

## **Matter 5 Site Specific Issues**

### **2. Sherwood Area**

**(24) Do the policies include adequate and appropriate safeguards with regard to the potential effects of development on flooding, biodiversity and local amenity?**

**2.1** Development of the following sites Ra/MU/1 and OB/E/3 & EPP will have a detrimental impact on two Local Wildlife Sites (LWS). The sites in question are Rainworth Dismantled Railway Local Wildlife Site (LWS 5/284) and Boughton Scrub (Local Wildlife Site 2/773) and we therefore consider these sites inappropriate for development.

We would like to see more emphasis placed on avoidance of damage to Local Wildlife Sites rather than measures to mitigate and/or compensate for any detrimental impact on environmental features (please see above for further comments).

#### **Adequacy of safeguards with regard to the Sherwood Forest Regional Park**

**2.2** We would like to take this opportunity to emphasise that the proposals for mixed use and employment sites should take into consideration the Sherwood Forest Regional Park. The nature of the Regional Park, covering different districts, urban and rural areas and a range of land use types means that the planning system can play a significant role in coordination and strategic direction. If the Regional Park had no influence on the planning system, there would be a serious risk that the special character that the Regional Park was established to promote would be gradually eroded by inappropriate land use and development. In addition, there would be no mechanism to promote appropriate development to further the objectives of the Regional Park. The planning system therefore has a key role in maintaining the integrity of the Regional Park and in supporting its vision, aims and objectives which were agreed by the Regional Park Board earlier this year. The objectives are highlighted below (and the full document is appended as Annexe A to provide further information on the Regional Park):

- To manage, enhance and promote the landscape character of the Forest, including its biodiversity and geodiversity.
- To manage, enhance and promote the historic character of the Forest, its settlements, heritage assets and culture, including its industrial heritage.
- To promote sustainable leisure and tourism.
- To support agricultural diversification, woodland and rural economy uses which respect local character

The foregoing comments apply also to Issues numbers 22, and 27 as all fall partly or wholly within the boundary of the Regional Park.

### **2.3 Issues, 22, 24, 27 Adequacy of Safeguards with regard to the prospective Sherwood SPA**

In the context of the recent Public Inquiry into Veolia's application for planning permission for an Energy Recovery Facility at Rufford, an issue arose as to whether the substantial population of nightjar and woodlark in the Sherwood Forest area justify its classification as an Special Protection Area ("SPA") under the EU Birds Directive, or at least its identification as a potential SPA ("pSPA"). If Sherwood is to be treated as a pSPA, then it is Government policy (in PPS9 paragraph 6) that the potential site should be treated as if it had already been classified. This would have the result, in the case of applications in the vicinity of the pSPA, that the provisions of the Conservation of Habitats and Species Regulations 2010 (formerly the Conservation (Natural Habitats etc) Regulations 1994) would have to be applied.

In the case of the proposed Rufford ERF, the Inspector and Secretary of State have agreed that the principal criterion for SPA designation (that of population size in a national context) has been met, and that it is appropriate to treat the area as if it were a pSPA, until such time as JNCC publish the results of the current SPA review. Thus it is NWT's view that the Sherwood area is at least a pSPA, and we are therefore bound to advise any LPA to that effect. There is a 5km buffer zone around the combined Indicative Core Area and proposed International Bird Area, as agreed by NE, within which we believe the possible adverse effects of any development should be properly considered (the map of this is appended as Annexe B).

In this case it is for the Council, as Competent Authority, to decide whether or not you agree with NWT's view that the Sherwood Area is to be regarded as a pSPA, but clearly the Secretary of State's decision must be borne in mind in this context. If so (since this is clearly not a proposal directly connected with or necessary to the management of the pSPA) the initial question arising under Reg 61(1) of the 2010 Regulations is whether the proposed allocations are likely to have a significant effect on the pSPA (either alone or in combination with other plans or projects). This is a precautionary regime, and the European Court has held that a likely significant effect is one where there is a risk of its occurring which cannot be excluded on the basis of objective information.

In the case of the Rufford PI, the Secretary of State's determination on the pSPA issue has confirmed that it is appropriate under these circumstances to undertake a "shadow" appropriate assessment of any development where potential Likely Significant Effects have been identified. At a strategic planning stage, the potential for these Effects should also be considered. Natural England's guidance on the need for a "risk-based" approach to address the issue of the prospective SPA within the planning system is appended as Annexe C.

Yours sincerely,

#### **Original Document Signed**

Mark Speck  
Northern Conservation Officer  
Conservation Policy and Planning Team  
[mspeck@nottswt.co.uk](mailto:mspeck@nottswt.co.uk)