



East Lindsey District Council Local Plan

Stage 1 Screening Assessment and Preliminary Policy Appraisal

East Lindsey District Council

21 August 2012

Draft Report

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1 INTRODUCTION

1.1 Purpose of the report

This report provides the conclusions of the first stage of a Habitats Regulations Assessment (HRA), the test of likely significant effect, of the East Lindsey District Council Local Plan. This report specifically considers the scope of the Plan, and assesses draft policies and options contained within the Issues and Options Consultation document (Autumn 2012).

The need for this assessment arises from the *EC Habitats Directive (92/43/EEC)* and its implementation in the UK under *The Conservation of Habitat and Species Regulations 2010 (as amended)* (the Habitats Regulations - previously the *Conservation (Natural Habitats &c.) Regulations 1994*, as amended)). HRA is required under Regulation 61 (1) of the Habitats Regulations for a plan or project not directly connected with the management of an international site¹ which may have an adverse effect on the integrity² of that site, either alone or in combination with other plans or projects. Impacts should be assessed against sites' Conservation Objectives (see **Section 3**).

This document presents a screening assessment, identifying the international sites within or adjacent to East Lindsey District (and which might potentially be affected by the implementation of the Plan) and also a preliminary assessment of draft Local Plan policies. It identifies whether these policies, either alone or in-combination with other plans or policies, are likely to have a significant effect on international sites. At this stage this assessment is intended to inform further policy development, and to guide any more detailed assessment (Appropriate Assessment) which may be required in order to ensure compliance of the Plan with the Habitats Regulations

The final Appropriate Assessment is a recorded decision by the 'competent authority', in this case East Lindsey District Council, as to whether the proposed Local Plan can be determined as not having an adverse effect on the integrity of any international sites.

1.2 Structure of the Report

The report is structured as below:

- Section 2 Methodology
- Section 3 Sites and Features (Part 2)
- Section 4 Test of Likely Significant Effect (in Part 3)
- Section 5 Conclusions (in Part 3)

¹ Special Areas of Conservation (SAC, or candidate Special Area of Conservation (cSAC)), designated under the Habitats Directive (92/43/EEC), and Special Protection Areas (SPA) designated under the *Birds Directive (79/409/EEC)*, form part of the EU-wide Natura 2000 network. 'Ramsar sites', designated under *The Convention on Wetlands of International Importance, especially as Waterfowl Habitat*, are subject to the same provisions. This definition encompasses those European sites below the high tide mark (whether SPA or SAC) which, following the updated nomenclature used in the Marine and Coastal Access Act 2009, are referred to as European Marine Sites. The term international sites will be used throughout this report when referring to these designated sites.

² The coherence of the site's ecological structure and function, across its whole area, or the habitats and species populations for which the site is classified.

1.3 Background

In 2008 Royal Haskoning was commissioned to undertake a HRA for the then-developing East Lindsey Local Development Framework (LDF). A Scoping Report was produced which included an assessment of likely significant effect of the Core Strategy Issues and Options document on international sites.

In consultation with Natural England it was agreed that 8 international sites were pertinent to the assessment of the East Lindsey District LDF and should be considered within the Scoping Report. These sites included;

- Humber Estuary SPA and Ramsar sites;
- Gibraltar Point SPA;
- The Wash SPA and Ramsar sites;
- Humber Estuary SAC;
- Saltfleetby-Theddlethorpe Dunes and Gibraltar Point SAC; and
- The Wash and North Norfolk Coast SAC.

It was concluded that due to the likely scale and nature of policies within the East Lindsey LDF, a likely significant effect on the international sites in or adjacent to the District could not be ruled out.

The current Local Plan builds on work carried out that time but also represents changes in the approach to planning in the District. The HRA documented in this report consequently draws on the 2008 Scoping Report, but it represents a stand-alone assessment of the developing Local Plan at the Issues and Options stage.

2 METHODOLOGY

This section outlines the general HRA methodology and the process that was undertaken for this technical report and will be undertaken should an Appropriate Assessment be required.

2.1 Application of Habitat Regulations Assessment to Land Use Plans

Following a European Court of Justice ruling in 2005, which determined that the United Kingdom had not transposed the Habitats Directive into law in the correct manner, Land Use Plans have been subject to HRA to determine impacts on sites designated under the Habitats and Birds Directives. The 2010 Habitats Regulations revision now includes provisions for Land Use Plans.

HRA is considered to be a risk-based assessment, drawing on available information. The Department for Communities and Local Government (DCLG) has produced draft guidance on carrying out Appropriate Assessment for the protection of International sites for Regional Planning Bodies and Local Planning Authorities (DCLG, 2006). It addresses determining the need for an Appropriate Assessment for a given plan and the provision of an assessment if one is required. The documents: *“Planning for the Protection of European Sites: Appropriate Assessment”* (DCLG, 2006) and *“The Assessment of Regional Spatial Strategies under the Provisions of the Habitats Regulations – Draft Guidance”* (English Nature, 2006), provide a cohesive source of guidance for assessments. Further documents which have provided scope to this work are the Royal Society for the Protection of Birds (RSPB) publication *“The Appropriate Assessment of Land Use Plans in England”* (2007) and the more recent guidance for competent authorities (Tyldesley and Hoskin 2008).

