

2ND ADDENDUM OF PROPOSED MODIFICATIONS
SUSTAINABILITY APPRAISAL REPORT

Hull Local Plan 2nd Addendum of Proposed Modifications Sustainability Appraisal Report

Prepared for

Hull City Council

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Acronyms and Abbreviations

HCC	Hull City Council
HRA	Habitat Regulation Assessment
SA	Sustainability Appraisal
SEA	Strategic Environment Assessment

Document History

Client: Hull City Council

This document has been issued and amended as follows:

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1	28.02.2017	Final	H. Jones	K. Dwarakanath	P. Restall

Introduction

Hull City Council produced the Hull Local Plan Publication Report in June 2016 and was presented for consultation with members of the public and with the statutory authorities between June 2016 and September 2016. Further to this consultation, the comments received were considered and changes were made and reported in the Hull Local Plan Addendum of Proposed Changes Sustainability Appraisal Report, and the Hull Local Plan and Proposed Changes Habitat Regulations Assessment (HRA). The revised HRA was submitted for re-consultation with the statutory consultees in December 2016. Further to this consultation, the comments received on the revised HRA were considered and modifications have been proposed to parts of the Submitted Hull Local Plan. The potential modifications relate to:

- Provision of further evidence to support the Habitat Regulations Assessment (Feb 2017); and
- Amendments of policy to clarify mitigation measures proposed by the HRA (Feb 2017).

1.1 Purpose of this report

The Hull Local Plan was assessed against the Strategic Environment Assessment/ Sustainability Appraisal (SEA/SA) Framework at every stage of the plan preparation and all stage findings are reported in the Hull Local Plan Publication SA Report available [here](http://hullcc-consult.limehouse.co.uk/portal/localplan/hull_local_plan_publication_-_evidence_links) (http://hullcc-consult.limehouse.co.uk/portal/localplan/hull_local_plan_publication_-_evidence_links).

In the light of the proposed modification to the Hull Local Plan, a SA has been conducted to assess the significance of the proposed modifications on the sustainability objectives set out for the Local Plan. This report presents findings of the SA conducted on the proposed modifications. This report is a 2nd Addendum to the Hull Local Plan Publication SA Report (June 2016).

1.2 Summary of the proposed changes

This section summarises the changes proposed to the policies and sites that were presented in the Publication Report (June 2016). A detailed version of the proposed changes along with reference to the sections in the Publication Report is presented in Table 4.

The potential modifications relate to:

- Provision of further evidence to support the Habitat Regulations Assessment (Feb 2017); and
- Amendments of policy to clarify mitigation measures proposed by the HRA (Feb 2017).

Specific modifications to the policies that are likely to alter the assessment findings presented in the Hull Local Plan Publication SA Report are listed below:

Issue 1.9: *Potential Main Modifications*

Renewable and low carbon energy

9.26 as these areas are deemed unsuitable for wind turbines. Also excluded is the bird mitigation area and 150m buffer zone for Employment Allocation Site 44 and 45 – see Policy 2 Employment Allocations. It should be noted that many small domestic turbines are classed as permitted development, so do not require planning permission and so could be developed outside of these designated areas.

Policy 18

Renewable and low carbon energy

1. All designated Employment and Port areas (apart from the bird mitigation area and 150m buffer zone for Employment Allocations 44 and 45) as shown on the Policies Map are potentially suitable

for wind turbines. Areas of open space potentially suitable for wind turbines are shown as such on the Policies Map. Applications for wind turbines will also need to demonstrate that they are acceptable using the criteria set out in Part 2 of this policy.

Location and layout of development

10.11Classified Road Network. Open space development should, where appropriate, consider the needs of dog walking which is a popular recreational activity in the city. Providing alternative areas for dog walking should help mitigate against the adverse impact this activity can have on some existing wildlife areas in the city during the plan period such as The Humber Estuary International Site as shown on Policies Map

Policy 26

Location and layout of development

Development should:

b. provide within the site, where practicable:

vii. initiatives to promote dog walking but not where this would have a detrimental impact on The Humber Estuary International Site as shown on the Policies Map.

Water transport

Port of Hull

10.53 The Port of Hull is a world class port and gateway to international trade.

This position has been maintained by a constant programme of capital investment in the development of new facilities and services. Subject to appropriate environmental safeguards and safety requirements, the Port also has potential to increase shipping traffic over the plan period as passenger traffic is likely to increase in the next few years due to the continued growth in the cruise ship market

Policy 35

Water transport

1. Development of water based freight and passenger handling facilities at the Port of Hull and on the River Hull will be supported provided that environmental safeguards and safety requirements are met and development will not have an adverse effect on existing users or on existing flood defences or on the integrity of The Humber Estuary International Site.

