



The Planning Inspectorate

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Natural England

Your Ref:

Our Ref: APP/W4325/W/22/3313729

Further appeal references at foot of letter

22 May 2023

Dear Sir/Madam,

Town and Country Planning Act 1990
Appeals by Leverhulme Estates Ltd.

Site Addresses: Land west of Barnston, Barnston, Wirral, CH61 9NA and Land east of Glenwood Drive, Irby, Wirral, CH61 3XA and Land east of Dale View

I am writing to you in regard to the appeals listed below:

- Site A) Land east of Glenwood Drive, Irby – up to 290 units - LPA Ref: OUT/22/00946, Appeal Ref: APP/W4325/W/22/3313729
- Site B) Land east of Dale View Close, north of Gills Lane, Pensby - up to 92 units - LPA Ref: OUT/22/00941, Appeal Ref: APP/W4325/W/22/3313734
- Site C) Land east of Thorncroft Drive, north of Gills Lane, Pensby – up to 15 units - LPA Ref: OUT/22/00942, Appeal Ref: APP/W4325/W/22/3313737
- Site D) Land west of Barnston Road, north of Gills Lane, Pensby – up to 153 units - LPA Ref: OUT/22/00944, Appeal Ref: APP/W4325/W/22/3313741
- Site E) Land at Milner Road and Barnston Road, Heswall – up to 120 units - LPA Ref: OUT/22/00943, Appeal Ref: APP/W4325/W/22/3313743
- Site F) Land west of Raby Hall, Raby Hall Road, Raby Mere – up to 38 units - LPA Ref: OUT/22/00945, Appeal Ref: APP/W4325/W/22/3313775
- Site G) Land east of Raby Hall, Raby Hall Road, Raby Mere – up to 80 units - LPA Ref: OUT/22/00947, Appeal Ref: APP/W4325/W/22/3313777

Regulation 63 (3) of the Habitats Regulations 2017 requires that the competent authority must for the purposes of the assessment consult the appropriate nature conservation body and have regard to any representations made by that body within such reasonable time as the authority specifies.

Having had regard to the characteristics of the proposed developments, the Inspector considers that an appropriate assessment is necessary.

In order to seek your views as the appropriate nature conservation body as to the likely impact from the proposed development to the National Site Network on Wirral, including:

- The Dee Estuary / Aber Dyfrdwy SAC and SPA
- The Dee Estuary Ramsar
- Mersey Estuary Ramsar and SPA
- Mersey Narrows & North Wirral Foreshore Ramsar and SPA
- Liverpool Bay / Bae Lerpwl SPA

and their qualifying features. The Inspector seeks your views on the following:

1. Is Natural England content that the measure set out in the Wirral Interim Approach (Wirral IA) are sufficient to avoid an adverse impact to the integrity of the National Site Network and relevant features? If you are not content, then please specify your reasons and provide details of any additional measures you consider are necessary.
2. The proposed tariff payments and measures will be secured by way of the Wirral IA. Can Natural England confirm if it is content that this adequately secures the deliverability of the measures.
3. Any other relevant matters that you wish to make.

I attach a letter produced for the Inspector by the Local Planning Authority's ecological advisor, MEAS. The inquiry website is here: <https://www.hwa.uk.com/projects/leverhulme-inquiry/>

There are shadow HRA assessments, under the Core Documents List, for each appeal but they take account of the now withdrawn application/appeal for a Suitable Alternative Natural Greenspace.

The deadline for your consultation response is 5 June 2023. Your response should be sent electronically both to:

- leanne.palmer@planninginspectorate.gov.uk
- Inquiry@programmeofficers.co.uk

Yours faithfully,

Leanne Palmer

Leanne Palmer

<https://www.gov.uk/government/publications/planning-inspectorate-privacy-notice>

Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through GOV.UK. The address of the search page is - <https://www.gov.uk/appeal-planning-inspectorate>

Linked cases: APP/W4325/W/22/3313726, APP/W4325/W/22/3313734, APP/W4325/W/22/3313737, APP/W4325/W/22/3313741, APP/W4325/W/22/3313743, APP/W4325/W/22/3313775, APP/W4325/W/22/3313777

Habitats Regulations Assessment matters - Planning Inspector Briefing Note.

**Prepared for Wirral Borough Council (WBC) by Dr Alan Jemmett, MBA, MCIEEM,
Merseyside Environmental Advisory Servicer (MEAS) Director**

16 May 2023 Version 1

- **Site A) Land east of Glenwood Drive, Irby – up to 290 units**
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LPA Ref: OUT/22/00947, Appeal Ref: APP/W4325/W/22/3313777
- **SANG) Land west of Barnston Road, Barnston [now withdrawn]**
LPA Ref: APP/22/01502, Appeal Ref: APP/W4325/W/22/3313726

Purpose:

The purpose of this Briefing Note is to provide the Planning Inspector with information from WBC, advised by MEAS, to assist in considering Habitats Regulations Assessment (HRA) matters, since the Appellant has formally withdrawn the application Site H SANG, Land west of Barnston Road, Barnston.

Current status:

Prior to the Appeal, WBC as the Competent Authority in respect of the Habitats Regulations, advised by MEAS, identified the regulation compliance issue of alone and in-combination recreation pressure effects from the proposed seven residential developments on the National Site Network (formerly European sites) on Wirral. The Ecology Proof of Evidence

provided the background, including timeline, evidence and assessments and the unresolved issues pertaining to complying with the requirements of the Habitats Regulations for all seven residential applications.

