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Our ref: S/Policy/GNDP/JCS HRA



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Dear Mark

### **Habitats Regulations Assessment of the Joint Core Strategy for Norwich, South Norfolk and Broadland**

Thank you for involving Natural England in an ongoing dialogue on the Habitats Regulations Assessment of the Joint Core Strategy. This letter should be read in conjunction with our earlier detailed comments on Tasks 1 and 2 from my emails dated 18 June 2009, 14 September 2009, 4 February 2010 and 15 February 2010. Please note that we have not yet seen a copy of Revision D of the Task 2 AA report referred to in your email of 12 February 2010.

In preparing our response, we have applied the precautionary principle of the *Conservation (Habitats &c) Regulations 1994*, which requires the competent authority to be able to ascertain that the plan will not adversely affect the integrity of European sites. Under the precautionary principle, the onus is on the applicant to demonstrate no harm. While there remains uncertainty over the impacts of the plan, which the concerns over the funding and implementation of the necessary infrastructure (green and water) clearly highlight, it is not possible for us to conclude no adverse effects on European designated sites. We therefore agree with your conclusions regarding Likely Significant Effect on the River Wensum SAC and in combination impacts on a number of other European sites.

We would also draw your attention to the fact that this conclusion has also been reached in the Appropriate Assessment of the East of England Plan review, prepared by Scott Wilson for the East of England Regional Assembly. Their HRA cites evidence of catchments where planned growth cannot be accommodated to ensure current and/or future water quality thresholds/targets are met, affecting the River Wensum, Broads and Broadland European sites. A need to revise housing allocations downwards in some areas, including Norwich and South Norfolk, was identified through the water quality assessments carried out by Entec, on behalf of the Environment Agency and Anglian Water (report dated November 2009). The Entec report recommends that levels of growth should be reconsidered in the Rivers Ant, Bure, Wensum and Yare catchments, affecting the housing numbers proposed in the Joint Core Strategy. The Entec report's conclusions on the River Wensum are that: 'Growth cannot be accommodated without significant risk of harm to the ecology of the river *even when possible water infrastructure improvements are taken into account*. Changes to the RSS allocation and

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distributions should be considered'. Although this specifically relates to the higher reaches of the river, the growth impacting on the lower reaches, where flows are even more constrained, must be considered *in combination* under the Habs Regs tests. Entec's conclusions for Broadland are that 'Current investment in improvements in water infrastructure may make it possible to improve the status of the sites but this will be jeopardised by the substantial growth proposed in the RSS Review. The allocations should therefore be reconsidered. This affects growth in Norwich and South Norfolk'. The report's clear conclusions are that there is insufficient environmental capacity to accommodate the proposed levels of growth within the 'highly constrained catchments' they have identified.

It is the conclusion of the HRA for the JCS that mitigation for anticipated impacts on the European sites will be secured through the additional water and green infrastructure resources proposed in the overarching plan, but we would reiterate our earlier evocation of the guidance issued by DCLG in 2006 that: 'Mitigation measures need to be viable, timely and possible to implement' (p.12). Mitigation which is not deliverable cannot remove uncertainty. Natural England does not believe that sufficient evidence has been presented for us to accept the proposed mitigation, given the implementation uncertainty. If, as confirmed in your email of 12 February 2010, - 'The developments will be phased, and cannot commence until the appropriate water and transport infrastructure **[n.b. to which we would add green infrastructure]** is in place', it may be that the plan itself is undeliverable in its current form.

While we welcome the robustness of the JCS policies on water and climate change adaptation (including green infrastructure provision), this document only sets out the strategic way forward. Our conclusion on the JCS proposed submission document was that there remains a 'need for greater certainty over key elements identified in the plan, not only to facilitate growth, but to make it legally compliant', and it is our view that the HRA, in considering in detail the practicalities of delivery, does not offer that certainty.

Thank you again for actively engaging Natural England in this consultation process.

Please contact me if you have any questions about the content of this letter or would like to discuss these further.

Yours sincerely



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