

The following message and text has been received by the Panel Secretary, on behalf of the Panel, from the West Midlands Regional Assembly.

Following the Technical seminar on the 18th March and subsequent agreement with the Secretariat to provide suggested policy for SR4 for distribution to participants, WMRA attach below a suggested revised policy wording for Policy SR4.

This includes some suggested additional wording from CCW that was received after the WMRA consultation deadline and final editing process. WMRA have managed to get some feedback that says this text repeats the habitats regulations, but because CCW are a key statutory body in relation to HRA, the Assembly have taken the view to attach their suggestions to the text, so that this is distributed to participants to inform the Panel debate.

As far as possible this has been developed with the input and assistance of the GOWM, and statutory bodies and a wider consultation with other partners. Clearly, within the time constraints it has not been possible to go back with all the suggestions and amendments and the Assembly have had to take a considered view to edit the various suggestions to enable the work to be ready for distribution to participants.

WMRA have also been asked to inform you that GOWM are also seeking a legal position on the suggested text to ensure compliance with the relevant legislation which may be helpful to the Panel.

Matter 1(iii)

**SR4: Suggested Alternative Policy Wording for the Panel
April 2009.**

Safeguarding the Integrity of European sites

The West Midlands, neighbouring regions and Wales contain a number of sites designated for their international importance (see the Quality of the Environment - Assets map and Annex F). Enabling the West Midlands to grow sustainably without adversely affecting the integrity of European sites is of primary concern to the WMRSS.

A Habitats Regulations Assessment (HRA) has been carried out on Phase 2 of the WMRSS to comply with the provisions of the Habitats Directive, including an appropriate assessment of the implications for European sites. Where relevant, the HRA's recommendations are referred to and measures included in this and other chapters of the WMRSS. A number of recommendations will be addressed through the WMRSS Phase Three Revision this includes amendments to Quality of the Environment policies and consideration of the potential for biodiversity networks to enhance the

resilience of supporting habitats for European sites.

Policy SR4 sets out a policy approach to ensure the conservation and, where ever possible, enhancement of European sites in relation to land use/habitat fragmentation, air quality, water supply, water quality and potential disturbance from recreation and tourism. SR4 provides the highest level of protection for European sites and takes a precautionary approach, in accordance with the Habitats Directive and Regulations.

Land Use Change

Populations of mobile species are not necessarily restricted to designated sites and generally rely on considerable supporting habitat outside of a designated site to meet their habitat requirements. Supporting habitat may be located adjacent to a European Site or some distance from it. Bats, for example, may range over considerable distances to forage and it is therefore important for maintaining the integrity of the bat population, that the habitat outside of the designated roost sites are able to sustain sufficient food for the bats. Changes in land use and hydrology, even considerable distances away from European sites, can affect the quality of this supporting habitat because of changes to water cycles, levels of disturbance and levels of pollution.

Changes in land use can also cause habitat fragmentation. Fragmentation of wildlife habitat caused by human activity is a major contributor to the biodiversity across the country. It reduces the total habitat area available, and isolates populations. The WMRSS Phase Two Revision HRA identified specific concerns in relation to changes in land use from new development that could potentially impact on the supporting habitat required by the bats for the Wye Valley Woodland SAC and the Wye Valley and Forest of Dean Bat site SAC

Improving Air Quality

Despite air quality in the Region improving over recent years, future trends in oxides of nitrogen (NOx) emissions are uncertain. Within the Region, there are existing issues in relation to air quality and its impacts upon peoples' health and the Region's habitats. Together with climate change, diffuse air pollution can cause significant and long term changes in ecosystems, including direct effects of pollutants on wildlife and plants and indirect effects through changes in the nutrient status and acidity balance of soil and water.

The HRA has identified a risk that current levels of diffuse air pollution from traffic and existing development could be having an adverse impact on eleven European sites across the Region. These sites have reached thresholds beyond which further pollution could damage their integrity and their ability to support the features for which they are designated. Future development and increases in traffic movements associated with this would exacerbate the problem.

In accordance with the objectives of the National Air Quality Strategy, which

sets out the long term vision for improving air quality in the UK, further national objectives are to be developed to strengthen the protection of environmental ecosystems of high conservation value. In accordance with this, the WMRSS seeks to improve air quality, minimise the emissions of key pollutants and address the specific key ecosystem impacts through the local planning process.

