

17th March 2022

Our ref: 384874

Your ref: East Northamptonshire Local Plan Part 2 Examination



BY EMAIL ONLY

Dear Mr Kemp,

### **East Northamptonshire Local Plan Part 2 Examination – Matters, Issues and Questions**

Thank you for your email dated 22 February 2022 outlining the examination arrangements for the East Northamptonshire Local Plan Part 2. Natural England wishes to make written representations on the Plan in relation to our previous comments.

Natural England submitted detailed representations in response to the Regulation 19 consultation in our letter dated 19<sup>th</sup> March 2021 (submission reference: R19/048). Our representation raised concerns with the HRA and compliance with the Habitats Regulations (2017) in relation to the Upper Nene Valley Gravel Pits SPA, as well as other specific aspects of the LPP2. Since then, we have been working with the Authority to address our concerns, as outlined in the Statement of Common Ground (dated 5 November 2021).

We have answered selected questions below where we feel they are relevant to our previous representations and/or further clarification may be required.

#### **Position on Upper Nene Valley Gravel Pits SPA mitigation strategy:**

Natural England's principal concerns relate to the potential for development to have an adverse effect on the Upper Nene Valley Gravel Pits SPA.

Natural England's position is that a long-term strategic approach to the management of recreational and development pressures is required to protect the integrity and ecological interest of this site. Natural England are currently working with the Authority, neighbouring Authorities, and partners (the 'Combined Steering Group') to progress the development of a mitigation strategy for the whole of the Upper Nene Valley Gravel Pits Special Protection Area (UNVGP SPA). Natural England are acting in an advisory role on issues relevant to the development of the strategy, for example by advising on specifications for ecological survey work and requirements around mitigation. The ultimate intention is to have a robust and effective mitigation strategy in place that covers the whole of the SPA, providing a strategic approach to mitigation that fully protects the integrity of the UNVGP SPA<sup>1</sup>.

We acknowledge that these concerns have broader strategic implications that go beyond the scope of the East Northamptonshire Local Plan Part 2. These will need to be resolved and addressed through the

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<sup>1</sup> The existing Mitigation Strategy (2016) covers Units 2-8 only. A further Mitigation Strategy has been drafted for Unit 1 to support the examination of the Northampton Local Plan Part 2.

forthcoming Strategic Plan process, as noted in the Statement of Common Ground.

## Matters, Issues and Questions

### Matter 1: Legal and procedural requirements

#### Habitats Regulation Assessment (HRA)

##### **14. What were the relevant designated sites considered?**

Natural England's concerns relate primarily to the Upper Nene Valley Gravel Pits Special Protection Area.

As stated in our letter of 19<sup>th</sup> March 2021 (submission reference: R19/048) - '*Natural England agrees that the following European sites do not require further assessment within an Appropriate Assessment: Rutland Water SPA and Ramsar site; Barnack Hills and Holes SAC and Orton Pit SAC.*

##### **15. What are the results of the Habitats Regulation Assessment (HRA) and where have these been carried forward in the Plan? (see Initial Question 6 and the Council's response including the revised HRA and MM01)**

As noted in our opening paragraphs, we are currently working with the Combined Steering Group of Authorities to update the Mitigation Strategy and address our concerns, as set out in the Statement of Common Ground (dated 5 November 2021).

##### **16. How have mitigation measures for potential impacts arising from new development on designated sites in terms of recreational disturbance (and air and water quality?) been addressed?**

Natural England's concerns relate to the potential for development to have an adverse effect on the Upper Nene Valley Gravel Pits SPA. Our position is that a long-term strategic approach to the mitigation and management of recreational and development pressures is required for the site. This approach must be based on robust and current data and be evidence-led. We are working with the Authority and neighbouring Authorities to develop a single, SPA-wide mitigation strategy. This is intended to give clarity and consistency on mitigation across the whole of the site, to ensure potential impacts from new development are addressed effectively.

