

Core Strategy Partial Review

Scoping Report

January 2019

Habitats Regulation Assessment

Contents

1. Introduction	3
2. Habitat Regulation Assessment Methodology Overview	5
3. European Site Features and Conservation Objectives	10
4. Next Steps	11
Appendix 1	12

About this Document & Consultation

<p>What is this document?</p>	<p>This document sets out the scope for the Habitats Regulations Assessment (HRA) of the Bradford Core Strategy Partial Review (CSPR) and Site Allocations DPD. The HRA establishes whether the proposals and policies within the Plan would be likely to result in significant effects on the qualifying features of European Sites within and adjacent to the District, and where such effects are predicted, whether they would result in adverse effects on a European Protected site integrity following mitigation.</p>
<p>Purpose and scope of the consultation:</p>	<p>We are seeking views on the scope and direction of the CSPR. Any comments provided will be considered and where appropriate be used to help shape the revised policies, along with the requirements of the National Planning Policy Framework (NPPF) and planning guidance.</p>
<p>Geographical scope:</p>	<p>The proposals in this document relate to the Bradford District.</p>
<p>Other Documents:</p>	<p>A number of other documents/assessment will support the preparation of the CSPR, including:</p> <p>Bradford Local Plan Core Strategy: Partial Review Scoping Report: Sets out the scope of the Bradford Core Strategy Partial Review (CSPR). It identifies which policies will be reviewed and the key issues relating to those policies. It also sets out the key considerations that the Council will need to take into account when identifying the possible options for addressing these issues, along with the evidence required to inform these options.</p> <p>Sustainability Appraisal (SA) (including Strategic Environmental Assessment (SEA)) – Scoping Report: The SA is used to assess the proposed plan to determine if it will help to achieve relevant environmental, economic and social objectives. The Scoping Report will set out the objectives and will include an updated section on baseline data.</p> <p>Equalities Impact Assessment (EqIA) – Scoping Report: The EqIA is used to assess the impact of the proposed policies on different groups in the community. At this stage the scoping report sets out the parameters which will be used to assess the plan.</p> <p>Health Impact Assessment (HIA) – Scoping Report: The HIA is used to assess the impact of the proposals on people’s health. At this stage, the scoping report sets out evaluation frameworks for supporting sustainable healthy communities through policies and allocations.</p>
<p>Timescale of</p>	<p>This consultation will begin on 11 January 2019 and end at 5pm on 22</p>

consultation:	February 2019.
How to respond	<p>The consultation will be carried out in accordance with the Council's Statement of Community Involvement (SCI) and national guidance.</p> <p>The consultation documents will be made available on the Bradford Council website. Paper copies of the documents will be provided at the following locations and will be available to view during normal opening hours:</p> <ul style="list-style-type: none"> • Britannia House • Bradford City Library • Bradford Local Studies Library • Keighley Town Hall • Keighley Library • Shipley Library • Bingley Library • Ilkley Library <p>If you wish to make a representation to the consultation please visit: www.bradford.gov.uk/planning-and-building-control/planning-policy/core-strategy-dpd/ to complete the online survey or download documents, including the comments form.</p> <p>Email: planning.policy@bradford.gov.uk</p> <p>(Please title your email 'Core Strategy Partial Review')</p> <p>Post: Core Strategy Partial Review, Department of Place, Local Plans Team, 4th Floor, Britannia House, Bradford, BD1 1HX</p>
Enquiries	<p>If you have any enquiries regarding this consultation please contact the Local Plans Team.</p> <p>Email: planning.policy@bradford.gov.uk</p> <p>Phone: 01274 433679</p>
Confidentiality and data protection	<p>Data Protection Act 2018</p> <p>Personal information provided as part of a representation cannot be treated as confidential as the Council is obliged to make representations available for public inspection. However, in compliance with the General Data Protection Regulation (GDPR) and the Data Protection Act 2018 the personal information you provide will only be used by the Council for the purpose of preparing the Local Plan.</p> <p>Local Plans Privacy Statement</p> <p>Sets out how the City of Bradford Metropolitan District Council (CBMDC) Local Plans team processes your personal data. This notice should also be read in conjunction with the Council's Corporate Privacy Notice and other specific service notices, which are available to view at: https://www.bradford.gov.uk/privacy-notice/</p>

