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BY EMAIL ONLY

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Dear Leanne,

Thank you for your consultation on the Copeland Local Plan's Habitats Regulations Assessment July 2022.

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.

Our remit includes protected sites and landscapes, biodiversity, geodiversity, soils, protected species, landscape character, green infrastructure and access to and enjoyment of nature.

Natural England welcomes the opportunity to comment on the updated version of the HRA, this letter provides our response in relation to the HRA.

MATTERS RELATING TO SOUNDNESS AND LEGAL COMPLIANCE:

Habitats Regulations Assessment (HRA) - UNSOUND

3.4 Air Quality Assessment

The HRA has identified through the screening assessment the potential effects in relation to air quality impacts on the following sites: Duddon Mosses SAC, Lake District High Fells SAC and Subberthwaite, Blawith and Torver Low Commons SAC. We haven't seen the Air Quality Assessment report that is referenced throughout the HRA. Please make this and any other evidence collected available so we can understand the evidence supporting the HRA. At this stage, due to a lack of evidence it is not possible for the HRA to conclude no adverse effect on integrity of the above sites.

Notwithstanding the evidence which may have been collected. The following further information is required for all three of the sites that have been escalated to the Appropriate Assessment stage:

- Evidence showing if and what designated features are within the 200m boundary of the roads.
- If there are designated features within the 200m of the road, are these features susceptible to air quality impacts and therefore will there be an adverse effect on integrity of the site.
- Have the protected sites conservation objectives been taken into consideration when assessing the impacts from air quality?
- The HRA assesses the air quality for the three sites against 2021 background pollutant levels and 2038 background pollutant levels, further justification is needed to explain why these two years were selected and whether given the large span of time they are the most appropriate years to use.

- Further clarification is also needed on the use of 2038 background pollutants. If the HRA concludes that there is no adverse effect on integrity because the 2038 data used is too over precautionary, is there more appropriate data that can be used? Does modelling take into consideration recent traffic trends and predicted traffic trends?

4.1.1 Local Plan Policies – Air Quality (In Combination)

As the screening assessment identified only the three sites listed above as potential sites for likely significant effects, it is unclear here why the River Derwent and Bassenthwaite Lake SAC has been included here.

4.1.2 It is noted here that using 2021 background pollutant levels there is a breach of ammonia at 150m from the road of 5-6%. Further information is needed to explain why the 5-6% breach in ammonia will not have an adverse effect on the integrity of Subberthwaite, Blawith and Trover Low Commons SAC. Evidence should be provided here to show what percentage of the SAC is within the 200m of the road and how much of this is covered by designated features. The condition objective of the SAC should also be taken into consideration and the most recent data from APIS for the habitat type should be referenced. Natural England is concerned that it is not possible to conclude no adverse effect on the integrity of the site because the habitat is already in degraded condition

The above advice is in line with Natural England's advice from the 'Natural England's Approach to Advising Competent Authorities on the Assessment of Road Traffic Emissions Under the Habitats Regulations'. –[Natural England's approach to advising competent authorities on the assessment of road traffic emissions under the Habitats Regulations - NEA001](#)

4.1.6 It is not clear here why the River Derwent and Bassenthwaite Lake SAC is mentioned, if there is an increase in acid deposition of this site then the site should have been screened in to the AA stage, it would also be beneficial to check with APIS for the designated features in the SAC.

4.1.7 There is currently no evidence that suggest a national decrease in ammonia. The background evidence collected that shows the declining background level of ammonia, as well as the other pollutants mentioned here should be referenced and shown.

4.1.18 Clarification is needed here to understand which pollutant is being discussed as acid deposition, ammonia and nitrogen deposition are all listed as exceeding 1% critical load or level beyond the roadside itself.

