



**HABITATS REGULATIONS ASSESSMENT
NO LIKELY SIGNIFICANT EFFECTS REPORT
FOLLOWING SCREENING ASSESSMENT**

West Lancashire Borough Council

Local Development Orders

Findon, Digmoor Sports Centre and Delf Clough

August 2015

Habitats Regulations Assessment No Significant Effects Report

CONTENTS

EXECUTIVE SUMMARY

1 INTRODUCTION

Requirement for Habitats Regulations Assessment

Guidance for Habitats Regulations Assessment/Screening Assessment

Consultation

Purpose & Structure of Report

2 METHOD

Screening Assessment

3 SCREENING ASSESSMENT

Task 1: Scoping and Additional information Gathering

Task 2: Assessing the impacts – Screening Assessment

Task 3: Mitigation measures

Task 4: Main Findings and Recommendations

4 CONCLUSIONS

APPENDICIES

Consultation Commentary

EXECUTIVE SUMMARY

Habitats Regulation's Assessment (HRA) of spatial, development plans including LDOs is a requirement of the Habitats Directive (92/43/EEC) as set out in the amended Habitats Regulation's (2007). This report details the HRA No significant Effects. It sets out the methods and findings and the conclusions of the Screening Assessment.

INTRODUCTION

West Lancashire Borough Council is currently developing Local Development Orders for Findon, Digmaor Sports Centre and Delf Clough sites in Skelmersdale and is undertaking Habitats Regulation's Assessment in line with the requirements set out by the Conservation (Natural Habitats) (Amendment) Regulations 2007.

This HRA report addresses the findings of the Screening Assessment, although the requirement is first determined by an initial 'screening stage' undertaken as part of the full HRA. This report addresses the appropriate state of the HRA; it outlines the key tasks undertaken and the key findings/recommendations emerging from the assessment.

Requirement for Habitats Regulation's Assessment

The European Directive (92/43/EEC) on the Conservation of Natural Habitats and Wild Flora and Fauna (the Habitats Directive) protects habitats and species of European nature conservation importance. The Habitats Directive establishes a network of internationally important sites designated for their ecological status. These are referred to as Natura 2000 (N2K) sites or European Sites, and comprise Special Areas of Conservation (SACs) and Special Protection Areas (SPAs)[which are classified under the Council Directive 79/409/EEC on the conservation of wild birds, the Birds Directive].

Articles 6 (3) and 6 (4) of the Habitats Directive require appropriate assessment to be undertaken on proposed projects which are not necessary for the management of the site but which are likely to have a significant effect on one or more European sites either individually, or in combination with other plans and projects¹. In 2007, this requirement was transposed into UK law in Part IVA of the Habitats Regulation's (The Conservation (Natural Habitats) (Amendment) (England and Wales) Regulation's 2007). These regulations require the application of HRA to all land use plans.

¹ Determining whether an effect is 'significant' is undertaken in relation to the designated interest features and conservation objectives of the Natura 2000 sites. If an impact on any conservation objective is assessed as being adverse then it should be treated as significant. Where information is limited the precautionary principle applies and significant effects should be assumed until evidence exists to the contrary.

The purpose of HRA to assess the impacts of a land use plan, in combination with the effects of other plans and projects, against the conservation objectives of a European Site and to ascertain whether it would adversely affect the integrity² of that site. Where significant negative effects are identified, alternative options or mitigation measures should be examined to avoid any potential damaging effects. The scope of the HRA/AA is dependent on the location, size and significance of the proposed project and the sensitivities and nature of the interest features of the European sites under consideration. It is not possible to avoid or remove the identified effects assessed as arising from the plan implementation, then [if the plan makers wish to proceed with the policies/proposals as set] it must be demonstrated that there are imperative Reasons Overriding Public Interest (IROPI) to continue with the plan (Article 6 (4) of the Habitats Directive).

Guidance for Habitats Regulation's Assessment

The methods and approach used are outlined in Table 1. The report outlines the method and findings for stage 2 of the HRA process – the findings of the Screening Assessment.

