

Date: 28 October 2015



A [REDACTED].OConnor@sefton.gov.uk
BY EMAIL ONLY

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Dear A [REDACTED]

Sefton Local Plan HRA

Thank you for your email dated 22/10/15 on the above.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Natural England's comments are captured in the email chain you refer to dated from 13th and 19th January 2015 and I confirm the detail in this email attachment as Natural England's response.

For any queries relating to the specific advice in this letter only please contact Kate Wheeler on 07769 918711. For any new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

Yours sincerely

K [REDACTED] Wheeler
Cheshire, Greater Manchester, Merseyside and Lancashire Area

From: [REDACTED] Zoe (NE) [mailto:Zoe.[REDACTED]@naturalengland.org.uk]
Sent: 19 January 2015 15:26
To: Andrea [REDACTED] [REDACTED] James D [REDACTED]
Cc: [REDACTED] Kate (NE)
Subject: RE: Sefton Local Plan - Habitats Regulations Assessment_further NE comments 13/01/2015 (2)
Importance: High

Dear And [REDACTED]

Thank you for your email and amended policy wording regarding port development.

I can confirm that Natural England has no further comment to make and overall we welcome the amendments that have been made with regard to the protection of Seaforth Nature Reserve.

As discussed Natural England will provide a letter to outline our final comments on the draft HRA of the Local Plan.

Should you have any queries please do not hesitate to contact me.

Kind regards

Zoe

[REDACTED]
Senior Adviser
Sustainable Development Team

Tel: 0300 060 4654
Mobile: [REDACTED]

Please note my usual working days are Monday – Wednesday

www.naturalengland.org.uk

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From: Andrea [REDACTED] [mailto:Andrea.[REDACTED]@sefton.gov.uk]
Sent: 19 January 2015 13:00
To: [REDACTED], Zoe (NE); [REDACTED] James [REDACTED]
Cc: [REDACTED] Kate (NE)
Subject: RE: Sefton Local Plan - Habitats Regulations Assessment_further NE comments 13/01/2015 (2)
Importance: High

Attached:

- 2015019 20150108 _ ED1_THE_PORT_AND_MARITIME_ZONE_ZBamends AOC

Dear Zoe,

Thank you for your email.

I have read noted both your comments and those in the revised HRA report (which also reflects the views of Natural Resources Wales notably regarding the possible impact of Port development on the Liverpool Bay SPA). I have noted your sentiments regarding the sequence of actions – however myself and colleagues felt that your revised wording did not quite scan/flow, and so I have amended the wording but not the substance (see attached). I have also amended the explanation to take account of your comments and those of Natural Resources Wales (see attached).

I should be very grateful if you were able to confirm by return that these revisions are acceptable. **13:00: I have just noticed one further point and added Seaforth Nature Reserve not just Seaforth into para 7.16, as re-attached.**

Thank you very much.

Andrea

██████████
Senior Planner, Local Planning Team, Sefton MBC
Tel: (0151) 934 3██████████
Email: Andrea.██████████@sefton.gov.uk

Mondays: 8.45am to 4pm, Tuesdays to Fridays: 9am to 3pm

The Council will be asked to approve the Publication Draft version of the Local Plan on 22 January. The 8 week publication period is due to start late January. For more information see www.sefton.gov.uk/localplan.

From: ██████████ Zoe (NE) [<mailto:Zoe.██████████@naturalengland.org.uk>]
Sent: 13 January 2015 11:28
To: Andrea ██████████ ██████████ James ██████████
Cc: ██████████ Kate (NE)
Subject: Sefton Local Plan - Habitats Regulations Assessment_further NE comments 13/01/2015
Importance: High

Dear Andrea and James,

Please find below Natural England's comments on the HRA report and amended policy wording relating specifically to Policy ED1 (Port and Maritime Zone). This supersedes Natural England's previous advice on this issue:

1) Natural England welcomes proposed changes to the Policy ED1, which changes the emphasis in relation to development at Seaforth Nature reserve to make it explicit that planning permission will not be granted unless the requirements of the Habitats Regulations are met. As such the policy provides sufficient safeguards to protect the European and International designated sites at this stage and we have no further comments to make on the policy wording. We would however, suggest a slight amendment to the wording under a), b) and c) of the policy to make it clear that criteria a) and b) must be established first before moving on to compensation options. Please find suggested amendments attached. We advise that further considerable work will be required before development at Seaforth can be considered at the project stage and we encourage the developers of the site and the Local Authority to contact Natural England to discuss proposals as soon as possible to ensure the protection of the designated sites are considered from the outset.

