

Breckland Local Plan – Examination in Public

Statement of Common Ground

Policy ENV 03 The Brecks Protected Habitats and Species

This Statement of Common Ground is an Agreement made between the following parties:

- Breckland District Council
- RSPB

1. Introduction

1.1. This Statement of Common Ground (SoCG) sets the terms and understanding between Breckland District Council and the RSPB with regard to the habitat monitoring and mitigation requirements referred to in policy ENV 03 of the submission draft Local Plan.

2. Background

2.1. Proposed policy ENV 03 ‘The Brecks Protected Habitats and Species’ of the draft Breckland Local Plan outlines a series of measures designed to protect The Breckland Special Protection Area (SPA) and Breckland Special Area of Conservation (SAC), particularly in relation to new development proposals. The policy also sets out the Council’s intentions to work with partners to develop a framework of measures that manage and monitor access to mitigate the impact of recreational disturbance from new development.

2.2. The RSPB made a representation (462653) during the Pre-Submission Consultation which noted strong support for the policy, in principle, but expressed specific concern that there is insufficient evidence to demonstrate that adverse effects on the Breckland SPA from increased housing allocations will be avoided because of a lack of available detail in relation to the proposed Monitoring and Mitigation Framework. The RSPB therefore questioned the soundness of the plan and sought clarification that the proposed Monitoring and Mitigation Framework would be included in the adopted plan. It is the RSPB’s view (as set out in its representation) that in order for the Plan to meet the legal requirements of the Habitats Regulations and demonstrate soundness. Policy ENV3 should explicitly include the Council’s

commitment to a Monitoring and Mitigation Framework, clearly setting out the Council's mitigation obligations and a timetable for their delivery following adoption of the Plan.

2.3. The RSPB consider that the Monitoring and Mitigation Framework (MMF) to be included in the plan does not need to be exhaustively defined in the policy, but its requirements do need to be included in sufficient detail in the adopted plan to provide certainty that it will be delivered. Without it being enshrined in the policy there would be no means for the Plan to demonstrate that it will avoid adverse effects through increased visitor pressure on European sites, by way of the MMF.

3. Context

3.1. This section sets out the context in terms of existing and emerging policies and strategies which will operate in addition to the proposed monitoring and mitigation strategy for the plan.

3.2. Evidence on recreational pressure on European Sites, has been developed over time, with previous Local Development Framework documents recognising and successfully addressing through policy the need to avoid adverse effects on European Sites, both inland and coastal.

3.3. An allocation for 5,000 homes in Thetford, immediately adjacent to the Brecks will be carried forward in the new Local Plan. This is the single largest allocation for the District, situated adjacent to the Brecks, and monitoring and mitigation measures to support the allocation are already established. The Thetford Area Action Plan (TAAP), adopted in 2012, provides the policy framework to support the growth of the town. Policy TH09 from the TAAP is proposed to be saved through the Breckland Local Plan. The policy has two parts. Part (a) consists of the sustainable management of key biodiversity sites – a commitment from the council to work with relevant agencies and bodies to commit resources and effort to the management of key biodiversity sites. Part (b) consists of a requirement for all new net development to make appropriate contributions through CIL or S106 agreements towards mitigating urban effects on key biodiversity sites.

3.4. The TAAP, and the policies contained within, covers a more focused geographical area around the town of Thetford. As such, saved Policy TH09 is only pertinent

within the defined area. This policy will continue until subsumed by the new Monitoring and Mitigation Framework (MMF). The allocation of 5,000 dwellings proposed through the Core Strategy and the TAAP was granted outline planning permission on the 27th November 2015. As part of the accompanying S106 agreement, a range of monitoring and mitigation strategies were agreed.