In addition to the risks from diffuse air pollution, the HRA identified a specific local air pollution issue, for Cannock Chase SAC due to increases in traffic on roads. The relevant LPAs should work together to consider the local air quality impacts from increased road traffic ensuring that new development does not exacerbate this risk to the integrity of the Cannock Chase SAC.

Securing a Sustainable Supply of Water

The maintenance of appropriate water levels and/or flow is an important factor in maintaining the integrity of many European sites. Abstraction of water from rivers, lakes and ground waters has the potential to reduce water inputs to and flows in European sites. Reduced flows may have an adverse impact on the interest features for which the sites are designated with possible implications for the integrity of sites as a whole.

The HRA identified uncertainties in relation to water supply driven by development for the River Wye SAC and the Severn Estuary European designated sites and therefore recommended a precautionary approach should be undertaken. This uncertainty stems from ongoing work in relation to the Environment Agency's Catchment Management Abstraction Strategies (CAMS), Restoring Sustainable Abstraction (RSA) programme, their Review of Consents (RoC) under the requirement of the Habitat Regulations and the future requirements under Water Framework Directive (WFD). Conclusions arising from this work may result in changes to assumptions made by Water Companies in their Water Resource Management Plans and local authorities should seek advice from the relevant Water Company, Environment Agency and the HRA statutory consultation bodies to inform options on housing allocations.

LPAs should encourage the highest practicable water efficiency measure to be used within new developments as these can help to reduce pressure on resources and minimise impacts on European sites.

Maintaining Water Quality

Many European sites are already adversely affected by poor water quality. In the West Midlands Region, increasing urbanisation and conversion of land to residential use are significant factors affecting run-off. Key regional pressures on water quality include nutrient loading (eutrophication) associated with sewage discharges and agricultural sources, contaminants from urban surface water runoff, concentration of pollutants in rivers due to low flows and occasionally pollution associated with flood events.

The HRA identified the potential for water quality issues from development for the River Mease SAC, River Wye SAC, and Severn Estuary SAC, SPA and Ramsar. This related to the conclusions of the Review of Consents process in combination with the lack of clarity over the specific capacity constraints at individual wastewater treatment works and drainage area networks and also the lack of understanding of the sewage treatment works capacity left in relation to the Severn Estuary sites.

In addition, in many areas, excessive surface water flows to drains create most of the significant flooding and water quality incidents. LPAs should consider the use of sustainable urban drainage systems to reduce any adverse effects from surface water runoff on European sites.

Disturbance from Recreation and Tourism

The West Midlands region contains numerous sites of great value to tourism and recreation, with some open areas such as Cannock Chase attracting more than 1 million visitors per year (Cannock Chase AONB Management Plan). Recreational activities can cause disturbance to wildlife, with disturbance being defined as 'any phenomenon which causes a significant change in the dynamics or eco-ethological characteristics of populations' (EC 1992). In some cases physical damage to European site habitats contributes further to impacts on breeding bird populations. This is the case in the South Pennine Moors for example.

The HRA identified a potential issue in relation to the impact of increased recreation on Cannock Chase SAC. Cannock Chase District Council and Stafford Borough Council together with other relevant authorities should work closely together to ensure a co-ordinated approach, and work with Natural England and the AONB partnership to identify and implement appropriate mitigation measures.

Additional mitigation measures

The Habitats Regulations Assessment of this RSS concluded that if implemented correctly and applying a precautionary approach, there will be no adverse effects on European sites. However, as a non-site specific strategic regional plan much of this RSS' implementation (including the more locationally specific distribution of housing allocations) will be determined through local plans and projects. It is vital therefore that the requirements of the Habitats Directive and Regulations are met in relation to such plans and projects.

Local Planning Authorities should avoid in the first instance and mitigate where necessary for all potential or identified adverse effects on European sites. Local planning authorities will need to demonstrate at examination that they have attempted to avoid or mitigate for any adverse effects, through testing alternative development distributions or other approaches. If adverse effects cannot be prevented then this will require flexibility in the allocation and quantum of development.

Policy SR4: Safeguarding the Integrity of European sites

All the plans and programmes of local authorities and other relevant agencies should give the highest level of protection to sites of international nature conservation importance (European sites¹) through:-

A. Local planning authorities should test plan alternatives as part of the process of preparing Development Plan Documents. In particular, when deciding on how to distribute its housing allocation under policy CF3 Table 1, a local planning authority should consider alternative distributions within its area or appropriate adjacent areas.