Work is underway to update the evidence on which the existing 2016 Mitigation Strategy is based, including visitor and bird disturbance surveys. This updated evidence is required to understand the current pressures and impacts on the site, given additional growth has taken place since the original surveys were completed. Several mitigation options are outlined in the adopted Mitigation Strategy and include habitat management, as well as measures to manage visitor numbers and access. We await the new evidence and survey findings to assess whether the current approach to mitigation remains fit for purpose or needs revision to ensure that the integrity of the site isn't compromised.

Without robust and effective mitigation in place, any net increase in the number of residential units near the UNVGP SPA has the potential to increase the significance of adverse effects by increasing the number of recreational visits to the site. In turn, this increases the risk of disturbance to the sites designated features and species, including golden plover. An updated mitigation strategy is needed provide clear and consistent guidance on the measures and mitigation required to avoid such effects - "*In the absence of such an approach, current impacts remain unresolved and appropriate measures to maintain the site are not implemented. The site is put at risk, as damage is not predicted, and any future action then becomes remedial rather than preventative*"<sup>2</sup>.

Recreational disturbance has been identified as "*the most significant threat to the Upper Nene Valley Gravel Pits SPA*"<sup>3</sup>. Supplementary advice on the sites conservation objectives also highlights recreational pressure as a '*significant issue*'<sup>4</sup>, with a target to minimise disturbance caused by human activity.

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<sup>2</sup> See pg.102, Liley et al (2014) Visitor Access Study of the Upper Nene Valley Grave Pits SPA (report prepared by Footprint Ecology).

<sup>3</sup> See pg.23: Habitats Regulation Assessment and SEA Screening Determination. Oundle Neighborhood Plan (2018).

<sup>4</sup> See pg.18 in 'European Site Conservation Objectives: Supplementary Advice on Conserving and Restoring Site

Recreational impacts on the site can be significant and cumulative, adding weight to the need for effective mitigation to be agreed and secured prior to any development commencing.

In assessing proposals in the first instance, efforts should be made to avoid altogether an adverse effect on the site's integrity; this is consistent with the requirements of the Mitigation Hierarchy. In line with guidance, potential mitigation measures must be considered where it '*cannot be concluded that there will be no adverse effects on a site's integrity*'<sup>5</sup>.

A key point to emphasise is that HRA guidance states that '*any measures used to inform the decision about the effects on integrity need to be sufficiently secured and likely to work in practice*'<sup>6</sup>. Such measures must be agreed to and in place from the start of a plan/project, i.e. you must not wait for an adverse effect to happen before mitigation is implemented. Proposals for monitoring and reporting on the performance of mitigation measures will also be required and again should be agreed with all parties from the start. It should be noted that measures aimed at compensating for the negative effects of a plan/project cannot be considered mitigation measures.

We would also seek assurances from the Authority that any proposed mitigation will be fully secured prior to development. Natural England wishes to be consulted on any mitigation proposals that may come forward to the Authority in relation to the UNVGP SPA/Ramsar.

We are aware of the Strategic Plans coming forward for North and West Northamptonshire. Natural England would wish to see a clear and consistent policy commitment within both Plans that addresses the need for a strategic approach to mitigation for the UNVGP. We will be able to provide further thoughts on this during the consultation periods for each of the Strategic Plans.

**17.Has the updated HRA and proposed MMs addressed Natural England's objections to the Plan and the HRA in full? If not, what objections remain? (see Initial Question 6 and the Council's response)**

Natural England outlined several concerns with the HRA in our consultation response of 19/3/21 ((submission reference: R19/048). We subsequently met with the Authority and consultants (14/7/21) and agreed several revisions and amendments, as per the Statement of Common Ground. Therefore, we are satisfied that these points have been addressed. We include some additional points (for background/clarification purposes) below:

***Status of Mitigation Strategy in relation of future growth:***

We sought clarity on whether the existing mitigation strategy could accommodate additional growth within the Local Plan, given that any uplift beyond that originally accounted for would require a review of the mitigation strategy to ensure it remained fit for purpose. We are satisfied that no net additional growth is proposed within 3km of the SPA to 2031 beyond that envisaged when the JCS was adopted and the Mitigation Strategy produced, as confirmed in the Statement of Common Ground. However, we wish to highlight that if the scale of growth within the LPA area is revised, the strategic approach to mitigation would also require a review. This is to ensure that all measures remain fit for purpose (i.e. protecting SPA integrity) and that growth and mitigation requirements remain fully aligned.