- 3.5. The most recent evidence on recreational pressure is a baseline visitor survey and analysis study undertaken collectively for the Norfolk Local Authorities. As detailed in the Duty to Cooperate Statement (LP/S/18), Breckland District Council officers were part of the original steering group (comprised of Norfolk local authority officers, Norfolk County Council and the Norfolk Biodiversity Partnership) that commissioned Footprint Ecology to gather the data on visitor access to Natura 2000 sites in Norfolk. The report 'Visitor surveys at European protected sites across Norfolk during 2015 and 2016' was finalised in January 2017. The Study concludes that there is a clear link between local development and increased recreation for sites including the Valleys Fens, Roydon Common, Dersingham Bog and the Thetford Forest element of the Breckland SPA, although baseline visitor numbers are relatively low.
- 3.6. In response to this baseline study, a Joint Action Plan is currently under production collectively by Norfolk Local Authorities. As part of this, the Action Plan will identify how to implement the recommendations of the visitor pressure report including common approaches to mitigation measures and establishing funding sources. There is no definite date for completion and publication of a Joint Action Plan. As it is not in place now, it cannot be considered appropriate to form the mechanism to address recreational pressures arising from the policies in the Local Plan. However, Breckland District Council will continue to cooperate with neighbouring authorities with the aim of developing a consistent approach to addressing the cumulative impact of recreational pressure in addition to, or potentially to subsume in whole, or part, the monitoring and mitigation measures set by Policy ENV 03 (only where these are duplicated).
- 3.7. A further strand of joint working has come forward as part of the Norfolk Strategic Planning Framework¹ (LP/S/28) which is the result of a partnership between all Norfolk planning authorities to provide an overarching framework for planning issues

¹ The NSF was endorsed by Breckland Council Cabinet on 6th February 2018.
<http://democracy.breckland.gov.uk/documents/s46698/Norfolk%20Strategic%20Framework.pdf>

across the county. Chapter 7.8 of the Norfolk Strategic Planning Framework (NSPF) document (page 66-69) describes initial background work and mapping of Norfolk Green Infrastructure assets (figure 10) and corridors (figure 11). Agreement 22 of the NSPF sets a commitment for the Local Planning Authorities to work together to produce a GI Strategy for Norfolk in early 2018 which will aid Local Plans in protecting and where appropriate enhancing the relevant assets.

3.8. This Statement of Common Ground between the RSPB and Breckland District Council agrees the broad suite of measures that will form the basis of the Mitigation and Monitoring Framework to manage the impact of recreational disturbance from new development in Breckland SAC and Breckland SPA.

4. Monitoring and Mitigation Framework

4.1. The key components of the proposed Monitoring and Mitigation Framework as set out in Policy ENV 03 are outlined in this section.

4.2. **Partners:** Forestry Commission, Natural England, RSPB, Norfolk Wildlife Trust, Breckland District Council

4.3. Cooperative working with Forest Heath District Council, King's Lynn and West Norfolk Borough Council, St. Edmundsbury Borough Council on cross boundary issues/impact on designated sites with the intention of developing a more consistent approach to management/mitigation.

4.4. **What measures will the Monitoring and Mitigation Framework consist of:**

4.5. The Monitoring and Mitigation Framework will consist of measures that monitor and address recreational pressure from proposed allocated sites – both at the individual site level where necessary, and the consideration of cumulative pressure. Partnership working will enable more detailed consideration of proposed developments and the likely pressure points (publicly accessible sites/sites at greater risk due to urban effects) in and around Breckland SPA and Breckland SAC. This will enable refinement of the type of monitoring that needs to be put in place and any mitigation required to address identified impacts of development. Once a planning application was made, the Council will use the Monitoring and Mitigation

Framework and its outputs to aid consideration of development proposals, and for HRA screening.

4.6. Monitoring will involve:

- Access Monitoring Programme – monitoring of access levels at vulnerable sites in the Breckland SPA/SAC, collection of qualitative data to identify the potential for adverse impacts of increased visitors to the site resulting from the development.
- Sharing monitoring data on populations of protected species - Woodlark and Nightjar and/or Stone-curlew populations and nesting sites. Contribution towards additional monitoring, including any additional supporting habitat provided through development (where supporting habitat outside the designated site is affected).
- Work with the Forestry Commission to share records of incidents linked to urban effects – fire, litter, eutrophication to help focus resources on sites which require additional mitigation.
- Within 3 months of adoption of the plan, the Council will hold the first meeting of the Monitoring and Mitigation Framework Advisory Panel. The meeting will establish the remit of the panel, its core membership and procedures and define the frequency of its meeting.
- The advisory panel will evaluate the wider cross-border visitor pressure work including work on the Joint Action Plan and Green Infrastructure Strategy and will collaborate wherever practical with similar groups in other authorities to take advantage of economies of scale and the sharing of best practice, recognising that many of the sites identified in the HRA as being vulnerable to visitor pressure from new housing development in Breckland District extend across district and county boundaries and will also be vulnerable to increases in visitor pressure in other local authorities.

4.7. Mitigation

- Should the monitoring highlight the need for measures to be implemented, these may be targeted to particular developments, or more strategically with the use of a geographical zone of influence (determined through analysis of available evidence).

