Matter 1 – Legal and Procedural Requirements

Matter Statement by Kettering Borough Council

September 2020
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1. Introduction

1.1. This statement sets out the Council's response to Matter 1: Legal and Procedural Requirements, questions 1 – 11, in respect of the following issues:

- Has the Plan been prepared with due regard to the appropriate procedures and regulations?
- Has the Duty to Co-operate (DtC) on strategic matters been satisfied?

1.2. The statement also addresses any representations which the Council considers are of particular significance or concern, where this is the case the relevant respondent number and comment id are provided.

1.3. All documents referred to in this statement are listed in Appendix 1, submission document numbers are provided throughout where applicable.

2. Matter 1 – Question 1: Has the Plan been prepared in accordance with the DtC? (See Initial Question 4 and the Council's response)

2.1. This response should be read alongside the Council's response to question 4 of the Inspector's Initial Questions which is set out in EXAM2.

2.2. As set out in the Council's response to the Inspector's Initial Questions, EXAM2, the Council does not consider that the Kettering Borough Site Specific Part 2 Local Plan (SSP2) (PKB1) addresses any strategic matters and therefore the Duty to Cooperate on strategic matters that cross administrative boundaries has not been engaged.

2.3. The Council's response to the Inspector's Initial Questions details the work undertaken in relation to the Duty to Cooperate through the preparation of the JCS. The response then goes on to discuss the continued engagement which has taken place through the preparation of the SSP2.

2.4. The Council has engaged with statutory consultees and neighbouring authorities throughout the preparation of the SSP2, the detail of this is set out in the Regulation 22 Consultation Statement (CON1), this document details an extensive consultation process which included five formal public consultations, several informal focused consultations and on-going dialogue with key agencies and adjoining authorities. Paragraph 1.11 of CON1 sets out the on-going consultation with Duty to Cooperate bodies which has taken place through the preparation of the SSP2.

2.5. There were no specific objections received through the Publication Plan consultation in relation to the Duty to Cooperate from neighbouring authorities, this indicates that the Council has engaged with neighbouring authorities in a constructive manner.

3. Matter 1 – Question 2: Has the Plan had regard to the North Northamptonshire Joint Core Strategy (JCS)? (See Initial Question 5 and the Council’s response)
3.1. This response should be read alongside the Council’s response to question 5 of the Inspector’s Initial Questions which is set out in EXAM2.

3.2. The Council considers that the SSP2 has had regard to the JCS and is sound in this respect. Paragraphs 1.2 and 1.3 of the SSP2 Publication Plan (PKB1) set out the relationship between the JCS and the SSP2.

3.3. Section 2 of the SSP2, paragraphs 2.12 to 2.13 set out the JCS vision and further refines this to provide a more locally specific vision for Kettering Borough. Paragraphs 2.14 and the subsequent paragraphs in this section set out the ten JCS Outcomes and identify how policies in the SSP2 will contribute towards the achievement of these outcomes. This provides a clear link between the JCS outcomes and the policies in the SSP2.

3.4. Section 3 of the plan ‘Location of Development’ clearly sets out the spatial strategy for development identified in the JCS and the further refinement which has been included in relation to the categorisation of villages in the SSP2 demonstrating that the SSP2 has had regard to the spatial strategy set out in the JCS.

3.5. Throughout the plan the SSP2 sets out the relevant policies in JCS and how these have been used to prepare the policies in the SSP2. For example, paragraphs 4.17 to 4.29 of the SSP2 address Housing Mix and Tenure, this section considers policies included in the JCS and sets out the areas where the SSP2 provides additional local detail.

3.6. The plan included policies to address the requirements identified in the JCS. For example, section 4 of the SSP2 sets out the JCS housing requirement and demonstrates how the SSP2 will ensure that these are met and section 6 of the plan includes Policy TCE2 which provides a criteria based policy to address the need identified in the JCS for a medium sized food store to serve the Rothwell/ Desborough area.

3.7. As set out in the Council’s response to the Inspector’s Initial Questions the North Northamptonshire Joint Planning and Delivery Unit (JPDU) submitted a representation on the Plan, respondent number 120, which confirms that the JPDU considers that the Plan is in conformity with the JCS.

3.8. The Council considers that the SSP2 has regard to the JCS and that the SSP2 is in accordance with the JCS.

4. Matter 1 – Question 3: Does the content and timescale for the preparation of the Plan accord with the latest version of the Local Development Scheme (LDS)? (See Initial Question 6 and the Council’s response)

4.1. The Council’s response to the Inspector’s Initial Questions set out that the Local Development Scheme needs to be updated and that this would be taken to the Council’s Planning Policy Committee meeting on 1st September 2020
and subsequently would be presented to Full Council on 23rd September for adoption.