2) We recommend additional detail to the supporting text of policy ED1 to provide a cross reference to the HRA (see suggestions under point 3). The HRA should provide more detail to explain that adverse effects have not be ruled out at the Plan stage however sufficient safeguards are in place, through policy ED1 to ensure planning permission will not be granted unless the requirements of the Habitats Regulations are met. The HRA does not currently explain the limitations in terms of evidence relating to development at Seaforth and as such any uncertainties will need to be resolved before proposals are put forward for development at this site. Development at this location would result in the direct loss of designated site (along with other effects identified in the HRA) and therefore adverse effects cannot be ruled out. The HRA should make this clear before going on to explain that any future proposals in this locality would be required to consider alternatives and establish whether imperative reasons of overriding public interest exist before considering compensation options. Considerable evidence relating to all impacts and compensation options (subject to the alternatives and imperative reasons of overriding public interest tests having been met) will need to be provided.

3) We also suggest a slight reword to paragraph 7.16 of the Plan to make it clear that adverse effects are not ruled out and to ensure reference to the relevant requirements of the Habs Regs.

7.16 The Seaforth Nature Reserve is a Ramsar Site and Special Protection Area and as such is internationally important for nature conservation and is part of the Natura 2000 network of international nature sites.

~~Under the Habitats Regulations 2010 the Council has a duty to prevent adverse effects on the integrity of sites of international nature importance. As development at Seaforth will result in direct land take in relation to the Mersey Narrows and North Wirral Foreshore Special Protection Area and Ramsar site, along with other effects identified in the HRA of the Local Plan, adverse impacts cannot be ruled out at the Plan stage. As a result it will be necessary to consider alternatives and imperative reasons of overriding public interest (Regulation 62 of the Habitats Regulations) before considering compensation measures through Regulation 66 of the Habitats Regulations. Taking this into account policy ED1 outlines that planning permission will not be granted for port related development at Seaforth unless the necessary requirements of the Habitats Regulations can be met. A number of tests need to be satisfied, including demonstrating that there are no alternative solutions, that the development is needed for “imperative reasons of overriding public interest” and that appropriate compensatory habitat will be provided, and if necessary additional mitigation will be provided before development begins. Any compensatory habitat will have to have the same functions as would be lost at Seaforth Nature Reserve. An agreement will need to be in place, before development commences, to protect the adjacent internationally important sites at Crosby, including the Sefton Coast Special Area of Conservation (SAC), the Ribble & Alt Estuaries Special Protection Area (SPA) and Ramsar site and the Mersey Narrows and North Wirral Foreshore SPA and Ramsar site. Further detail is provided in the Habitats Regulations Assessment, which accompanies the Local Plan, including the Summary and Conclusions, set out in Section 11 of the report.~~

4) With respect to our advice on pink footed geese and functionally linked land we recommend an additional paragraph be added to the HRA before para 7.8 to explain the developing strategic solution which is being progressed, i.e.

The LPA is committed to preparing a Supplementary Planning Document to provide more detail on this issue. This includes a strategic solution to provide alternative feeding habitat for pink footed geese populations associated with the Ribble & Alt Estuaries SPA. In particularly it will cover the following:

(1) How habitat provision and site management could be delivered in order to maintain and enhance feeding habitat for pink footed geese, for example in, or offsite from allocations which are Green Belt sites and are supporting habitat for pink-footed goose:

(2) How deliver alternative feeding areas - Firstly applicants will consider options to secure mitigation areas on land in the control of the landowner or developer and land should be secured to provide feeding habitat for pink footed geese through amending farming practices (including no shooting within mitigation areas and amending crop types), arable revision and/or supplementary feeding

If a mitigation area(s) cannot be secured within the ownership of the development/landowner then land within the LCR Nature Improvement Area Focus Area should be considered as follows:

Use of the NIA focus areas to provide improved management and mitigation – usually by the developer or landowner leasing land to manage or managing it in agreement or partnership with the landowner using an agreed legal or financial mechanism. Benefit of a joint approach across the LCR to help meet development needs and HRA compliance land should be secured to provide feeding habitat for pink footed geese through: Amending farming practices (including no shooting within mitigation area and amending crop types), arable revision and/or supplementary feeding.

