

M3. Does the *Habitat Regulations Assessment Update Report (NLP/CD/07)* meet the requirements of the *Conservation of Habitats and Species Regulations 2017* and relevant national policy and guidance? In particular:

a. Does it adequately address whether the Plan would adversely affect the integrity of European conservation sites either alone or in combination with other plans or projects?

3.1 Yes.

3.2 Chapters 5 to 12 of the London Plan Habitat Regulations Assessment (HRA) (latest version dated July 2018) examine the effects of the London Plan on the integrity of European sites. This is undertaken both 'alone' and by considering the effects of the London Plan 'in combination' with the key other plans and/or projects. In each chapter, effects 'in combination' with other plans and projects are discussed in a section headed 'Other Plans and Projects' (e.g. section 6.7). This includes those that will have a positive effect (notably the Mayor's Transport Strategy) and those that may have a negative effect. Where the effect in question is inherently 'in combination' the discussion is included in the main text of the chapter. For example, Section 7.5 discusses recreational pressure effects on Epping Forest SAC, not just from the London Plan alone but also from planned growth in Epping Forest District and other authority areas.

b. Has it taken sufficient account of relevant case law including *People Over Wind* and *Wealden*?

3.3 Yes.

3.4 Section 3.2.2 of the July 2018 HRA report discusses the implications of the *Wealden* judgment. That judgment essentially found fault with the approach Lewes District Council had taken to assessing the traffic-related air quality effects of their Joint Core Strategy because they had only looked at the implications of traffic arising from within Lewes District and had therefore not considered the implications 'in combination' with growth in surrounding districts. Section 3.2.2 of the July 2018 HRA of the London Plan confirms that because the draft London Plan is a strategic multi-authority plan the analysis presented (and the traffic modelling and air quality improvement measures underlying the Mayor's Transport Strategy and related strategies) covers all 32 London boroughs, and the City of London, collectively and is therefore 'in combination' by definition. As such, in combination effects from authorities across London have been considered, as have those adjoining London or otherwise relevant¹.

3.5 Section 1.2 of the July 2018 HRA discusses how the report has taken account of the *People Over Wind* ruling, specifically regarding the fact that since that ruling mitigation measures can only be taken into account at the Appropriate Assessment stage of HRA and can no longer be taken into account during the Likely Significant Effects test. In light of this ruling, a new HRA report has been created which contains a

¹ NLP/CD/07 AECOM, Habitats Regulation Assessment Update, July 2018 (Section 2.4.2)

specific Appropriate Assessment section that discusses the potential for adverse effects on integrity of European sites. The Appropriate Assessment is presented in sections 5 to 11 and section 12 concludes that the London Plan will not result in an adverse effect on the integrity of any European sites alone or in combination with other plans and projects.

c. Does the Plan incorporate any recommended mitigation measures or alternative solutions?

3.6 Section 10 of the HRA sets out the recommendations that were made, how the London Plan has responded to these and what paragraphs/policies of the document were amended as a result. The Plan has incorporated policies that ensure adverse effects on the integrity of European sites are avoided and appropriate mitigation measures are pursued, in line with the recommendations of the HRA as follows:

- Paragraph 2.1.31 of the draft Plan was amended to state that planning frameworks should include an assessment of any effects on the Epping Forest Special Area of Conservation and appropriate mitigation strategies.
- Paragraph 2.1.31 of the draft Plan was amended to state that the growth corridor planning framework ‘... *should also protect and improve sustainable access to the Lee Valley Regional Park and reservoirs*’.
- Paragraph 3.8.8 of the Plan regarding Policy D8 Tall buildings was amended to clarify that the list of environmental impacts in the policy is not exhaustive and consideration of other impacts such as disruption to birds’ flight lines may be required.
- Following correspondence with Natural England, after the updated HRA was published, a further change is proposed to the draft Plan as per the appendix:

Paragraph 4.1.8B H1 Housing Supply to acknowledge that if the implementation and monitoring of the mitigation strategy for Epping Forrest demonstrates an adverse impact from housing delivery, which cannot otherwise be mitigated, this will need to be considered as part of the next review of the Plan in relation to the SHLAA. (see Annex)
- Clause B, Part 5 of Policy G6 Biodiversity and access to nature was amended to reflect the legislative requirements of Appropriate Assessment.
- Clause BA was included to reference the need to demonstrate no suitable alternatives and Imperative Reasons of Overriding Public Interest (IROPI) as to why a proposal should be accepted.
- The supporting text in paragraph 8.6.1B, which provides more detail on Clause BA, was amended in the Minor Suggested Changes (MSC.8.52) to clarify the types of formal site designation and state the duty to consult Natural England on proposals that might affect these sites.

- The HRA recommended that Paragraph 10.4.1 of the Plan - associated with Policy T4 Assessing and Mitigation Transport Impacts - should be amended to include the following: *‘Consideration of the potential impacts on internationally important wildlife sites should also be appropriately assessed’*. Given that an appropriate assessment would necessarily be of a wider scope than purely looking at traffic impacts, this statement has been moved to supporting paragraph 8.6.1B of Policy G6 Biodiversity and access to nature. The proposed amended text is included in the appendix of this Matter.
- The HRA suggested that Clause C of Policy T8 Aviation is reworded to read *‘The environmental impacts of aviation must be fully and appropriately assessed and where there is no alternative solution or there are imperative reasons of overriding public interest, the aviation industry should fully meet any appropriate external and environmental costs particularly in respect of noise, air quality and climate change’*. This was suggested in order to ensure that, when evaluating proposals that impact on European sites, a judgement on ‘no alternative solution’ or ‘imperative reasons of overriding public interest’ should be made before considering how environmental damage might be addressed. In response to this, the appendix to this Matter contains a proposed change to Clause C which achieves the same effect as the HRA recommendation. The change separates a general point on aviation from the issue of airport expansion in order to highlight that any airport expansion scheme, which is likely to impact on European sites, must first demonstrate ‘no alternative solution’ or ‘imperative reasons of overriding interest’.

3.7 The HRA did not recommend any alternative solutions.

Appendix – Further Suggested Changes to the London Plan

Change Ref No	Policy / para / table / map	Further Suggested Change
M3.1	Policy H1 Housing	<p>4.1.8B As identified in the Habitats Regulation Assessment, a mitigation strategy for Epping Forest Special Area of Conservation (SAC) is being produced to respond to the impact of additional recreational pressure and air pollution from nearby authorities, including some London boroughs. Should monitoring and evidence demonstrate adverse impacts on the SAC associated with development from London and following the implementation of the mitigation strategy, this will be considered as part of assessing whether a review of the London Plan is required. The GLA will engage with the relevant stakeholders on the formulation and delivery of the mitigation strategy.</p>
M3.2	Policy G6 Biodiversity and access to nature	<p>8.6.1B Sites with a formal European or national designation (including Special Protection Areas, Special Areas of Conservation, Sites of special scientific Interest, National Nature Reserves and Local Reserves) are protected by legislation—are legal provisions, which ensures these sites are not harmed by development. There is a duty to consult Natural England on proposals that might affect these sites, and undertake an appropriate assessment of the potential impacts on European sites if a plan or project is likely to have a significant effect on the integrity of a European site.</p>
M3.3	Policy T8 Aviation	<p>C) The environmental and health impacts of aviation must be fully acknowledged and the aviation industry should fully meet its external and environmental costs particularly in respect of noise, air quality and climate change. ; aAny airport expansion scheme must be appropriately assessed and if required demonstrate that there is an overriding public interest or no suitable alternative solution with fewer environmental impacts.</p>