² Integrity is described as the sites' coherence, ecological structure and function across the whole area that enables it to sustain the habitat, complex of habitats and/or levels of population of species for which it was classified (ODPM 2005)

Table 1**Habitat Regulations Assessment: Key Stages****Stage 1**

Screening for likely significant effect

- Identify international sites in and around the project area in search area/buffer zone.
- Examine conservation objectives of the interest features.
- Review plan policies and proposals and consider potential effects on European sites
- Examine other plans and programmes that could contribute to 'in combination' effects

Stage 2

Findings of the Screening Assessment

- Complete additional scoping work including the collation of further information on sites as necessary to evaluate impact in light of conservation objectives.
- Consider how plan 'in combination' with other plans and programmes will interact when implemented.
- Consider how effect on integrity of the site could be avoided by changes to plan and the consideration of alternatives.
- Develop mitigation measures
- Report outcomes, consult with Natural England
- If plan/project will not significantly effect European site proceed without further reference to Habitat Regs
- If effects or uncertainty remain, follow the consideration of alternatives and development of mitigation, proceed to **stage 3**.

Stage 3

Procedures where significant effect on integrity of international site remains

- Consider alternative solutions, delete from plan or modify.
- Consider if priority species/habitats affected.
- Identify 'imperative reasons of overriding public interest, economic, social, environmental, human health, and public safety.
- Develop and secure compensatory measures.

Consultation

The Habitats Regulations require the plan making/competent authority to consult the appropriate nature conservation statutory body (Natural England). Consultation on the approach to the screening of the HRA has been undertaken with Natural England as required. The Habitats Regulation's leave consultation with other bodies and the public to the discretion of the plan making authority.

Purpose & Structure of Report

This report documents the process and the findings from the Screening Assessment. Following this introductory section the document is organised in to a further three sections:

Section 2 – outlines the method used for the Assessment and includes reference to the key information sources and the consultation comments received to date.

Section 3 – outlines the process and summary findings of the Screening Assessment.

Section 4 – outlines the conclusions and how the plan/project should now proceed with reference to the Habitat Regulations.

METHOD

Screening Assessment

The first Screening Stage report for the HRA July 2015 identified which European sites within and around the plan/project area should be considered in further detail as part of an assessment. The Screening combined a plan and site focus.

- The plan focus first screened out those elements of the plan unlikely to affect European site integrity and then considered the impacts of the remaining elements on European sites, including the potential for ‘in-combination’ impacts.
- The site focus considered the environmental considerations of the sites and the factors required to maintain site integrity, and then look at the potential impacts the plan might have.

The results of the screening identified that the following European sites may be potentially affected by activities/impacts arising from the plan.

- Martin Mere – Located over 10km from the LDO sites at its closest point.
- Ribble and Alt SPA/Ramsar sites and Sefton Coast SAC – Located over 18km from the LDO sites at its closest point.
- The Dee Estuary SAC, SPA and Ramsar site – has been scoped out of HRA as, although the River Dee provides water resources for a regional catchment area, the HRA of the West Lancashire Local Plan was able to establish that no increase abstraction would be required in order to supply West Lancashire.

Consultation responses to the Screening Report noted the following:

*“With reference to Regulation 78 of The Conservation of Habitats and Species Regulations 2010 (“The Habitats Regulations”) and the Council’s HRA Screening Assessment (July 2015), **Natural England agrees with the conclusion** that the development(s) included in the LDOs will not have a likely significant effect on a European site (either alone or in combination with other plans or projects) and is not directly connected with or necessary to the management of the site(s).*”

Therefore the LDOs can progress, subject to compliance with the relevant legislation.” Natural England

A full record of the consultation commentary is provided at Appendix 1.

Table 2**Screening Assessment Stage 1: Key Tasks**

Task 1 Scoping and Additional Information Gathering	<ul style="list-style-type: none">• Gathering additional information on European sites.• Gathering additional data on background environmental conditions.• Further analysis of plans/projects that have the potential to generate 'in-combination' effects.
Task 2 Assessing the Impacts (in- combination) Appropriate Assessment	<ul style="list-style-type: none">• Examination of the policies and proposals identified during the screening phase and their likely significant effects on European sites.• Consideration of whether effects are direct/indirect/cumulative• Consideration of whether other plans and programme are likely to act cumulatively with those arising from the plan.
Task 3 Developing Mitigation Measures	<ul style="list-style-type: none">• If effects identified – whether arising from the plan alone and/or 'in combination' with other plans – consider initial opportunities to avoid.• Develop mitigation measures – must be deliverable by the plan and have clear delivery/monitoring responsibilities.
Task 4 Findings and recommendations	<ul style="list-style-type: none">• Conclude the assessment, explain key findings and analysis informing conclusions.

