



STATEMENT OF COMMON GROUND (SoCG)

BETWEEN

LANCASTER CITY COUNCIL and NATURAL ENGLAND

**Habitats Regulations Assessment in relation to site
allocation SG14 Port of Heysham**

DATE: APRIL 2019

1.0 Introduction

- 1.1 This Statement of Common Ground (SoCG) has been prepared jointly between Lancaster City Council (LCC) and Natural England (NE).
- 1.2 It relates specifically to Matter 1 (Legal compliance, procedural and general) to be discussed on Day 1 of the Examination Hearings, taking place 9 April 2019, with specific reference to **Port of Heysham allocation SG14**.

2.0 Background

- 2.1 The Habitats Regulation Assessment (HRA) has been prepared by Arcadis Consulting UK (Ltd) on behalf of LCC. Separate HRAs has been produced for both Part 1 (Strategic Policies and Land Allocations DPD) and Part 2 (Review of the Development Management DPD). It is noted that the two HRAs have been developed in parallel and should be read in conjunction with each other.
- 2.2 LCC and Natural England have worked together through all of the stages of the HRA preparation process, both as part of formal consultation processes and informally, as the documents have evolved. Further details of engagement is provided within the Council's submitted Consultation Statement (LP08.01).

3.0 Procedural issue relating policy SG14 – Port of Heysham and Future Expansion Opportunities

- 3.1 Representation 028/03/SG14/LC/US2-3 relates to the inclusion of a bird roost (Heysham helipad) within the Port of Heysham allocation SG14 on the submitted Strategic Policies and Land Allocations policies proposals map (the 'proposals map'). This site is an important high tide roost functionally linked to Morecambe Bay and Duddon Estuary SPA and Morecambe Bay Ramsar site.
- 3.2 In addition the helipad site, containing the important bird roost, is identified as HRA mitigation land in connection with an operational wind turbine (which has a lifetime of 25 years), LPA permission reference 14/00938/FUL The development of this land, facilitated by its inclusion in the Port of Heysham allocation, could result in loss or damage to the mitigation which is a requirement of the wind turbine permission.
- 3.3 As submitted the plan does not accord with the Conservation of Habitats & Species Regulations 2017 (as amended) (the "Habitats Regulations") as the allocation shown on the proposals map has not been fully assessed. The section of the site that includes the Heysham helipad does not form part of the HRA submitted with the plan, as such an assessment of likely significant effects, or subsequent Appropriate Assessment, of this section of the site have not been carried out.
- 3.4 In addition to this legal compliance issue, Natural England advises that without a full assessment of the site allocation, Policy SG14 is at risk of being undeliverable at project stage if HRA issues cannot be overcome. This presents a soundness issue under the 'effective' test of soundness and is inconsistent with National Planning Policy Framework in respect of protecting habitat sites.
- 3.5 These concerns have been reiterated to the Local Plan examination by NE via correspondence dated 5 February 2019.

4.0 Common Ground between LCC and Natural England

- 4.1 LCC and Natural England are in agreement that the helipad is functionally linked to Morecambe Bay and Duddon Estuary SPA and Morecambe Bay Ramsar site. Both parties agree that 'functionally linked land' is considered to be any land outside of a European or Ramsar site, which is regularly used by significant numbers of birds that are qualifying interest features of that European or Ramsar site.
- 4.2 Both parties agree that any proposal to develop this section of the site would constitute a likely significant effect requiring an appropriate assessment under Regulation 105 of the Habitats Regulations.
- 4.1 The LPA outline that the helipad should not form part of the SG14 allocation and it has been included in error.
- 4.2 Provided this error is rectified by an amendment to the proposals map then LPA and NE are in agreement with the submitted HRA and policy wording of SG14.
- 4.3 LCC also propose to include an Explanatory Note within the HRA to fully explain the importance of the roost site. Natural England agree with contents of the Explanatory Note.
- 4.4 If the site remains within the site allocation, LCC and NE agree that it would be necessary to undertake a full assessment, within an amended HRA, to ensure the Plan accounts for the impacts of development on the roost, including recommended avoidance or mitigation as appropriate, in line with Regulation 105 of the Habitats Regulations. Natural England are required to be consulted on the amended HRA and given suitable time to provide their statutory advice.

5.0 Proposed approach

- 5.1 LCC seek clarification on Day 1 of the Examination as to whether the hearings can progress on the basis that Site Allocation SG14 will be amended to remove the helipad section of the site from the allocation shown on the proposals map.
- 5.2 If such an approach is deemed inappropriate then an updated HRA to cover the full extent of the allocation, as shown on the proposals map, will need to be prepared as a matter of urgency and will need further discussion at a later hearing date once all parties have had reasonable opportunity to comment.



Signed – Lancaster City Council
Maurice Brophy, Planning and Housing Policy Manager



Signed – Natural England
Dave Bell, Partnership and Innovation Manager, Cheshire to Lancashire Area Team