4.1.19 Ammonia Emissions

Ammonia emissions from road traffic could make a significant difference to nitrogen deposition close to roads. As traffic composition transitions toward more petrol and electric cars (i.e., fewer diesel cars on the road) – catalytic converters may aid in reducing NOx emissions but result in increased ammonia emissions – therefore consideration is needed (see AQC Guidance [here](#))

In summary we cannot agree that ammonia emissions from road traffic do not need to be assessed in totality due to there not being an endorsed national standard. There is growing evidence to support the significance and therefore inclusion of ammonia emissions within an Air Quality traffic emission assessment and informing necessary mitigation measures (see Epping Forest District Council as example). The Dutch Nitrogen Judgement explains it is difficult to justify further emissions to a site in unfavourable condition(see judgement [here](#)). Ammonia is a source of nitrogen deposition, therefore cannot be ignored in light of the growing evidence. This is something Natural England are actively tackling nationally but even in the absence of a standard NE approach; the competent authority cannot ignore ammonia emissions.

While we are aware that the current CREAM model created by Air Quality Consultants used to assess ammonia emissions from road traffic has not been peer reviewed and is not yet endorsed by Natural England, at this time it has been recognised as a Best Available Tool in several cases, that it is appropriate to be used where any caveats associated with this model are also considered within the assessment. An assessment based on the best available approach is necessary. The next stage of assessment can then consider uncertainties in the model and site specifics to decide if mitigation needs to be considered. .

4.8 Site Allocation – In combination

Clarification is needed here as to whether the Morecambe Bay SAC, Morecambe Bay and Duddon Estuaries SPA and Duddon Estuary Ramsar have been screened into the Air Quality assessment – if so, they need representing in the Air Quality section of the HRA. If the site allocations Mi040/E2 require the mitigation of a specific policy requiring a project level HRA for air quality impacts, then they need to be screened in and escalated to appropriate assessment stage.

Future Forecast trends in traffic assessments

Natural England advises that when judging whether a proposal will have an adverse effect on integrity and considering whether future baselines as a result of autonomous measures are certain, including improvements to vehicle emissions standards that the following assessment methods should be followed:

- Defra's latest Emissions Factors Toolkit (EFT) is [used](#) (version 11.0 published November 2021).
- The future forecasting does not go beyond 2030 (as this is the end year date for the updated Emission Factors).
- Where possible the predicted future baseline is informed by locally derived fleet mix data (usually derived from ANPR data) which will more accurately predict the local circumstances.
- A safety factor should be applied when using the emissions factor toolkit to provide estimates beyond 5 years into the future, determined by the Competent Authority.

Mitigation Measures

As mentioned in our previous letter dated 18th March 2022, best practice policies cannot be used as appropriate mitigation. Soft measures are valuable in a general context to address emissions from transport (i.e., promoting walking and cycling, improving public transport, campaigns to raise awareness of AQ issues, reducing the amount of parking spaces in new development or inclusion of electric charging points). However, these cannot be included within a model to quantify mitigation as there isn't sufficient certainty that they will deliver what is required. An approach to model changes seen can also not be included unless they have good locally specific data where they can show similar approaches have been taken elsewhere. Introduction of a Clean Air Zones (CAZ) and Ultra Low Emissions Zones (ULEZ) is acceptable for example, provided it is introduced when the impacts are shown to happen and there is sufficient certainty around the delivery of this.

There is a distinction between mitigation measures delivered through a plan or project and autonomous measures which improve the baseline and are independent of the plan or project. The Dutch N case concluded that it is not possible to consider a range of measures, including autonomous measures, where they are uncertain. It did not conclude that these measures cannot be considered in an AA as a matter of principle. Where a site is exceeding thresholds, Natural England considers that autonomous measures are needed to help achieve the conservation objective to 'restore' the site to within those levels.

Should the plan be amended in a way which significantly affects its impact on the natural environment, then, please consult Natural England again.

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 specific advice in this letter only, please contact Niamh Keddy at Niamh.Keddy@naturalengland.org.uk. For any new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

Yours sincerely,
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