

Cam Valley Wildlife Group statement on compliance with Statutory and Regulatory matters

ID/7, Matters 1A and 1E

1.1 Cam Valley Wildlife Group submitted, in its on-line submission for the Draft Core Strategy, the view that the matters of biodiversity, wildlife and nature conservation had not been taken adequately into account in the preparation of the Core Strategy or within the Strategy itself. It was considered that the Core Strategy performed poorly regarding a strategic approach to these matters and that it was not informed by a robust evidence base. Although B&NES points to national and regional data and to various studies commissioned (CD5/28 para 3.1), there is simply not enough information in CD4/1 to CD4/10 to provide a robust evidence base regarding the state of the environment and the impacts that the development options will have. Opportunities to appraise ecological infrastructure and to appraise other important environmental matters have not been taken and large gaps in the baseline information remain.

1.2 We think that the failure to 'frontload' adequately, the remaining insufficiency of information and failure to properly assess housing capacity through the SHLAA has led in turn to failure to prepare the CS in accordance with the LDS, particularly regarding rationale and regarding its scope and role in practice, rather than in theory. We also consider that this has led to inadequacy in the appraisal of the sustainability of the Strategy.

1.3 This response deals with Matters 1 A and 1E together, as we found that it was difficult to deal with them separately, but we have also prepared a response that deals solely with matter 1E in a specific respect.

2.1 In section 6a, the Group set out the matter of legal compliance in the context of compliance with Section 40 of the NERC Act, regarding the normal functioning of the authority. The normal function, in this case, we viewed as the preparation, finalisation and implementation of the Core Strategy, including specific matters regarding statutory and legal compliance set out in ID/7, Matter 1. We cannot give a reference number for the first paragraph of our submission, in which we claimed non-compliance with the NERC Act, for it has not been included in Schedule 1(CD7/2)). It can be found in para 2.1 of the Joint submission by respondents 821 and 822, on ID/7 1B.

2.2 Cam Valley Wildlife Group takes the view that the overall performance of the Strategy and the consideration given to biodiversity and nature conservation matters whilst drawing it up it is key. Government policy advocates avoidance, mitigation or compensation for adverse environmental impacts (PPS1, Paragraph 29 - CD2/1) and requires policies that conserve and enhance biodiversity and address the effect of climate change on habitats and species (*PPS 1: Planning and Climate Change* (CD2/2) Paragraph 9). The Government wants planned development that minimises future vulnerability in a changing climate and has both mitigation and adaptation in mind, (*PPS*

1: *Planning and Climate Change* (CD2/2), Paragraphs 10 and 11). It is important that these matters are put on an equal footing with others in the Core Strategy if sustainability is to be achieved. Our international obligations dictate that they must be taken more seriously than hitherto. We do not feel that the Core Strategy achieves this.

2.3 The view of Cam Valley Wildlife Group is that NERC Act compliance is an overarching matter and includes both matters of soundness and matters of compliance with Statutory and Regulatory matters. We consider it pertinent to ID/7 matters 1A, 1E and 1F. Matters of relevance include the content and reliability of the evidence base; inadequate presentation of nature conservation and biodiversity as a key sustainability matter; the relative value/prominence of biodiversity matters through insufficient attention to nature conservation and biodiversity matters in the Spatial Portrait (CS 1.03), in the Key Strategic Issues (CS 1.12) and the Spatial vision, where they should have a higher status than a *backdrop* (CS 1.13); insufficiency of strategic objectives (CS 1.15, lack of inclusion in the *overall* direction (CS 1.14) and failure to address the commitment in CS 6.59 to cross-border Green Infrastructure issues (no strategic links to the south in Diagram 20, which ignores the ecological network hub with links to the south that is the RAD 1 site); lack of realism regarding the environmental capacity of the district, including an unbalanced focus on the aesthetics of the AONBs and two European sites for bats and birds, only two groups out of many (1.21); lack of proper and adequate consideration of nature conservation, wildlife and biodiversity matters from the start, including the options process and the scope and practice employed in the SHLAA; inadequate consideration from the start of the matters of environmental capacity, environmental thresholds and environmental quality with regard to wildlife, nature conservation and biodiversity in the District; lack of commitment to funding the research necessary to provide sufficient baseline information, including quantifying the funding level for the Green Infrastructure SPD (CS 1.37); lack of determination of the likely impact upon two SACs of development in Radstock (a location known by B&NES since year 2000 as a commuting route for greater horseshoe bat between the SACs in question) through an assessment of Chapter 4 under the Habitats Regulations; providing strategy through future SDPs, which should rightly be adding detail to a sound strategy that already exists within the Core Strategy; lack of good delivery mechanisms, presently inadequate (CS Policy CP6 delivery, Policy CP7 delivery, Diagram 20) and monitoring and review proposals (CS Chapter 7), also presently inadequate. We have argued that although some important strategic elements are addressed in CS policy CP6, that the sum of the package is insufficient. We argue that the wording, presentation, delivery mechanisms and indicators in the Strategy must be more robust to ensure delivery of national and regional policy requirements, and backed up with sufficient baseline information to allow change to be assessed. We argue that not to do so, as is the case, works against the Council's duty under the NERC Act and against more specific matters regarding statutory and regulatory matters.