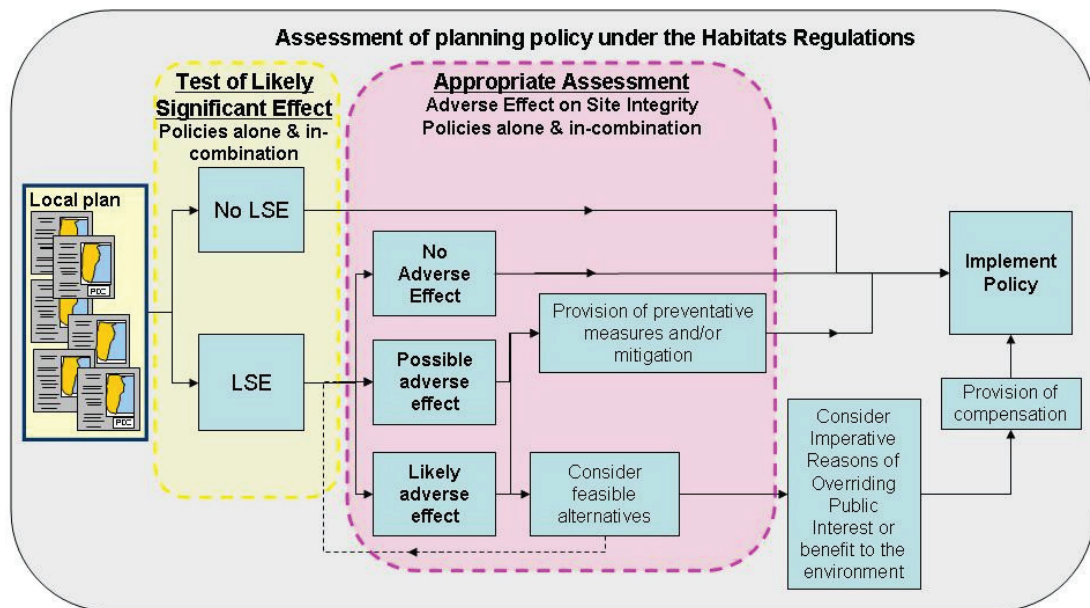
2.2 Habitats Regulations Assessment Methodology

The general process of a HRA is shown in **Figure 2.1**. Initially an assessment is undertaken of whether policies and land allocations have the potential to have a Likely Significant Effect (LSE), either alone or in-combination, upon the relevant international sites. Those policies that can be scoped out of the further assessment stages are deemed suitable for inclusion in the core strategy. Further amendments to policies, through iterative assessment and refinement, may also enable them to be determined as ‘compliant’ and scoped out of further assessment.

Final policies which are determined to have an LSE are taken through to the ‘Appropriate Assessment’ stage. This involves a more detailed review of the policies or land allocations and assessing their potential impacts on the integrity of the international sites against information gathered on the condition of the site, and any further details concerning the likely impact.

If it can not be concluded at this stage that the policies will not have an adverse impact on the international sites then mitigation or avoidance measures must be developed and specified which can be used to prevent any declines in the condition of the site or sites in question.

Figure 2.1 The Habitats Regulations Assessment Process



However, any policies for which mitigation or preventative measures cannot be established should be reconsidered and alternatives proposed. If the policy lacks a viable alternative it is necessary to consider whether the policy is required. DCLG (2006) states:

“After mitigation measures have been exhausted on an emerging option and it is shown to still have a potentially negative effect on the integrity of a European site, and in absence of any other alternative solution, as a rule the option should be dropped.

In the exceptional circumstance and as an exception to that rule, if the pursuit of the option is justified by ‘imperative reasons of overriding public importance (IROPI)’ consideration can be given to proceeding in the absence of alternative solutions. In these cases compensatory measures must be put in place to offset negative impacts”.

In circumstances where IROPI prevails, the Secretary of State has to be shown that there were no possible mitigation measures or alternative solutions that would negate the adverse effects on the international site(s), along with either of the following:

- That the plan is being undertaken for reasons relating to human health, public safety or beneficial consequences of primary importance to the environment; and /or
- That the plan is being undertaken for imperative reasons of overriding public interest.

Mitigatory or compensatory measures must also be carried out if proceeding with a plan or policy that is likely to have adverse impacts on an international site. Consultation is required with the appropriate Government department throughout this process to ensure the overall integrity of the international site network is not detrimentally impacted.

As well as considering the direct and in-direct impacts of policies, they must also be considered with other policies or plans in an 'in-combination' assessment. Policies which, in isolation, have been assessed as having no LSE could have a significant effect when considered collectively.

2.3 In-combination Assessment

The Habitats Regulations require assessments to consider 'in combination' impacts, to ensure that the integrity of sites is afforded full protection from the cumulative impacts of development and to ensure a holistic approach to assessment. This will be a more complete consideration at the later stages of the ELDC Local Plan assessment, when policies and the scale of proposed development are more refined.

The in-combination assessment will include a review of the relevant local development plans for the following areas, as identified in the 2008 report:

- West Lindsey District;
- North Kesteven District,
- North East Lincolnshire District;
- Boston Borough; and
- Lincolnshire County.

It will also include an assessment of the potential in-combination impacts from ongoing and proposed projects, including the Lincshire beach nourishment scheme (run by the Environment Agency) and offshore wind farm developments, as well as other strategic plans including The Wash Shoreline Management Plan (SMP) and Flamborough Head to Gibraltar Point SMP.

Further relevant plans, programmes and projects for consideration will be confirmed through consultation on this document with East Lindsey District Council and Natural England.