1. Introduction

BACKGROUND TO THE CORE STRATEGY PARTIAL REVIEW

- 1.1 The purpose of this Habitats Regulations Assessment Scoping Report is to outline the approach that will be taken to the Habitats Regulations Assessment (HRA) of the partial review of the Bradford Local Plan Core Strategy.
- 1.2 Bradford Council formally adopted the Core Strategy in July 2017. The adopted Core Strategy sets out the strategic planning policy framework for the District to 2030. The adopted Core Strategy seeks to strike an overall balance between growth aspirations and protecting the District's sensitive landscapes and habitats.
- 1.3 There have been a number of changes to the planning system in the last year. In particular, the government published the revised National Planning Policy Framework (NPPF) on 24 July 2018. This includes revised policies for a number of key areas of planning, particularly in the areas of housing, Green Belt and land use.
- 1.4 Locally, there have also been some changes which will need to be taken into account by the partial review. These are focused around a series of new strategies and evidence on the economy, transport and housing.
- 1.5 The NPPF (paragraph 33) indicates that policies in local plans should be reviewed to assess whether they need updating at least once every five years and should then be updated as necessary. Although the Core Strategy was only adopted fairly recently the Council needs to consider whether any of the policies need to be changed in light of new evidence or changes in local circumstances. The key areas for review are:
 - The Plan period
 - Housing requirement, affordable housing, housing quality including standards
 - Overarching Economic Strategy, Employment land requirement
 - Green Belt – exceptional circumstances
 - Consequential amendments to sub-area policies.

REQUIREMENT TO UNDERTAKE A HABITATS REGULATIONS ASSESSMENT

- 1.6 The purpose of a Habitats Regulations Assessment (HRA) is to ascertain whether the proposals and policies within the Plan would be likely to result in significant effects on the qualifying features of European Sites within and adjacent to the District, and where such effects are predicted, whether they would result in adverse effects on site integrity following mitigation.
- 1.7 The requirement to undertake HRA of development plans was confirmed by the amendments to the Habitats Regulations published for England and Wales in July

2007 and updated in 2010 and again in 2012 and 2017¹. Therefore, when preparing the Local Plan, Bradford Council is required by law to carry out a Habitats Regulations Assessment.

1.8 The HRA refers to the assessment of the potential effects of a development plan on one or more of the following:

- SPAs are classified under the European Council Directive “on the conservation of wild birds” (79/409/EEC; ‘Birds Directive’) for the protection of wild birds and their habitats.
- SACs are designated under the Habitats Directive and target particular habitats and/or species identified as being of European importance.
- Potential SPAs (pSPAs), candidate SACs (cSACs) and Ramsar² sites would also be included within the assessment.

1.9 For ease of reference, these three designations are collectively referred to as ‘European Sites’.

1.10 The overall purpose of the HRA is to conclude whether or not a proposal or policy, or whole development plan, would adversely affect the integrity of the site in question either alone or in combination with other plans. This is judged in terms of the implications of the plan for a site’s ‘qualifying features’. Significantly, HRA is based on the precautionary principle meaning that where uncertainty or doubt remains, an adverse impact should be assumed.

¹ The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007. HMSO Statutory Instrument 2007 No. 1843. From 1 April 2010, these were consolidated and replaced by the *Conservation of Habitats and Species Regulations 2010* (SI No. 2010/490). Note that no substantive changes to existing policies or procedures have been made in the new version.

² Ramsar sites support internationally important wetland habitats and are listed under the Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar Convention, 1971).