The LPA will work with Natural England on the scope and preparation of the SPD.

A summary this could also be included to the conclusion and summary section of the HRA as an area of work that is to be progressed further.

5) Additional wording could also be added to the supporting text of policy NH2 to explain that the HRA, particularly under para 7.8 (as detailed in the point above) provides further detail on the LPA's approach to dealing with the loss of functionally linked land used by pink footed geese options.

We hope the above is helpful, however should you have any queries please do not hesitate to contact me.

Kind regards,

Zoe

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Senior Adviser
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ED1 The Port and Maritime Zone

1. ~~D~~Significant development and re-structuring will be permitted in the Port and Maritime Zone (as shown on the Policy Map) including the expansion of the operational port area to the A565 (Derby Road, Rimrose Road and Crosby Road South). ~~Development that requires planning permission within this area (including any development of the Seaforth Nature Reserve) will be permitted~~ provided that the following criteria are met:

- a) The development is a port-related activity and does not prevent the comprehensive redevelopment of the area for such purposes;
- b) Buildings are suitably designed so that they integrate into and respect the surrounding natural, built and historic environment;
- c) Appropriate landscaping and/or screening and other forms of mitigation are provided to minimise the impact of the development on sites which abut the landward edge of the Port and Maritime Zone;
- d) The development is designed to encourage walking and cycling, and has incorporated, where possible, water and rail as alternatives to road transport; and
- e) Appropriate mitigation is included that ensures that impacts resulting from noise, dust, smells or other forms of pollution on the amenity of other occupiers within the area and on adjacent communities are mitigated and minimised.
- e)f) It can be demonstrated that there is no significant risk of any impact upon the important ecological interests of Seaforth Nature Reserve.

2. The expansion of the operational port area onto all or part of the Seaforth Nature Reserve will ~~only not~~ be permitted ~~provided that unless~~ the proposals:

- a) Demonstrate both that there are:
 - (i) ~~No~~ alternative sites available; and
 - (ii) ~~Establish~~ 'imperative reasons of overriding public interest' as to why the development should be permitted in this location; and subsequently; ; and are demonstrated, before;
- b) Provide ~~eing~~ suitable compensatory habitat and necessary mitigation for an appropriate period to end once monitoring confirms that the compensatory habitat is performing a function identical to that of Seaforth Nature Reserve; and
- b)c) Demonstrate that there are no likely significant effects on the Liverpool Bay Special Protection Area or other internationally important nature sites.

3. Improvements to access will be required to support the expansion of the Port. This may require a new road and /or substantial improvements to the surrounding highway network beyond the Port area, as well as other modes of transport.

4. Planning conditions and / or legal agreements will be used to ensure appropriate compensation, mitigation, infrastructure and appropriate local economic, environment and community benefits are secured and provided.

Policy links

- IN2 Transport
- NH2 Protection and enhancement of nature sites, priority habitats and species

National /regional context

- Liverpool City Region (LCR) Local Enterprise Partnership (LEP) Economic Priorities & LCR SuperPort Action Plan 2011-2020 and LCR Offshore Wind energy Hub and LCR Growth Deal
- The Access to the Port of Liverpool Study 2011

