

Leicester and Leicestershire Strategic Growth Plan

Habitats Regulations Assessment

Leicester and Leicestershire Strategic Growth Plan
Strategic Planning Group

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Prepared by	Checked by	Verified by	Approved by
Amelia Kent Ecologist	Dr James Riley Technical Director	–	Max Wade Technical Director
George Wilkinson Ecologist			

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1	22/02/18	For consultation	JR	James Riley	Associate
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Prepared for:

Leicester and Leicestershire Strategic Growth Plan Strategic Planning Group

Prepared by:

Amelia Kent
Ecologist (Grad CIEEM)

AECOM Infrastructure & Environment UK Limited
Midpoint, Alençon Link
Basingstoke
Hampshire RG21 7PP
United Kingdom

T: +44(0)1256 310200
aecom.com

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1. Introduction

Background to the Project

- 1.1 AECOM was appointed by the Leicester and Leicestershire Spatial Growth Plan Strategic Planning Group to assist in undertaking a Habitats Regulations Assessment (HRA) of its Strategic Growth Plan (hereafter referred to as the 'Plan'). The objectives of this HRA were to:
- Identify any aspects of the Plan that would cause an adverse effect on the integrity of the Natura 2000 sites, otherwise known as European Sites (Special Areas of Conservation (SACs), Special Protection Areas (SPAs) and, as a matter of Government policy, Ramsar sites), either in isolation or in combination with other plans and projects; and
 - Advise on appropriate policy mechanisms for delivering mitigation where such effects were identified.
- 1.2 AECOM previously assisted in undertaking an HRA of the Draft Strategic Growth Plan in February 2018. As such, this Report is based on the previous HRA Report¹, taking into account alterations to the Plan since the production of the Draft Strategic Growth Plan. In addition, this Report has been produced in reference to the *People Over Wind and Sweetman v Coillte Teoranta ECJ judgement* (hereafter referred to as the *People Over Wind judgement*)².

Legislation

- 1.3 The need for Appropriate Assessment is set out within Article 6 of the EC Habitats Directive 1992, and interpreted into British law by the Conservation of Habitats and Species Regulations 2017. The ultimate aim of the Directive is to “*maintain or restore, at favourable conservation status, natural habitats and species of wild fauna and flora of Community interest*” (Habitats Directive, Article 2(2)). This aim relates to habitats and species rather than the European sites themselves, although the sites have a significant role in delivering favourable conservation status.
- 1.4 The Habitats Directive applies the precautionary principle to European sites. Plans and projects can only be permitted having ascertained that there will be no adverse effect on the integrity of the site(s) in question. Plans and projects with predicted adverse effects on European sites may still be permitted if there are no alternatives to them and there are Imperative Reasons of Overriding Public Interest (IROPI) as to why they should proceed. In such cases, compensation would be necessary to ensure the overall integrity of the site network is not adversely affected.
- 1.5 In order to ascertain whether or not site integrity will be affected, a process of screening (using a Likely Significant Effects (LSE) test), followed (if necessary) by an Appropriate Assessment (AA), should be conducted for the plan or project in question:

¹ AECOM. (2018) Leicester and Leicestershire Strategic Growth Plan (Draft): Habitats Regulations Assessment. Rev. No. 1, February 2018.

² *People Over Wind and Sweetman v Coillte Teoranta* (C-323/17).

Box 1: The legislative basis for Appropriate Assessment.

Habitats Directive 1992

Article 6 (3) states that:

“Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives.”

Conservation of Habitats and Species Regulations 2017

The Regulations state that:

“A competent authority, before deciding to ... give any consent for a plan or project which is likely to have a significant effect on a European site ... shall make an appropriate assessment of the implications for the site in view of that site's conservation objectives... The authority shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site”.

- 1.6 Over time the term Habitats Regulations Assessment has come into wide currency to describe the overall process set out in the Conservation of Habitats and Species Regulations 2017, from screening through to IROPI. This has arisen in order to distinguish the process from the individual stage described in the law as an Appropriate Assessment. In this Report, the term Habitats Regulations Assessment refers to the overall process, whilst the use of the term Appropriate Assessment is restricted to the specific stage of that name.

Scope of the Project

- 1.7 There is no guidance that dictates the physical scope of an HRA of a Plan document. The physical scope of this assessment was guided primarily by the identified impact pathways (called the source-pathway-receptor model) rather than by 'arbitrary' zones. Current guidance suggests that the following European sites should be included in the scope of the assessment:
- All sites within the Leicestershire County boundary; and,
 - Other sites shown to be linked to development within the County boundary through a known 'pathway' (discussed below).
- 1.8 Briefly defined, pathways are routes by which a change in activity provided within a County Plan document can lead to an effect upon an internationally designated site. An example of this would be new residential development resulting in an increased population and thus increased recreational pressure, which could affect European sites through, for example, disturbance of wintering birds. Guidance from the former Department of Communities and Local Government (DCLG, now the Ministry of Housing, Communities and Local Government) states that the HRA should be '*proportionate to the geographical scope of the [plan policy]*' and that '*an AA need not be done in any more detail, or using more resources, than is useful for its purpose*' (CLG, 2006, p.6). More recently, the Court of Appeal³ ruled that providing the Council (competent authority) was duly satisfied that proposed mitigation could be '*achieved in practice*' to satisfy that the proposed development would have no adverse effect, then this would suffice. This ruling has since been applied to a planning permission (rather than a Core Strategy document)⁴. In this case, the High Court ruled that for '*a multistage process, so long as there is sufficient information at any particular stage to enable the authority to be satisfied that the proposed mitigation can be achieved in practice it is not necessary for all matters concerning mitigation to*