2. Habitat Regulation Assessment Methodology Overview

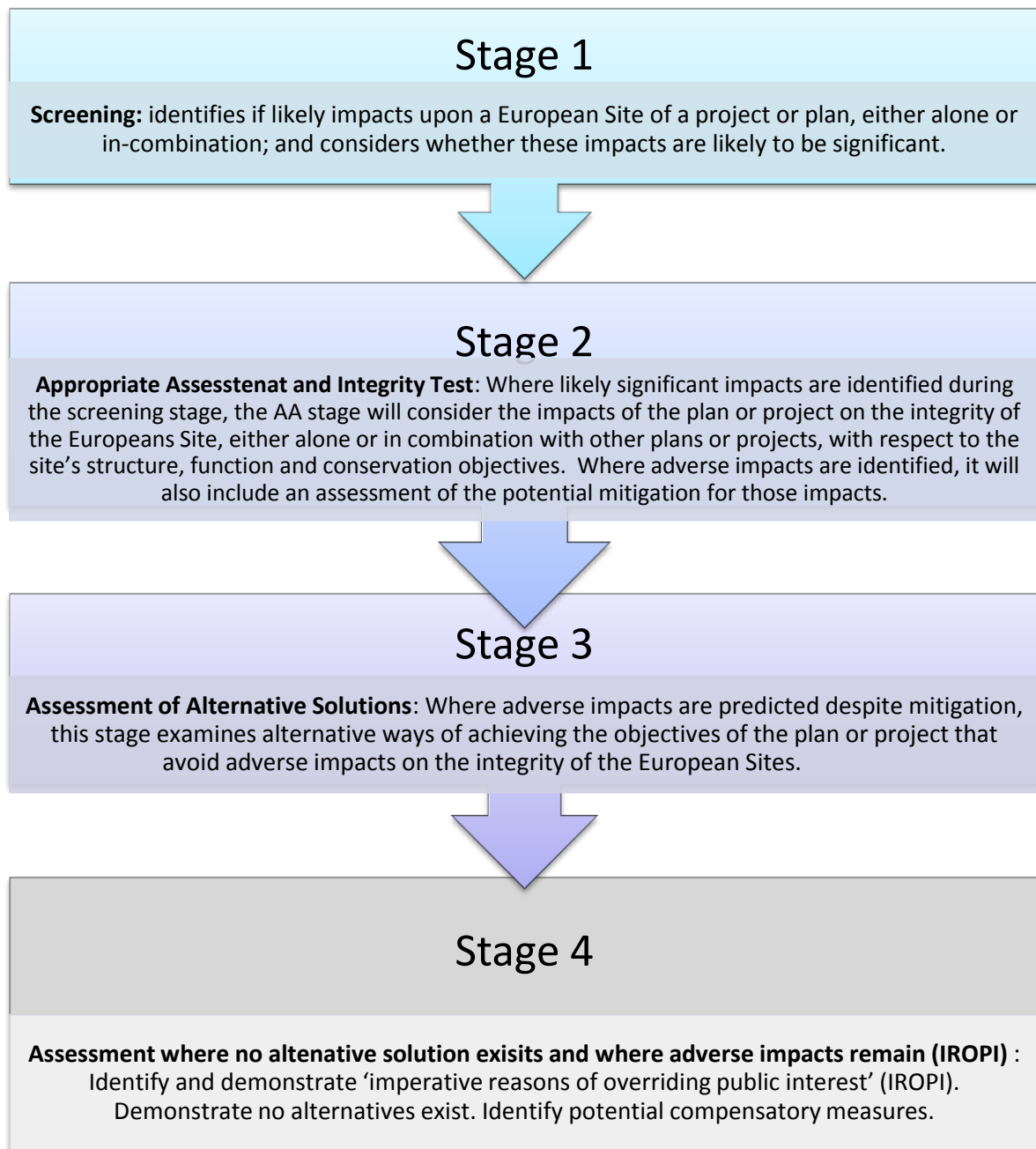


Figure 1: Stages in the HRA Process. Informed by 'The Habitats Regulations Assessment Handbook – England and Wales', DTA Publications, Tyldesley and Chapman

- 2.1 There is no definitive methodology for the undertaking of an HRA. However, it is widely accepted that the HRA should be carried out through a four step process. These stages are shown in Figure 1. The assessment undertaken as part of a HRA should be transparent and based on evidence.
- 2.2 Inherent in the Habitats Directive is the notion of the precautionary principle, this means that those undertaking a HRA for a land use plan, should be able to

demonstrate that the plan or project will not have an effect on the sites integrity; if any uncertainty remains, then an adverse impact should be assumed.

- 2.3 The HRA should be undertaken by the 'competent authority' - in this case Bradford Council. The HRA also requires close working with Natural England as the statutory nature conservation body.

