

Statement of Common Ground between Lichfield District Council and Natural England

Lichfield District Local Plan 2040

July 2022

# Statement of Common Ground (SoCG) between Lichfield District Council (LDC) and Natural England

## Introduction

1. This Statement of Common Ground (SoCG) has been prepared by Lichfield District Council (LDC) and Natural England, hereafter referred to as “the parties” to inform the submission of the Lichfield Local Plan 2040.
2. This SoCG has been prepared in accordance with national guidance and is intended to cover matters of strategic importance relevant to the parties. It documents those matters agreed by the parties regarding the Lichfield Local Plan 2040 and any areas which remain subject to further discussion and therefore will be updated accordingly. This Statement of Common Ground covers the following matters:
* Minor policy wording changes
* Cannock Chase SAC Visitor Impacts
* Cannock Chase SAC Air Quality
* River Mease SAC
* Soils
* Other policy wording changes
1. It is acknowledged that Lichfield District Council published consultation material and invited comments relating to its Local Plan 2040 process at the following stages:
	* Scope, Issues and Options – April and June 2018
	* Preferred Options and Policy Directions – January and March 2020
	* Preferred Options – November 2019 and January 2020
	* Publication Version – July and August 2021
2. At each stage Natural England have been consulted on these documented and responded as they considered appropriate.

## Geography covered by Statement of Common Ground

1. This SoCG covers the Local Planning Authority area of Lichfield District Council.

## Key Strategic Matters

1. The parties have had on-going dialogue on planning issues over the course of many years, discussing a broad range of planning issues including strategic matters. These discussions have informed the development of adopted plans and other related documents.
2. The following issues are considered to be the key strategic matters with regards to on-going plan making. Both parties are committed to further dialogue moving forward, not just limited to the periods of plan preparation.

##  Policy Wording

1. Natural England in their representations to the Local Plan 2040 have requested amendments to the wording of several policies. Several of these proposed changes were minor amendments in order for the policies to be compliant with the National Planning Policy Framework (NPPF). LDC has reviewed these proposed changes within the representations made by Natural England accordingly and has proposed minor changes through appendix B of the cabinet report consider at the meeting of the 10th May 2022. The below schedule of modifications is provided in the table below.

**Table 1: Proposed Modifications**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Modification Number | Source of Modification | Page number | Proposed change | Reason |
| 23 | Natural England | 93 | *Modify the text of the fifth paragraph of Strategic Policy 15 as follows****:***All designated sites **(i.e. international/ European, national and locally designated sites)** and non-designated priority habitats, together with historic landscapes and townscapes, will be protected from damage as a result of development or poor management, and enhanced where appropriate. Opportunities for the interpretation of natural resources will also be supported and encouraged. | To ensure policy is compliant with NPPF |
| 24 | Natural England | 94 | *Modify the text of paragraph 10.5 as follows:* Designated sites include; **Special Areas of Conservation (SAC);** Sites of Specific Scientific Interest (SSSI); Sites of Biological Importance (SBI); and Local Geological Sites | To reflect hierarchy of designated sites and ensure compliance with Paragraph 175 of the NPPF. |
| 25 | Natural England | 97 | *Modify the text of paragraph 10.12 as follows:*In addition to policies in national guidance proposals should particularly seek to contribute towards to UK priority habitats and species in Lichfield District and any additional Staffordshire or National Forest BAP species. Development proposals should be accompanied by sufficient information to assess the effects of development on protected sites, species, biodiversity or geology, this should take into consideration indirect effects including climate change and changes in hydrology. **The Council will determined applications having regard to the mitigation hierarchy set out at paragraph 180 of the NPPF.** | To ensure compliance with Paragraph 180a) NPPF. |

### Cannock Chase Special Area of Conservation (SAC) and Visitor Impact

1. Lichfield District Council are members of the Cannock Chase SAC Partnership alongside other competent Local Planning Authorities and stakeholders and are committed to continue working together in partnership. Natural England attend the partnership as a stakeholder in an advisory capacity.
2. The Cannock Chase partnership competent authorities recognise there is strong evidence that additional development is likely to result in increased visitor numbers with associated physical impacts / potential harm from activities such as from walking, cycling and other leisure activities. In the Planning Evidence base Reviews data on visitor numbers in 2012 and updated in 2018 indicated that a high proportion of visitors are likely to come from residential and other types of accommodation within 15km of the SAC and three quarters of the visitors from within the 15km zone were likely to be from within 8km of the SAC. The evidence base report at that time recommended a tariff charge per dwelling be required on all new residential and other forms of accommodation development to fund a package of mitigation measures in order to provide a simplified system for development to comply with HRA requirements. Accordingly, a memorandum of understanding and charging schedule signed by LDC and other competent authorities was agreed in 2015. In accordance with this work, LDC through the use of Section 106 unilateral undertakings and Community Infrastructure Levy has collected monies from development approved within 8km of the SAC towards a package of costed mitigation measures to be delivered.
3. In 2021 the CCSAC partnership updated its evidence base. This updated evidence base report recommended that in order for future development to be compliant with the requirements of the Habitat Regulations, the tariff per dwelling should be increased and that the charging area should be simplified and expanded to 15km. LDC alongside other competent authorities of the partnership have now signed an updated Memorandum of understanding. Since 1st April 2022, LDC have required all new housing and other accommodation development within 15km of the SAC to contribute towards a further package of costed mitigation measures. This mitigation tariff currently includes financial contributions from Walsall Metropolitan Borough Council. At point of writing this SoCG, Walsall Metropolitan Borough Council (WMBC), who are not currently a SAC partner, but whom are now included within the 15km zone from the SAC have not made a decision to join the MoU. While NE waits for WMBC to confirm their position with regard to supporting the financial arrangements outlined above, Natural England remains supportive of the SAC Partnership approach and agree that LDC is compliant with its competent authority HRA requirements in this respect. If WMBC do not sign up to the Financial Arrangements then this will necessitate NE to review the current arrangements above, especially if it results in a financial shortfall so that there are not sufficient funds to cover the costed mitigation measures.