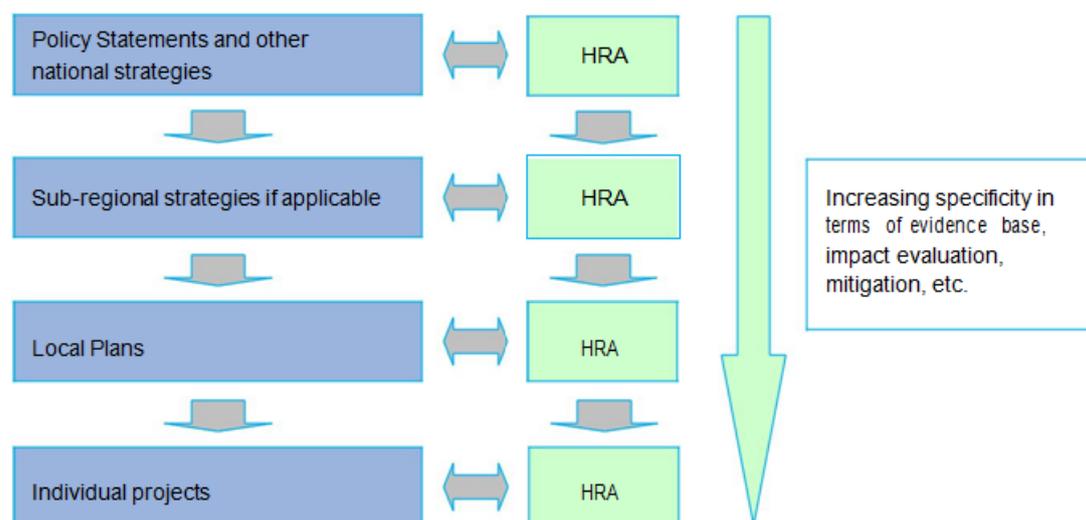
³ No Adastral New Town Ltd (NANT) v Suffolk Coastal District Council Court of Appeal, 17th February 2015.

⁴ High Court case of R (Devon Wildlife Trust) v Teignbridge District Council, 28th July 2015.

be fully resolved before a decision maker is able to conclude that a development will satisfy the requirements of Reg 61 of the Habitats Regulations’.

- 1.9 This is in line with the former DCLG guidance that the level of detail of the assessment, whilst meeting the relevant requirements of the Habitats Regulations, should be ‘appropriate’ to the level of plan or project that it addresses. This ‘tiering’ of assessment is summarised in Figure 1.

Figure 1: Tiering in HRA of Land Use Plans.



- 1.10 One European site lies within the Leicestershire County boundary. The River Mease SAC is located within the west of the County, south of Ashby-de-la-Zouch. The river arises in Leicestershire and flows westwards into Staffordshire, where it joins the River Trent. Rutland Water SPA and Ramsar site, which is located 5.6km east of the County boundary at its closest point, is also considered in this HRA.
- 1.11 The following sites were considered for inclusion in the HRA, but dismissed from the analysis due to a combination of distance and the absence of impact pathways linking them to the County:
- Upper Nene Valley Gravel Pits SPA and Ramsar site is located 17.3km to the south east of Leicestershire. This site is vulnerable to recreational disturbance but studies undertaken for the North Northamptonshire Joint Core Strategy have identified that the core recreational catchment of the site is 3km, placing Leicestershire well outside the core catchment. The SPA and Ramsar site are also vulnerable to the loss of supporting habitat (i.e. arable fields used by the associated golden plover (*Pluvialis apricaria*) population), but again studies for the North Northamptonshire Joint Core Strategy have confirmed that the relevant fields are much closer to the site. Whilst local abstraction and runoff could affect the site, Leicestershire is too far away for there to be a realistic impact pathway.
 - Ensor’s Pool SAC is located 5km south west of the border of Leicestershire County. Ensor’s pool is an offline abandoned clay pit on the western edge of Nuneaton, north Warwickshire. The pool is 3.79ha in size, with an average depth of 8m, and is ground water-fed. The site is designated for a large population of white-clawed crayfish (*Austropotamobius pallipes*). Due to the distance from the County boundary and the pool not being surface water-fed, there are no linking impact pathways to growth within Leicestershire County.
 - Grimsthorpe SAC is designated for its calcareous grassland and early gentian (*Gentianella anglica*) population. However, recreational pressure is not identified as issue by the Site Improvement Plan and the SAC is located approximately 14km to the east of Melton Borough. As such, Leicester and Leicestershire are considered to lie well beyond any likely core recreational catchment for the site. For this reason the Melton Local Plan also concluded no adverse effect.

- 1.12 As such, these sites are not discussed further within this HRA. The reasons for designation of the River Mease SAC and Rutland Water SPA/Ramsar site, together with current trends in habitat quality and pressures on the sites, are detailed in Chapters 3 and 4.