PREVIOUS HRA WORK UNDERTAKEN

- 2.1 The adopted Core Strategy for Bradford was subject to HRA throughout its development. The final HRA documents for the Bradford Local Plan Core Strategy are:
- Joint HRA Screening Assessment for the Draft Core Strategy and Draft Waste Management DPD (Environ, 2012)
 - Further Engagement Draft of Core Strategy: Appropriate Assessment (UEEC, 2013)
 - Publication Draft Core Strategy HRA Report (UEEC, February 2014)
 - HRA for the Bradford District Core Strategy: Appropriate Assessment Report (UEEC, December 2014)
- 2.2 The Core Strategy HRA process included analysis of baseline information gathered during a number of studies undertaken during 2013 and 2014, including:
- Surveys of visitor activity within the SAC/SPA;
 - Breeding bird surveys within 2.5km of the SAC/SPA; and
 - Surveys of moorland fringe habitats.
- 2.3 The Core Strategy HRA assessment identified a range of likely significant effects on the North and South Pennine Moorlands that could result from the Core Strategy for Bradford district.
- Loss of supporting habitats (directly or indirectly);
 - Increased water demand;
 - Impacts on water quality;
 - Increased emissions to air;
 - Collision mortality risk and displacement due to wind turbine developments;
 - Recreational impacts, including walkers, dogs, trampling and erosion; and
 - A range of urban edge effects, including fly-tipping, invasive species, wildfire and increased predation.
- 2.4 It concluded that taking into account the range of avoidance and mitigation measures incorporated into the plan, the Core Strategy Publication Draft will not result in adverse effects on the ecological integrity of the European Sites.
- 2.5 The policy approach to the European Sites is set out in Strategic Core Policy 8 (SC8) in the adopted Core Strategy. To ensure that delivery and funding mechanisms for avoidance and mitigation measures are taken forward, the Council

has committed to producing a Supplementary Planning Document to guide implementation of the South Pennine Moors Zones of Influence as set out in this policy.

- 2.6 As shown above, there is already a significant body of HRA work available which can be drawn on to inform the HRA of the partial review of the Core Strategy.

IN COMBINATION EFFECTS

2.7 The in combination assessment is important to be able to ascertain whether or not the effects of the subject plan would exacerbate any existing conditions or if the introduction of the plan, alongside existing plans and projects would result in a new cumulative effect which could impact upon the conservation objectives of the European Sites and their qualifying features.

2.8 In addition, those elements which may have been screened out as not having an affect alone should also be considered in combination as the cumulative effect of plans and projects may lead to a likely significant effect. If an in combination effect is found then an Appropriate Assessment would be required. The following plans or projects could act in combination (this list of projects will continue to be reviewed and updated throughout the partial review of the Core Strategy preparation process):

- Economic Strategy for Bradford District 2018-2030;
- Bradford Metropolitan District Council Waste Management DPD (October 2017);
- Burnley Borough Council Local Plan (July 2018);
- Craven District Council Submission Draft New Local Plan (March 2018);
- Calderdale Metropolitan Borough Council Publication Draft Local Plan (August 2018);
- Harrogate District Publication Draft Local Plan (January 2018);
- Leeds City Council Adopted Core Strategy (November 2014);
- Leeds Core Strategy Selective Review (August 2018);
- Pendle Borough Council Core Strategy (December 2015); and
- West Yorkshire Local Transport Plan 2011 – 2026.

RECENT CASE LAW

THE ASHDOWN FOREST JUDGEMENT

2.9 In a High Court judgement in April 2017. The judgement (known as the *Ashdown Forest Judgement*) partially quashed the Lewes District and South Downs National Park Joint Core Strategy. This was on the basis that the HRA supporting the Joint Core Strategy only considered its own contribution to changes in traffic flows in determining whether there would be a likely significant air quality effect on Ashdown Forest SPA.

- 2.10 The judge ruled that the HRA had thus explicitly failed to undertake any form of assessment ‘in combination’ with growth in other authorities that would affect the same road links and that this was in contravention of the Conservation of Habitats and Species Regulations 2010. Therefore, any air quality assessment provided herein is required to be based on a specific modelling of the location and scale of population growth proposed along with proposed growth in neighbouring authorities likely to impact on the District’s road network.

