the Council's response to these? Have the requirements for Strategic Environmental Assessment been met?**

- 2.9. The methodology is considered to be appropriate as it is based on the tasks and stages set out in 'A Practical Guide to the Strategic Environmental Assessment Directive' (DCLG, 2005).

The Sustainability Appraisal has been subject to consultation with statutory bodies, duty to cooperate partners and the wider public at each stage of plan preparation. The Final SA Report (CORE/07) sets out the consultation and respective responses on the Scoping Report at para 3.192ff, on the Initial SA at para 6.6ff and the draft Final SA at paras 7.4ff.

- 2.10. Natural England have expressed concern over the whether the findings of the HRA have adequately informed the SA. The SA has been prepared in house to ensure a fully iterative approach can be taken to its preparation. In contrast, the HRA Report was commissioned from a specialist consultant to ensure sufficient technical expertise was brought to its preparation. The SA has focussed on assessment using a methodology and a set of sustainability objectives agreed with Natural England through consultation on the Scoping Report. The Final SA (CORE/07, para 1.15) addresses the inter-relationship between the HRA and SA processes. It is considered appropriate that the HRA was completed alongside the finalisation of the SA and the HLP2036. Recommendations from both the SA and the HRA have been used to shape the proposed submission HLP2036.
- 2.11. Three expressions of concern have been raised over the consistency of application of the SA to site appraisals included in the HELAA and provision of updated site specific information by agents/ landowners for sites which have not progressed to allocation. The appraisals have been carried out equitably using consistent data sources rather than any additional material supplied by agents/ landowners. The Council is satisfied that the sites put forward are not more sustainable than those incorporated within the HLP2036.
- 2.12. The requirements for Strategic Environmental assessment (SEA) have been met by ensuring that the plans, programmes, strategies and initiatives reviewed as part of the preparation of the SA covered all topics required by the SEA Directive. The processes used in the SA have addressed the requirements for SEA to provide for a high level protection of the environment and contribute to the integration of environmental considerations into the preparation of the plan to assess the likely effects of the plan when judged against reasonable alternatives and coupled this with consideration of the economic and social effects of the plan.

### **3. Habitats Regulations Assessment**

#### **Question 7: How was the Habitats Regulations Assessment (HRA) carried out and was the methodology appropriate?**

- 3.1. A Screening Report was completed on the HLP2036 Full draft Stage 3 (2013) (PREP/05) by The Landscape Partnership which concluded that the draft HLP2036 was likely to have a significant effect on European sites due to the amount and location of development proposed and therefore preparation of an Appropriate Assessment would be necessary. This was reviewed by Bodsey Ecology in January 2017 who concurred with this conclusion and led to completion of an Appropriate Assessment in May 2017 (CORE/08) supplemented in November 2017 by an Addendum (CORE/09) assessing amendments to policies and potential additional allocations.

- 3.2. An iterative approach has been taken to preparation of the HRA Report. Natural England, the Environment Agency, the RSPB and the Wildlife Trust have been consulted throughout preparation of the HRA Report. Concerns raised on the draft version of the May report were addressed and amendments made prior to finalisation of CORE/08. Amendments have also been incorporated within the HLP2036 arising from both the May and November 2017 Appropriate Assessment reports.
- 3.3. Bodsey Ecology's methodology included assessment of the cumulative impacts of all local plans in the catchments of the River Great Ouse and the River Nene along with the impact of the proposed policies on a series of threats identified in the main HRA Report (CORE/08) paragraph 2.1.2. All Special Areas of Conservation, Special Protection Area and Ramsar sites that might be affected have been included within the assessment.
- 3.4. The analysis looked at each European site and each qualifying feature within it and firstly assessed whether the HLP2036 could increase the threat either alone or in combination with any other plans and then whether the threat could lead to an impact on the European site and if so whether it would affect the qualifying feature. Chapter 7 of the HRA Report (CORE/08), supported by appendices 7-13 assessed the potential impacts on European site integrity arising from the HLP2036 for each of the identified threats. CORE/09 supplements this in appendices 4-9. This methodology is considered appropriate.

**Question 8: Was the approach in accordance with the recent judgement of the Court of Justice of the European Union (12 April 2018 - Case C-323/17) which ruled that it is not appropriate to take account of measures intended to avoid or reduce the harmful effects of a plan or project on a European site at the screening stage as part of the Habitats Regulations Assessment (HRA)?**

- 3.5. The approach taken for preparation of the HRA Screening Report is considered to be in accordance with the recent judgement of the Court of Justice of the European Union. The methodology for the Screening Report evaluated each policy against the following criteria:
1. Could the policy possibly cause or alter likely significant effects of any of the threats to the European sites?
  2. Would the significant effects be negative or positive?
  3. Does the wording or the policy mean that the significant effects will be either avoided or mitigated against if the policy is followed?
  4. Does the wording of the policy allow for significant effects on the European sites to possibly occur?
- 3.6. Criterion 3 is of particular relevance to the above judgement. Appendix 2 of the Screening Review considered each draft policy of the Local Plan against the above criteria. The screening indicated that 14 policies could have a likely significant effect, six of which were positive effects. Independently of the likelihood of the policy having a significant effect, each was screened through criterion 3 to ascertain if the policy would offer protection if it were followed. Correspondence with Bodsey Ecology on 25/05/18 has provided confirmation that no European sites were screened out at the Screening Report stage due to mitigation. The



conclusion of the Screening Review was that Appropriate Assessment of the Local Plan was required. The Upper Nene Valley Gravel Pits SPA and Ramsar site was added in the review of the initial Screening Report and incorporated into the Appropriate Assessment following designation in 2013.