2. Methodology

Introduction

- 2.1 The HRA has been carried out in the continuing absence of formal central Government guidance, although general EC guidance on HRA does exist⁵. The former DCLG released a consultation paper on the Appropriate Assessment of Plans in 2006⁶. As yet, no further formal guidance has emerged. However, Natural England has produced its own internal guidance⁷, as has the RSPB⁸. These have been referred to, alongside the guidance outlined in Section 1.3, in undertaking this HRA.
- 2.2 Figure 2 below outlines the stages of HRA according to current draft DCLG guidance. The stages are essentially iterative, being revisited as necessary in response to more detailed information, recommendations and any relevant changes to the plan until no significant adverse effects remain.

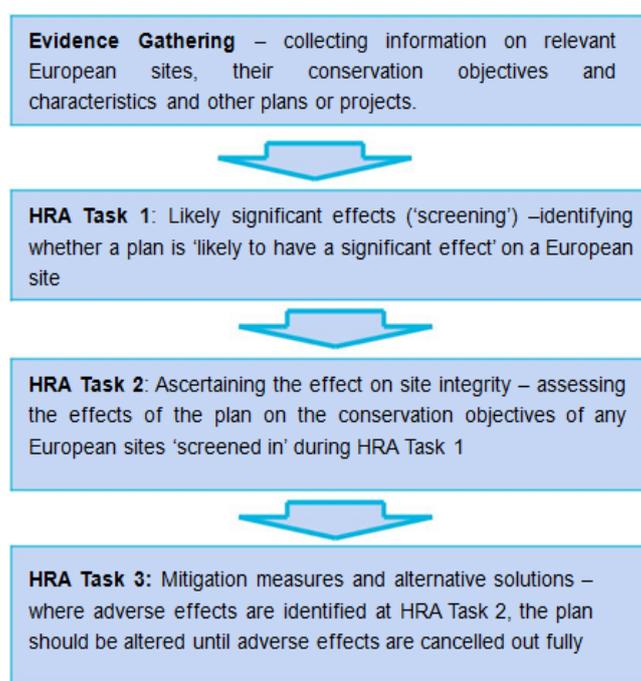


Figure 2: Four Stage Approach to Habitats Regulations Assessment. Source CLG, 2006.

HRA Task 1 – Likely Significant Effects

- 2.3 Following evidence gathering, the first stage of any HRA is a Likely Significant Effect (LSE) test. This is essentially a risk assessment to decide whether the full subsequent stage known as Appropriate Assessment is required. The essential question is:

"Is the Plan, either alone or in combination with other relevant projects and plans, likely to result in a significant effect upon European sites?"

⁵ European Commission. (2001) Assessment of plans and projects significantly affecting Natura 2000 Sites: Methodological Guidance on the Provisions of Article 6(3) and 6(4) of the Habitats Directive.

⁶ CLG. (2006) Planning for the Protection of European Sites, Consultation Paper.

⁷ http://www.ukmpas.org/pdf/practical_guidance/HRGN1.pdf

⁸ Dodd, A.M., Cleary, B.E., Dawkins, J.S., Byron, H.J., Palframan, L.J. & Williams, G.M. (2007) *The Appropriate Assessment of Spatial Plans in England: a guide to why, when and how to do it*. The RSPB, Sandy.

- 2.4 The objective is to ‘screen out’ those plans and projects that can, without any detailed appraisal, be said to be unlikely to result in significant adverse effects upon European sites, usually because there is no mechanism for an adverse interaction with European sites. This stage is undertaken in Chapters 3 and 4 of this report.
- 2.5 In evaluating significance, AECOM has relied on our professional judgement as well as the results of previous stakeholder consultation regarding development impacts on the European sites.
- 2.6 The level of detail in land use plans concerning developments that will be permitted under the plans will never be sufficient to make a detailed quantification of adverse effects. Therefore, we have again taken a precautionary approach (in the absence of more precise data), assuming as the default position that if an adverse effect cannot be confidently ruled out, avoidance or mitigation measures must be provided. HRA Task 2 – Appropriate Assessment (AA)
- 2.7 Where it is determined that a conclusion of ‘no likely significant effect’ cannot be drawn, the analysis has proceeded to the next stage of HRA known as Appropriate Assessment. Case law has clarified that ‘appropriate assessment’ is not a technical term. In other words, there are no particular technical analyses, or level of technical analysis, that are classified by law as belonging to appropriate assessment.
- 2.8 By virtue of the fact that it follows Screening, there is a clear implication that the analysis will be more detailed than undertaken at the Screening stage and one of the key considerations during appropriate assessment is whether there is available mitigation that would entirely address the potential effect. In practice, the appropriate assessment would take any policies or allocations that could not be dismissed following the high-level Screening analysis and analyse the potential for an effect in more detail, with a view to concluding whether there would actually be an adverse effect on integrity (in other words, disruption of the coherent structure and function of the European site(s)).
- 2.9 There has been a very recent decision by the European Court of Justice⁹, which concludes that measures intended to avoid or reduce the harmful effects of a proposed project on a European site, but which are not an integral part of the project or plan, may no longer be taken into account by competent authorities at the Likely Significant Effects or ‘screening’ stage of HRA. The implications of the ECJ ruling are structural, essentially meaning that the role of avoidance and measures should be discussed in the subsequent ‘appropriate assessment’ stage instead.
- 2.10 When discussing mitigation for a Plan document, one is concerned primarily with the policy framework to enable the delivery of such mitigation rather than the details of the mitigation measures themselves, since the Plan document is a high-level policy document.

