

SA & HRA Note: Pre-Submission Consultation Representations and Responses

The Cheltenham Plan (up to 2031): Submission

Issues raised on the Sustainability Appraisal (SA) & Habitats Regulations Assessment (HRA) Reports (November 2017) accompanying the draft Cheltenham Plan published for Regulation 19 Pre-Submission public consultation 12 February – 9 April 2018

Please note that the Pre-Submission HRA Report has been revised in order to be in line with the recent Court of Justice of the European Union (CJEU) judgment¹. This ruled that the Habitats Directive must be interpreted as meaning that mitigation measures should be assessed within the framework of an appropriate assessment (AA) and that it is not permissible to take account of measures intended to avoid or reduce the harmful effects of a plan or project on a European site at the screening stage. The revised HRA Screening and AA Report has been prepared and is subject to statutory consultation with Natural England. The conclusions of the revised HRA screening and AA remain the same and the SA Report (that incorporates summary HRA findings) is not affected.

Pre-Submission Plan Section of SA or HRA Report	Consultee SA or HRA Issue Raised	Summary Draft Response
Environment Agency		
SA & HRA Report	No further comments at this stage	
Historic England		
SA & HRA Report	No further comments at this stage	
Natural England		
HRA Report Cotswolds Beechwoods SAC	Natural England has reviewed the Habitats Regulations Assessment and does not agree with the conclusion of no likely significant effects (LSE) with regards to the Cotswolds Beechwoods SAC. Natural England's previous advice	It is understood that Stroud District Council is commissioning some visitor surveys of relevant European sites to inform the preparation of the Local Plan Review ² . The JCS authorities have contributed some funding

¹ Case C-323/17 People over Wind, Peter Sweetman v Coillte Teoranta (April 2018) <http://curia.europa.eu/juris/document/document.jsf?docid=200970&doclang=EN>

² <https://www.stroud.gov.uk/environment/planning-and-building-control/planning-strategy/stroud-district-local-plan-review>

	<p>provided during the Preferred Options consultation (dated 22nd March 2017, our ref 207967) still stands. Whilst we appreciate and note the adoption of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (JCS) and the inclusion of both Policy SD10 Biodiversity and Geodiversity and Policy INF4 Green Infrastructure, we feel further established mitigation with regards recreational pressure on the Cotswolds Beechwoods is needed through a strategic GI strategy. Whilst accepted that a developer contribution, as stated in the explanation of Policy INF4, could provide mitigation to help manage the Cotswolds Beechwoods, no defined strategy has yet been agreed. Therefore, a conclusion of no LSE's can be reached as there is no conclusive strategy or evidence base in place to agree this. We advise that potential impacts on this European site are considered through the HRA process. For those site allocations where a recreational pathway is found, a project level HRA is required to outline and establish the mitigation needed to offset the impacts from development.</p>	<p>towards this work that will include consideration of the Cotswolds Beechwoods SAC – as part of their commitment to working in partnership towards an appropriate mitigation plan – as agreed through the Statement of Cooperation with NE and to progress JCS Policies SD9 Biodiversity & INF3 Green Infrastructure.</p> <p>Please note that the HRA Report has been revised to ensure that it is procedurally compliant with the recent CJEU judgment – and subject to formal consultation with NE.</p> <p>The revised HRA screening and appropriate assessment in respect of air quality and recreational disturbance on the Cotswold Beechwoods SAC concluded that there was sufficient mitigation for in-combination effects, specifically with the Cheltenham Plan (Policy MD5 Leckhampton) and the Stroud Local Plan Review.</p>
Mr J Evans		
<p>HRA Report Cotswolds Beechwoods SAC</p>	<p>The Council has some issues in relation to impacts of the development proposed in the Cheltenham Plan, as well as in the JCS, on traffic on the A46 southbound and the impacts this will have on Cotswold Beechwoods Special Area of Conservation (SAC) due to elevated levels of air pollution. Cotswold Beechwoods SAC has a critical load of 10 – 20 kg N/ha/year. It is currently receiving an average of 29.1kg N/ha/year. This means that the SAC is being exposed to atmospheric nitrogen deposition levels which significantly exceed its critical load – i.e. the conservation status of the habitats here (both beech forests and dry grassland & scrubland) is being adversely impacted by too much nitrogen.</p>	<p>At the examination of the JCS, the issue of in-combination (cumulative) effects was discussed in the light of the Wealden Case (March 2017) that has required Natural England and Highways England to review their guidance in respect of impact assessment guidance and in-combination effects – as explained previously in this report in paragraphs 2.12-2.17. An HRA Note³ (July 2017) was prepared to explain the situation with this advice and the HRA of the GCT JCS. The findings of the strategic level HRA of the GCT JCS remain relevant and were found sound and legally compliant (October 2017). The HRA concluded that there would be no likely significant effects from the JCS on identified European sites alone, or in-</p>

³ <http://www.gct-ics.org/Documents/New-Evidence-Base-and-Associated-Documents/Main-Modifications-Examination-Document-Library/MM27-HRA-Note-14072017.pdf>