- 3.7. Further clarification on the methodology has been obtained from Bodsey Ecology who undertook the HRA Report on behalf of the Council. This confirms that in their opinion proposed mitigation did not screen out consideration of any European sites at the Screening Report stage.

### Question 9: What are the relevant designated sites considered?

- 3.8. The sites considered in the HRA Report (CORE/08 and/09) are:

Site	Designation	District
Portholme	SAC	Huntingdonshire
Woodwalton Fen/ Fenland SAC	SAC, Ramsar	Huntingdonshire
Ouse Washes	SAC, SPA, Ramsar	One field in Huntingdonshire, remainder is in East Cambridgeshire and Kings Lynn and West Norfolk
Barnack Hills and Holes	SAC	Peterborough
Eversden and Wimpole Woods	SAC	South Cambridgeshire
Nene Washes	SAC, SPA, Ramsar	Peterborough
Orton Pits	SAC	Peterborough
Rutland Water	SPA, Ramsar	Rutland
The Wash	SPA, Ramsar	South Holland, Kings Lynn and West Norfolk
Upper Nene Valley Gravel Pits	SPA, Ramsar	Northampton, South Northamptonshire, East Northamptonshire and Wellingborough

### Question 10: What potential impacts of the Local Plan were considered? What were the conclusions of the HRA and how has it informed the preparation of the Local Plan?

- 3.9. All policies and proposals of the HLP2036 were considered through the Appropriate Assessment process to ascertain their potential impacts in terms of:
- Direct impact on European sites
  - Increased public recreation
  - Increased air pollutants
  - Human induced changes in hydraulic conditions
  - Invasive non-native species

- Pollution to groundwater
  - Reduction in water quality
- 3.10. The HRA Report recommended a series of modifications prior to finalisation of the proposed submission HLP2036 and that based on their incorporation the HLP2036 will not have adverse effects on the site integrity of any European site. Proposed modifications have been reflected in the latest version of the HLP2036.

**Question 11: What concerns have been raised and what is the Council’s response to these? Specifically what is Natural England’s position and the Council’s response?**

- 3.11. Natural England’s representation states that they generally find the HLP2036 to be sound and legally compliant. However, they have expressed some concerns over the methodology used for the HRA Report and seek use of a more detailed and strategic approach to the assessment of the effects of increased recreational pressure through any future review of the Local Plan. The Council will be pleased to liaise with Natural England on preparation of the HRA methodology for the next Local Plan.
- 3.12. Natural England’s response to consultation on the HRA Addendum included the suggestion that a detailed visitor study would need to be undertaken to identify the visitor catchment areas for the European sites likely to be affected by the HLP2036, concern was expressed over recreational pressure on Portholme SAC in particular and they sought inclusion in the HRA of assessment of whether the mitigation proposed in the draft HLP2036 would be sufficient to absorb the additional pressure and demonstrate no adverse effect on the integrity of European sites or whether additional measures were required such as developer contributions to fund additional green infrastructure provision and / or designated site management measures. A number of amendments were made to the draft versions of the HLP2036 on which the main HRA Report and the HRA Addendum were prepared reflecting the recommendations set out to address concerns raised.
- 3.13. Policies LP3, LP4, LP32 and HU10 are all relevant to the Council’s response in terms of provision of potential mitigation, including its funding. Policy LP3 highlights a number of strategic scale projects which will provide substantial additional areas of strategic green infrastructure including the Great Fen which is expected to provide around 3,000ha of publically accessible fenland landscape and an extension to Paxton Pits which will see the nature reserve increase from 78ha to 285ha over the next decade. Policy LP4 addresses the concern over additional measures such as developer funding for provision or management of designated site including the use of CIL payments and planning obligations for large scale major developments. Policy LP32 directly specifies that any proposal that is likely to have a direct or indirect impact on an internationally important site will be required to submit an Appropriate Assessment in accordance with the Habitats Directive. HU10 provides for a 44ha extension to Hinchingsbrooke Country Park on the western side of Huntingdon.

**Question 12: Is additional work required to address any of the above matters? Have there been further discussions with Natural England and if so what has been the outcome?**

- 3.14. Correspondence with Natural England on 30/05/18 following receipt of the Inspector's Initial Queries has confirmed that they consider it unlikely that any additional work will be required. Natural England acknowledged that assessing the effects of recreational pressure is complicated but of increasing importance and welcomed the Council's commitment to liaise with them on the preparation of the HRA methodology to be used for the next Local Plan, whenever this is prepared.