Principal Other Plans and Projects That May Act ‘In Combination’

- 2.11 In order to fully inform the HRA process, additional relevant plans have been consulted to determine whether any in-combination Likely Significant Effects that could arise from the Leicester and Leicestershire Strategic Growth Plan. These plans were selected because they are the main land use plans located within or adjacent to Leicestershire, and they may also interact with the European sites discussed in this Report. They are:
- North West Leicestershire Local Plan (adopted 2017);
 - Harborough Submitted Local Plan 2011-2031;
 - Nuneaton and Bedworth Submitted Borough Plan 2011-2031;
 - Leicester Core Strategy (adopted July 2014);
 - Rutland Local Plan Core Strategy (adopted 2011);

⁹ People Over Wind and Sweetman v Coillte Teoranta (C-323/17)

- South Derbyshire Local Plan Part 1 and Part 2 (adopted 2016 and 2017 respectively);
- Leicestershire Minerals and Waste Local Plan (Submission 2018);
- Derby and Derbyshire Minerals Local Plan (adopted 2000, amended 2002)¹⁰;
- Derby and Derbyshire Waste Local Plan (adopted 2005)⁷; and
- North Northamptonshire Joint Core Strategy (adopted 2016).

¹⁰ Derbyshire is currently producing new Waste and Minerals Local Plans which will supersede those adopted in 2000 and 2005 when complete.

3. Likely Significant Effects: River Mease SAC

Introduction

3.1 The River Mease is a relatively un-modified lowland river which contains a diverse range of physical in-channel features including riffles, pools, slacks, vegetated channel margins and bankside tree cover, providing the conditions necessary to sustain populations of spined loach (*Cobitis taenia*) and bullhead (*Cottus gobio*). The river is also considered to support a significant presence of water-crowfoot (*Ranunculus fluitans*) and water-starwort (*Callitriche* sp.).

Features of European Interest¹¹

3.2 The River Mease qualifies as an SAC due to its classification as a river with floating vegetation often dominated by water-crowfoot. The extensive beds of submerged and floating plants along its length together with sandy sediment provide good habitat opportunities for spined loach, for which the SAC is one of only four known outstanding localities. The site is also considered one of the best areas in the UK for bullhead, and it has a significant presence of both otter (*Lutra lutra*) and white-clawed crayfish.

Conservation Objectives¹²

3.3 The conservation objectives of the SAC are to ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the favourable conservation status of its qualifying features, by maintaining or restoring;

- The extent and distribution of qualifying natural habitats and habitats of qualifying species;
- The structure and function (including typical species) of qualifying natural habitats;
- The structure and function of the habitats of qualifying species;
- The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely;
- The populations of qualifying species; and,
- The distributions of qualifying species within the site.

Principal Risks to Site Integrity¹³

3.4 Principal risks to the integrity of River Mease SAC include:

- Water pollution;
- Drainage discharges;
- Inappropriate weirs and dams and other structures within, and adjacent to, the river corridor, thus blocking movement of fish or otter;
- Invasive species;
- Siltation; and

¹¹ JNCC. (2015) Natura 2000 Standard Data Form: River Mease SAC
<http://jncc.defra.gov.uk/protectedsites/sacselection/n2kforms/UK0030258.pdf>

¹² Natural England Conservation Objectives for River Mease SAC
<http://publications.naturalengland.org.uk/publication/6217720043405312>

¹³ Natural England Site Improvement Plan: River Mease SAC
<http://publications.naturalengland.org.uk/publication/6640857448972288>

- Water abstraction.

Likely Significant Effects of the Plan

- 3.5 The Strategic Growth Plan sets out the total number of dwellings to be developed within the district of North West Leicestershire, through which the River Mease SAC flows. This amounts to 9,620 new dwellings within the period 2011-2031 and provision for these has been made within the current Local Plan and will thus have been considered in the HRA¹⁴ of that plan. From 2031 to 2050 the Strategic Growth Plan identifies that a further 'notional' 9,720 dwellings are likely to be required in that district.
- 3.6 The river is vulnerable to deterioration of water quality from agricultural runoff, direct pollution and discharge of treated sewage effluent. According to the Environment Agency, the current water quality status of the river is either poor or moderate with a target to be good by 2027¹⁵. The river is not currently achieving its target due to rural diffuse pollution and water company point source pollution. Like any river, it is also vulnerable to excessive abstraction for public water supply, particularly at inappropriate times of year.
- 3.7 The main impact pathways through which developments proposed in the Plan could affect the River Mease SAC are therefore water abstraction for public water supply and increased waste water pollution.
- 3.8 As water abstraction for public water supply and increased waste water pollution cannot be screened out at the LSE stage without taking mitigation into account, it is necessary to proceed to Appropriate Assessment to ascertain their potential effects on site integrity (see Section 5).