4.2. At the 1st September Planning Policy Committee Members agreed the draft LDS and recommend to Full Council that the revised LDS be adopted. The LDS will be presented to Full Council on the 23rd September for adoption.

4.3. The content and timescale for the preparation of the Plan accord with the revised LDS.

5. Matter 1 – Question 4: Have the requirements for appropriate assessment under the Habitats Regulations been met? Have the results of the Habitats Regulation Assessment (HRA) been carried forward in the Plan? Are there outstanding objections from Natural England to the HRA or have these been addressed?

5.1. The requirements for appropriate assessment under the Habitats Regulations have been met. The plan is supported by a Habitat Regulations Assessment (HRA) which was prepared by Aecom who also produced the Sustainability Appraisal of the plan.

5.2. The Habitat Regulations Assessment (May 2020) (HRA1) which was submitted with the SSP2 (PKB1) sets out the regulatory requirements in paragraphs 1.5 to 1.9. Section 2 of the report sets out the methodology for carrying out the assessment, this section demonstrates how the regulatory requirements have been address through the preparation of the HRA.

5.3. The HRA concluded that the SSP2 would have no likely significant effects on the Upper Nene Valley Gravel Pits/ Ramsar site. The full conclusions are set out in section 6 of HRA1, no alterations to the plan were recommended.

5.4. Natural England had objected to the HRA, firstly though the consultation on the Publication Plan, this was the Habitat Regulations Assessment (December 2019) (HRA2). The HRA was subsequently updated and the Habitat Regulations Assessment - May 2020 (HRA1) sought to address the concerns raised by Natural England. As set out in the Council's response to the Inspector's Initial Questions, question 14, Natural England were consulted on the updated HRA and their response is attached at Appendix 3 of EXAM2. This letter recognised the additional work which had been undertaken but did not support the process undertaken for screening functionally linked land in the update and therefore Natural England did not agree the conclusion of no Likely Significant Effects to the Upper Nene Valley Gravel Pits SPA/ RAMSAR.

5.5. As set out in EXAM2, the Council carried out some further work to address the concerns raised in the letter and wrote to Natural England to provide them with additional information, this included additional local evidence and reference to bird records for the sites screened. A copy of this letter is attached at Appendix 2. Natural England has now responded to this letter by e-mail confirming that Natural England is satisfied that with the additional information in the letter
attached at Appendix 2, the SSP2 will have no likely significant effects on the Upper Nene Valley Gravel Pits SPA and Ramsar Site. A copy of this e-mail is attached at Appendix 3.

6. Matter 1 – Question 5: Has the Plan been subject to a Sustainability Appraisal (SA) and have the requirements for Strategic Environmental Assessment been met? Is it evident that reasonable alternatives have been considered and how the SA has influenced the Plan and dealt with mitigation measures? Are there any representations on the SA itself?

6.1. The SSP2 has been subject to Sustainability Appraisal (SA) and the requirements for Strategic Environmental Assessment have been met. The SSP2 is supported by a Sustainability Appraisal (SA1) which was prepared by Aecom who also prepared the HRA of the SSP2. The SA is accompanied by a Non-technical Summary (SA2).

6.2. Paragraph 1.2.1 of SA1 confirms that the SA has been undertaken in-line with the procedures prescribed by the Environmental Assessment of Plans and Programmes Regulations 2004, which transposed into national law the EU Directive 2001/42/EC on Strategic Environmental Assessment.

6.3. Section 3 of SA1 sets out the Scope of the SA, this details the key sustainability issues identified though the scoping exercise, and the SA framework which was originally developed by the North Northamptonshire Joint Planning Unit with the intention that it be used for all planning documents in the area.

6.4. Section 4 of SA1 details the SA work undertaken prior to the preparation of the SA report and described how alternatives have been appraised and how this has informed the preparation of the plan. It also sets out why alternatives have not been considers for other plan issues and details how the SA findings have influenced the development of policies in the Publication Plan.

6.5. SA has been used to inform the development of the plan throughout its preparation, earlier stages of appraisal process are set out in the following documents:

- Sustainability Appraisal Scoping Report (March 2009) (SA5)
- Site Specific Scoping Report Options Version (Summer 2011) (SA4)
- Interim Sustainability Appraisal Report (February 2012) (SA3)

6.6. It is evident through the SA1 that reasonable alternatives have been considered. Chapters 5, 6, 7, 8 and 9 consider alternatives for the following plan issues:

- The amount and distribution of housing and employment land;
- Housing in the rural areas;
- Site Options; and
- Other Plan Issues (i.e. policy approaches)
6.7. These chapters consider the context for plan preparation set out in the JCS, what reasonable alternatives there are, unreasonable alternatives and the reasons for selecting the preferred approach. Chapters 7 and 8 set out the approach to the consideration of reasonable alternatives for housing and employment sites and provide a summary of the site appraisals process.