### Cannock Chase Special Area of Conservation (SAC) and Air Quality Issues

1. NE has raised concern that there is insufficient evidence as referenced in the HRA to rule out the potential for harm from development in the Local Plan. This is due to air quality impacts on the SAC habitat due to the potential for increased NOX emissions ammonia emissions and nutrient nitrogen deposition from proposed development. Currently NOx concentrations are below the threshold for concern, but ammonia concentrations and total nitrogen deposition (which is derived from both NOx and ammonia) are above the threshold of concern.
2. Since 2019 when the above concerns in relation to NOx were identified, the CC SAC partnership has been focused on the impact that NOx emissions (and their contribution to nutrient nitrogen deposition) could have on the CCSAC designation up until 2050. There is the potential most particularly until petrol driven cars are phased out that increased development with the resultant increase in vehicular numbers has the potential to harm the CCSAC. The CCSAC partnership has proposed to Natural England through correspondence in May 2020 a strategic solution to the Nitrogen issue. ‘A road map to a mitigation scheme’. Natural England whilst supportive of the measures the Partnership proposed to undertake in order to develop a Strategic Nitrogen Action Plan (SNAP) were of the view in their response February 2021 they could not provide an assurance that they will not object to any Local Plan for the 3 year ‘grace’ period needed to implement the ‘road map’ due to issues relating to increased nitrogen deposition on European Sites. Whilst agreement has therefore not been reached between LDC / CCSAC partnership and NE on a way forward, evidence base collection has been undertaken to commence the ‘road map approach’. Whilst data collection and some work progression has been delayed by the Covid pandemic, data on NOx concentrations at appropriate locations has been collected since September 2020. Natural England have reviewed the data collected to date (alongside modelling predictions on the Air Pollution Information System) and are content that the NOx concentrations shown at the air quality collection points has not reached threshold for concern. Further work is required to ascertain the contribution of NOx emissions to total nutrient nitrogen deposition at the CCSAC.
3. It is appreciated that further understanding may be needed to establish if NOx emissions will remain under threshold once the proposed allocations in competent authority plans are factored in alongside proposals with consent or allocation in adopted local plans based on the precautionary principle. It is recognised by both parties that transport modelling and subsequent air quality evidence will be needed to establish this position having regard to guidance on HRA NE Guidance NEA001. This position is unlikely to be reached by the commissioning and preparation of evidence by the CCSAC partnership before Local Plans are required by the government to be in place by December 2023 nor in time for the Lichfield Local Plan Examination in Public anticipated for the Autumn of 2022. Accordingly, it is recognised that NE and LDC will need to work together on agreeing an appropriate approach for Lichfield to progress its plan as required. It is recognised that the Strategic allocations within the Local Plan that are within 15km of the CCSAC are not anticipated to commence until 2027 based on the Council’s housing trajectory allowing time for the road map to be implemented and appropriate mitigation to be developed (should it be needed) by the partnership is part of this consideration. Both parties are committed to finding an approach to allow the LDC Local Plan 2040 to progress to adoption having regard to this issue.
4. In relation to Ammonia levels at the Cannock Chase SAC, this issue has only been identified more recently. As a result, air quality data has been collected at appropriate locations by the Cannock Chase SAC partnership since June 2021. Initial results indicate that ammonia concentrations are significantly above the threshold for concern and indeed are higher than the modelled predictions on the Air Pollution Information System. However, it is recognised that at least a year’s worth of data collection is required in order to be considered robust. Although vehicles do emit ammonia, agriculture (e.g. livestock and fertiliser) is the predominant source. It is considered by both parties that future housing development and any increased traffic levels as a result of proposed residential development allocated in the Local Plan 2040 is unlikely to make a significant contribution towards high levels of Ammonia within the Cannock Chase SAC and therefore mitigation from residential development could not be justified in relation to ammonia levels. Further work is required to ascertain the contribution of ammonia emissions to total nutrient nitrogen deposition at the CCSAC.
5. The parties will continue to work together and resolve any issues relating to air quality and the Cannock Chase SAC in the run up to and during the Examination in Public.