Likely Significant Effects of Other Plans and Projects

- 3.9 The North West Leicestershire District Local Plan has the potential to result in Likely Significant Effects on River Mease SAC. Appropriate Assessment is therefore required (see Section 5).
- 3.10 Two housing sites allocated in South Derbyshire District Local Plan¹⁶ have been identified as potentially having Likely Significant Effects on River Mease SAC, specifically through the discharge of wastewater. These sites are Acresford Road, Overseal (Policy 23E – 70 dwellings) and Valley Road, Overseal (Policy 23F – 64 dwellings). Appropriate Assessment is therefore required (see Section 5).
- 3.11 Lichfield District Adopted Local Plan Strategy¹⁷ highlights that there is a potential likely increase in pressure on River Mease SAC as a result of population growth within the District. Appropriate Assessment is therefore required (see Section 5). As such, it is not possible to screen out likely significant effects on the River Mease SAC 'in combination' with other plans and projects without taking into account mitigation measures. Therefore, appropriate assessment is required. This is the subject of Chapter 5.
- 3.12 There are no growth estimates for Derbyshire or Staffordshire for the period 2036 to 2050 so an in combination assessment cannot be undertaken except to note that additional housing growth will be required in both South Derbyshire and Lichfield District between 2036 and 2050 and this will put further pressure on water supply and wastewater treatment infrastructure.

¹⁴ https://www.nwleics.gov.uk/files/documents/habitats_regulations_assessment_of_proposed_publication_local_plan_june_2016/Habitat%20Regulations%20Assessment%20of%20proposed%20publication%20Local%20Plan.pdf [Accessed 18 September 2018]

¹⁵ <http://environment.data.gov.uk/catchment-planning/OperationalCatchment/3303/Summary> [Accessed 17 September 2018]

¹⁷ <https://www.lichfielddc.gov.uk/Council/Planning/The-local-plan-and-planning-policy/Resource-centre/Local-Plan-documents/Downloads/Local-Plan-Strategy/Lichfield-District-Local-Plan-Strategy-2008-2029.pdf> [Accessed 07 February 2018]

4. Likely Significant Effects: Rutland Water SPA and Ramsar Site

Introduction

4.1 Rutland Water is a large eutrophic man-made pump storage reservoir created by the damming the Gwash Valley in 1975. The reservoir receives the majority of its water from the Nene (90%) and Welland (10%) Rivers. In general, the reservoir is drawn down in the summer and filled during the autumn and winter months when river levels are high. The lagoons are one of the most important areas for wintering and breeding wildfowl. The reservoir regularly supports internationally important numbers of gadwall (*Anas strepera*) and shoveler (*Anas clypeata*) and nationally important numbers of eight other species of wildfowl.

Features of European Interest¹⁸

4.2 Rutland Water qualifies as an SPA through its populations of wintering birds in general and gadwall and shoveler specifically. The waterfowl assemblage also includes populations of teal (*Anas crecca*), wigeon (*Anas penelope*), tufted duck (*Aythya fuligula*), goldeneye (*Bucephala clangula*), mute swan (*Cygnus olor*), coot (*Fulica atra*), goosander (*Mergus merganser*) and great crested grebe (*Podiceps cristatus*). It is designated as a Ramsar site for the same features, particularly its populations of gadwall, shoveler and mute swan.

Conservation Objectives¹⁹

4.3 The conservation objectives of the SPA are to ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;

- The extent and distribution of qualifying natural habitats and habitats of qualifying species;
- The structure and function (including typical species) of qualifying natural habitats;
- The structure and function of the habitats of qualifying species;
- The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely;
- The populations of qualifying species; and
- The distribution of qualifying species within the site.

Principal Risks to Site Integrity²⁰

- Public disturbance;
- Inappropriate water levels;
- Water pollution;
- Invasive species; and
- Fisheries management.

¹⁸ JNCC (2015) Natura 2000 Standard Data Form: Rutland Water SPA
<http://jncc.defra.gov.uk/pdf/SPA/UK9008051.pdf>

¹⁹ Natural England European Site Conservation Objectives for Rutland Water SPA
<http://publications.naturalengland.org.uk/publication/4978639963684864>

²⁰ Natural England Site Improvement Plan: Rutland Water SPA
<http://publications.naturalengland.org.uk/publication/5985520903520256>

