

Screening Report for Pendle Borough Council Bradley Area Action Plan in respect of Natura 2000 Sites

Introduction

1. The purpose of an Appropriate Assessment is to assess the impacts of a land use plan or project against the conservation objectives of a European Site. The assessment must determine whether the plan would adversely affect the integrity of the site in terms of its nature conservation objectives.
2. Following the European Court Judgement (ECJ) of 20th October 2005 Appropriate Assessments must now be prepared for land use planning documents within the UK where these have implications for sites designated as a Special Protection Area, a Special Area of Conservation or under Regulation 10 of the 1994 Habitat Regulations and hereafter referred to as European Sites.
3. The need to consider whether an Appropriate Assessment is required arises because Pendle Borough contains and adjoins European Sites. The Pendle Borough Council Bradley Area Action Plan is not directly connected with or necessary for the management of the sites for nature conservation purposes. The precautionary principle¹ requires that the conservation objectives of Natura 2000² should prevail where there is uncertainty. Accordingly, there is a possibility that the Pendle Borough Council Bradley Area Action Plan may, either alone or in combination with Plans or Projects for other districts, have a significant effect upon a European Site.

Methodology

4. Guidance on the methodology for appropriate assessments is contained within PPS9: "Biodiversity and Geological Conservation" and the accompanying Circular 06/2005: "Biodiversity and Geological Conservation – Statutory Obligations and their impact within the planning system". However, this advice predates the ECJ judgement and therefore reflects the application of the Habitats Directives to plans and projects as determined by the UK government rather than that required by the October 2005 judgement.
5. The Department for Communities and Local Government has recently produced draft guidance on the application of the Habitats Directive to Development Plans. Whilst regard will be had to "Planning for the Protection of European sites: Appropriate Assessment Guidance for Regional Spatial Strategies and Local Development Documents" August 2006, at this time that document is not

¹ EC COM (2000) "Communication from the Commission on the precautionary principle" (European Commission 2000a).

² Natura 2000 is a project by the European Union and each of its member states to protect the environment. The title refers to the network of areas designated to conserve natural habitats and species of wildlife which are rare, endangered or vulnerable in the European Community. The term Natura 2000 comes from the 1992 EC Habitats Directive, it symbolises the conservation of precious natural resources for the year 2000 and beyond.

considered to properly reflect the process that should be followed. In particular that document fails to properly address screening which may obviate the need for an Appropriate Assessment.

6. The EC publication "Assessment of plans and projects significantly affecting Natura 2000 sites – Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC" (November 2001) is a comprehensive approach to Appropriate Assessment. Again this guidance is aimed at projects rather than land use or development plan documents. For this reason the approach will be slightly amended.
7. Regard will also be had to The Conservation (Natural Habitats &c.) Regulations 1994 in so far as these remain current UK government guidance on the application of the Habitats Directive.
8. European guidance on Appropriate Assessment (AA) recommends a process of up to four stages:
 - a. Screening. Determining whether the plan 'in combination' is likely to have a significant effect on a European site
 - b. Appropriate Assessment. Determining whether, in view of the site's conservation objectives, the plan 'in combination' would have an adverse effect (or risk of this) on the integrity of the site. If not, the plan can proceed.
 - c. Assessment of alternative solutions. Where the plan is assessed as having an adverse effect (or risk of this) on the integrity of a site, there should be an examination of alternatives.
 - d. Assessment where no alternative solutions remain and where adverse impacts remain
 - e. This draft document addresses the first step in the above four stage process.

Screening

9. Stage one – Screening comprises four steps :
 - Determining whether the plan or project is directly connected with or necessary for the management of a site
 - Describing the project or plan and any others that in combination have the potential to significantly affect a Natura 2000 site
 - Identifying the potential effects on a site

- Assessing the significance of any effects
10. Screening is a rough sieve to identify those European sites which the Bradley Area Action Plan could possibly affect. This sieve identifies those European Sites, the possible effects of the Bradley Area Action Plan on those European sites, lists existing trends that could affect the European sites "in combination" with the Bradley Area Action Plan and screens out those European Sites that are unlikely to be affected

Determining whether the plan or project is directly connected with or necessary for the management of a site

11. This part of the screening process is more readily applicable to site specific projects. However, it is the case that the Bradley Area Action Plan is not directly connected with or necessary for the management of a site.

Describing the project or plan and any others that in combination have the potentially to significantly affect a Natura 2000 site

12. The Habitat Regulations 1994 Regulation 48 requires that:

"48.—(1) A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which-

(a) is likely to have a significant effect on a European site in Great Britain (either alone or in combination with other plans or projects), and

(b) is not directly connected with or necessary to the management of the site, shall make an appropriate assessment of the implications for the site in view of that site's conservation objectives."

| 1. Description of Proposal | |
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| Location | Bradley Ward, Nelson, Lancashire |
| Distance from designated boundary | Bradley AAP is situated approximately 2.6 miles from the nearest point of the SPA boundary and 7 miles from a more central point. |
| Site area | 32.48 hectares |
| Brief Description | <p>Please find attached a copy of the plan which sets out the Councils emerging Preferred Option for the Area Action plan.</p> <ul style="list-style-type: none"> • Demolition of approx 130 residential properties and approx 5 commercial properties with the sites being re-developed for new housing and/or green/open space • Redevelopment of a protected employment site for new housing. In terms of total number of new homes, it will be replacements for those demolished plus some additional affordable homes. So say approx 170-180 new homes at a guess. • Environmental improvements along Walverden Water (a river which runs through the area which is partially culverted in places) • Improvements to many properties through facelifting or group repair schemes (these involve sandblasting front elevation, new windows, new doors, new rainwater goods, etc) • Development of a relatively small site for employment use (former mill, |

