

F.A.O. Planning Policy Manager

Thank you for consulting Natural England on the Main Modifications for the Melton Local Plan. We have reviewed the latest version of the main modifications and we have no additional comments further to our previous comments emailed to you on 19 June 2018.

We note that this consultation includes an updated addendum of the HRA which is welcome. We concur with the conclusions of the HRA addendum that the Melton Local Plan together with the proposed Main Modifications is not likely to have adverse effects on the integrity of European sites, either alone or in-combination with other plans or projects, providing that the mitigation set out in the Local Plan is implemented.

We note that the HRA for the Melton Local Plan has been separated clearly into a screening stage and an appropriate assessment. The recent ruling from the CJEU would therefore be unlikely to change your HRA however I have included the following advice for your information:

Competent authorities undertaking HRAs should be aware of a recent ruling made by the Court of Justice of the European Union (the CJEU) on the interpretation of the Habitats Directive in the case of People Over Wind and Sweetman vs Coillte Teoranta (ref: C-323/17). The case relates to the treatment of mitigation measures at the screening stage of a HRA when deciding whether an appropriate assessment of a plan/project is required. The Court's Ruling goes against established practice in the UK that mitigation measures can, to a certain degree, be taken into account at the screening stage.

As a result, Natural England advises that any "embedded" mitigation relating to protected sites under the Habitat Regulations 2017 Regulation 63 (1) should no longer be considered at the screening stage, but taken forward and considered at the appropriate assessment stage to inform a decision as whether no adverse effect on site integrity can be ascertained. In light of the recent case law, any reliance on measures intended to avoid or reduce harmful effects at the likely significant stage is vulnerable to legal challenge. You may also want to seek your own legal advice on any implications of this recent ruling for your decisions.

I hope this is of assistance to you.

Regards

Roslyn Deeming

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