

1 Introduction

- 1.1 LUC has been commissioned by South Cambridgeshire District Council and Cambridge City Council (the Councils) to carry out a Habitats Regulations Assessment (HRA) of the Greater Cambridge Local Plan (GCLP).
- 1.2 This HRA Scoping relates to the 'Greater Cambridge Local Plan: The first conversation' document, also referred to as the Issues and Options document, and it should be read in conjunction with that document. The Issues and Options consultation is the first stage in the plan-making process, which seeks the opinions of stakeholders and local people as to what the key issues are that the Local Plan should seek to address. Given the broad nature of this consultation, this HRA Scoping contains a high-level commentary on the HRA considerations for the Local Plan. HRA of the more detailed options for the Local Plan will be undertaken as they are developed.
- 1.3 The main purpose of this report is to identify which European sites have potential to be affected by the GCLP, evidence key information on these sites and outline the pathways by which they could be affected, and to set out the scope of the subsequent HRA Screening and Appropriate Assessment stages in agreement with Natural England, who will be consulted on this report.

Context for the Greater Cambridge Local Plan

- 1.4 Comprising Cambridge City and South Cambridgeshire District, Greater Cambridge covers approximately 360 square miles, with a total population of 285,000 people across the city. Cambridge City and South Cambridgeshire have a unique relationship, in that South Cambridgeshire entirely surrounds Cambridge City. Greater Cambridge borders Huntingdonshire and East Cambridgeshire to the north; Central Bedfordshire to the west; North Hertfordshire, Uttlesford and Braintree to the south, and to the east, it borders St Edmundsbury in Suffolk.
- 1.5 Whilst Cambridge City is distinctly urban, South Cambridgeshire is a mainly rural district with Cambourne in the west, Histon to the north and Sawston in the south being the most populated settlements in Greater Cambridge, after Cambridge City.
- 1.6 Cambridge is a city of international importance in terms of its world-class university, research, heritage, culture and science. Cambridge also plays a key functional role in planning terms as the dominant centre in Cambridgeshire and as a main nodal point of the Oxford-Milton Keynes-Cambridge Arc and M11 corridor.
- 1.7 As a prominent hub for research and the dominant centre of Cambridgeshire, Cambridge has strong north-south transport links to London and north Cambridgeshire via train and the M11 corridor. Approximately 23,367 people commute daily from South Cambridgeshire to the city. Whilst South Cambridgeshire currently has limited access to bus services and other more sustainable modes of transport, particularly in the more remote west and eastern parts of Greater Cambridge, the emerging Cambridgeshire and Peterborough Local Transport Plan sets out a number of measures to improve transport links in the area.

- 1.8 Greater Cambridge contains a wealth of historic assets, with over 4,000 listed buildings, 32 conservation areas and 24 registered parks and gardens across Cambridge and South Cambridgeshire. A variety of mineral resources are also found in the Greater Cambridge Local Plan area, including sand, gravel and chalk. These extensive deposits often occur under high quality agricultural land or in areas valued for their biodiversity and landscapes, such as river valleys.

The New Local Plan

- 1.9 Cambridge City Council and South Cambridgeshire District Council have committed to preparing a joint Local Plan for their combined area, referred to as Greater Cambridge, a strand of work which originated as part of the City Deal agreement with central government established in 2014. The individual Councils both adopted separate Local Plans in October 2018 which set out the development needs of the local authority areas up to 2031.
- 1.10 The adopted Local Plans acknowledged the commitment to an early review of their Local Plans beginning in 2019. This decision to take forward the early review of the Local Plans was made in order to establish what impact the anticipated changed infrastructure and economic growth in the area might have on housing need and other aspects of spatial and transport planning. Further, during Examination of the individual Local Plans, a number of issues were highlighted for specific attention. These related to the assessment of housing needs, progress in delivering the development strategy and in particular the proposed new settlements and provision to meet the requirements of caravan dwellers.
- 1.11 The plan period for the Greater Cambridge Local Plan is yet to be determined but is likely to cover the period to either 2040 or 2050. It will replace policies contained within the Cambridge Local Plan (2018) and the South Cambridgeshire Local Plan (2018). The Joint Local Development Scheme 2018 identified that the Plan will be submitted to the Secretary of State for examination at the end of summer 2022. Public consultation on the Issues and Options for the plan is proposed for late 2019

The requirement to undertake Habitats Regulations Assessment of Development Plans