SCREENING ASSESSMENT

Task 1: Scoping and Additional Information Gathering

As noted in Section 2 of this report, the HRA Screening Report for the Findon, Dignumoor Sports Centre and Delf Clough LDO sites July 2015 set out details of the European Sites and the types of impact to be considered.

West Lancashire Borough Council consulted Natural England the Environment Agency who confirmed that a HRA was not require as there was no impact on the European Sites from the proposals.

Task 2: Assessing the impacts

The HRA Screening Report July 2015 described the aims, objectives and outlined the key proposals of the project. The Screening also considered and identified which proposals had the potential to affect the integrity of the European sites within the area of influence. This section considers if there are any impacts upon a European site through the proposal or 'in-combination' with other plans and projects.

The other plans and projects that have the potential to act 'in combination' with the LDOs to create likely significant adverse effects on Martin Mere SPA and Ramsar would be those that could contribute to reductions in water quality or cause disturbance to bird species for which the SPA and Ramsar sites are designated. Other pathways of impact may be screened out since it has been concluded that the LDOs will not create any likely significant effects through them.

In considering disturbance of bird species for which the SPA/Ramsar are designated, the HRA of the West Lancashire Local Plan concluded that policy wording was sufficient to be able to confirm that this was unlikely. Despite a presumption in favour of sustainable development, policy SP1 (A Sustainable Development Framework for West Lancashire) indicates that future development in West Lancashire will have to demonstrate compliance with other policies in the Local Plan. These provide robust protection for development affecting European sites. The Local Plan states that:

Therefore, all other potential developments within West Lancashire that might occur on land supporting designated bird species will be subject to the same caveats/conditions as the LDOs.

The Council is currently preparing a DPD for Gypsy and Traveller provision, and the Local Plan HRA indicates that this should also be subject to commitment to provide an ornithological survey report as part of any planning applications.

It can be concluded that other developments will not contribute to increased nutrient enrichment at Martin Mere, since they should conform with Local Plan policy.

Given the safeguards built into the plan regarding water quality issues, the plan requirement to further investigate and if necessary mitigate for any loss of roosting/foraging habitat for significant populations of SPA birds as part of the planning application process, and the relatively low likelihood (based on existing data) of these issues affecting deliverability of the development, **it is considered that the LDO sites would not lead to likely significant effects on Martin Mere SPA and Ramsar sites either alone or in combination with other plans and projects.**

Task 3: Developing Mitigation Measures

The core aim of the Habitats Directive is to support the maintenance and promotion of biodiversity. Habitats Regulation's Assessment provides the tool through which planners can ensure that they are meeting the commitments and legal requirements of the European and National legislation.

Following consultation on the Screening of the HRA with Natural England and the Environment Agency the proposal did not identify any areas as having a potential to have a significant effect of the European sites under consideration.

Task 4: Findings and Recommendations

From the Screening consultation, it was confirmed by Natural England that they agree with the conclusion that the development(s) included in the LDOs will not have a likely significant effect on a European site (either alone or in combination with other plans or projects) and is not directly connected with or

necessary to the management of the site(s). Therefore the LDOs can progress, subject to compliance with the relevant legislation.

CONCLUSIONS

The LPA, as the competent authority, has undertaken a screening assessment under the provisions of Council Directive 92/43/EEC and transposing regulations - The Conservation of Habitats and Species Regulations (2010). The LPA determines that the Findon, Former Digmoor Sports Centre and Delf Clough Local Development Orders are not likely to have a significant effect on a European Site (either alone or in combination with other plans or projects) and is not directly connected with or necessary to the management of the site. The LPA therefore determines that the Findon, Former Digmoor Sports Centre and Delf Clough LDOs comply with regulation 78 of the 2010 regulations. No further action under the regulation is required.

APPENDIX 1

Date: 28 July 2015.
Our ref: 159165
Your ref: LDOs at Findon, Digmoor Sports Centre and Delf Clough



Customer Services
Hornbeam House
Crewe Business Park
Electra Way
Crewe
Cheshire
CW1 6GJ

T 0300 060 3900

Kathryn Brindley
Planning Officer
Strategic Planning & Implementation Team
West Lancashire Borough Council
52 Derby Street
Ormskirk
L39 2DF

BY EMAIL ONLY

kathryn.brindley@westlancs.gov.uk

Dear Kathryn

HRA/ SEA Screening for LDOs at Findon, Digmoor Sports Centre and Delf Clough

Thank you for your consultation on the above dated and received by Natural England on 8 July 2015

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.