B. Local planning authorities will need to demonstrate at examination that they have avoided adverse effects through testing distribution options. If adverse effects cannot be prevented the local planning authority will need to show it has mitigated any impacts such that no adverse effect on the integrity of any European site will occur. In exceptional circumstances, if it is concluded that the only means of avoiding an adverse impact on the integrity of a European site is to reduce the housing allocation to a lower level than that set out in Policy CF3 Table 1, then the figure agreed by an Inspector at a Development Plan Document examination should be treated as the housing allocation.

C. Land Use Change

- (i) requiring that any proposal which is likely to cause land use change to potential supporting habitat within 10 kilometres of the Wye Valley Woodlands SAC and Wye Valley and Forest of Dean Bat sites SAC be subject to a HRA to protect the integrity of these sites**

D. Improving Air Quality

- (i) securing the fullest possible use of sustainable transport choices (T1), reducing the need to travel (T2) and through the development of sustainable communities (SR2)**
- (ii) including policies to improve air quality and to reduce the levels of emissions as set out in Air Quality Strategies taking into account the risks to European sites**

¹ 'European sites' is the term used to encompass sites that have the highest level of protection in the UK either through legislation or policy. These include Special Areas of Conservation (SAC), candidate (cSAC), Special Protection Areas (SPA), proposed (pSPA), European Offshore Marine Sites and Ramsar sites.

- (iii) Ensuring that diffuse air quality effects of proposed development as well as local air quality effects on European sites are considered.**
- (iv) Ensuring that development is only permitted where it is clearly demonstrated by the HRA that it will not significantly contribute to adverse effects caused by diffuse air pollution at European sites, alone or in combination with other plans and projects. Where development would result in such increases it should include measures to secure an equivalent improvement in air quality or reduction in emissions from other sources.**
- (v) Avoiding siting of new sources of emissions near to sensitive European sites or development that would increase traffic levels on roads near sensitive sites.**
- (vi) Considering the local air pollution impact of increased road traffic within 200m of a sensitive European site, including impacts from dust.**
- (vii) requiring a pollution-neutral strategy for major development based on results of required local air quality assessments, especially for potentially polluting development near to European sites**

E. Securing a Sustainable Supply of Water

- (i) engaging in early consultation with Water Companies, the Environment Agency and the HRA Statutory Consultation Bodies on site allocations to ensure development is located and appropriately phased in Water Resource Zones where a sustainable water supply is available and where water supply can be secured without adverse effects upon European sites**
- (ii) avoiding development within the Pilleth Water Resource Zone (affecting a small part of rural Herefordshire) unless it can be demonstrated that water supply can be secured without adverse effects upon European sites**
- (iii) ensuring Water Cycle studies are undertaken for all areas where significant effects on a European site are possible, to inform the evidence for LDDs**

F. Maintaining Water Quality

- (i) engaging in early consultation with Water Companies, the Environment Agency and the HRA Statutory Consultation Bodies on site allocations to ensure development is located**

- (ii) ensuring Water Cycle studies (including a surface water management plan) are undertaken for all areas where significant effects on a European site are possible, to inform the evidence for LDDs

G. Disturbance from Recreation and Tourism

- (i) LDFs and development projects should ensure that additional development does not result in an increase in recreational pressure that would result in an adverse effect on the integrity of European sites. The relevant local authorities must, in undertaking HRAs of their DPDs, ensure that increases in visitor numbers can be accommodated before giving effect to any such plan, with the provision of appropriate counteracting measures where necessary.

Annex F

List of European sites

Sites in bold those currently at risk from diffuse air pollution.

Berwyn & South Clwyd SAC
Cannock Chase SAC
Downton Gorge SAC
Fenn's & Whixall SAC
Peak District Dales SAC
South Pennine Moors SAC
The Stiperstones and the Hollies SAC
West Midlands Mosses SAC
Wye Valley Woodlands SAC
Peak District moors SAC
South Pennine Moors Phase 2 SPA

(Need to add in the rest of the sites and amend map)

Policy SR4: Safeguarding the Integrity of European sites

Additional policy paragraphs suggested by CCW 8th April 2009

Where it cannot be concluded that a plan or project (either individually or in-combination with other plans or projects) will not have a significant effect on any European site, an appropriate assessment of it in line with the Habitats Directive and associated regulations will be required.

Local planning authorities must only grant planning permission where it can be demonstrated through this appropriate assessment (which must cover in- combination effects) that it is certain that the proposals will not have a significant effect on the integrity of European sites (subject to imperative reasons of overriding public interest as defined through Article 6 (4) of the Habitats Directive).