6.8. The SA findings are set out in Part 2 of SA1, section 10.2 sets out the methodology for the appraisal. The appraisal is undertaken on a thematic basis and tables provide an appraisal of the SSP2 against the SA Framework. A summary of the effects is set out in section 11.6.

6.9. The SA of the SSP2 has been an iterative process, through this process mitigation and enhancements have been considered at different stages. As described in section 11.7 of the SA, through the site assessment process measures were identified to aid in mitigation and enhancement and draft versions of the policies were appraised through the SA and recommendations were made for improvements before the policies were finalised.

6.10. Table 11.1 of SA1 identified three additional measures identified through the last iteration of the assessment process for the Council to consider when finalising the plan. These related to polices KET4, GED2 and KET10. These changes were made to the Publication Plan before it was finalised and are addressed by criterion g of Policy KET4, criterion g of Policy GED2 and criterion i of KET10.

6.11. A representation was received from Natural England (representor number 49), comment Id 132, disagreeing with the score for biodiversity set out in table 11.6 of the SA, one of the reasons listed is that biodiversity net gain is not explicitly defined or committed to in the plan. The Council has responded to this comment in the ‘Regulation 20 Representations with Council’s response’, and set out that Policy 4 of the JCS requires a net gain in biodiversity and Policy 19 of the JCS a net gain in Green Infrastructure, Policy NEH2 also sets requirements for a net gain in Green Infrastructure, therefore the Council considers that the score for biodiversity is appropriate.

6.12. A representation was received from Gladman Land (representor number 70) comment Id 174 which sets out that the Council has not considered land at Braybrooke Road as a reasonable alternative and the SA fails to explain why this site has not been considered as a reasonable alternative. It also considers that the SA should be revisited to test the plans ability to deliver an increased buffer of sites. The Council has responded to this representation in the ‘Regulation 20 Representations with Council’s response’. The response sets out that the Council considers that the SA clearly sets out why it is not considered reasonable to increase the flexibility allowance above 10%, paragraph 5.3.7 of SA1 addresses this, in addition to this the Housing Land Supply Background Paper - October 2019 (HOU5) provides further justification for the approach taken to the flexibility allowance. In Desborough both housing allocations included in the SSP2 have planning permission. The Housing Land Supply Background Paper provides detail of the supply of sites in Desborough.
This demonstrates that the supply in Desborough is significantly in excess of the JCS requirement plus 10% flexibility allowance. Therefore, there is not a need for additional sites in Desborough to be identified in the SSP2.

6.13. A representation was received from WS Planning and Architecture (representor number 111) comment Id 239 which considers that the Council has not carried out a correct assessment in the SA in relation to site RA/115, the assessments relating to access and infrastructure are highlighted. The Council has responded to this representation in the ‘Regulation 20 Representations with Council’s response’. The Council considers that it has carried out a robust, evidence based assessment of sites, this assessment process is documented in the Housing Allocations Background Papers (2012 (HOU9), 2018 (HOU6) and 2019 (HOU5) and the Housing Allocations and Assessment of Additional Sites and Update (2013) (HOU8).

6.14. A representation was received from Rosconn Strategic Land (representor number 102, comment Id 228), this representation considered that the SA assessment of certain criteria should be amended to better reflect the sites credentials. These relate to contaminated Land, Capacity of Highway, Capacity of Infrastructure, including drainage. The Council’s response to this is that the assessment of sites has used a standard methodology as detailed in the Housing Allocations Background Papers listed above, the criteria have been applied to all sites in a consistent manner using the scoring system set out, therefore the scores for this site are consistent with this approach and do not require amending.


7.1. The consultation undertaken on the SSP2 is considered to comply with the Statement of Community Involvement and the public consultation requirements of the Town and Country Planning (Local Plan) (England) Regulations 2012.

7.2. Section 4 of the Statement of Community Involvement (CON4) sets out consultation processes for Local Plan preparation. The Regulation 22 Consultation Statement (CON1) demonstrates that the preparation of the SSP2 has complied with, and exceeded, the processes set out in the SCI.