- On site: Enhanced informal recreational provision – recreational space over and above policy requirements and/or open space targeted to provide attractive alternative pedestrian routes for dog walking in a natural or semi-natural setting.
- Off site: Contribution to enhanced management of nearby designated recreational sites. Such management measures could include:
 - Information boards, signposting for guided routes, fencing, staff resources, educational materials, car park management, dog bins, projects targeting dog walking.
- Publicity – promoting alternative local accessible greenspaces to encourage new residents and dog owners to utilise less environmentally sensitive sites for recreation.

4.8. Timescales for delivery:

- Creation of a Monitoring & Mitigation Framework Co-ordination Panel within 3 months of adoption of the plan
- Monitor access – intervals for updating the Visitor Pressures Study to be agreed jointly with neighbouring authorities. Reporting annually to the District Council (see below).
- Mitigation to be provided as informed by the monitoring.

4.9. Funding Options:

- Council funds (to frontload cost of monitoring)
- S106 or CIL (if adopted).
- Further funding options to be explored through partnership working.

4.10. The requirement for developer contributions will apply to:

- Housing and tourist accommodation applications
- Within the area of effect identified in the HRA
- All sizes of application from 1 unit upwards, regardless of location within the area of effect.

4.11. Authorities Monitoring Report:

4.12. Authorities Monitoring Report – The AMR provides the mechanism to monitor the impact of development on designated sites. Alongside general monitoring indicators related to planning permissions, the AMR will contain the following monitoring indicators related to the environment:

- Condition of SSSIs in Breckland;
- number of new agricultural and commercial buildings granted permission within the SPA Primary and Secondary stone-curlew buffer;
- Area of open Space provided (effectively Suitable Alternative Natural Greenspace, to be defined formally by the Panel) (ha);
- Area of open space lost to development (ha).

4.13. The identification of the monitoring indicators above does not preclude the consideration of further monitoring indicators which will include trigger points to indicate the need for additional mitigation or policy review as part of the partnership working, as identified by the Advisory Panel. Specific monitoring indicators should be linked to the Monitoring and Mitigation Framework to ensure that the proposed strategy achieves its aims and to provide a mechanism for review of the Framework.

5. Proposed modification to wording: Policy ENV03 The Brecks Protected Habitats & Species

5.1. Proposed modifications to the wording of Policy ENV 03 are included in Appendix 1 (red text). A number of modifications to the policy have already been proposed to accord with the HRA as outlined in the Council's response to Matter 1 (CS.1). The additional proposed text in red is a simple clarification of the Monitoring and Mitigation Framework which was previously referred to in the policy text. It is considered the revised wording will provide certainty of the Council's commitment to working with partners to produce the Monitoring and Mitigation Framework.

6. Agreement

6.1. Collectively the parties agree that the proposed changes to the Monitoring and Mitigation Framework and revised wording to Policy ENV 03 in this Statement of Common Ground demonstrate that the Plan includes sufficient measures to avoid adverse effects on European sites from visitor pressure.

7. Declaration

The content of this document is agreed between the undersigned for the purpose of the Breckland Local Plan Examination

Signed on behalf of Breckland District
Council:

Signed on behalf of RSPB:

Phil Mileham
Strategic Planning Manager
Date: 28th June 2018

Ben McFarland
Regional Conservation Manager
Date: 13th June 2018

Appendix 1 Modifications to Policy ENV 03 The Brecks Special Protection Area

~~The Brecks~~ Breckland Special Protection Area

Covering ~~39,441ha~~ 39,434ha of heathland, forest and arable farmland, The Brecks is of ~~international~~ and European value to birdlife. Designated in 2006 as a Special Protection Area (SPA) under the European Council's Directive on the Conservation of Wild Birds, The Brecks habitat is important for a range of ground-nesting birds including the Stone Curlew, Woodlark and Nightjar.

The East of England supports 65% of the UK's breeding pairs of Stone Curlew where most breeding is located within the Brecks. The rich biodiversity of The Brecks is also recognised through other statutory conservation designations including four Special Areas of Conservation (SACs), numerous SSSI and National Nature Reserves (NNR), where the latter (NNRs and SSSIs) make up 40% of the total area.

Evidence used to support the adoption of the Core Strategy in 2009 included research to inform the Habitats Regulations Assessment (HRA) of the Core Strategy which examined the effects of housing and roads on the distribution of the Stone Curlew in The Brecks.