<p>It is necessary for the Habitat Regulations Assessment (HRA) to objectively prove that the Cheltenham Plan, when considered alone and also when considered <i>in-combination</i> with other plans and projects (such as the JCS or the South Worcestershire Development Plan), will not have a Likely Significant Effect on any EU site. In the case of atmospheric nitrogen deposition for habitats such as Cotswold Beechwoods SAC, a significant effect would be an increase in pollution of 1% or more of the critical load. To objectively show that this isn't the case, it is necessary for the Council to determine the likely increases of traffic on roads within 200m of Cotswold Beechwoods SAC that will arise because of the Cheltenham Plan (200m from source is the accepted distance within which the worst impacts of air pollution are considered to arise).</p> <p>Running within 200m of Cotswold Beechwoods SAC is the A46. Traffic on the A46 directly impacts on the features of Cotswold Beechwoods SAC because of air pollution and any increase in traffic on the A46 will be likely to adversely impact the SAC further. The A46 is often congested as it is and is used by a lot of local residents (i.e. commuting to work or recreational trips). It is definitely possible (and has not been objectively ruled out) that the Cheltenham Plan and the JCS, alone and in-combination with other plans/projects, will increase traffic along the A46 to the extent that pollution at Cotswold Beechwoods SAC increases by 1% or more than its critical load.</p> <p>It is therefore necessary for the Council to assess the impact of the Plan on traffic on the portion of the A46 which runs within 200m of Cotswold Beechwoods SAC. They then need to use this transport data to inform the preparation of air quality assessments which calculate the impact of traffic increases on rates of air pollution at Cotswold Beechwoods SAC. Cheltenham Council have commissioned Transport Assessment work (in two phases, done by ARUP), which have modelled the impacts of the Cheltenham Plan on traffic at a</p>	<p>combination.</p> <p>All the allocated sites within the area are unlikely to substantially increase traffic on any road which goes within 200 metres of the European sites due to the location of proposed local site allocations within Cheltenham. Therefore, any risk of significant in-combination effects caused by atmospheric pollutants are considered to be unlikely.</p> <p>NE agreed with the findings of the HRA with regard to traffic and air quality changes. NE were concerned about recreational use and disturbance of the Beechwoods SAC - please see below.</p> <p>The HRA screening has been revised and appropriate assessment undertaken in respect of air quality and disturbance, specifically with the Stroud Local Plan Review. The revised HRA Report will be subject to formal consultation with NE.</p>
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	<p>few critical junctions in the borough. These assessments do not provide the required data to inform air quality assessments work (they need the current Annual Average Daily Traffic (AADT) on the A46 within 200m of Cotswold Beechwoods SAC, and how this AADT figure will change following all the development proposed in the Local Plan. Because the Council has not (yet) established the likely increases in traffic on the A46 in the required locations, and have not prepared or commissioned the necessary air quality assessment work which would determine if the traffic increases will significantly impact the SAC due to increased air pollution, the Council has not objectively ruled out a significant effect on Cotswold Beechwoods SAC caused by air pollution.</p>	
Gloucestershire County Council		
HRA Report	<p>The HRA of the Pre-Submission version concludes no likely significant effect on any European Site. Reliance is being placed on the soundness of the HRA for the JCS as well as proposed policy safeguards including ongoing strategic planning and enhancement of green infrastructure. It will be interesting to see if this now allays Natural England's earlier fears that additional damaging recreational use of the Cotswold Beechwoods may arise from adopting the Local Plan</p>	Noted with thanks
Pegasus on behalf of Robert Hitchins Land at Kidnappers Lane		
SA Report Table 5.1 Paras 5.6-5.7	<p>Whilst a compatibility analysis of the proposed issues for Cheltenham Local Plan objectives with the IA objectives was undertaken and the findings reported in summary in Section 5 with the detailed analysis provided in Appendix VI; the report does not include any comparative assessment of the potential sites. Table 5.1 continues to set out the reasons for dismissing sites</p>	<p>The reasons for selection/rejection of reasonable alternatives is a matter for plan-making; the findings of the SA are only one factor that is taken into consideration, albeit that the outline reasons must be recorded in the SA Report to comply with the SEA Regulations.</p> <p>The approach to options in plan-making and reasonable</p>

	<p>from being included as potential sites in the Plan, however the reasons for their exclusion is "SALA found site to not be deliverable or developable". There is no comparative site assessment against SA criteria or the objectives of the Plan. This information does not seem to have been made available as part of the Draft Integrated Appraisal Report. Para 5.6 of the IA states that "During preparation of the Cheltenham Local Plan, a number of site options were considered and appraised. Options were identified through the Strategic Housing Land Availability Assessment (SHLAA) and subject to an Integrated Appraisal – the detailed findings of the IA are provided in the IA Report in Appendix VII."</p> <p>Para 5.7 of the IA states that "Certain site options were progressed into the Cheltenham Borough Local Plan and others were not taken forward at this stage. The findings of the IA informed this selection, but is not the sole source of information to inform decision-making as part of the plan preparation."</p> <p>The Integrated Appraisal needs to be completed in a transparent way in accordance with the NPPF and the PPG only then can any conclusions be drawn about the proposed sites, all sites larger than windfalls should be considered.</p> <p>The PPG is clear that: "The sustainability appraisal needs to compare all reasonable alternatives including the preferred approach and assess these against the baseline environmental, economic and social characteristics of the area and the likely situation if the Local Plan were not to be adopted. The sustainability appraisal should predict and evaluate the effects of the preferred approach and reasonable alternatives and should clearly identify the significant positive and negative effects of each alternative.</p>	<p>alternatives was explained in detail in Section 4 of the SA Report (November 2017). The local site options identified as reasonable alternatives for the draft Cheltenham Plan were subject to SA and details reported in Appendix VII; this did not include any land at Kidnappers Lane.</p> <p>Should any further local site options be made available that the Council considers to be reasonable ie. suitable and deliverable, then these can be subject to SA.</p>
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