WBC was unable to complete the stage 2 HRA (Appropriate Assessment, Test of Integrity) of the Habitats Regulations due to insufficient environmental information being submitted by the Appellant prior to determination despite submitting Stage 1 shadow HRAs (Test of Likely Significant Effects). WBC, MEAS and the Appellant agreed that likely significant effects could not be discounted. Therefore, the HRA should progress to Stage 2, Appropriate Assessment.

The draft Statement of Common Ground (SOCG) on Ecology and Biodiversity between the Appellant, WBC and MEAS and correspondence from the Appellant clearly identify, to comply with the Habitats Regulations for recreation pressure effects alone and in combination, confirms that the Appellant has agreed to opt-into the full tariff payments set out in the Wirral Interim Approach (Wirral IA).

The current status of the HRA is as follows:

- (i) the Stage 2 shadow HRAs (submitted to the Council 30 March 2023) do not take account of the withdrawal of the SANG now that the Appellant has agreed to opting into the Wirral IA.
- (ii) consultation is necessary with Natural England on the Stage 2 HRA.
- (iii) WBC is seeking to provide information to assist the Planning Inspector to enable her to provide advice to the Secretary of State, as Competent Authority, on Stage 2 HRA matters and undertake the required consultations.

HRA Briefing Information for the Planning Inspector from WBC and MEAS:

WBC and MEAS wish to draw the following matters to the attention of the Inspector and would be pleased to assist and provide further information upon request.

HRA Matter 1

WBC consider that the Appellant is required to provide PINS with sufficient information to enable the HRAs for each residential development to be completed. As this requires mitigation measures to be considered because likely significant effects are not discounted, a Stage 2 Appropriate Assessment is required to be undertaken for each residential planning application, Appeal sites A to G inclusive.

WBC consider it reasonable to expect the Appellant to update its shadow HRA Appropriate Assessment reports (sHRAs) to take account of the recent change in circumstances. WBC and MEAS has encouraged the Appellant to update the shadow HRA, and this is referred to in the draft SOCG (version 2, 15-05-23) that is currently in discussion.

HRA Matter 2

WBC wishes to provide sufficient information to the Planning Inspector to assist in completing the Stage 2 HRA (Appropriate Assessment) and in particular, provide sufficient information on compliance with the Wirral IA. In particular, WBC, advised by MEAS, is able

to provide additional information on implementation of mitigation measures paid for via the tariff per dwelling, for compliance with the Wirral IA.

The following information is drawn to the attention of the Inspector:

- 2.1 – Mitigation tariff payment, index linked, to be provided on commencement of each development.
- 2.2 - A detailed schedule of measures is identified, based on the Wirral IA, for the purpose of mitigating recreation pressure. The purpose of the mitigation measures is to protect sites and sensitive ecological features from increased recreation pressure, on:
 - 2.2.1 – National Site network locations as SAMMs;
 - 2.2.2 – Arrowe Country Park SANG, informed by the further detailed work already undertaken by MEAS, integrated with the Country Park Management Plan. Appendix 1, summarises these measures that will be implemented through an adaptive and phased delivery plan; and
 - 2.2.3 – Associated greenspaces, connecting footpaths and accessible routes and, sites of nature conservation importance;
 - 2.2.4 – Monitoring, reporting and evaluation of effectiveness of mitigation measures implemented.
 - 2.2.5 – Certainty that mitigation measures will be delivered via planning conditions and normal planning controls such as Landscape and Ecological Management Plan (LEMP), planning obligation, unilateral undertakings, Section 106 agreement as appropriate.

HRA Matter 3

The integrated package of mitigation measures, developed as a strategic response to the issue of recreation pressure, are an adaptive package of measures. Being adaptive, they are responsive to changes to the pressures and effects on the designated sites and green and open space and will be adjusted over time. This is necessary for:

- 3.1 - for the measures to be effective and is an approach that is in line with established national practice to mitigate recreation pressure;
- 3.2 – to take account of the spatial location of housing development and proximity to the coast and mitigation locations;
- 3.3 – for phasing of housing delivery; and
- 3.4 – to response to changes in site conditions, sensitivity and vulnerability of ecological receptors.

HRA Matter 4

In the eventuality that the Appeal(s) are allowed, considering that it is certain there will be a passage of time between the Planning Inspector report, reserved matters application and commencement of development, it is highly likely that the Wirral IA will have been

superseded. Currently the RMS is timetable for completion in February 2024. The following matters are drawn to the attention of the Inspector:

4.1 - the mitigation tariff amount in force at the time of commencement will be paid;

4.2 – the integrated package of mitigation measures referred to in 3.2.1, 3.2.2 and 3.2.3 is likely to have been updated.

4.3 – the evidence base upon which the RMS will be based will have been updated including phased housing delivery baseline in Local Plans and the spatial pattern of those developments, the April 2023 Visitor Survey data and integrated package of mitigation measures; and

4.4 – that a consistent set of principles to mitigate recreation pressure is followed for the RMS is entirely consistent with the Wirral IA and many adopted RMS's across England. WBC is happy to provide the Inspector with examples.

Should additional information be helpful to inform the HRA for the Competent Authority, WBC and MEAS is happy to assist.