The adopted mitigation policy required that any new development which may impact on the SPA must be subject to Appropriate Assessment. The measures are defined by buffers (Map 5.1). New development is not permitted within 1,500m of the edge of the SPA (primary buffer (red)) unless it can be demonstrated by an appropriate assessment that the development would not adversely affect the integrity of the SPA. Such circumstances may include the use of existing buildings and development where completely masked from the SPA by existing development.

Stone Curlews are also found outside the SPA; these birds are clearly part of the SPA population and functionally linked. Accordingly, a secondary buffer (blue) indicated areas that have been identified where there are concentrations of Stone Curlew (using data gathered over the periods 1995-2006, and 2007-2015) (most recently using data from 2011-2015).

Within these areas development may be brought forward, providing a project level Habitats Regulations Assessment can demonstrate adverse effects have been prevented, for example where alternative land outside the SPA can be secured to adequately mitigate for the potential effects.

In 2013 a "Further Assessments of the Relationship between Buildings and Stone Curlew Distribution" study was carried out to update previous work on the effect of buildings and roads on Stone Curlews in The Brecks. Including new analysis and using additional survey data, this study report focused on the effects of buildings on the distribution of breeding Stone Curlew in The Brecks. The report provides strong support for the continuation of a 1500m zone around the areas capable of supporting Stone Curlews. Within this zone additional development is likely to have a significant effect on the SPA. ~~An appropriate assessment will be required in cases where the integrity of the SPA would be adversely affected following HRA screening.~~

The 2013 research also suggests that the planting of woodland/screening as a mitigation measure is unlikely to be effective and that the effect of nest density is strongest as a result of the amount of buildings ~~rather than type~~. One of the key aims of the research was to differentiate the effects of nest density due to different building classes. Due to the sample size and number of buildings identified there needs to be an element of caution applied to the results, however, the research indicates that there was no evidence of a negative impact of agricultural or commercial buildings. As such, the analysis suggests ~~an element of flexibility could be applied for that project level HRA for non-residential development in the SPA buffer zones may be able to demonstrate that adverse effects can be ruled out.~~

A draft protocol entitled 'Agricultural Buildings and the Breckland Special Protection Area stone curlew constraint zone' was produced by Natural England (2013) with input from stakeholders. ~~Natural England suggested that Breckland Council may wish to update and formally adopt this protocol to take account of the most recent Footprint Ecology report and expand it to include commercial buildings, and this has therefore been taken into account in the Local Plan HRA. For non-residential Agricultural buildings developments which meet certain criteria, this should result in a simplified Habitats Regulations Assessment. This has been reflected in the policy wording. Further consideration of the evidence is required to determine whether other building types could also be added.~~

Further analysis of the most recent Stone Curlew survey data allowed for some minor revisions to the primary (red) and secondary (blue) buffers to ensure they remain founded upon up to date information. Areas where data is absent, but could potentially provide functionally linked land, is identified by orange cells. Here a likely significant effect is presumed until project level Habitats Regulations Assessment provides additional information.

A report providing a comprehensive analysis of current and projected visitor patterns to European protected sites across Norfolk was commissioned by Norfolk County Council and

the_Norfolk Biodiversity Partnership on behalf of Local Authorities and completed in 2017. The report entitled 'Visitor surveys at European protected sites across Norfolk during 2015 and 2016 highlights that whilst survey areas in The Brecks received a much lower number of visitors than other survey sites such as those on the Norfolk coast, the proportion of local visitors (with Norfolk postcodes) was significantly higher to sites in The Brecks. The report presents evidence that of all designated sites included in the survey, Breckland SPA had the highest proportion of local visitors to the Brecks, from the settlements of Thetford, Mildenhall, Swaffham, Mundford, Brandon (of which Mildenhall and Brandon are outside the District within Suffolk). There is therefore evidential support for mitigation strategies to apply to new development in those settlements.

The Thetford SUE represents the largest area of planned growth within the District which would result in increased recreational pressure in The Brecks. A number of strategic mitigation measures were accepted as part of the adopted Thetford Area Action Plan in July 2012 which have been saved through this Local Plan. Further measures have been incorporated within a number of site allocation policies within the plan to ensure that mitigation is provided to reduce the impact of recreational pressure on designated sites.