Likely Significant Effects of the Plan

- 4.4 Rutland Water is located outside of the County of Leicestershire. The closest Leicestershire districts/boroughs are the District of Harborough and the Borough of Melton. Housing needs highlighted in the Strategic Growth Plan show 10,640 new dwellings are needed in Harborough between 2011 and 2031, and a 'notional' 15,930 between 2031 and 2050. In Melton, 3,720 new dwellings are needed between 2011 and 2031, and a 'notional' 5,320 between 2031 and 2050. Specific areas for this housing have not been allocated within this plan; however strategic areas have been put forward. Within the Borough of Melton, Melton Mowbray has been highlighted as a Key Centre for development. The growth within Market Harborough over the first part of the plan period has been managed within the Harborough Submitted Local Plan 2011-2031. Locations for growth from 2031 to 2050 have not been identified.
- 4.5 The main pathways, or impact mechanisms, through which development could affect Rutland Water are recreational pressure, draw down for public water supply and (possibly) air quality impacts on terrestrial parts of the SPA that provide feeding and roosting locations for SPA birds.
- 4.6 Rutland Water is too far from the main population centres for growth within the District of Harborough and Borough of Melton to affect recreational pressure on the SPA. Although Rutland Water is located 6km from the boundary of Leicestershire, the outskirts of the County are very rural, whereas the Plan sites the majority of housing allocations in more strategic locations, closer to proposed road and rail improvements. Any housing within close proximity of the Leicestershire boundary would therefore be in low quantities, to supply local needs only.
- 4.7 Surface water quality could be affected by development within close proximity of the SPA/Ramsar site. However, this will not apply to any development sites in Leicestershire. Whilst Rutland Water is a core part of the Anglian Water supply network, Anglian Water does not provide the majority of Public Water Supply to Harborough district²¹, which is instead supplied by Severn Trent Water. Anglian Water's Water Resource Management Plan underwent a HRA in 2015 based on a 25 year strategy (to 2040). Since that time a revised Water Resource Management Plan (2019) has been produced, which extends the period of coverage to 2045. Likely Significant Effects were assessed for Rutland Water SPA/Ramsar site as part of their water supply network; conclusions stated "*Water transfer from Wing which is fed by Rutland Water will be within existing consent limits. Furthermore mitigation measures have been carried out with the construction of new lagoons to avoid impacts from a further decrease in the reservoir water levels due to increased abstraction. Likely significant effects are not reasonably foreseeable*"²². It is therefore unlikely that any development within the catchment of Anglian Water will adversely affect Rutland Water SPA/Ramsar site to 2045. Since Anglian Water have not planned as far ahead as 2050 it is not possible to provide a definitive analysis for the period 2045 to 2050. However, since Anglian Water supplies only a small part of Harborough district it is likely that further growth will not place undue pressure on their supply network during this remaining 5 year period.
- 4.8 Areas of terrestrial habitat within the SPA boundary could be used by SPA waterfowl as feeding, roosting and loafing areas. These areas could theoretically be vulnerable to elevated nitrogen deposition from vehicular traffic on roads that lie within 200m of the SPA. This could in turn affect their habitat structure (and thus usability by SPA waterfowl) if there were no other major influences on that structure. However, the only such habitat that lies within 200m of a road is closely mown grassland (regular mowing will more than offset the relatively subtle influence of air quality on structure). Furthermore, the road in question (the A606 north of the SPA/Ramsar site to the west of Barnsdale Country Club) does not provide a realistic link between any of the population centres of the County and any likely major employment locations outside the district.

²¹ Water from Rutland Water is drawn off at the Raw Water Pumping Station which serves the existing Wing Water Treatment Works 8km away. From Wing about half the treated water flows by gravity to Peterborough and the remainder is pumped 15km to Beanfield Reservoir near Corby. A further pumping station at Beanfield transfers part of the inflow another 19km to Hannington Reservoir in Northampton serving the southern part of the supply zone.

²² http://www.anglianwater.co.uk/assets/media/2015_WRMP_HRA_Main_Report.pdf [Accessed 18th September 2018].

Likely Significant Effects of Other Plans and Projects

- 4.9 Analysis of other plans and projects becomes of particular relevance where impact pathways exist between development in a particular area and a European site, but the contribution of the Strategic Plan in that area is small. The Rutland District Core Strategy and Harborough Submitted Local Plan 2011-2031 (the closest Leicestershire District to the SPA) concluded that it would have no in combination LSE on Rutland Water SPA/Ramsar site. There are no local development plans that cover the period from 2036-2050 so further assessment for this period is not possible.
- 4.10 However, in the case of Harborough District, no realistic impact pathways have been identified to Rutland Water SPA/Ramsar site. It therefore follows that there would be no in combination adverse effect as a result of the Strategic Growth Plan. This European site does not therefore need further discussion in Chapter 5.

5. Appropriate Assessment of River Mease SAC

- 5.1 Examination in Section 3 indicated that developments proposed by the Strategic Growth Plan have the potential to result in Likely Significant Effects on River Mease SAC, both in isolation and in combination with developments proposed by the North West Leicestershire District Local Plan, the South Derbyshire District Local Plan and the Lichfield District Adopted Local Plan Strategy, and any further growth plans produced by those authorities covering the period 2036-2050. The impact pathways through which these developments could detrimentally affect River Mease SAC are water abstraction for public water supply and increased waste water pollution. These pathways are inherently 'in combination' given that multiple authorities are involved and therefore the following appropriate assessment focusses primarily on 'in combination' effects.
- 5.2 The Strategic Growth Plan is a high level document setting out large scale growth areas. This particularly applies to the period 2036-2050. Therefore, this analysis is similarly high-level; assessment of potential allocations would then need to be undertaken by each district council for their Local Plans. Likely Significant Effects could potentially occur due to increased levels of pollution from waste water treatments works (WwTW) due to increased levels of effluent being treated. Any development within the River Mease SAC catchment area would have to evidence that it will avoid adverse effects upon the integrity of the SAC.
- 5.3 Growth within North West Leicestershire District (within which the River Mease SAC sits) up to 2031 has been allocated and assessed within the North West Leicestershire District Local Plan and therefore has had a plan level HRA.
- 5.4 The Local Plan has a policy specific to retaining the integrity of the River Mease SAC. Local Plan Policy En2 – River Mease Special Area of Conservation²³ states:

“The Council will work with Natural England, the Environment Agency, Severn Trent Water, other local authorities and the development industry to improve the water quality of the river Mease Special Area of Conservation.