3.1 We are most concerned that the Cam Valley Wildlife Group response is not reported in its entirety in Schedule 1 (CD7/2) regarding compliance and that also not included was the view put forward in section 7a, that the change that the group deemed

necessary in order to make the document legally compliant involved addressing the matters in 6a (see paragraphs 2.1 and 2.3 of the Joint submission by respondents 821 and 822, on ID/7 1B). We are concerned that there are so many omissions, which we cover in the joint submission, and that these are not restricted to one response alone.

3.2 B&NES has included the bulk of the text of 6a in Schedule 1 (CD7/2) under plan reference headings chosen by B&NES and can be found in 821\1 to 821\16. This was set out as two documents, Document 1: The biodiversity resource of the District, and Document 2: Environmental quality and capacity. The two documents do refer to various parts of the Strategy within them, but were intended to be read as stand-alone documents for the purposes of the statements regarding legal compliance (ID7 matters 1A, 1E and 1F).

3.3 Some of the matters covered by Cam Valley Wildlife Group regarding soundness are pertinent to the legal compliance issue, such as preparation in accordance with the LDS, content of the Sustainability Appraisal, and compliance with RPG10. The group put forward a short summary regarding why it viewed the Strategy as unsound and suggested changes to make the Core Strategy sound, which covered elements that come under the heading of *Compliance with Statutory and Regulatory matters*. These submitted paragraphs, in section 6b and section 7b of the on-line form referred to above, were also not included in Schedule 1 (CD7/2) and can be found in paragraphs 2.2 and 2.4 of the Joint submission by Cam Valley Wildlife Group, respondent 821, and Somer Valley Friends of the Earth, respondent 822, on Question 1B in ID/7. The second on-line submission by the group also referred substantially to matters which are concerned with legal compliance under the topic of soundness, which included examination of the impact of the various policy proposals and alternative options on the environment through the sustainability appraisal (ID/7, matter 1 E), the Habitats Regulations Assessment ((ID/7, matters 1 E and 1G), and locational investigations (ID/7, matter 1 A) -see 821\17.

4.1 In 821\18, paragraphs 2 and 4, Cam Valley Wildlife Group refers to the failure to comply with the frontloading and evidence-based approaches required (ID/7, matter 1A). PPS 4 on planning for sustainable economic growth requires existing site allocations for economic development to be re-assessed against the policies in the PPS (PPS 4 EC.1 - Using evidence to plan positively, EC 1.3 d) to ensure that evidence base is sufficiently informed to plan positively. The policies against which sites should be reassessed include EC.7 and EC.10. EC.10.2 refers to PPS 1: Planning and Climate Change, Policy 9, which refers to the requirement of spatial strategies to conserve and enhance biodiversity. EC.7 deals with planning for tourism in rural areas. EC1.3 advocates combining these reassessments with SHLAAs or undertaking the two at the same time. Clearly, in the case where the SHLAA has failed to take these matters into account, the PPS4 requirement must come into play. We see no evidence that RAD1 or other sites in the District have been either re-assessed against these and certain other PPS4 policies or that these elements were assessed within the SHLAA(CD4/H13 & CD4 H14). Statements and policies within PPS4 that appear not to be in line with proposals for RAD 1 include

CD2/5 paragraph 9 on the overarching planning objective , paragraph 10 on planning objectives to help achieve sustainable economic growth, and policies EC1, EC4, EC5, EC7, EC9 and EC10. Detailed arguments regarding this were made by Somer Valley Friends of the Earth in August 2011 in Section 4 of its objection to the applications for extension of outline planning permission and Conservation Area consent, 1102329/REN and 1102346CAR (see Appendix_objection).