7.3. Each stage of public consultation undertaken has met the requirements of the Town and Country Planning (Local Plan) (England) Regulation 2012, section 2 of CON1 details the stages of consultation undertaken and describes how the requirements of the regulations have been met, including providing details of the those consulted and the methods of consultation undertaken, it also details the main issues raised through each stage of consultation and sets out how these issues have been taken into account throughout the preparation of the SSP2.
7.4. At all stages in the plans preparation the number of representations received has reflected the thorough approach the Council has taken in seeking to ensure public involvement in the plan preparation process.

8. **Matter 1 – Question 7: Do the policies maps correctly illustrate geographically the application of the policies in the Plan?**

8.1. The policies maps are considered to correctly illustrate geographically the application of the policies in the Plan, with the exception of the proposed alterations to the policies maps detailed below. The policies maps have been prepared using an Ordnance Survey map and include a Key which provides detail on what each of the designations are.

8.2. There are four changes which the Council proposed should be made to the policies maps, these are shown in the Council’s response to the Inspector’s Initial Questions (EXAM2), Appendix 4 which is the Schedule of proposed changes to the Publication Plan (updated June 2020). These changes relate to the policies maps for Ashley, Stoke Albany, Thorpe Malsor and Wilbarston. The proposed changes for Ashley, Thorpe Malsor and Wilbarston seek to ensure the open spaces are correctly shown. The proposed alteration for Stoke Albany relates to the alteration of the housing allocation and settlement boundary and seeks to remove an area no longer required as part of the allocation. An update in relation to the modification to the Stoke Albany map is set out in the Council’s Matter 7 statement, section 11.

9. **Matter 1 – Question 8: Does the Plan contain policies designed to secure that the development and use of land in the borough contributes to the mitigation of, and adaptation to, climate change? How does it interact with the JCS on this matter?**

9.1. Paragraph 2.9 of the SSP2 (PKB1) recognises the challenge of addressing climate change and details the relationship with the JCS is this matter. Climate change is considered to be a strategic matter to be addressed in the North Northants Strategic Plan which will consider the potential for a low carbon framework and trajectory alongside other policy approached to meet the National 2050 zero carbon commitment, together with strategic policies and a monitoring framework in support.

9.2. The SSP2 has sought to address climate change as far as it can given the scope of the SSP2. Paragraph 2.16 and the text box beneath this set out how policies in the SSP2 will deliver JCS Outcome 2 – Adaptability to Future Climate Change.

9.3. The SSP2 includes policies designed to contribute to the mitigation of, and adaptation to, climate change through the following approaches:

- Ensuring that development sites are in locations with good access to employment, services and facilities and sustainable modes of transport
• Requiring development to mitigate flood risk and contribute towards flood management projects
• Protecting neighbourhood services and facilities which will help reduce the need to travel
• Encouraging healthy lifestyles through providing access to open space and recreational facilities
• Focusing development in sustainable locations
• Ensuring the protection and enhancement of Green Infrastructure provision and providing the framework for GI initiatives to be developed and progressed

9.4. The SA of the SSP2 assessed the predicted effects of the Plan on climate change, the summary of this assessment is provided below:

| Climate Change mitigation | The Plan distributes growth in line with the JCS, and as such the effects with regards to climate change mitigation (i.e. greenhouse gas emissions) are predicted to be neutral. None of the sites proposed for allocation are in locations that lend themselves to strategic low carbon energy schemes. Likewise, there is no encouragement for exemplary low carbon design, and so neutral effects are predicted in this respect too. |
| Climate Change Adaptation | ✓ Minor positive effects are predicted with regards to climate change resilience, primarily because the Plan seeks to achieve a net gain in green infrastructure. |

10. Matter 1 – Question 9: Will the Plan help to advance equality of opportunity between people who share a ‘protected characteristic’ as defined in the Equality Act 2010 and those that do not share it and further the aims of the Act?

10.1. The SSP2 has been prepared with regard to the aims of the Equalities Impact Act 2010. Section 149 of the Equalities Act imposes a duty on ‘public authorities’ and other bodies when exercising public functions to have due regard to the need to:

• Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act.
• Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
• Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

10.2. The term ‘relevant protected characteristic’ specifically pertains to nine characteristics as set out in the Act:

• Age
• Disability
• Gender reassignment
• Marriage and civil partnership
• Pregnancy and maternity
• Race
• Religion or belief
• Sex
• Sexual orientation

10.3. The Plan will help to advance equality of opportunity between people who share a ‘protected characteristic’ as defined in the Equality Act 2010 and those that do not share it.

10.4. The SSP2 seeks to deliver development to meet the needs of the community and will provide opportunities for those who share a protected characteristic and those that do not share it.