Policy ENV03 The Brecks Protected Habitats & Species

The Council requires that a Habitats Regulations Assessment is undertaken on all proposals for development that are likely to have a significant effect on The Breckland Special Protection Area (SPA) which is classified for its populations of Stone Curlew, Woodlark and Nightjar, and/or Breckland Special Area of Conservation (SAC), which is designated for its heathland habitats. Development will only be permitted where it can be demonstrated that the proposal will not adversely affect the integrity of the SPA or the SAC.

Stone Curlew

Plan level Habitats Regulations Assessment has been undertaken to identify where built development is likely to significantly affect the Breckland SPA. Map 5.1 identifies a 1,500m buffer zone from the edge of those parts of the SPA that support, or are capable of supporting, Stone Curlew, where new built development would be likely to significantly affect the SPA population.

The plan level Habitats Regulations Assessment also identifies areas that have a functional link to the SPA, because they support Stone Curlew outside, but in close proximity to the SPA boundary.

These areas also have a 1500m buffer zone, within which new built development would be likely to significantly affect the SPA population.

A conclusion of no likely significant effect can be met where the proposed building is located further than 1500m away from the SPA boundary (red primary buffer) or the identified (blue secondary buffer) or possible (orange cells) areas that have a functional link (see Map 5.1).

Development within the SPA boundary, or located less than 1500m away from the SPA boundary or identified areas that have a functional link (see Map 5.1) will not normally be permitted.

Where a proposed building is outside the SPA but within 1500m of the SPA boundary or identified or possible areas that have a functional link (see Map 5.1), there may be circumstances where a project level Habitats Regulations Assessment is able to demonstrate that the proposal will not adversely affect the integrity of the SPA. For agricultural buildings, applicants must provide evidence to show how their proposal meets the criteria listed in Natural England's "Agricultural Buildings and the Breckland SPA Stone Curlew constraint zone" advice note, or successor document. Circumstances where the proposal is able to conclusively demonstrate that it will not result in an adverse effect on Breckland SPA may include where the proposal is:

- More than 1500m away from potential stone curlew ~~nesting sites~~ habitat (such as arable land) inside the SPA (~~these are those parts of the SPA that are also designated as Breckland Farmland SSSI~~);
- A new building that will be completely masked on all sides from the SPA by existing built development;
- A proposed re-development of an existing building that would not alter its footprint or increase its potential impact;
- A new agricultural building of less than 120 sqm;
- An extension to existing agricultural buildings of less than 120 sqm or 100% of the original, whichever is less.

(b) Permission may be granted for agricultural buildings where:

- there is a demonstrable need for the facility (necessary to manage the agricultural land/maintain the economic viability of an agricultural enterprise);

- justification is provided as to why it cannot be located elsewhere (outside the buffer zone),

and;

- justification that the selected location is the least detrimental.

Large developments adjacent to or just outside the primary or secondary buffer, particularly where occurring in an isolated area with few other buildings, are likely to also require project level assessment.

Large developments adjacent to, or just outside the primary or secondary buffer, particularly where occurring in an isolated area with few other buildings, are likely to also require project level assessment.

Woodlark and Nightjar

Development within 400m of the SPA that support, or are capable of supporting Woodlark and/or Nightjar will not normally be permitted. The Council will consider the need for a Habitats Regulations Assessment to determine the implications of development Nightjar and Woodlark on a case by case basis, depending on the location and nature of the proposal.

Recreation pressure and urban effects

Plan level Habitats Regulations Assessment has identified the potential for increased disturbance to Nightjar, Woodlark and Stone Curlew as a result of recreation, and the potential for other urban effects such as increased fire, litter and eutrophication to significantly affect Breckland SPA and SAC.

Monitoring and Mitigation Framework

The Council commits to a framework of measures that will enable it to co-ordinate the necessary monitoring and mitigation measures required to demonstrate that the increases in visitor pressure arising from new development in the District will be addressed before adverse effects on European sites occurs.

These will include as a minimum the following measures to be implemented following adoption of the Plan:

- Creation of an advisory group;
- Production of a monitoring programme;
- Identification of mitigation measures; and
- Defining funding to support the above measures.

The Council will work with partners to develop a framework for managing and monitoring urban effects. Proposals for development where urban heaths at Thetford (Barnham Cross Common, Thetford Heath, Thetford Golf Club and Marsh), East Wretham or Brettenham are likely to be used as local greenspace will need to demonstrate the inclusion of mitigation measures that contribute to the framework to address the potential impact urban effects on Breckland SPA/SAC.