How Natural England responds to Development Plans consultations and Development Management consultations is set out in the Natural England Standards: [Responding to Development Plans](#) (NESTND038) and [Responding to Development Management Consultations](#) (NESTND037). The standards sets out what we will consider in relation to biodiversity, geodiversity, landscape, seascape, access, green infrastructure and soils for the projects themselves and any associated environmental assessments. The advice in this letter is to assist your authority when considering plans and applications against relevant environmental legislation including:

The Conservation of Habitats and Species Regulations 2010 (as amended)

Environmental Assessment of Plans and Programmes Regulations 2004

The Wildlife and Countryside Act 1981 (as amended)

Planning & Compulsory Purchase Act 2004

Planning Act 2008

Circular 01/06 (Guidance on Changes to the Development Control System) provides guidance on the preparation and implementation of LDOs. The Circular outlines that there a number of statutory restrictions that apply to the LDO process (Paragraph 15). These restrictions halt the LDO and the standard planning application process should be followed instead. In terms of Natural England's remit we draw your attention to the following restrictions:

- Development likely to have a significant effect on a European site within the meaning of the Habitats Regulations

Page 1 of 3



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- Development listed in Schedule 1 of the EIA regulations. Schedule 2 development can only be permitted through an LDO subject to compliance with the EIA regulations (i.e. an Environment Statement will need to be prepared).

Included in your email were a SEA Screening Determination and HRA Screening Assessment for the above LDOs. We have considered the documents and our comments are as follows:

1. With reference to Regulation 78 of The Conservation of Habitats and Species Regulations 2010 ("The Habitats Regulations") and the Council's HRA Screening Assessment (July 2015), **Natural England agrees with the conclusion** that the development(s) included in the LDOs will not have a likely significant effect on a European site (either alone or in combination with other plans or projects) and is not directly connected with or necessary to the management of the site(s). Therefore the LDOs can progress, subject to compliance with the relevant legislation.
2. We note the findings of the SEA Screening Determination for Findon, Digmoor Sports Centre and Delf Clough Local Development Orders (July 2015) which advises that a SEA need not be carried out. **We are satisfied with the screening assessment and its findings.**

Protected species

The Local Planning Authority (LPA) in exercising their functions "must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions" (Regulation 9(5) of the Habitats Regulations). In order to comply with this duty the LPA can only grant planning permission for development that would affect a European Protected Species on the basis that:

- The proposed development is in accordance with Article 12(1) of the Habitats Directive, which relates to the protection of species.
- The proposal would be likely to receive a Protected Species license from Natural England, if required.

The LPA should ensure they are compliant with the requirements of the Habitats Directive and Regulations before adopting a LDO.

Natural England has published [Standing Advice](#) on protected species. The Standing Advice includes a habitat decision tree which provides advice to planners on deciding if there is a 'reasonable likelihood' of protected species being present. It also provides detailed advice on the protected species most often affected by development, including flow charts for individual species to enable an assessment to be made of a protected species survey and mitigation strategy.

SSSI Impact Risk Zones

The Town and Country Planning (Development Management Procedure) (England) Order 2015, which came into force on 15 April 2015, has removed the requirement to consult Natural England on notified consultation zones within 2 km of a Site of Special Scientific Interest (Schedule 5, v (ii) of the 2010 DMPO). The requirement to consult Natural England on "*Development in or likely to affect a Site of Special Scientific Interest*" remains in place (Schedule 4, w). Natural England's SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments *likely to affect a SSSI*. The dataset and user guidance can be accessed from the gov.uk website.

We really value your feedback to help us improve the service we offer. We have attached a feedback form to this letter and welcome any comments you might have about our service.

For any queries relating to the specific advice in this letter only please contact David Carter on 01653 696082 or Email: david.carter@naturalengland.org.uk. For any new consultations, or to provide further information on this consultation please send your correspondence to consultations@naturalengland.org.uk.

Yours sincerely

David Carter

Sustainable Development Lead Adviser
Lancashire, Merseyside, Greater Manchester & Cheshire Area Team
Direct dial: 01653 696082
Email: david.carter@naturalengland.org.uk