10.5. The plan will ensure that sufficient homes and jobs are provided, it will support improvements to town centres and community facilities, support the provision of new infrastructure, including health facilities, and provide good accessible green infrastructure, open space and recreational facilities. The development principles will ensure that new developments and proposals create attractive environments.

10.6. It is not considered that policies in the plan will have a direct impact on issues related to gender reassignment, sex, sexual orientation, pregnancy and maternity, or religions and beliefs.

10.7. It is considered that the policies are likely to have a positive impact on age and disability strands through sustainable development patterns, delivery of older persons housing, retirement housing and care homes and through the provision of multi-functional and accessible recreational facilities and open space.

11. Matter 1 – Question 10: Is the intention and purpose of the Plan and its relationships with other plans clear? Is the relationship with the Kettering Town centre Area Action Plan (TCAAP) and the respective policies maps clear? Does the Plan set out an appropriate framework and allow an appropriate role for neighbourhood plans, having regard to the current progress made in relation to their preparation in the borough? (See Initial Questions 8, 9, and 11 and the Council’s responses)

11.1. Paragraphs 1.1 to 1.4 of the SSP2 (PKB1) set out the intent and purpose of the Plan and its relationship with other plans. The Council’s response to the Inspector’s Initial Questions set out in EXAM2 clarifies the relationship with the Kettering Town Centre Area Action Plan and its respective policies map.

11.2. The SSP2, alongside the JCS, sets out an appropriate framework and role for neighbourhood plans. The SSP2 will meet requirements identified in the JCS and distributes development in accordance with the JCS requirements and spatial strategy. There are a number of neighbourhood plans under
preparation in the Borough as set out in the Council’s response to the Inspector’s Initial Questions, question 11, the proposals in these neighbourhood plans will need to be in general conformity with the JCS. The SSP2 recognises that a Neighbourhood Plan has been ‘made’ in the village of Broughton and refers to the Broughton Neighbourhood Plan for planning policies specific to Broughton. Where neighbourhood plans come forward in other locations across the Borough decisions will be made in accordance with Paragraph 30 of the NPPF.

12. Matter 1 – Question 11: Do any parts of the Plan need to be modified to reflect the changes to the Use Classes Order that will come into effect on 1 September 2020?


12.2. These regulations revoke Parts A and D of the use class schedule and modify Part B. Three new use classes are introduced, Class E (Commercial, business and service, F1 (Learning and Non-residential Institutions) and F2 (Local Community).

12.3. The changes to the Use Class Order mean that Shops (A1), Financial and professional services (A2), restaurants and cafes (A3) and business (B1) will fall within a Use Class E (Commercial, business and service). This Use Class also includes indoor sport, recreation and fitness, medical or health services, creche, day nurseries or day centres and offices, research and development of products or processes or industrial processes. This will mean that there is greater flexibility to change uses within town centres without the need to apply for planning permission.

12.4. A new use class F1, ‘Learning and Non-residential Institutions’ will include some of the uses currently in D1 and D2 and a new Class F2 ‘Local Community’ will include some existing D1 and D2 uses, as well as shops selling essential goods, including food, to visiting members of the public, in certain circumstances.

12.5. The greater flexibilities provided by the creation of Class E will have implications for some policies within the plan. The Council considers that Policy BLA1, DES1 and ROT1 contain criteria which make specific reference to the loss of individual types of use, e.g. retail which are now part of Class E and therefore could change to other uses within that class without the need for planning permission. The Council will prepare modifications to these policies to address the changes to the Use Class Order. The Council will update the Schedule of Proposed Changes to the Publication Plan and will add this to the Examination webpage before the hearing sessions commence.
13. Conclusion

13.1. The Council considers that the submitted Kettering Borough Site Specific Part 2 Local Plan is sound in relation to the Issues and Questions set out in Matter 1. This is founded on the assessment provided in this statement which sets out the approach take to meeting the procedural and regulatory requirements and in relation to the Duty to Co-operate on strategic matters.

13.2. The statement explains the approach taken to Duty to Co-operate and demonstrates that the SSP2 has regard to the JCS. The statement demonstrates that the requirements in relation to the Local Development Scheme, Habitat Regulations Assessment, Sustainability Appraisal and consultation have been met.

13.3. The statement sets out how the SSP2 addresses climate change and demonstrates that regards has been had to the requirements of the Equalities Act 2012. It also demonstrated that the relationship of the plan with other documents is clear.

13.4. The statement considers the impacts of the changes to the Use Class Order and identifies the policies which need to be modified to reflect these changes.