2. A cruise terminal adjacent to the Deep, as shown on the Policies Map,

will be supported provided it can demonstrate that environmental safeguards and safety requirements are met and will not have a significant adverse direct and/ or indirect effect on:-

a. the integrity of The Humber Estuary International Site (as shown on the Policies Map):-

i. during all phases of construction or operation; and

ii. entails no loss of intertidal habitats;

iii. creates no adverse vessel traffic problems;

iv. construction and operation is undertaken outside of migratory and overwintering period ;

v. operation of terminal is normally restricted to between April and October; and

. here there are any potential impacts identified on this site, such as landtake, the development will need to show how these can be suitably controlled, including the use of mitigation/ compensatory measures;b. amenities enjoyed by any nearby residential properties/ areas;

c. existing users or on existing flood defences;

d. the city's heritage assets;

e. air quality; and

f. highways capacity

Walking and cycling

10.67 employment developments. It is important that new pedestrian facilities, particularly those that are likely to be popular with dog walkers, do not have a detrimental impact on designated wildlife sites and farmland.

Policy 36

Walking, Cycling, and Powered Two Wheelers

1. Improving facilities for cyclists and pedestrians will be supported and must take into account:

f. the impact on wildlife and adjacent agricultural land. In particular proposals should not encourage dog walking that would have an adverse impact on the integrity of The Humber Estuary International Site as shown on the Policies Map.

2. Extending or improving pedestrian areas in shopping centres and housing areas will be supported. New commercial and housing developments should, where feasible, include convenient and safe pedestrian/ cycle links to existing areas and amenities. Where appropriate, consideration should also be given to the need for signposting/ waymarking/designated areas and access for recreational users such as horse riders and dog walkers.

On-site open space requirements

12.20 through a legal agreement. The needs of dog walkers should be taken into consideration in the design/layout of new open spaces. Providing alternative areas for dog walking in new open spaces should help mitigate against the adverse impact this activity can have on some existing wildlife areas in the city over the plan period such as The Humber Estuary International Site as shown on Policies Map

Policy 42

Open Space

On-site open space requirements

7.The design/layout of new open spaces should give consideration, where appropriate, to the provision of facilities for dog walkers but not where this recreational activity on the site would have an adverse impact on the integrity of The Humber Estuary International Site as shown on the Policies Map.

Monitoring

Table 14.2 Monitoring indicators and targets

36. Walking and Cycling and powered two wheelers

Strategic Priorities

4,5,8,9,11

Intended outcomes

- Improving facilities for cyclists and pedestrians (including for dog walkers, also see Policies 26 and 42) will be supported

Achievement indicators

- New or improved dog walker facilities made available, including in new open spaces, which will not have an adverse impact on the integrity of the Humber Estuary International Site.

Targets

- New or improved dog walker facilities provided.

Sustainability Appraisal of proposed modifications

This section identifies the proposed modifications to the text applicable to the Hull Local Plan Publication SA Report (June 2016). It is important to read this section alongside the SA Report.

2.1 Changes to the Sustainability Assessment Report

This section presents the details of the changes that are applicable to the Submitted Hull Local Plan and Proposed Modification and the Addendum of Proposed Modification Sustainability Appraisal report. This section must be read alongside Appendices C and D of the Hull Local Plan Publication SA Report.

Table 4 - Sustainability Appraisal of the Schedule of Proposed Modification

Comments	Proposed Modification	Implications to the SA
Natural England (dated 31 Jan 2017)		
1. Natural England has previously provided advice on the Publication draft of the Hull Local Plan in our letter dated 12 September 2016 and provided additional advice regarding the evidence necessary to assess Policy 35, Policy 18 and Employment Allocations 44 and 45 in our email dated 09 January 2017 which we have attached with this letter for your ease of reference. This letter represents our additional advice to the documents made available in the Submission of the Hull Local Plan and Proposed Changes consultation dated 19 December 2016.	N/A	None
2. In summary Natural England remains concerned that there are a number of issues with the Habitats Regulations Assessment (HRA) of the Local Plan that we consider need to be resolved at this stage of the plan making process before the Plan can be considered sound and legally compliant. This letter sets out our outstanding concerns at this stage.	N/A	None
<p>3. Hull Local Plan Habitats Regulations Assessment Update December 2016</p> <p><u>3.1 Policy 35 Water Transport</u></p> <p>3.1.1 Natural England notes the updated assessment but do not consider that sufficient evidence has been provided to demonstrate that this policy will not have an adverse effect upon the integrity of the Humber Estuary Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar.</p>	N/A	None
3.1.2 We note that the assessment has been undertaken on the assumption that a Cruise Terminal in the context of the Hull Local Plan means a floating pontoon with piles to anchor it, a cantilever bridge and a terminal onshore. Natural England has not seen the viability assessment from which this design has been determined and therefore cannot comment on the appropriateness of these assumptions in relation to the precautionary principle. Natural England's comments are made on the assumption that this is correct.	Cruise Terminal viability assessment has been referenced and appended to the HRA.	None
3.1.3 Natural England notes that the appropriate assessment of Policy 35 in Tables F1, F2 and F3 of the updated Habitats Regulations Assessment (HRA) notes that "A new cruise terminal located adjacent to the Deep	Capital dredging requirements have been	None