### River Mease Special Area of Conservation (SAC)

1. Lichfield District Council and Natural England are members of the River Mease SAC partnership alongside other Local Planning Authorities (North west Leicestershire & South Derbyshire and other stakeholders (Water companies, Environment Agency and Natural England). The partnership is focussed on delivering mitigation via phosphate reduction within the river catchment to improve water quality. The river catchment area that lies within the Lichfield district is relatively rural and no significant levels of housing are allocated within the Mease Catchment area. As a result, to date, it has only been small scale housing proposals within the catchment area which have had to take steps to mitigate impact. This has largely involved following standard advice for such small scale development. Larger scale housing development is proposed in neighbouring local authorities. The Mease is affected by agricultural practices too. LDC recognises and supports mitigation projects within the part of the catchment that lies within its district boundary and across the wider catchment.
2. There have been two previous rounds of Developer Contributions collected in order to fund mitigation projects. Natural England is working with the local planning authorities on a proposal to introduce a revised Developer Contribution Scheme 3 (DCS3), which will be similar to previous schemes. This will also consider the recently issued guidance and approach on Nutrient Neutrality issued by NE. In the Interim, as the SAC is currently failing its conservation objectives for phosphate, bespoke mitigation (nutrient neutrality or equivalent) will be required if a project is proposed within the catchment in the absence of a functioning DCS.
3. The parties will continue to work together and resolve any issues relating to the River Mease SAC in the run up to and during the Examination in Public.

### Soils

1. Natural England have concerns that there is insufficient reference to the importance of soils, their protection and also the avoidance of harm / loss on the best and most versatile land for the Local Plan 2040 to accord with para 174 of the NPPF.
2. Lichfield District Council acknowledge the importance of soils and the importance of the best and most versatile land being protected from harm by development. Strategic Policy 10 currently references that development should prevent the contamination of soil and safeguard high quality agricultural land. LDC recognises that this policy wording regarding safeguarding could be strengthened by specific reference to safeguarding the best and most versatile land and defining it in the glossary. LDC also recognise the importance of preventing soil sealing in construction, avoidance of soil disturbance in environmentally sensitive areas and ensuring soils are conserved and managed. Accordingly, it is proposed to add this reference in addition to the wording already provided in relation to preventing contamination. LDC also will include additional wording and links in the supporting text signposting to agricultural land classification and best and most versatile land.

## Signatures

We confirm that the information in this Statement of Common Ground reflects the joint working to address identified strategic matters that has been undertaken between Lichfield District Council and Natural England. The parties will continue to work together to address cross-boundary and strategic issues.

**Lichfield District Council**

**Name:**

**Position:**

**Signature:**

**Date:**

**Natural England**

**Name:**

**Position:**

**Signature:**

**Date:**

Appendix 1

|  |  |  |  |
| --- | --- | --- | --- |
| Source of Modification | Page number | Suggested change | Reason |
| Natural England | 95 and 96 | No wording or amendments provided but recommend that policies are consistent in approach.Remove “where this accords with other policies in the local plan” from Local Policy NR1: Countryside Management and Local Policy NR2: Habitats and Biodiversity. | Inconsistency in approach.Conflict between policies where some make specific reference to “according with other policies in the local plan” where others do not include the same reference. |
| Natural England | 65 | Modify the last paragraph of Strategic Policy NR9: Water Quality as follows:“Further site-specific analysis of any development proposals located in proximity or upstream of European/ International sites and SSSIs will be required before development commences” | To include full hierarchy of designated sites. |
| Natural England | 67 | Strengthen policy SP10 in relation to soils by specific reference to avoiding soil sealing and the disturbance of soils in construction and development to avoid soil disturbance in areas of high environmental value.Insert text to state:“safeguard best and most versatile land, avoid ‘soil sealing’ during construction and avoid soil disturbance in area of high environmental value.”Supporting text at para 7.9 to reference links to Agricultural Land Classification Best and Most Versatile mapping data.  | To align with requirements in the NPPF and for clarity  |
| Natural England | 100 | Add “Midlands Heathland Heartland” to the list in paragraph 3 of Policy NR4: Linked habitats, connectivity and green infrastructure | Midlands Heathland Heartland project will link and buffer existing sites while creating a network of further complementary habitats, while also providing new public access and recreational opportunities and health benefits |
| Natural England | 115 | Inset text to para 12.21 to reference “Value in its own right including Stowe Pool and Walk Mill Clay Pit Site of Special Scientific Interest (SSSI)”  | Stowe Pool and Walk Mill Clay Pit Site of Special Scientific Interest (SSSI) is located within the City Centre |
| Natural England | 119 | Suggest inserting wording into the supporting text for Burntwood section wording advising that reference to “the proximity of Chasewater” and “The Southern Staffordshire Coalfield Heaths SSSI and Gentleshaw Common SSSI” supports Local Policy B1: Burntwood environment | The Southern Staffordshire Coalfield Heaths SSSI and Gentleshaw Common SSSI are adjacent to Burntwood. |
| Natural England | 189 | No definition of best and most versatile land defined in the glossary | Define best and most versatile land in accordance with Natural England's Technical Information Note 049 on Agricultural Land Classification (ALC) |