Explanation

Email attachment

- 7.13 When completed, the River Terminal will double the port's existing container capacity and make it one of the country's best equipped and connected terminals. There are a number of legal agreements in place to ensure the impacts arising from this development are mitigated.
- 7.14 The current road access to the Port is constrained due to traffic congestion at peak times and will need to be improved during the plan period. This road experiences repeated congestion especially during peak periods, and the area adjacent to the main entrance to the Port suffers from poor air quality. It is recognised that major road improvements to facilitate port access will be required in the long term. However, no specific proposal has been confirmed yet, so it can only be referred to in general terms in this Plan. Options are currently being assessed for feasibility, value for money and environmental and social impacts. All options being considered are located within Sefton.
- 7.15 In 2011, Peel Ports consulted on the draft Mersey Ports Master Plan which sets out its future development intentions. In addition to the Seaforth River Terminal, the proposals include an eastward expansion to the A565 in Bootle and Liverpool and development on the Seaforth Nature Reserve, part of which would provide a rail link to the new River Terminal. The former will require the relocation of a number of existing businesses, and this has been taken into account in the Council's Employment Land and Premises Study. As the latter is an internationally protected nature conservation site, 'appropriate assessment' under the Habitats Regulations will be required to agree what mitigation is needed before this area can be developed.
- 7.16 The Seaforth Nature Reserve is a Ramsar Site and Special Protection Area and as such is internationally important for nature conservation and is part of the Natura 2000 network of international nature sites. Under the Habitats Regulations 2010 the Council has a duty to prevent adverse effects on the integrity of sites of international nature importance. [This includes sites within, partly within or outside Sefton, such as Liverpool Bay Special Protection Area. As development at Seaforth will result in direct land take in relation to the Mersey Narrows and North Wirral Foreshore Special Protection Area and Ramsar site, along with other effects identified in the HRA of the Local Plan, adverse impacts cannot be ruled out at the Plan stage. As a result it will be necessary to consider alternatives and imperative reasons of overriding public interest before considering compensation measures \(Regulations 62 and 66 of the Habitats Regulations, respectively\). Accordingly the policy, especially section 2, is clear that planning permission will not be granted for port related development at Seaforth Nature Reserve unless the necessary requirements of the Habitats Regulations can be met. A number of tests need to be satisfied, including demonstrating that there are no alternative solutions, that the development is needed for "imperative reasons of overriding public interest" and that appropriate compensatory habitat will be provided, and if necessary additional mitigation will be provided before development begins.](#) Any compensatory habitat will have to have the same functions as would be lost at Seaforth Nature Reserve. An agreement will need to be in place, before development commences, to protect the adjacent internationally important sites at Crosby [and beyond](#), including the Sefton Coast Special Area of Conservation (SAC), ~~and~~ the Ribble & Alt Estuaries Special Protection Area (SPA) and Ramsar site [and Liverpool Bay SPA. This may include specific monitoring and/or mitigation or compensation. More information is set out in the Habitats Regulations Assessment of the Local Plan.](#)
- 7.17 Atlantic Gateway's Business Plan highlights the need for improvements to the environment of the area surrounding the Port. Many developments within the Port do not need planning permission (see Figure below). Where planning permission is required, the Council will use planning conditions to limit the effects of noise, dust, smells or other forms of pollution on local communities, and where possible seek local improvements to the environment. Where development does not require planning permission, the Council may still be able to address other impacts on local amenity by other legislation e.g. public health.

Port permitted development rights

Class B, Part 17 of the General Permitted Development Order 1995 (as amended)

Class B Dock, pier, harbour, water transport, canal or inland navigation undertakings

B. Permitted development

Development on operational land by statutory undertakers or their lessees in respect of dock, pier, harbour, water transport, or canal or inland navigation undertakings, required:

- a) for the purposes of shipping, or
- b) in connection with the embarking, disembarking, loading, discharging or transport of passengers, livestock or goods at a dock, pier or harbour, or with the movement of traffic by canal or inland navigation or by any railway forming part of the undertaking.

B.1 Development not permitted

Development is not permitted by Class B if it consists of or includes:

- a) the construction or erection of a hotel, or of a bridge or other building not required in connection with the handling of traffic,
- b) the construction or erection otherwise than wholly within the limits of a dock, pier or harbour of—
 - (i) an educational building, or
 - (ii) a car park, shop, restaurant, garage, petrol filling station or other building provided under transport legislation.