13.5. Therefore, to conclude, the Council considers the SSP2 (PKB1) has been prepared with due regard to the appropriate procedures and regulations and that the Duty to Co-operate (DtC) on strategic matters been satisfied.
Appendix 1: List of Reference Documents

- PKB1 – SSP2 Publication Plan
- NPPF – National Planning Policy Framework
- PPG – Planning Practice Guidance
- JCS1 – North Northamptonshire Joint Core Strategy 2011-2031
- JC2 – North Northamptonshire Joint Core Strategy 2011-2031 Inspector’s Report
- EXAM2 – KBC Response to Inspector’s Initial Questions
- CON1 – Regulation 22 Consultation Statement
- CON4 – North Northamptonshire Statement of Community Involvement
- HRA1 – Updated Habitat Regulations Assessment
- HRA2 – Habitat Regulations
- SA1 – Sustainability Appraisal
- SA2 – Sustainability Appraisal Non-Technical Summary
- SA3 – Interim Sustainability Appraisal Report February 2012
- SA4 – Site Specific Scoping Report Options Version
- SA5 – Sustainability Appraisal – Scoping Report
- HOU5 – Housing Allocations Background Paper - Update
- HOU6 – Housing Allocations: Background Paper
- HOU8 – Housing Allocations – Assessment of Additional Sites and Update consultation
- HOU9 – Housing Allocation: Background Paper (2012)
Appendix 2: KBC Letter to Natural England
Dear Anna,

RE: Habitats Regulations Assessment of the Kettering Borough Site Specific Part 2 Local Plan, May 2020

Thank you for your letter ref 317537 regarding the update to the Habitat Regulations Assessment of the Kettering Borough Site Specific Part 2 Local Plan (May 2020). We are keen to address the issues you have raised and to ensure that Natural England is satisfied with the approach taken. We have reviewed points 3a to 3d of the letter and inspected the Northamptonshire Record Centre bird records; I will address each of the points in turn below.

Point 3a

In relation to the point 3a, we can confirm that all sites within 10km of the SPA have been screened and included in paragraph 5.9. The distances used in paragraph 5.14 are the distance to the settlement, however some sites within the settlement listed are beyond 10km from the SPA. Appendix B provides a summary for each site and identifies whether individual sites are within 10km of the SPA. For example, Policy KET1, Scott Road Garages, is listed in paragraph 5.14 under Kettering and Barton Seagrave which are listed as being approximately 6.9 km from the Upper Nene Valley Gravel Pits SPA, this is the distance between the closest point of the settlement and the SPA, however the assessment in appendix B confirms that the Scott Road Garages site itself is located more than 10km from the SPA.

Point 3b, 3c and 3d

Point 3b requests that bird records are included as part of the screening process. Point 3c notes that most sites have been screened out due to size and advises that the smaller package of local evidence previously requested has not been provided. A link is provided to a desk-based package of work carried out to inform the West Northants Joint Core Strategy. Point 3d highlights the need to consider whether adjacent fields should be screened.

While the table 5.9 of the updated HRA does make reference to site size, it also considers the current use of the site and surrounding uses to determine whether the site is likely to present a significant area of suitable foraging or roosting habitats for SPA birds, particularly Golden Plover. However, to address the concerns raised in points 3b, 3c and 3d in relation to the level of local evidence provided, bird records, and screening of adjacent fields, additional information has been provided below for each site listed in table 5.9.
Policy KET6 (Ise Garden Centre, Warkton Lane; 15 dwellings on site KE/152)

Table 5.9 conclusions: Only 0.4ha in size, unsuitable habitat being a garden centre and part of Kettering urban area.

Additional Information: This site is 0.4ha in size and is square in shape. The site is an operational garden centre and therefore does not contain suitable habitat, the majority of the site is gravel surfaces and garden centre buildings, there are frequent vehicle and pedestrian movements within the site and surrounding area. The site is surrounded on two sides by roads and is entirely within the build-up area of Kettering with residential development surrounding the site, the surrounding area does not contain potentially suitable habitat. There are no records of Golden Plover within the site or in the area surrounding the site.

Policy KET7 (Factory adjacent to 52 Lawson Street; 25 dwellings on site KE/153)

Table 5.9 conclusions: Only 0.7ha in size, unsuitable habitat being post-industrial and part of Kettering urban area.

Additional Information: This site is approximately 0.65 ha in size and is rectangular in shape. The site is entirely hard standing and existing buildings and therefore does not contain suitable habitat. There is a road along the western boundary of the site and there are frequent vehicular movements and pedestrian movements within the site and surrounding area. The site is within the built-up area of Kettering and the surrounding area does not contain potentially suitable habitat. There are no records of Golden Plover within the site or in the surrounding area.