- 1.12 The requirement to undertake HRA of development plans was confirmed by the amendments to the Habitats Regulations published for England and Wales in 2007¹; the currently applicable version is the Conservation of Habitats and Species Regulations 2017² (as amended). When preparing the Greater Cambridge Local Plan, the Councils are required by law to carry out an HRA. The Councils can commission consultants to undertake HRA work on its behalf and this (the work documented in this report) is then reported to and considered by the Councils as the 'competent authority'. The Councils will consider this work and may only progress the GCLP if it considers that the Plan will not adversely affect the integrity of any

¹ *The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007* (2007) SI No. 2007/1843. TSO (The Stationery Office), London.

² *The Conservation of Habitats and Species Regulations 2017* (2017) SI No. 2017/1012, TSO (The Stationery Office), London.

European site. The requirement for authorities to comply with the Habitats Regulations when preparing a Local Plan is also noted in the Government's online planning practice guidance.

- 1.13 HRA refers to the assessment of the potential effects of a development plan on one or more European sites, including Special Protection Areas (SPAs) and Special Areas of Conservation (SACs):
- SACs are designated under the European Habitats Directive and target particular habitat types (Annex 1) and species (Annex II). The listed habitat types and species (excluding birds) are those considered to be most in need of conservation at a European level.
 - SPAs are classified in accordance with Article 4(1) of the European Union Birds Directive³ for rare and vulnerable birds (as listed in Annex I of the Directive), and under Article 4(2) for regularly occurring migratory species not listed in Annex I.
 - Potential SPAs (pSPAs)⁴, candidate SACs (cSACs)⁵, Sites of Community Importance (SCIs)⁶ and Ramsar sites should also be included in the assessment.
 - Ramsar sites support internationally important wetland habitats and are listed under the Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar Convention, 1971).
- 1.14 For ease of reference during HRA, these designations can be collectively referred to as European sites⁷ despite Ramsar designations being at the international level.
- 1.15 The overall purpose of the HRA is to conclude whether or not a proposal or policy, or the whole development plan, would adversely affect the integrity of the European site in question either alone or in combination with other plans and projects. This is judged in terms of the implications of the plan for the 'qualifying features' for which the European site was designated, i.e.:
- SACs – Annex I habitat types and Annex II species⁸;
 - SPAs – Annex I birds and regularly occurring migratory species not listed in Annex I⁹;

³ Council Directive 2009/147/EC of 30 November 2009 on the conservation of wild birds (the codified version of Council Directive 79/409/EEC, as amended).

⁴ Potential SPAs are sites that have been approved by the Minister for formal consultation but not yet proposed to the European Commission, as listed on the [GOV.UK website](#).

⁵ Candidate SACs are sites that have been submitted to the European Commission, but not yet formally adopted, as listed on the JNCC's [SAC list](#).

⁶ SCIs are sites that have been adopted by the European Commission but not yet formally designated as SACs by the UK Government.

⁷ The term 'Natura 2000 sites' can also be used interchangeably with 'European sites' in the context of HRA, although the latter term is used throughout this report.

⁸ As listed in the site's citation on the JNCC website (all features of European importance, both primary and non-primary, need to be considered).

⁹ As identified in sections 3.1, 3.2 and 4.2 of the SPA's standard data form on the JNCC website; at sites where there remain differences between species listed in the [2001 SPA Review](#) and the extant site citation in the standard data form, the relevant country agency (Natural England or Natural Resources Wales) should be contacted for further guidance.

- Ramsar sites – the reasons for listing the site under the Convention¹⁰.
- 1.16 Significantly, HRA is based on the precautionary principle meaning that where uncertainty or doubt remains, an adverse impact should be assumed.

Stages of HRA

- 1.17 The HRA of development plans is undertaken in stages (as described below) and should conclude whether or not a proposal would adversely affect the integrity of the European site in question.
- 1.18 The HRA should be undertaken by the ‘competent authority’, in this case South Cambridgeshire District Council and Cambridge City Council, and LUC has been commissioned to do this on the Council’s behalf. The HRA also requires close working with Natural England as the statutory nature conservation body¹¹ in order to obtain the necessary information, agree the process, outcomes and mitigation proposals. The Environment Agency, while not a statutory consultee for the HRA, is also in a strong position to provide advice and information throughout the process as it is required to undertake HRA for its existing licences and future licensing of activities.