In order to achieve this, new development within the River Mease catchment will be allowed where:

(a) There is sufficient headroom capacity available at the Wastewater Treatment Works to which it is proposed that flows from the development will go; and

(b) The proposed development is in accordance with the provisions of the Water Quality Management Plan including, where appropriate, the provision of infrastructure or water quality improvements proposed in the Developer Contributions Scheme.

In the event that there is no headroom capacity available at the appropriate wastewater treatment works, or there is no capacity available within the Developer Contributions Scheme in operation at the time that an application is determined, or exceptionally where as part of the development it is proposed to use a non-mains drainage solution for the disposal of foul water and this is supported by the Environment Agency, development will only be allowed where it can be demonstrated that the proposed development, on its own and cumulatively with other development, will not have an adverse impact, directly or indirectly, upon the integrity of the river Mease Special Area of Conservation.”

- 5.5 Local Plan Policy En2 mentions a Restoration Plan and Water Quality Management Plan²⁴ which has been put in place by North West Leicestershire District Council and is supported by a

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https://www.nwleics.gov.uk/files/documents/adopted_local_plan_2011_20312/Adopted%20Written%20Statement.pdf [Accessed 24 January 2018].

Developer Contributions Strategy²⁵ which states that “*all new development with a net increase in wastewater to mains drainage will mitigate and compensate for nutrients entering the river, equivalent to the relative contributions of phosphate as a result of development and which will benefit the river as a whole*”. Together with the Policy En2, this means any development which could potentially have LSE on the SAC in terms of water quality would either not be granted or would be required to make a financial contribution towards measures to improve water quality. The plan only covers the period to 2031. In order to avoid adverse effects on the integrity of the SAC it would therefore be necessary for these protective policies to also be included in any Local Plans produced for North West Leicestershire District covering the period 2031 to 2050.

- 5.6 In addition to the existing initiatives that are underway to protect the water quality of the River Mease, at the strategic (county) level, the opportunity should also be taken in planning further growth to ensure through Local Plan policy and a Water Cycle Study (WCS), that development is directed to those areas with appropriate treatment capacity and facilities are provided before further growth within relevant WwTW catchments is actually committed.
- 5.7 Severn Trent Water has predicted a shortfall in water supply by the end of their Water Resource Management Plan (WRMP) period, which extends past the Leicester and Leicestershire Strategic Growth Plan period to 2045. A loss of 40MI/d within the Strategic Grid zone would be expected in the absence of solutions, due to reductions in environmentally unsustainable abstraction in order to comply with the Habitats Directive. Severn Trent’s strategy to make up for this loss focuses on schemes including reducing leakage, improving aquifer storage and recovery, increasing Draycote reservoir capacity and implementing flow augmentation schemes. None of these schemes are understood to involve abstraction from the River Mease. As such, public water supply solutions will not have LSE on the River Mease SAC. Since Severn Trent Water have not planned as far ahead as 2050 it is not possible to provide a definitive analysis for the period 2045 to 2050. However, given the known constraints posed by the River Mease SAC it is unlikely that any further resources identified by Severn Trent Water for the period 2040-2045 would involve increased abstraction from the River Mease. This would need to be verified when the next review of the Water Resource Management Plan is produced and the outcome of that review taken into account when preparing Local Plans for the period 2045-2050.
- 5.8 Although specific housing allocations are not present within the Strategic Growth Plan it should be noted that an adverse impact could arise should a development be allocated inappropriately in relation to the River Mease SAC. For example, development located inappropriately close to the river could block passage of otter and therefore detrimentally affect the integrity of the SAC. Given the rural setting of the SAC, sites within 100m of the SAC should be avoided when allocating housing and employment sites (unless the latter are specifically river-dependent and appropriate for the setting). The exception would be within the existing settlement of Measham, which already has housing within 100m of the SAC. Given the rural nature of the SAC this restriction should not pose a significant constraint to housing and employment development in the District. This should be taken into account by the District councils when allocating their sites within the Local Plans.
- 5.9 With regard to authorities outside Leicestershire, South Derbyshire District Adopted Local Plan²⁶ has identified two housing sites which require developer contributions to be paid to mitigate impacts on the River Mease SAC. However, as contributions will be used to mitigate impacts on the SAC, the Plan concluded that development within South Derbyshire would not adversely impact the integrity of the River Mease SAC. The Local Plan has a specific policy relating to development which may affect the integrity of the SAC, Policy NR8: River Mease Special Area of Conservation, which states that:

²⁴ <http://www.rivermease.co.uk/wp-content/uploads/2015/04/River-Mease-WQMP.pdf> [Accessed 17 September 2018].

²⁵ https://www.nwleics.gov.uk/files/documents/river_mease_sac_developer_contribution_strategy1/River%20Mease%20DCS.pdf [Accessed 17 September 2018].

²⁶ <https://www.south-derbys.gov.uk/our-services/planning-and-building-control/planning/planning-policy/local-plan/adopted-local-plan> [Accessed 07 February 2018]

“Development will only be permitted where it can be demonstrated that it will not be likely to lead directly or indirectly to an adverse effect upon the integrity of the Mease Special Area of Conservation (SAC).