Policy KET8 (Land to the rear of Cranford Road; 60 dwellings on site KE/154)

Table 5.9 conclusions: 2.6ha in size but is adjacent to A14 such that it may be exposed to disturbance. Moreover, the site occupies existing garden land which does not constitute suitable habitat and already has outline permission.

Additional Information: This site is approximately 2.6 ha and rectangular in shape. The A14 is located approximately 50m south of the site at its nearest point and existing properties are located to the north of the site beyond which is Cranford Road. The site occupies existing garden land to the south of 30 to 50 Cranford Road, garden land does not constitute suitable habitat. The site already has outline planning permission for residential development. Land to the north, west and south of the site is located within the East Kettering SUE. The site to the west is currently under construction for residential development. There are no records of Golden Plover within the site or in the surrounding fields.

Policy KET9 (McAlpine’s Yard, Pytchley Lodge Road; 217 dwellings on site KE184a)

Table 5.9 conclusions: 10ha in size but unsuitable as it is in industrial use and is between a railway line in the east and A14 in the west such that the Local Plan recognises it is a noisy location.

Additional Information: The site is approximately 10 ha and is broadly rectangular in shape, with narrower sections to the north and south and a wider central section. The majority of the site is in existing use for the storage of cranes, this part of the site is a combination of hardstanding and existing buildings. A smaller portion of the site to the north is an area of
grassland. The A14 runs along the western edge of the site and the railway line runs approximately 75m to the east of the site. These are significant sources of noise and disturbance. Existing residential and employment development is located to the north, east and south of the site and there are regular pedestrian and vehicular movements in these areas. The site itself does not constitute suitable habitat and the surrounding area does not contain potentially suitable habitat. There are no records of Golden Plover within the site or in the surrounding area.

**Policy KET 10** (Land at Wicksteed Park, east of Sussex Road and Kent Place; 30-35 dwellings on site KE/200)

*Table 5.9 conclusions:* 1ha in size and within a larger green area. However, it is principally mown grass and a scrubby boundary along the residential development external to the park and is thus unsuitable habitat. It is also exposed to disturbance with the Midland Mainline abutting the southern end of the site and residential housing lies alongside the western boundary.

Additional Information: The site is approximately 1 hectare in size and broadly rectangular in shape with a narrower section to the north, the site is part of a larger area of open space. The site is principally mown grass and a scrubby boundary along the residential development adjacent to the park, the site is therefore unsuitable habitat. The site is subject to disturbance from pedestrians using the wider park area, uses include dog walking, walking, jogging, ball games, picnics, using the parks rides and playgrounds, camping etc. The site is also subject to disturbance from the railway line which lies to the south of the site. There are no records of Golder Plover within the site or in the adjacent area of the park. There are records of other types of bird within the wider park.

**Policy BLA4** (Land to the West of Kettering Road; 22 dwellings on site BL/044)

*Table 5.9 conclusions:* 1.7ha but unsuitable habitat as occupied by a number of agricultural buildings associated with Home Farm; it is also potentially disturbed being adjacent to areas of housing development.

Additional Information: The site is approximately 1.7ha and is broadly rectangular with existing farm buildings located in the wider eastern section of the site and narrowing to the west of the site. There is a cricket pitch to the north of the site which is separated from the site by a hedge. Existing residential development is located to the south of the site and the site is within the build-up area of Burton Latimer. Kettering Road runs along the eastern edge of the site and there are regular vehicle and pedestrian movements in the surrounding area. The site itself is not suitable habitat and the surrounding area does not contain potentially suitable habitat. There are no records of Golden Plover within the site or in the surrounding area.

**Policy BLA5** (Land adjacent to The Bungalow, Higham Road; 7 dwellings on site BL/038)

*Table 5.9 conclusions:* Only 0.5ha. The site directly abuts Higham Road, and was previously occupied by a single bungalow set back from the highway and set within a large plot. The site also incorporated an additional strip of overgrown and unkempt land surrounded by a low level close boarded fence. It is therefore unsuitable habitat.
Additional Information: This site is approximately 0.45 ha and broadly rectangular in shape widening to the north with a narrow section to the south. The site was previously occupied by a bungalow with a large garden. The site therefore is not suitable habitat. The site is surrounded on three sides by existing residential development, Higham Road is located south of the site and to the south of this is the medical centre. The site is subject to disturbance from the road to the south and from vehicular and pedestrian movements in the surrounding area. The site itself is not suitable habitat and the surrounding area does not contain potentially suitable habitat. There are no records of Golden Plover within the site or in the surrounding area.