PEOPLE OVER WIND AND SWEETMAN RULING

- 2.11 In April 2018, the European Court of Justice (CJEU) ruled on the *People Over Wind and Sweetman* case, concerning a proposed electricity cable serving a wind farm in the Republic of Ireland. The ruling essentially overturned a previous CJEU judgement which concluded that mitigation or compensation measures that were part of a project could be taken into account at the screening stage of an HRA.
- 2.12 In the new judgement, the CJEU concluded the Habitats Directive “*must be interpreted as meaning that ... it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site*”.
- 2.13 Therefore, measures intended to avoid or reduce the harmful effects of a proposed project on a European site may no longer be taken into account by competent authorities at the HRA “screening stage” when judging whether a proposed plan or project is likely to have a significant effect on the integrity of a European designated site.
- 2.14 In October 2018 the Government published a consultation paper ‘Technical Consultation On Updates To National Planning Policy And Guidance’. This document proposes a minor clarification to the revised NPPF regarding appropriate assessment for habitats sites in light of the above ruling.
- 2.15 To protect European Sites, the NPPF disengages the presumption in favour of sustainable development where there is potential for harm. However the *People Over Wind and Sweetman* ruling means that sites with suitable mitigation are now excluded from the application of the presumption, which was not the intention of the Government’s policy.
- 2.16 To rectify this it is proposed to amend paragraph 177 of the NPPF to make clear that the presumption is disapplied only where an appropriate assessment has concluded that there is no suitable mitigation strategy in place. The proposed revised paragraph would read:

“The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that there will be no adverse effect from the plan or project on the integrity of the habitats site.”

2.17 The consultation closed on 7 December 2018. The *Technical consultation on updates to national planning policy and guidance* can be found [here](#).

HOLOHAN V. AN BORD PLEANÁLA JUDGEMENT

2.18 In November 2018 a third judgement was made, applicants challenged a decision of the Irish An Bord Pleanála in July 2014 to grant consent for the proposed Kilkenny Northern Ring Road Extension which would, if constructed, cross the River Nore SPA and River Barrow and River Nore Site of Community Importance.

2.19 This latest ruling appeared to broaden the scope of ‘appropriate assessments’ by dictating that the process must consider implications for habitats and species outside, as well as inside, a protected site - if the external habitats and species affect the conservation objectives of the site itself.

3. European Site Features and Conservation Objectives

3.1 This section identifies the European sites within or adjacent to the Bradford District boundary which may be affected by development.

3.2 In the HRA work undertaken previously for the Core Strategy, the following four European Sites, as shown in Figure 2, were included in the assessments:

- South Pennine Moors SAC;
- North Pennine Moors SAC;
- South Pennine Moors Phase 2 SPA; and
- North Pennine Moors SPA.