Requirements of the Habitats Regulations

- 1.19 In assessing the effects of a Plan in accordance with Regulation 105 of the Conservation of Habitats and Species Regulations 2017, there are potentially two tests to be applied by the competent authority: a ‘Significance Test’, followed if necessary by an Appropriate Assessment which would inform the ‘Integrity Test’. The relevant sequence of questions is as follows:
- Step 1: Under Reg. 105(1)(b), consider whether the plan is directly connected with or necessary to the management of the sites. If not, as is the case for the Greater Cambridge, proceed to Step 2.
 - Step 2: Under Reg. 105(1)(a) consider whether the plan is likely to have a significant effect on a European site, either alone or in combination with other plans or projects (the ‘Significance Test’). If yes, proceed to Step 3.
 - Step 3: Under Reg. 105(1), make an Appropriate Assessment of the implications for the European site in view of its current conservation objectives (the ‘Integrity Test’). In so doing, it is mandatory under Reg. 105(2) to consult Natural England, and optional under Reg. 105(3) to take the opinion of the general public.
 - Step 4: In accordance with Reg. 105(4), but subject to Reg. 107, give effect to the land use plan only after having ascertained that the plan would not adversely affect the integrity of a European site.
 - Step 5: Under Reg. 107, if Step 4 is unable to rule out adverse effects on the integrity of a European site and no alternative solutions exist then the competent

¹⁰ As set out in section 14 of the relevant ‘Information Sheet on Ramsar Wetlands’ available on the JNCC website.

¹¹ Regulation 5 of the Habitats Regulations 2017.

authority may nevertheless agree to the plan or project if it must be carried out for 'imperative reasons of overriding public interest' (IROPI).

1.20 **Table 1.1** summarises the stages and associated tasks and outcomes typically involved in carrying out a full HRA, based on various guidance documents^{12 13 14}. The Scoping detailed within this report precedes the formal stages described below but nevertheless it provides a useful exercise in identifying and agreeing which European sites have potential to be affected by the GCLP, and to set out the scope of the subsequent HRA Screening and Appropriate Assessment stages.

Table 1.1 Stages of HRA

Stage	Task	Outcome
Stage 1: HRA Screening	Description of the development plan. Identification of potentially affected European sites and factors contributing to their integrity. Review of other plans and projects. Assessment of likely significant effects of the development plan alone or in combination with other plans and projects.	Where effects are unlikely, prepare a 'finding of no significant effect report'. Where effects judged likely, or lack of information to prove otherwise, proceed to Stage 2.
Stage 2: Appropriate Assessment (where Stage 1 does not rule out likely significant effects)	Information gathering (development plan and European Sites). Impact prediction. Evaluation of development plan impacts in view of conservation objectives. Where impacts are considered to affect qualifying features, identify how these effects will be avoided or reduced.	Appropriate assessment report describing the plan, European site baseline conditions, the adverse effects of the plan on the European site, how these effects will be avoided or reduced, including the mechanisms and timescale for these mitigation measures. If effects remain after all alternatives and mitigation measures have been considered proceed to

¹² European Commission (2001) Assessment of plans and projects significantly affecting European Sites. Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC.

¹³ DCLG (2006) Planning for the Protection of European Sites: Appropriate Assessment

¹⁴ RSPB (2007) The Appropriate Assessment of Spatial Plans in England. A guide to why, when and how to do it.

Stage	Task	Outcome
		Stage 3.
Stage 3: Assessment where no alternatives exist and adverse impacts remain taking into account mitigation	Identify 'imperative reasons of overriding public interest' (IROPI). Demonstrate no alternatives exist. Identify potential compensatory measures.	This stage should be avoided if at all possible. The test of IROPI and the requirements for compensation are extremely onerous.

1.21 It is normally anticipated that an emphasis on Stages 1 and 2 of this process will, through a series of iterations, help ensure that potential adverse effects are identified and eliminated through the inclusion of mitigation measures designed to avoid, reduce or abate effects. The need to consider alternatives could imply more onerous changes to a plan document. It is generally understood that so called 'imperative reasons of overriding public interest' (IROPI) are likely to be justified only very occasionally and would involve engagement with both the Government and European Commission.

Recent case law changes

1.22 This HRA will be prepared in accordance with recent case law, including most notably the 'People over Wind' and 'Holohan' rulings from the Court of Justice for the European Union (CJEU).

