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Our ref: 366056
Your ref: -



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Dear Mr Daone

Planning consultation: Local Plan Partial Update

Thank you for your consultation on the above dated 27 September 2021 which was received by Natural England on the same date.

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.

We find much to welcome in the proposed updated and new policies, which reflect and respond positively to the climate and nature emergencies, changes to NPPF, and the Environment Bill.

We particularly support the new Policy NE3a Biodiversity Net Gain and the references to the use of the Defra metric and the BNG Good Practice Principles Biodiversity Net Gain: Good practice principles for development © CIEEM, CIRIA, IEMA, 2016. Natural England will continue to support B&NES and neighbouring authorities in the West of England on preparing for the introduction of BNG.

We welcome the updated Policy CP7 Green Infrastructure and new supporting text, which is consistent with the WoE Joint GI Strategy and recognises the multiple functions and range of nature-based solutions that well planned green infrastructure can provide – the policy is also clear about GI requirements that will apply to new development within the district. We particularly welcome the inclusion of the strategic GI projects within B&NES, which align with nature recovery and other plan objectives such as improved health.

We recognise the LPPU is an interim measure ahead of the SDS/new local plan and is not reviewing the strategic direction or overall housing requirement set out in the adopted plan, we are however concerned that the proposed plan update may not be sound in relation to elements of Policy CP3.

We also consider that some aspects of the plan would benefit from further assessment and that the wording of some policies could be strengthened, which we discuss later in our response.

Policy CP3 Renewable Energy

From an environmental perspective, we regard the proposed new policy CP3, which identifies and maps areas potentially suitable for renewable energy development, as the most significant change to the existing plan, both in terms of its geographical extent and the potential for stand-alone renewable energy development to result in adverse effects on landscape character and biodiversity interests.

There is a need for a strategic approach to guide the right types of renewable energy to the right places. Poorly located or designed renewable energy developments will, like any other form of development, have negative impacts on wildlife and landscape interests. The policy supporting text could more clearly explain this (see below) and the starting point that while renewable energy development is encouraged and building local capacity is necessary, it must still be acceptable in terms of legal and policy protection afforded to other environmental assets.

We are pleased that the proposed policy and policies mapping have clearly been informed by the Bath & North East Somerset Landscape Character Assessment 2021 and the Landscape sensitivity assessment Renewable Energy Development report (August 2021), which provided a robust evidence base for the formulation of the new policy. We are also pleased the policies map includes links to relevant landscape character area profiles, which should help to guide future renewable energy proposals. We also recognise that policy CP3 includes detailed criteria that include the need to protect landscape, biodiversity, heritage, and a range of other interests. The references to the sensitivity of mobile species to renewable energy development, including birds and bats associated with national and European sites, is particularly welcome. We also note the reference to bat sustenance zones, which is welcome in principle - however if the spatial data is available, we would encourage the council to include these zones on the policies map to clarify and strengthen the policy.

We note that land within the Cotswolds National Landscape and the Mendip Hills AONB has been identified as being potentially suitable for band A and B solar and wind energy development. Natural England is not sufficiently familiar with the landscape character areas in question to advise on the particular sensitivity and/or capacity of these to accommodate renewable energy development at the scale proposed, so we strongly recommend that advice from the Mendip Hill AONB and Cotswold National Landscape partnerships is sought and taken into account in relation to these areas.

The policy and supporting text should also more clearly reflect NPPF paragraphs 176 and 177, to clarify that major development within an AONB should be refused, other than in exceptional circumstances, and that renewable energy proposals outside but within the setting of an AONB will need to be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.

176. Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks and the Broads 59 . The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas

177. When considering applications for development within National Parks, the Broads and Areas of Outstanding Natural Beauty, permission should be refused for major development 60 other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:

(a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;

(b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and

(c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.

We are also concerned that the current wording for Wind Energy (paragraph 2a, b, c, d) is unclear as to whether the need for applicants *to clearly demonstrate that adverse impacts on the landscape*

can be satisfactorily mitigated in these areas applies to proposals in low potential landscape areas only or is intended to apply to proposals within all areas identified as potentially suitable for this type of development - we trust the latter is the intention but request confirmation of this.

With respect to wind energy development, the landscape sensitivity assessment presents different bands for wind energy developments that correlate with turbine heights. While the height of a turbine is a helpful indication of its likely landscape impact, the number of turbines that might be accommodated within these areas does not appear to have been addressed in the Renewable Energy Development report, but will be an important consideration, as will the need to assess and address potential cumulative and/or combined effects.