Development that falls within the water catchment of the Mease SAC will require an assessment under the Habitat Regulations. Ongoing work to outline the pressures on the SAC has identified damage is currently being caused by poor water quality, exacerbated by pollution, run-off, siltation, abstraction, invasive non-native species. Development especially that which increases the stress on sewage treatment works or increases the level of phosphate in the watercourse would make matters worse. Evidence has shown mitigation of effects is possible by investment in sewage treatment works, habitat management, access management, provision of sustainable drainage techniques, publicity, education and awareness raising.

The effective avoidance and/or mitigation of any identified adverse effects must be demonstrated and secured prior to approval of development and on-going monitoring of impact on the SAC will be required. Developments outside the water catchment may be required to demonstrate that they will have no adverse effect on the integrity of the SAC.”

- 5.10 Development of a Spatial Strategy within the South Derbyshire Local Plan has been under taken to minimise the amount of development affecting the SAC and further schemes will be developed during the life of the Local Plan to deliver an improvement to the condition of the SAC, which aligns with Core Policy 13: Our Natural Resources states that *“The District will seek to deliver an overall net gain or biodiversity within the Lichfield District... In circumstances where the effects upon biodiversity are not within a development site and there is potential to mitigate for the impacts arising from the development off-site, a financial contribution to deliver mitigation may be appropriate. This is particularly relevant to consideration of impacts upon the River Mease SAC and Cannock Chase SAC.*
- 5.11 All three local authorities (South Derbyshire, Lichfield and North West Leicestershire) have joined together with Natural England, the Environment Agency, Trent Rivers Trust and Severn Trent Water to create the River Mease Partnership²⁷. The partnerships’ main aim is to reduce the levels of phosphate within the River Mease SAC through positive action to enable the Conservation Objectives for the SAC to be met. With the Developer Contribution Scheme in place through the Local Plans, they have created the River Mease SSSI/SAC Restoration Plan²⁸ to put in place the mitigation and enhancements for which the developer contribution scheme pays.
- 5.12 As such, it is considered that provided the existing initiatives to protect water quality in the River Mease are continued, there is a sufficient policy mechanism in place to ensure that there would be no adverse effect on integrity of the SAC, either alone or in combination with other projects and plans.

²⁷ <http://www.rivermease.co.uk/about/> [Accessed 08 February 2018]

²⁸ <http://www.rivermease.co.uk/wp-content/uploads/2015/04/River-Mease-Restoration-Plan.pdf> [Accessed 08 February 2018]

6. Conclusions

- 6.1 The Strategic Growth Plan is a high level document setting out large scale growth areas rather than specific housing sites for which LSE and adverse effects on integrity can be assessed.
- 6.2 However, it can be concluded that no LSE will occur within the Rutland Water SPA/Ramsar site as strategic areas of growth are outside of the core catchment areas for recreational pressure on the SPA/Ramsar site. The concepts and growth areas set out within the Strategic Plan are to be put in place through the current and upcoming Local Plans. The Harborough Local Plan (closest Leicestershire District and growth area) has previously had a HRA and concluded no LSE on the SPA/Ramsar site. It has also been concluded within the Rutland District Core Strategy that there would be no LSE 'in combination'.
- 6.3 Likely Significant Effects could potentially occur within the River Mease SAC due to increased levels of pollution from waste water treatments works (WwTW) due to increased levels of effluent being treated and due to increased abstraction. This was therefore subject to appropriate assessment. Any development within the River Mease SAC catchment area would have to evidence that it will avoid adverse impacts upon the integrity of the SAC. The appropriate assessment concludes that there is currently a detailed multi-authority strategy underway to protect water quality of the River Mease and provided this continues no adverse effects on integrity are forecast. It is recommended that this strategy is continued into future Local Plan revisions for the three relevant authorities (North West Leicestershire, Lichfield and South Derbyshire). The North West Leicestershire Local Plan has a protective policy framework already in place. In order to avoid adverse effects on the integrity of the SAC it would be necessary for these protective policies to also be included in any Local Plans produced for North West Leicestershire District covering the period 2031 to 2050.
- 6.4 Severn Trent Water have not yet planned for the period 2045-2050 so that it is not possible to provide a definitive analysis of abstraction risk for that five year period. However, given the known constraints posed by the River Mease SAC it is unlikely that any further resources identified by Severn Trent Water for the period 2040-2045 would involve increased abstraction from the River Mease. This would need to be verified when the next review of the Water Resource Management Plan is produced and the outcome of that review taken into account when preparing Local Plans for the period 2045-2050.
- 6.5 A recommendation is made for caution in allocating new housing and employment development within proximity to the River Mease SAC and in general it is recommended that no new housing is allocated within 100m of that SAC as part of long-term growth plans for the county, unless it involves employment development that is both river dependent and appropriate, or is located within the existing settlement of Measham that is already situated within 100m of the River Mease.
- 6.6 It is further recommended that a Water Cycle Study (WCS) will inform the allocation of future development in Leicester and Leicestershire and in particular ensure that appropriate treatment capacity/facilities are provided before any growth allocated to relevant WwTW catchments is delivered.
- 6.7 In conclusion, provided these recommendations are taken into account it is considered that no adverse effects on integrity will arise on any European sites from the Strategic Growth Plan, either alone or in combination with other plans and projects.

