

**Tuesday 14 January  
2020**

**Morning session**

**9.30 am – 12.30pm**

## **Matter 1**

### **Habitats Regulations Assessment**

#### **AGENDA**

*The numbered questions in italics below are the original questions from the Inspector's matters, issues and questions document [IED/020]. For any original question that is not shown below, the Inspector has sufficient information from the hearing statements and responses, and is not inviting further discussion on it.*

*The commentary in normal typeface is from the Inspector.*

*The lettered questions in **bold typeface** are the further questions on which the Inspector will be inviting discussion at the hearing session. He is not inviting written responses to these questions.*

1. *Should the HRA [EB/083] have taken account of the implications for European sites of development beyond 2033 proposed in the Section 1 Plan?*

In its Introduction the HRA does not appear to say explicitly whether or not it takes account of development beyond 2033. The NEAs correctly point out (para 1.1.2 of their Matter 1 Statement) that section 2 of the HRA identifies the future total capacities of the GCs. On the other hand, however, paragraphs 4.15-4.16, 4.43, 4.62 & 6.50 all refer to impacts of development within the Plan period only.

- A. Notwithstanding that some of the evidence on which the HRA is based may have taken account of development beyond 2033, is there any clear evidence that the HRA as a whole did so?**
- B. If the HRA did not take full account of the implications of development beyond 2033, can this be rectified, and if so, how?**

4. *Does the HRA take adequate account of the implications for European sites of the Section 1 Plan in respect of:*

- (a) *water use and waste water?*

At para 4.47, the HRA screening concludes that further assessment of this issue is required at Appropriate Assessment [AA] stage. In paras 6.108-

6.113, the AA considers the HRA of the Section 2 plans, the Integrated Water Management Strategy, the safeguards recommended by the Environment Agency and the willingness of the NEAs to include those safeguards in the Plan. At para 6.114 the AA concludes that these measures are sufficient to ensure that there will be no significant adverse effects on any European site as a result of changes in water quality.

Suggested amendments to the Plan have been agreed between the NEAs, Anglian Water and the Environment Agency, and are set out in EB/091A, Refs 25, 56, 62, 64, 65, 75 & 93.

**C. Would those policy changes be sufficient to ensure that there will be no significant adverse effects on any European site as a result of changes in water quality?**

**D. If not, what additional safeguards could be provided, and would they be sufficient?**

*(b) powered paragliding?*

Natural England and the NEAs consider that the measures included in the RAMS [EXD/050] are sufficient to deal with the implications of powered paragliding, and other potentially disturbing activities, for European sites. The measures include codes of conduct for water sports, bait digging, paramotors / power hang-gliders and kayakers, and the deployment of rangers to educate and communicate with individuals who are not adhering to the codes. At para 1.4.8 of their further hearing statement, the NEAs refer to penalties and enforcement linked to the code of conduct.

**E. If those measures are not considered sufficient, what additional measures should be deployed?**

**F. What penalties and powers of enforcement would be available to the rangers?**

*(c) loss of feeding grounds at Tendring Colchester Borders GC for lapwings and golden plovers?*

Additional wording is proposed to policy SP8 para F.20 in EB/091A, Ref 85, and to the explanatory text to policy SP1B in EB/091A, Ref 14.

**G. Would the requirements contained in the additional wording ensure no loss of off-site habitat for SPA birds as a result of the development proposed in the Plan?**

**H. If not, what additional requirements should be included?**

**I. Should the requirements apply to other GC(s) as well as Tendring Colchester Borders?**

**J. Does any part of the proposed additional explanatory text need to be part of policy?**

5. *Would implementation of the mitigation measures proposed in the RAMS document [EXD/050] ensure that the Section 1 Plan (either alone or in combination with other plans or projects) would not adversely affect the integrity of any European site?*

The NEAs and Natural England believe that they would; other participants do not.

- K. What involvement will Natural England have in the management, monitoring and review of the RAMS?**
- L. Is it necessary to wait for evidence of the success of the RAMS approach in other areas to be provided, before adopting the approach for the Essex coast?**
- M. If the RAMS approach is not considered sufficient to achieve its objective, what approach should be taken instead?**

6. *Would the policies of the Section 1 Plan (including if necessary the relevant amendments suggested by the NEAs) provide sufficient certainty that the necessary mitigation measures will be implemented in order to ensure that the Section 1 Plan (either alone or in combination with other plans or projects) would not adversely affect the integrity of any European site?*

- N. What is the policy mechanism by which contributions to the RAMS will be secured from development at the proposed GCs?**
- O. Is the cost of contributions to the RAMS included in the Hyas Viability Assessments of the proposed GCs?**
- P. How will continued implementation of the measures beyond 2033 / 2038 be secured, including by investing a proportion of developer contributions to the RAMS?**
- Q. Are there any other points, not already covered, which need to be discussed at this hearing session?**