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| | <p>now vacant and derelict site – see purple area on map)</p> <ul style="list-style-type: none"> Environmental improvements to Throstle Nest Mill (shaded yellow) to improve aesthetics. |
| Is the proposal directly connected with or necessary to the management of a Natura Site? | No |

| 2. Description of Natura Designated Site | |
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| Name | South Pennine Moors SAC and SPA (SSSI) |
| Unitary Authority/County | Lancashire County Council and Calderdale |
| Site Description | <p>SAC: The site covers the key moorland blocks of the Southern Pennines from Ilkley Moor in the north to the Peak District in the south. The moorlands are on a rolling dissected plateau formed from rocks of Millstone Grit at altitudes of between 300 and 600 metres and a high point of over 630 metres at Kinder Scout. The greater part of the gritstone is overlain by blanket peat with the coarse gravelly mineral soils occurring only on the lower slopes. The moorlands as a whole support a breeding bird community of national and international importance.</p> <p>SPA: The site is the largest unenclosed moorland within West Yorkshire and contains the most diverse and extensive examples of upland plant communities in the county. Extensive areas of blanket bog occur on the upland plateaux and are punctuated by species rich acidic flushes and mires. There are also wet and dry heaths and acid grasslands.</p> |
| Qualifying features | <p>SAC: The site hosts the following habitats listed in Annex I under article 4(4) of the Directive (92/43/EEC): Blanket bogs; European dry heaths; Northern Atlantic wet heaths with <i>Erica tetralix</i> (wet heathland with cross-leaved heath); Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles (western acidic oak woodland) and Transition mires and quaking bogs (very wet mires often identified by an unstable 'quaking' surface).</p> <p>SPA: Three habitat types which occur on the site are rare enough within Europe to be listed on Annex I of the EC Habitats and Species Directive (92/43)EEC. These communities are typical of and represent the full range of upland vegetation classes found in the South Pennines. This mosaic of habitats supports a moorland breeding bird assemblage which, because of the range of species and number of breeding birds it contains, is of regional and national importance. The large numbers of breeding Merlin (<i>Falco columbarius</i>), Golden Plover (<i>Pluvialis apricaria</i>) and Twite (<i>Carduelis flavirostris</i>) are of international importance.</p> |
| Non-Qualifying species of interest | |
| Unit size | SAC: 64983.13 hectares. SPA: 21049.95 hectares |
| Condition | Unfavourable as assessed by Natural England using JNCC's common standards methodology. |

| 3. Screening Assessment Criteria | |
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| Description of individual elements of the Bradley AAP, either alone or in combination with other plans, likely to give rise to impacts on the designated site | The AAP will result in only a small net increase in house/resident numbers so recreational pressure on the moorland will not change. The scheme is situated in the centre of Nelson, an urban environment which is very unlikely at such a distance from the site to be of any effect on the site's bird population. The site is down stream from the site and therefore will have no effect on the site by either water abstraction or by drainage/sewerage. The prevailing wind passes over the AAP in the approximate direction of the SPA, but as this is such a relatively small housing development with little net change in numbers, there will be no change in any wind-borne emissions or similar being carried to the site. |
| Describe any likely direct, indirect or secondary impacts of the plan either alone or in combination with other plans, on the designated site: <ul style="list-style-type: none"> Size and scale; Land-take; Distance from the designated site and key features of the site; Resource requirements (water abstraction etc); | None. |

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| <ul style="list-style-type: none"> • Emissions (disposal to land, water or air); • Excavation requirements; • Duration of construction, operation, decommissioning, etc.; • Other | |
| Describe any likely changes to the site arising as a result of: <ul style="list-style-type: none"> • Reduction of habitat area; • Disturbance to key species; • Habitat or species fragmentation; • Reduction in species density; • Changes in key indicators of conservation value (water quality etc.); • Climate change. | None identified. |
| Describe any likely impact on the designated site as a whole in terms of: <ul style="list-style-type: none"> • Interference with the key relationships that define the structure of the site; • Interference with key relationships that define the function of the site. | None identified. |
| Provide indicators of significance as a result of the identification of effects set out above in terms of: <ul style="list-style-type: none"> • Loss; • Fragmentation; • Disruption; • Disturbance; • Change to key elements of the site (e.g. water quality etc.). | Not applicable. |
| Describe from section 3 above those elements of the Plan, or combination of elements, where the above impacts are likely to be significant or where the scale or magnitude of impacts is not known. | There are no likely significant effects identified. |

| Conclusion |
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| <p>On the basis of the information contained in Parts 1 to 3 above including consultation with Natural England it is the Borough Council's opinion that the proposed plan to which this screening opinion relates:</p> <p>(a) is not directly connected with or necessary to the management of the site, and</p> <p>(b) is not likely to have a significant effect on a European Site (in combination with other plans or projects).</p> <p>Accordingly, an "appropriate assessment" will not be required of those effects under Regulation 48, 49 and 54 of the Conservation (Natural Habitats, &c.) Regulations 1994 before the Council decides to undertake, or give any consent, permission or other authorisation for this plan.</p> |