1.23 The *People over Wind, Peter Sweetman v Coillte Teoranta* (April 2018) judgment ruled that Article 6(3) of the Habitats Directive should be interpreted as meaning that mitigation measures should be assessed as part of an Appropriate Assessment, and should not be taken into account at the screening stage. The precise wording of the ruling is as follows:

"Article 6(3)must be interpreted as meaning that, in order to determine whether it is necessary to carry out, subsequently, an appropriate assessment of the implications, for a site concerned, of a plan or project, it is not appropriate, at the screening stage, to take account of measures intended to avoid or reduce the harmful effects of the plan or project on that site."

1.24 In light of the above, the HRA screening stage will not rely upon avoidance or mitigation measures to draw conclusions as to whether the Strategic Plan could result in likely significant effects on European sites, with any such measures being considered at the Appropriate Assessment stage as relevant.

1.25 The HRA will also fully consider the recent *Holohan v An Bord Pleanala* (November 2018) judgement which stated that:

"Article 6(3) of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora must be interpreted as meaning that an 'appropriate assessment' must, on the one hand, catalogue the entirety of habitat types and species for which a site is protected, and, on the other, identify and examine both the implications of the proposed project for the species present on that site, and for which that site has not been listed, and the implications for habitat

types and species to be found outside the boundaries of that site, provided that those implications are liable to affect the conservation objectives of the site.

Article 6(3) of Directive 92/43 must be interpreted as meaning that the competent authority is permitted to grant to a plan or project consent which leaves the developer free to determine subsequently certain parameters relating to the construction phase, such as the location of the construction compound and haul routes, only if that authority is certain that the development consent granted establishes conditions that are strict enough to guarantee that those parameters will not adversely affect the integrity of the site.

Article 6(3) of Directive 92/43 must be interpreted as meaning that, where the competent authority rejects the findings in a scientific expert opinion recommending that additional information be obtained, the 'appropriate assessment' must include an explicit and detailed statement of reasons capable of dispelling all reasonable scientific doubt concerning the effects of the work envisaged on the site concerned".

- 1.26 LUC will fully consider the potential for effects on species and habitats, including those not listed as qualifying features, to result in secondary effects upon the qualifying features of European sites, including the potential for complex interactions and dependencies. In addition, the potential for offsite impacts, such as through impacts to functionally linked land, and or species and habitats located beyond the boundaries of European site, but which may be important in supporting the ecological processes of the qualifying features, has also been fully considered in this HRA.
- 1.27 This Scoping report has been informed by initial consultation with Natural England as detailed in **Appendix 1**. In summary, Natural England advised the following:
- The HRA Scoping Report provides sufficient evidence to demonstrate that there is no potential risk of air pollution beyond the 200m threshold that could potentially result in an adverse effect to Wicken Fen Ramsar, Chippenham Fen Ramsar and Fenland SAC.
 - Reference should be made to the recently updated Cambridgeshire Recreational Pressure Impact Risk Zones (IRZ), bespoke visitor surveys, including survey data commissioned by the National Trust for Wicken Fen Ramsar and relevant information relating to the SSSIs, which underpin the European sites.
 - The HRA Scoping Report provides evidence to demonstrate no likely significant effect to Chippenham Fen Ramsar, which was scoped out of the screening assessment that will be completed in relation to water quantity and quality.
- 1.28 The comments provided by Natural England will be used to inform the HRA report that will be undertaken for the Local Plan.

Structure of this report

- 1.29 This chapter (**Chapter 1**) has described the background to the production of the GCLP and the requirement to undertake HRA. The remainder of the report is structured into the following sections:
- **Chapter 2** describes the European sites in Greater Cambridge and within a 15km buffer that could be affected by the GCLP and summaries the key issues that will need to be considered during the HRA.

- **Chapter 3** sets out the assumptions that will underpin the HRA judgements made and also identifies which sites and impacts can be scoped in or out of the subsequent HRA screening.
- **Chapter 4** describes the next steps that will be carried out in the HRA of the GCLP.

1.30 The information in the main body of the report is supported by the following appendices:

- **Appendix 1** provides consultation response from Natural England.
- **Appendix 2** provides a map of European Sites within 15km of Greater Cambridge.
- **Appendix 3** details the attributes of European Sites including detailed information about key vulnerabilities, conservation objectives and dependencies on certain habitats and species.
- **Appendix 4** provides a map of strategic roads within Greater Cambridge.