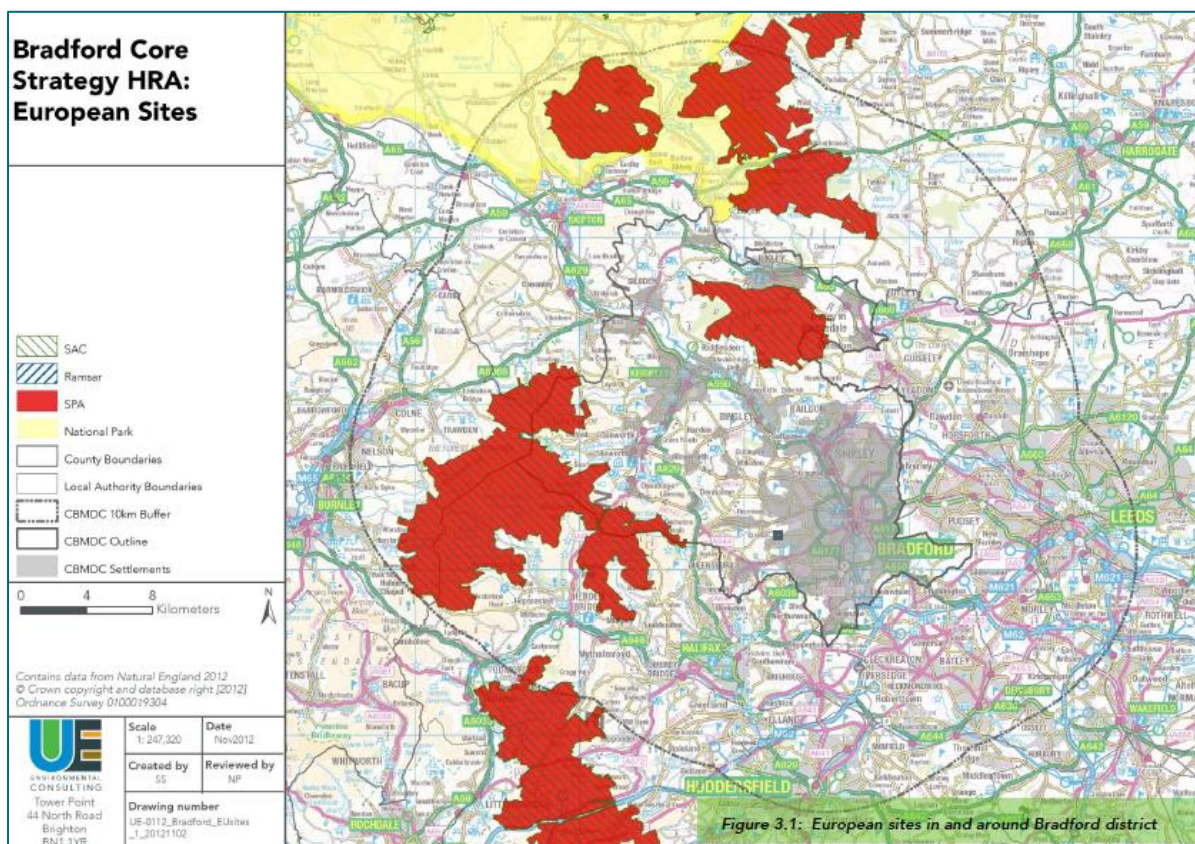


Figure 2: European Sites taken from the 'HRA for the Bradford District Core Strategy: Appropriate Assessment Report' (UEEC, Dec 2014)

3.3 These four European Sites have been designated to conserve similar groups of upland habitats, wading birds and raptors, although there are some significant differences between them. The attributes of these sites which contribute to and define their integrity have been described in Appendix 1. In doing so, reference has been made to the original citations submitted to the European Commission at the time of classification, the species present in qualifying numbers during the SPA Review undertaken by the Joint Nature Conservation Committee (JNCC) in 2001, the standard data forms published on the JNCC website, and the most recent conservation objectives published on the Natural England website (published in 2014).

4. Next Steps

- 4.1 This Scoping Report has introduced the HRA process that will be undertaken in relation to partial review of the Bradford Local Plan Core Strategy as it is prepared.
- 4.2 Once Bradford Council has produced the Preferred Options stage of the partial review of the Core Strategy it will be subject to HRA in line with the methodology outlined in Chapter 2 of this report.
- 4.3 The HRA report will be updated as required throughout the preparation of the review, with the HRA report relating to each iteration being published during consultation periods. Specific consultation will be undertaken with Natural England as the statutory consultation body for HRA.
- 4.4 In the meantime Bradford Council will undertake any surveys deemed necessary to update the evidence base which informs the HRA, these may include bird, habitat and visitor surveys.
- 4.5 Mitigation that is deliverable and realistic based on sound evidence needs to be included in a full Appropriate Assessment. Partnership working with other authorities that cross boundaries and a monitoring and mitigation fund/strategy to deliver developer contributions would help to target areas where pressure is high and enable more strategic solutions to the impact of growth. This is advised by Natural England. To this end the Council will also look to introduce a separate Supplementary Planning Document as a mechanism to fund a strategic mitigation strategy.