4.2 In 821\18, paragraph 3, Cam Valley Wildlife Group criticises the failure of the sustainability appraisal to include mention of (known) biodiversity losses to be caused by delivery of a number of sites, and gives RAD1 as an example (Cam Valley wildlife Group response to ID/7 1 E). PPS4, Planning for sustainable economic growth, comes into play along with the requirement to take biodiversity matters more fully into account, as illustrated in PPS1: Planning and Climate Change (CD2/2) and the Government White Paper, *The Natural Choice: securing the value of nature* (see Appendix 4 of the respondent 822 response to Issue 1)

4.3 In 821\18, paragraph 5, the group flags up the need to evaluate strategic development sites in terms of wildlife and biodiversity impacts as one of the underlying principles of sustainability evaluation; it criticises the paucity of available information in paragraph 6, and follows with the importance of addressing these matters in order to determine sustainability in paragraph 7.

4.4 The group does not feel that the intention to produce SPDs at a later date, that may or may not fill in the knowledge gaps in the evidence base, is sufficient. By then, strategic decisions such as the District's housing capacity and development locations will have already been taken, decisions that could conflict with the nature conservation objectives and requirements that become apparent when the work is done for the Green Infrastructure Strategy and Placemaking Strategy SPDs. SPDs are for providing detail, not for deciding strategy, which should be comprehensively dealt with in a document which can be examined (CD2/11 - PPS12, Paragraph 6.1) We have argued that, although Core Strategy Policies CP6 broadly says the right things, it has holes in it due to its wording and it is not supported by sufficiently robust delivery prescriptions, adequate monitoring and review proposals, or adequate baseline information. We are concerned that this may act against PPS 12, Paragraph 6.1 (CD2/11). There is no mechanism to prevent development of sites that prove to be unsuitable for development in the light of further evidence that should have either been available at the start of the process or produced in order to re-appraise sites in the light of more recent Government policy and documents, such as PPS1 Climate Change, PPS4 and the White Paper, *The Natural Choice: securing the value of nature* (see Appendix 4 of respondent 822's response to Issue 1).

4.5 In 821/NPPF/1, Cam Valley Wildlife Group puts forward the argument that the Draft NPPF strengthens its view, but B&NES failed to include in Schedule 2 the group's argument that the Local Green Space designation in the NPPF (CD2/27 - NPPF para 131) is applicable to the RAD1 site. It also failed to include other supporting material. Cam

Valley Wildlife Group takes the view that the emerging NPPF (CD2/27) complements and adds to policy that already demonstrates an increasing need for commitment to nature conservation in the light of mounting scientific evidence and changes in policy in order to enable adaptation to the challenges of climate change. The group argues that the basis for the current B&NES spatial strategy and proposed housing capacity in Radstock hinges on delivery of the RAD1 site and delivery of the proposed road infrastructure that enables it. It argues that the site and infrastructure proposals are ill thought-out, not based upon sound evidence, and that the evidence available points to socio-economic harm rather than 'regeneration'. It argues that reconsideration against the NPPF, Paragraph 131 and PPS1, Paragraphs 24 and 25 (CD2/1), should produce a different conclusion than the one to which B&NES has come. This and the arguments set out in the joint submission by respondents 821 and 822, on ID/7 1B, paragraphs 2.6.1 - 2.6.3 and ID/7 1B_Appendix_NPPF, are relevant to Matter 1A of ID/7. The supplementary documents that were not included in Schedule 2 are found in ID/7 1B_Appendix_imp&rareSp and in ID/7 1B_Appendix_RRLHeritageConstraints to the same joint statement on Issue 1 B, ID7. Regarding the extent of the UK BAP Priority Habitat shown in ID/7 1B_Appendix_RRLHeritageConstraints, this was mapped in accordance with the most recent definition, but we understand from Buglife, the Invertebrate Conservation Trust, that we may have been too conservative and that the extent may be greater. Some support for this view can be found top of page 7 in *Buglife (2009) Planning for Brownfield Biodiversity: A best practice guide. Buglife - The Invertebrate Conservation Trust, Peterborough*. This guide is appended. We also append a sheet that sets out briefly why the site is important and gives short quotes from knowledgeable, respected organisations and individuals to illustrate its importance (see Appendix_RRLimportance), which helps to put into focus the known value of the site that we believe should have been re-appraised during the process of drawing up the CS, either in the SHLAA or as a separate exercise. It appears that B&NES has failed to appraise the likely nature conservation value of sites even to a low indicative level, as required in Government policy. Where there was known biodiversity value, we believe that there should have been a re-appraisal in the light of Government Policy Statements that have been introduced in the last five years. The capacity on former industrial sites in particular needs urgent re-appraisal; those appraisals should not be left to the Placemaking SPD or the Green Infrastructure SPD, as it appears is the intention.

Appendices:

Appendix_objection

Buglife (2009) Planning for Brownfield Biodiversity: A best practice guide. Buglife - The Invertebrate Conservation Trust, Peterborough

Appendix_RRLimportance