

Date: 05 July 2022
Our ref: 399057



Carole Crookes (Programme Officer)
Independent Programme Officer Solutions
PO Box 789
Wakefield
WF1 9UY
york@iposolutions.online

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

T 0300 060 3900

BY EMAIL ONLY

Dear Carol Crookes

Planning consultation: Written statement in response to Phase 3 hearings Schedule of Matters, Issues and Questions for examination of the City of York Local Plan 2017-2033

Thank you for consulting Natural England.

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.

1. Matter 1 – Affordable Housing

No comment.

2. Matter 2 - Universities and Colleges

No comment

3. Matter 3 – Student Housing

No comment

4. Matter 4 – Strategic Sites

Natural England has no further comments to make. Concerns regarding the alignment of the plan with Court of Justice of the European Union (the CJEU) on the interpretation of the Habitats Directive in the case of People Over Wind and Sweetman vs Coillte Teoranta (ref: C 323/17), as raised in the Phase One 2019 hearings, were addressed in the updated Habitats Regulations Assessment 2020 (Ref EX/CYC/45). Natural England confirmed our satisfaction with the updated assessment in our letter dated 08 October 2020 (our ref 329434, library ref EX/CYC/45a Appendix J).

5 Matter 5 - Queen Elizabeth Barracks, Strensall (ST35) and Allocation H59

5.1 Are the proposed deletions of Policy SS19 and allocations ST35 and H59 necessary for soundness?

Based on the evidence provided and conclusions of the Habitats Regulations Assessment, Natural England is of the opinion that the proposed deletions of Policy SS19 and allocations ST35 and H59 are necessary for soundness.

Natural England expressed concern regarding soundness of the plan in our response to the Regulations 18 draft Plan (SID383 CD0144 Respondents to Regulation 19 Report, our letter dated 04 April 2018 our ref 239830) with regards to SS19, ST35 and H59.

Following the receipt of additional evidence (EX/CYC/45a Appendix D) Natural England agreed with the decision to delete Policy SS19 and allocations ST35 and H59 in the June 2019 Proposed Modifications consultation (EX/CYC/20) and the conclusions of the accompanying Habitats Regulations Assessment, as set out in our response dated 22 July 2019 our ref 285502 (EX/CYC/21b SID 382).

Natural England agrees with conclusions of the Habitats Regulations Assessment (EX/CYC/45) on this matter that:

“Given the doubts concerning the effectiveness of mitigation measures, the Council is unable to ascertain the absence of an adverse effect on the integrity of Strensall Common SAC. Consequently, there is no option other than to remove both ST19/ST35 and H59(A) from the Plan. Should the Plan be amended as suggested (i.e the policies are deleted), the Council would be able to ascertain no adverse effect on the integrity of Strensall Common SAC from these policies.” (para 4.2.242)

Our detailed advice regarding this matter is set out in our letter to the inspectors dated 27 April 2020 our ref 313692 (EX/OTH/13).

5.2 Could the difficulties identified by the Council and Natural England in relation to either site be overcome?

Natural England has set out our concerns regarding the mitigation measures put forward in Queen Elizabeth Barracks, Strensall, York Strensall Common Special Area of Conservation Report on Mitigation Measures for the City of York Local Plan. Avison Young – Wood (dated November 2019) in our letter to the inspectors dated 27 April 2020 our ref 313692 (EX/OTH/13). Natural England notes that updated statements have been made by Avison Young – Wood on this matter subsequently but has no additional comments to make to those made in EX/OTH/13.

Based on the evidence provided Natural England does not consider that these difficulties can be overcome. Natural England concurs with the Habitats Regulations Assessment (EX/CYC/45) and Footprint Ecology Review of Hearing Statement from DIO relating to Matter 1 Legal Compliance (EX/CYC/45a Appendix F) on this matter.

5.3 In the event of the deletion of either site or both, what is the intention in relation to the resulting Green Belt boundary?

No comment.

5.4 In the event of the retention of either site, or both, are the Green Belt boundaries reasonably derived?

No comment

5.5 If any development of allocation H59 is to be governed by general development control policies, is this sufficient?

Based on the information provided Natural England agrees with the conclusions of the Habitats Regulations Assessment (EX/CYC/45) that adverse effects on the integrity of Strensall Common Special Area of Conservation (SAC) cannot be ruled out with regards to H59.

5.6 Is allocation H59 deliverable?

See response to 5.5

5.7 Are there any site-specific issues (other than those in 5.2 above) relating to allocation H59?

Natural England is not aware of any additional issues.

6. Matter 6 – Non- Residential Strategic Sites

No comment

7. Matter 7 – Land West of Elvington Lane

7.1 Is the allocation and associated Policy SS13 relating to ST15 soundly based?

Natural England expressed concerns with the soundness of the plan in relation to the compliance of ST15 with the Habitats Regulations Assessment in our response to the Regulations 18 draft Plan (SID383 CD0144 Respondents to Regulation 19 Report, our letter dated 04 April 2018 our ref 239830) with regards to impacts on the Lower Derwent Valley Special Protection Area (SPA).

In addition we noted the assessment of the impact of the allocation on Heslington Tillmire Site of Special Scientific Interest (SSSI) in the Sustainability Appraisal (SAC) which predicted significant impacts on the SSSI. However we were satisfied that the SA gave sufficient weight to the SSSI designation and the consideration of alternatives. Furthermore we consider that Policy SS13 provides sufficient certainty regarding the mitigation and compensation for impacts on the SSSI.

Subsequently concerns were raised regarding the potential for recreational disturbance impacts from ST15 on the Lower Derwent Valley SAC, SPA, Ramsar and SSSI, River Derwent SSSI and SAC and Skipwith Common SAC and SSSI in Lower Derwent Valley and Skipwith Common Visitor Survey 2018 (EX/CYC/45a Appendix C).

However Natural England is satisfied that these concerns and those set out in our response to the Regulation 18 draft Plan are addressed in the updated Habitats Regulations Assessment dated 2020 (EX/CYC/45a) and has no outstanding concerns regarding ST15.

7.2 Are the Green Belt boundaries reasonably derived?

No comment

7.3 Does the proposed allocation respond adequately to the presence of the SINC?

No further comments.

7.4 Is the allocation viable and deliverable given the infrastructure requirements, in particular?

No comment

8. Matter 8 – Non-Strategic Housing Allocations (aside from H59)

Natural England has no further comments to make. Concerns regarding the alignment of the plan with Court of Justice of the European Union (the CJEU) on the interpretation of the Habitats Directive in the case of People Over Wind and Sweetman vs Coillte Teoranta (ref: C 323/17), as raised in the Phase One 2019 hearings, were addressed in the updated Habitats Regulations Assessment 2020 (Ref EX/CYC/45). Natural England confirmed our satisfaction with the updated assessment in our letter dated 08 October 2020 (our ref 329434, library ref EX/CYC/45a Appendix J).

9. Matter 9 – Gypsies and Travellers and Travelling Show-People

No comment

10. Matter 10 – Housing Mix and Density (Policies H2, H3, H4 and H9)

No comment

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

For any queries relating to the specific advice in this letter please contact Merlin Ash at Merlin.ash@naturalengland.org.uk or on 02080 266382. For any new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

Yours sincerely

Merlin Ash
Yorkshire and Northern Lincolnshire Team
Natural England