

Addendum to the Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) Screening Report:

Burton Joyce Neighbourhood Development Plan

(24/09/2018)

1. Reason for Addendum

This addendum has been prepared by Gedling Borough Council on behalf of the Burton Joyce Neighbourhood Plan Steering Group.

In his initial statement in relation to the examination of the Burton Joyce Neighbourhood Plan, the independent examiner raised the following concerns in relation to the Habitats Regulations Assessment (HRA) Screening:-

'The Strategic Environmental Assessment Screening Report includes conclusions relating to Habitats Regulations Assessment. I have noted the Strategic Environmental Assessment Screening Report is dated 3 May 2018 and that consultation with the statutory bodies was sent on 28 March 2018. Given the timing it is not clear whether this consultation has taken account of the EU Court of Justice ruling in People Over Wind and Sweetman v Coillte Teoranta. (Judgement of the Court Seventh Chamber 12 April 2018), and will certainly not have taken account of the Court of Justice (Second Chamber) judgement of 25 July 2018 Grace, Sweetman, and National Planning Appeals Board Ireland (ECLI:EU:C2018:593). I request the Screening Report in respect to Habitats Regulations Assessment, to the extent not already done so, is reviewed in the context of these EU Court rulings and that the Borough Council confirms, in consultation with Natural England, that the Screening Report is considered to be compliant with the identified EU Court rulings, or alternatively states what actions are proposed to rectify the situation.'

2. Gedling Borough Council Response

The date of the Screening Report relates to the publication of the document following consultation with the statutory bodies. The assessments within the screening report were undertaken prior to 28 March 2018 and therefore the assessment was undertaken prior to the two court rulings. The judgements relate to the fact that it is not appropriate to take account of mitigation measures at the screening stage of a HRA when deciding whether an appropriate assessment of a plan/project is required. It is proposed that the HRA screening is not reviewed in this instance for the following reasons:-

1. The Burton Joyce Neighbourhood Plan does not allocate land for development. The Gedling Borough Part 1 and the Part 2 Local Plans allocate land for

development (Part 2 Local Plan allocates two sites in Burton Joyce) and were subject to appropriate HRA and no significant effect was revealed. It is considered that the Burton Joyce Neighbourhood Plan is in general conformity with the Local Plan Parts 1 and 2 and as a result the conclusion of “no likely significant effect” for the Local Plan HRA is applicable to the Burton Joyce Neighbourhood Area. The Burton Joyce Neighbourhood Plan policies relate to design and other details of development and include protective measures related to landscape and biodiversity, rather than the principle of land use.

2. The requirement for HRA relates to the potential adverse impacts on Natura 2000 sites. Whilst the Sherwood Forest Prospective Special Protection Area (pSPA) is not a formal designation, the Part 1 Local Plan at paragraph 3.17.3 confirms that a precautionary approach is taken and the pSPA is treated as if it were a confirmed European site. However, in the case of Burton Joyce Parish this falls outside of the Nature England Indicative Core Areas of the pSPA and outside of the RSPB IBA boundary five km buffer area as indicated in the plan on the Natural England Guidance Note¹.

3. Proposed Action

Publish this document as an addendum to the Screening Report, confirming that the conclusions of the Screening Report in relation to HRA are indicative as they do not take account of the following court rulings:-

- *Court of Justice ruling in People Over Wind and Sweetman v Coillte Teoranta. (Judgement of the Court Seventh Chamber 12 April 2018)*
- *Court of Justice (Second Chamber) judgement of 25 July 2018 Grace, Sweetman, and National Planning Appeals Board Ireland (ECLI:EU:C2018:593).*

However, it is viewed that the judgements do not alter the conclusion of no likely significant effect on European Sites either alone or in combination with other plans or projects. It is considered that the conclusions of the HRA remain robust in the light of the recent case law and that no further screening assessment is required.

4. Consultation and Conclusion

Natural England have been consulted on this addendum on 5th September 2018 and submitted the following response:-

¹ Natural England (March 2014), Advice Note. Available [online] at: <http://www.mansfield.gov.uk/CHttpHandler.ashx?id=7529&p=0>

Regarding the addendum to the Burton Joyce SEA/HRA screening report, we concur with your conclusions with respect to both cases (People Over Wind and Sweetman vs Coillte case and the Grace, Sweetman, and National Planning Appeals Board Ireland) that the rulings do not alter the HRA conclusion of no likely significant effect. We agree with this conclusion for the following reasons:

- The Burton Joyce Neighbourhood Plan does not allocate sites for development and so no mitigation measures are required.*
- There are no Natura 2000 sites within or in the vicinity of the neighbourhood plan area that may be impacted by the neighbourhood plan.*

It is therefore concluded, in consultation with Natural England, that this addendum should be published confirming that the HRA Screening should not be reviewed and that the conclusions of the HRA Screening are indicative. The reasons for this conclusion are set out in section 2 and section 3 of this addendum.