***Functionally Linked Land:***

Our current understanding of Functionally Linked Land (FLL) and how birds are using the landscape is incomplete, and further evidence needs to be gathered to develop and inform a collective approach to FLL (e.g. strategic habitat enhancement, approach to data collection and knowledge sharing). It is not possible to provide a more detailed analysis of FLL without the results of specific and current bird surveys (including winter surveys). This is a complex issue, and requires a strategic, site-wide approach across Authorities.

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Features. Upper Nene Valley Gravel Pits Special Protection Area (SPA'). UK9020296 Upper Nene Valley Gravel Pits SPA - COSA final advice - 24 March 2017 (1).pdf Dated 24/3/2017.

<sup>5</sup> See: DLUHC and MHCLG (dated 22 July 2019): Guidance: Appropriate Assessment – Guidance on the use of Habitats Regulations Assessment (see: Appropriate assessment - GOV.UK ([www.gov.uk](http://www.gov.uk)))

<sup>6</sup> See: DLUHC and MHCLG (dated 22 July 2019): Guidance: Appropriate Assessment – Guidance on the use of Habitats Regulations Assessment (see: Appropriate assessment - GOV.UK ([www.gov.uk](http://www.gov.uk)))

The Combined Steering Group are currently reviewing and addressing the need for further survey work to better understand the distribution of FLL around the site, and its use by birds including golden plover and lapwing. We continue to work proactively with the Combined Steering Group to progress this work and identify and address gaps in our understanding of FLL surrounding the UNVGP SPA/Ramsar. We recognise and acknowledge that this doesn't provide the certainty required at this time.

We do wish to highlight that any incremental losses in FLL are likely to become more significant with time, to the detriment of the SPA and the bird species that it supports. This will affect development proposals, meaning compliance with the Habitats Regulations becomes increasingly difficult, particularly on land closer to the SPA where the functional link is expected to be stronger. Any residential development within 3km of the site will have an effect 'in-combination' with other plans and projects, including other Local Plan allocations. In regard to FLL, a precautionary distance of 10km from the SPA has been identified within which FLL linked to the SPA may be found (based on the foraging distances of golden plover). These zones will need to be considered when evaluating the potential for in-combination effects. This in-combination assessment is vital, given the threats to site integrity that could result from large scale incremental developments around the SPA. It is also necessary to ensure compliance with the Habitats Regulations.

***Additional points:***

Natural England raised further points in relation to Policies EN16, EN18, EN19 and EN40. We support the points made in the Statement of Common Ground in that any relevant policies and/or supporting text should, where appropriate, highlight the need for HRA at application level, as well as any further issues needing consideration (such as FLL, and ensuring any tourism or business growth impacts on the SPA are fully addressed and considered).

**4 Sustainability Appraisal (SA)**

**18. Has the Plan been subject to a Sustainability Appraisal (SA) and have the requirements for Strategic Environmental Assessment been met?**

As per our consultation response (submission reference: R19/048), Natural England is satisfied that the SA objectives, assessment methodology and framework generally accord with the requirements of the Planning and Compulsory Purchase Act 2004 and the Strategic Environmental Assessment Regulations.

Thank you for providing Natural England with the opportunity to make further representations on the East Northamptonshire Local Plan Part 2. We hope that the above addresses your questions, but please contact us if you require any further information or clarification.

Yours sincerely

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