**Policy BLA6** (Bosworth Nurseries and Garden Centre, Finedon Road; 69 dwellings on site BL/057)

*Table 5.9 conclusions:* 2.8ha but is unsuitable habitat given it is a garden centre and already has planning permission

Additional Information: This site is approximately 2.8ha and is rectangular in the eastern section then widens out to the west. The site is occupied by an existing garden centre. The eastern section of the site contains the garden centre building and car park and at the western end of the site are further structures and parking areas. The site is therefore not suitable habitat. The site is subject to disturbance from vehicular movements and pedestrians. The site has planning permission for residential development. There is existing residential development to the north, east and south of the site. To the west and south west is agricultural land, there is a hedge separating the site from this land. There is a footpath running along the south edge of the site and through the land to the west. There are no records of Golden Plover within the site or in the surrounding area.

**Policy CRA2** (South of New Stone House; 5-6 dwellings on site RA/170)

*Table 5.9 conclusions:* Suitable habitat type but only 0.2ha in size and thus highly unlikely to be large enough to support significant flocks.

Additional Information: The assessment recognised that this site may be suitable habitat but due to its size is unlikely to be large enough to support significant flocks. The site is 0.2ha in size and is rectangular in shape. There is an existing residential property to the north of the site and cattle shed located adjacent to the south eastern corner of the site. There is a footpath which runs to the south of the site and Duck End runs along the western edge of the site. There is a hedgerow which runs along the western edge of the site and a fence which runs along the eastern edge of the site separating it from the field to the east. There are no records of Golden Plover within the site or in the adjacent fields.

**Policy CRA3** (Land east of the corner of Duck End and Thrapston Road; 8-10 dwellings on site RA/173)

*Table 5.9 conclusions:* Suitable habitat type but only 0.6ha in size and thus highly unlikely to be large enough to support significant flocks; moreover, it is likely to be subject to disturbance from the adjacent commercial use.

Additional Information: The assessment recognised that this site may be suitable habitat but due to its size is unlikely to be large enough to support significant flocks. The site is
approximately 0.6 ha and is triangular in shape. There is a hedgerow running along the southern boundary, to the north is a wooded area which runs along the route of the former railway line. Adjacent to the east of the site is a commercial operation, that includes HGV vehicle movements, which would result in disturbance to the site. There is a road which runs along the southern boundary of the site, and beyond this the A14 runs approximately 100m to the south at the nearest point, both roads are sources of noise and disturbance. There are no records of Golden Plover within the site or in the adjacent fields.

**Policy PYT2** (Two fields on the outskirts of Pytchley; 8 dwellings on site RA/117)

*Table 5.9 conclusions: Suitable habitat type but only 0.5ha in size and thus highly unlikely to be large enough to support significant flocks. Also likely to be disturbed given that to the east of the site is an industrial use.*

Additional information: The assessment recognised that this site may be suitable habitat but due to its size is unlikely to be large enough to support significant flocks. The site is approximately 0.5 ha in size and is rectangular in shape. To the south west of the site is existing residential development, to the north west and north agricultural land, to the north east is a transport company and to the south east Isham Road and beyond that agricultural land. There is a hedgerow running along the south eastern boundary of the site. Both Isham Road and the adjacent industrial use are sources of noise and disturbance. There are no records of Golden Plover within the site or in the adjacent fields.

The additional information provided above provides local evidence for each of the sites and uses bird records as part of this local evidence. For each site this additional information supports the conclusions contained in the updated HRA in relation to functionally linked land.

I hope that Natural England now has the information needed for each of the sites to support the screening process undertaken and, therefore, the conclusions set out in the updated HRA. However, if Natural England is not satisfied that adequate local evidence has been provided then it would be helpful if details are provided on which sites it is considered would be of concern in relation to their suitability as functionally linked land. If further information is needed for any of these sites, the Council requests that the details of the precise information needed are provided to enable the Council to address any further concerns.

Yours sincerely

Julia Baish
Development Team Leader – Planning Policy
Appendix 3: Natural England Correspondence
Dear Julia,

Thank you for your letter dated 30th June 2020 (ref:SSP2/HRA/30/6), addressing issues raised in Natural England’s response dated 27th May 2020, consultation 317537. Natural England is satisfied that with the additional information provided within your letter dated 30th June 2020, Kettering Borough Council’s Site Specific Part 2 Local Plan, May 2020, will have no likely significant effect on the Upper Nene Valley Gravel Pits SPA and Ramsar site.

Kind regards

Joanna

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