Appendix 1

Site Name	Area (ha)	Qualifying Features	Conservation Objectives
South Pennine Moors SAC Source: JNCC website	65,024	<u>Annex I Habitats</u> 4030 - European dry heaths 7130 - Blanket bogs* 91A0 - Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles <u>Annex I Habitats**</u> 4010 - Northern Atlantic wet heaths with <i>Erica tetralix</i> 7140 - Transition mires and quaking bogs	Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring: <ul style="list-style-type: none"> • The extent and distribution of the qualifying natural habitats; • The structure and function (including typical species) of the qualifying natural habitats; and, • The supporting processes on which the qualifying natural habitats rely.
North Pennine Moors SAC Source: JNCC website	103,014	<u>Annex I Habitats (primary)</u> 4030 - European dry heaths 5130 - Juniperus communis formations on heaths or calcareous grasslands 7130 - Blanket bogs* 7220 - Petrifying springs with tufa formation (Cratoneurion)* 8220 - Siliceous rocky slopes with chasmophytic vegetation 91A0 - Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles <u>Annex I Habitats**</u> 4010 - Northern Atlantic wet heaths with <i>Erica tetralix</i>	Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring: <ul style="list-style-type: none"> • The extent and distribution of qualifying natural habitats and habitats of qualifying species; • The structure and function (including typical species) of qualifying natural habitats; • The structure and function of the habitats of qualifying species; • The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely; • The populations of qualifying species; and, • The distribution of qualifying species within the site.

6130 - Calaminarian grasslands of the
Violetalia calaminariae

6150 - Siliceous alpine and boreal grasslands

6210 - Semi-natural dry grasslands and scrubland
facies: on calcareous substrates (Festuco-Brometalia)

7230 - Alkaline fens

8110 - Siliceous scree of the montane to snow levels
(Androsacetalia alpinae and Galeopsietalia ladani)

8210 - Calcareous rocky slopes with
chasmophytic vegetation

Annex II Species**

1528 - Marsh saxifrage Saxifraga hirculus

**South
Pennin
e Moors
Phase 2
SPA**

66,207

Article 4.1: Annex I Birds (breeding)

A098 – Merlin Falco columbarius

A140 - Golden Plover Pluvialis

Apricaria

Article 4.2: Regularly occurring migratory birds –
internationally important assemblage of breeding birds

Common Sandpiper Actitis hypoleucos

Short-eared Owl Asio flammeus

Dunlin Calidris alpina schinzii

Twite Carduelis flavirostris

Common Snipe Gallinago gallinago

Curlew Numenius arquata

Northern Wheatear Oenanthe

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;

- The extent and distribution of the habitats of the qualifying features;
- The structure and function of the habitats of the qualifying features;
- The supporting processes on which the habitats of the qualifying features rely;
- The population of each of the qualifying features; and,
- The distribution of the qualifying features within the site.

		<p>oenanthe</p> <p>Golden Plover <i>Pluvialis apricaria</i></p> <p>Whinchat <i>Saxicola rubetra</i></p> <p>Redshank <i>Tringa totanus</i></p> <p>Ring Ouzel <i>Turdus torquatus</i></p> <p>Lapwing <i>Vanellus vanellus</i></p>	
<p>North Pennine Moors SPA</p> <p>Source: SPA citation</p>	147,246	<p><u>Article 4.1: Annex I Birds (breeding)</u></p> <p>A082 -Hen Harrier <i>Circus cyaneus</i></p> <p>A098 – Merlin <i>Falco columbarius</i></p> <p>A103 - Peregrine Falcon <i>Falco peregrinus</i></p> <p>A140 - Golden Plover <i>Pluvialis apricaria</i></p> <p><u>Article 4.2: Regularly occurring migratory birds – internationally important assemblage of breeding birds</u></p> <p>No species are listed on the North Pennine Moors SPA citation as qualifying under Article 4.2</p>	<p>Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;</p> <ul style="list-style-type: none"> • The extent and distribution of the habitats of the qualifying features; • The structure and function of the habitats of the qualifying features; • The supporting processes on which the habitats of the qualifying features rely; • The population of each of the qualifying features; and, • The distribution of the qualifying features within the site.
<p>*Denotes primary feature ** Present as a qualifying feature but not a primary reason for site selection</p>			

The wording in this publication can be made available in other formats such as large print. Please call 01274 433679.

Local Plan Team
City of Bradford Metropolitan District Council
4th Floor
Britannia House
Broadway
Bradford BD1 1HX

Telephone: (01274) 433679

Email: planning.policy@bradford.gov.uk

Website: www.bradford.gov.uk/planningpolicy