

Part B – Please use a separate sheet for each representation

Name or Organisation: **NATURAL ENGLAND**

3. To which part of the Local Plan does this representation relate?

Paragraph		Policy	Delivery Policy ES6 - Providing for biodiversity and geodiversity	Policies Map	
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4. Do you consider the Local Plan is :

4.(1) Legally compliant	Yes	✓	No	
4.(2) Sound	Yes	✓	No	
4.(3) Complies with the Duty to co-operate	Yes	✓	No	

Please tick as appropriate

5. Please give details of why you consider the Local Plan is not legally compliant or is unsound or fails to comply with the duty to co-operate. Please be as precise as possible.

If you wish to support the legal compliance or soundness of the Local Plan or its compliance with the duty to co-operate, please also use this box to set out your comments.

We welcome this policy. In order to strengthen it we recommend that the following details are addressed:

Habitats sites

- (i) The reference to 'alternative to the development' here is misleading and may be open to challenge. This relates to Stage 3 of the HRA process i.e. 'Alternative Solutions – deciding whether there are alternative solutions which would avoid or have a lesser effect on the European Site'. The distinction between this and an 'alternative to the development' should be recognised.
- (ii) 'coherence' of the site(s) – this relates to stage 4 of the HRA process i.e. 'Imperative reasons of overriding public interest (IROPI) and compensatory measures'. The text should refer to the 'overall coherence of the National Sites Network'.

Para 6.54 – 'Habitats sites' & Para 8.11 (Conclusions) of the Sustainability Appraisal

These paragraphs overlook the HRA report's conclusion that an update/review of the respective, existing mitigation strategies for the Rodborough Common SAC and Severn Estuary SAC/SPA and Ramsar Site is needed in order to ascertain the absence of adverse effects on the integrity of these European or Habitats Sites. We have discussed this with the Council in our most recent conversation and understand that steps are being taken to carry out these updates before the examination stage of the plan. On this basis we regard the plan to be legally compliant regarding HRA.

The paragraph continues regarding the Cotswold Beechwoods SAC, as follows:

*"Where, instead of a bespoke solution, provision is made for contributions to be paid and pooled towards implementing the Avoidance and Mitigation Strategy (upon which Natural England has been consulted), the District Council will not require an **Appropriate Assessment** of the planning application". (our emphasis)*

The current wording needs further consideration and we offer an alternative (please see box 6) that reflects the following comments:

The Council is the competent authority under the Habitats Regulations and is itself required to carry out HRA. Applicants are obliged to provide suitable information to inform the Council's HRA and in some cases, such as for large developments, applicants may choose to submit a 'Shadow' HRA of their own to inform the Council's assessment of the proposal. As a result, where a contribution to the Avoidance and Mitigation Strategy is secured HRA will still be needed but the development management process involved should be significantly streamlined. Final details of the strategic mitigation arrangements will need to await discussion by the collaborating LPAs and agreement over shared, key features of the strategic mitigation measures. Based on experience with other strategic solutions Natural England expects that this will allow the Council as LPA to draw up a standardised approach to HRA of applications conforming to this 'developer contribution only' scenario. In these circumstances the applicant will not be required to submit further information to the LPA in order to inform the Council's HRA.

(Continue on a separate sheet /expand box if necessary)

6. Please set out the modification(s) you consider necessary to make the Local Plan legally compliant and sound, in respect of any legal compliance or soundness matters you have identified at 5 above. (Please note that non-compliance with the duty to co-operate is incapable of modification at examination). You will need to say why each modification will make the Local Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

ES6 – Revised text proposed:

- a. There are no alternative solutions.
- c. Appropriate compensatory provision can be secured to ensure that the overall coherence of the National Site Network is protected and enhanced.

Cotswold Beechwoods SAC mitigation - Revised text proposed:

New – ‘the District Council will not require further information to inform Habitats Regulations Assessment (HRA) of the planning application’.

(Continue on a separate sheet /expand box if necessary)

Please note In your representation you should provide succinctly all the evidence and supporting information necessary to support your representation and your suggested modification(s). You should not assume that you will have a further opportunity to make submissions.

After this stage, further submissions may only be made if invited by the Inspector, based on the matters and issues he or she identifies for examination.

7. If your representation is seeking a modification to the plan, do you consider it necessary to participate in examination hearing session(s)?

No, I do not wish to participate in hearing session(s)

Yes, I wish to participate in hearing session(s)

Please note that while this will provide an initial indication of your wish to participate in hearing session(s), you may be asked at a later point to confirm your request to participate.

8. If you wish to participate in the hearing session(s), please outline why you consider this to be necessary:

N/a

Please note the Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate in hearing session(s). You may be asked to confirm your wish to participate when the Inspector has identified the matters and issues for examination.