## **4. Other matters**

**Question 13: Has the Council had regard to the specific matters set out in S19 of the 2004 Act (as amended) and Regulation 10?**

- 4.1. The Local Plan has been prepared in accordance with the Local Development Scheme and the Statement of Community Involvement. The NPPF has been taken in to account at all stages of preparation of the Local Plan and regard has also been had to guidance including the Planning Practice Guidance and Written Ministerial Statements. Sustainability Appraisal has been ongoing throughout preparation of the plan as set out in paragraphs 2.1-2.12 above. The Final Sustainability Report is presented as CORE/07 which identifies issues raised and amendments made in response at each stage.
- 4.2. The requirement to identify strategic priorities was introduced in the Neighbourhood Planning Act 2017 and reflected in S19 of the PCP Act 2004. This is addressed in Section 1 of the Local Plan through paragraphs 1.11ff which includes a highlighted box identifying which policies are considered to be strategic, defined as those which are essential to the delivery of the Local Plan strategy.
- 4.3. The Council has worked in close cooperation with Cambridgeshire County Council in their roles as the local highways authority and the minerals and waste authority to ensure that the proposals of the Local Plan are in accordance with their plans and proposals for these issues. Detailed comments on these issues have been received during the plan's preparation and relevant amendments incorporated. Regulation 10A relating to five yearly reviews of any local plan or statement of community involvement was not in force at the date of submission of the Local Plan.
- 4.4. The Council has also had regard to securing development and use of land which will contribute to the mitigation of, and adaptation to, climate change. This has resulted in a development strategy which seeks to either reduce the need to travel or provide access to alternative sustainable modes where feasible accompanied by a series of policies including specific criteria aimed at mitigating and adapting to climate change.

- 4.5. The Local Plan recognises limitations on resources to deliver its policies and proposed development sites and the importance of working in partnership with others to achieve delivery. This is reflected in a section of the Local Plan entitled 'Delivering the Strategy' (CORE/01, paras 4.39-4.54).

#### **Question 14: Does the Local Plan include policies in relation to the mitigation of and adaptation to climate change? Which?**

- 4.3 The Local Plan (CORE/01) contains a range of policies in relation to the mitigation of and adaptation to climate change as identified below.

- LP2 – Strategy for Development – highlights that the strategy for Huntingdonshire is (among other requirements) to provide complementary green infrastructure enhancement and provision to balance recreational and biodiversity needs to support climate change adaptation. The development strategy aims to meet the NPPF's challenge to respond to expected climate change by concentrating the majority of new development in locations where people can choose to walk or cycle to local services, can create sufficient demand to make public transport services viable and are away from areas of greatest flood risk to protect against the increased frequency, extent and impact of flooding associated with climate change.
- LP3 – Green Infrastructure – a proposal is expected to support green infrastructure and will be supported where it demonstrates (among others) it is consistent with the objectives of the Cambridgeshire Green Infrastructure Strategy (2011) or successor documents. The strategy demonstrates how green infrastructure can be used to help achieve 4 objectives to reverse the decline in biodiversity; to mitigate and adapt to climate change; to promote sustainable growth and economic development; to support healthy living and well-being.
- LP5 – Flood Risk - sets out the approach to managing flood water and the requirement of site specific flood risk assessments to consider the impact of climate change.
- LP13 – Design Implementation – The policy incorporates a series of criteria relating to the use of sustainable design and construction methods to promote energy and water efficiency in response to anticipated impacts of climate change.
- LP17 Sustainable Travel – The policy requires opportunities for the use of sustainable travel modes to be maximised.
- LP31 – Health Impact Assessment – Large scale developments will be supported where it has been demonstrated that the design of the scheme has been informed by a Health Impact Assessment (HIA). A HIA may cover topics including climate change.
- LP32 – Biodiversity and Geodiversity – The policy sets out, among other requirements, that a proposal will ensure no net loss in biodiversity and provide a net gain where possible and prioritise measures that include helping species adapt to climate change. Trees, woodlands, hedges and hedgerows provide important habitats for a range of species,

provide shelter, help reduce noise and atmospheric pollution and also store carbon dioxide, helping to mitigate against climate change.

- LP37 – Renewable and Low carbon energy- The purpose of this policy is to set out the Council’s approach to development proposals for renewable and low carbon energy generation as part of Huntingdonshire's contribution to this important part of the UK's energy infrastructure and efforts to achieve reductions in contributing factors to climate change. Together with energy conservation measures, renewable energy generation is central to efforts to reduce reliance on fossil fuels and achieve international agreements and UK legislation on reductions in carbon dioxide emissions in order to tackle climate change.

#### **Question 15: How have issues of equality been addressed in the Local Plan?**

- 4.4 The Equalities Impact Assessment (CORE/15) was completed in January 2018. All policies and proposed site allocations included within the Local Plan were assessed to consider their potential impacts be they positive, negative or neutral on the following protected characteristics: age, gender, disability, marriage and civil partnership status, pregnancy and maternity, race, religion or belief, sexual orientation and gender reassignment. The implications of the majority of policies and proposed site allocations were neutral when considering whether they might have a disproportionate effect on any protected group; however, a significant number have potential to have a positive impact primarily through promotion of additional development in accessible locations and incorporation of services and facilities within larger new developments in particular.