With the above in mind, we consider that further policy guidance on what would be an appropriate number and/or density of turbines, and taking account of cumulative and combined effects, may be needed to provide greater clarity for developers and communities and to protect the natural environment.

Policy CP3 and the Sustainability Appraisal

The LPPU Reg 18 consultation presented 2 options (plus no change) for CP3 about the approach to which areas should be defined as potentially suitable for renewable energy development and shown on the policies map.

We note that Option 2 has been taken forward, which includes Landscape Character Areas (LCA) with moderate/low potential for wind energy and corresponding moderate/high landscape sensitivity.

The SA presents the assessment of the environmental effects of each of the options in Table 10 'Summary appraisal results of the Options' M6/DM7 New Policy for Harnessing wind energy (amendment to Policy CP3), which found *...Option 2 which allows a wider area for consideration would have major positive effects on objective 4 (economy), objective 11 (climate change) and objective 12 (resources). However, there are negative or uncertain effects that have been identified for environmental objectives.*

Appendix C Local Plan Partial Update alternative options appraisal matrices (Ref DM5 Emerging policy approach for wind energy development), presents the assessment of the options against all SA objectives, but does not appear to differentiate between Option 1 and 2 in relation to the environment, noting the findings and mitigation for Objective 6: Protect and enhance local environmental distinctiveness and the character and appearance of landscape; Objective 7: Conserve and enhance the historic environment, heritage/cultural assets and their setting; and Objective 8: Conserve, enhance and restore the condition and extent of Biodiversity in the district and geodiversity (taking account of climate change) are identical.

In our view Options 1 and 2 are substantially different in terms of the greater spatial area and uncertain implications for landscape and ecological impacts of Option 2 and we consider that further assessment of the potential environmental effects of this option is warranted to explain and justify its selection.

Policy NE2: Conserving and Enhancing the Landscape and Landscape Character

While we support the additional text proposed for NE2, notably the reference to the special qualities of AONBs, we consider the issue of major development and the new NPPF requirements regarding development in the setting of AONBs should also be addressed. This would strengthen the protection for these nationally protected landscapes and align with our comments on CP3.

Policy NE3: Sites, Habitats and Species

The revisions to Policy NE3 are welcome with respect to its greater clarity on the need for new development to follow the mitigation hierarchy and the clear recognition of the hierarchy of designated sites. However, the changes involved the deletion of previous references to protected

species and we would encourage the council to add the following paragraph to NE3, which we note was suggested in an earlier version of the draft policy:-

For protected species this means:

Adverse impacts on European, UK protected species, UK Priority and locally important species must be avoided wherever possible (i) subject to the legal tests afforded to them, where applicable, and (ii) otherwise, unless the need for and benefits of the proposed development clearly outweigh the loss and (iii) where impacts have been minimised; and it can be demonstrated that it is possible to mitigate and compensate for any loss

Habitats Regulations Assessment (HRA)

In our view the HRA provides a thorough, systematic, and proportionate assessment of potential effects of the LPPU on EU sites, within and beyond the plan area, which has clearly informed the proposed new and updated policies. We particularly welcome the development of screening buffers, set out in Appendix F, which we found helpful and consider robust and suitably precautionary.

Terminology – the HRA includes references to the Office for Environmental Protection (OEP). We would like to apologise again for our previous incorrect advice regarding this new public body. The OEP is proposed as part of the Environment Bill, however the Bill has not yet been enacted and the future role of the OEP is not yet determined but is unlikely to involve individual local plan or project HRAs - as such we recommend that all references to the OEP in the HRA are deleted.

For avoidance of doubt, the LPA is the Competent Authority for Habitats Regulations Assessment of Local Plans and projects that are subject of planning applications. The relevant Secretary of State would be involved where a Competent Authority is minded to consent a plan or project following a negative assessment under regulation 63 and where, in the absence of alternative solutions, it is considered there are imperative reasons of overriding public interest (regulation 64).

Monitoring

We welcome the consideration given to monitoring the effects of the plan and we consider the approach and proposed indicators set out in the SA are reasonable.

With particular respect to Objective 8: Conserve, enhance and restore the condition and extent of Biodiversity in the district and geodiversity (taking account of climate change), we note that % of SSSI in 'favourable condition' is proposed as an indicator – while we do not disagree with this in principle, we would advise caution about relying too heavily on this as a measure of success or otherwise of the Plan, noting that not all SSSIs have up to date condition assessments and their favourable conservation status might change regardless of the LPPU. We would be pleased to advise the council further in relation to SSSIs and will update our records as individual site monitoring is undertaken.

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 me on 07900 608311. For any new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

Yours sincerely

Amanda Grundy
Wessex Team