Comments	Proposed Modification	Implications to the SA
Natural England (dated 31 Jan 2017)		
<p><i>could result in habitat fragmentation and loss of intertidal habitats if dredging near the shore is required</i>". However these concerns are ruled out without any consideration of the need for capital or maintenance dredging either of the proposed terminal, shipping channel or berthing channel. Furthermore, while the reasoning refers to the need for piling within the low tide channel, there is no consideration of extent of habitat loss as a result of the piles.</p>	<p>referenced and considered for impact. Sub-tidal habitat loss has been calculated.</p>	
<p>3.1.4 Natural England advises that the HRA should include detailed consideration of and evidence with regards to the extent of habitat loss as a result of the piles and the requirements for dredging (both capital and maintenance dredge) and any potential impacts.</p>	<p>As above.</p>	<p>None</p>
<p>3.1.5 In our email dated 09 January 2017 we advised, based on the information provided to us, that there was sufficient bird survey information available to inform the HRA of the Local Plan with regards to Policy 35. We advise that this data should be clearly referred to in the assessment in order to back up the conclusions reached.</p>	<p>WeBS bird data has been considered and appended to the HRA.</p>	<p>None</p>
<p>3.1.6 Furthermore we note that the Appropriate Assessment of Policy 35 in Tables F1, F2 and F3 of the report concludes no adverse effects on integrity in relation to disturbance of wintering birds, breeding grey seal and migrating lamprey species on the basis that both construction and operation of the cruise terminal will take place outside of the periods of concern for these species. Natural England agrees that this mitigation would be appropriate but advise that it is not included in Policy 35. Therefore, in order for this Policy 35 to be acceptable in relation to impacts on these features of the Humber Estuary SAC, SPA and Ramsar, we advise that these timescales are made a requirement of Policy 35.</p>	<p>Modified policy 35 reflects relevant mitigation with regards timing for wintering birds, breeding grey seal and migrating lamprey species.</p>	<p>None</p>
<p>3.1.7 Natural England notes that impacts on coastal squeeze are identified as a potential issue with regards to Policy 35 in Tables F1, F2 and F3 of the report but that no evidence or discussion of the impact of the proposal on coastal squeeze or wider coastal processes are discussed in the assessment. While we are not concerned about the impact of the proposal, as described in the report, on coastal squeeze, we consider the potential to impact on wider coastal processes, particularly in relation to any dredging necessary should be considered in the assessment.</p>	<p>Reference to coastal squeeze has been deleted and impact on wider coastal processes from dredging has been considered.</p>	<p>None</p>

Comments	Proposed Modification	Implications to the SA
Natural England (dated 31 Jan 2017)		
<p><u>3.2 Policy 18 Renewable and Low Carbon Energy</u></p>		
<p>3.2.1 Natural England notes that a desk study has been undertaken in order to inform the conclusions reached but that this has not been made available with this consultation. Without this evidence Natural England is unable to provide any advice regarding the conclusions reached or change our position from the one held in our letter dated 12 September 2016.</p>	<p>Energy desk study report has been referenced and appended to the HRA.</p>	<p>None</p>
<p>3.2.2 We are particularly concerned about the allocation of Port Area and Employment Sites and Employment Areas adjacent to or in very close proximity to the Humber Estuary SAC, SPA and Ramsar and the potential for turbines to displace SPA and Ramsar birds within the boundaries of the designated site. We note that there is a reference to considering birds in the intertidal but we have not seen the data referred to and have very significant concerns about such impacts so would expect to see robust evidence in order to rule out such impacts.</p>	<p>WeBS data has been considered and appended to the HRA</p> <p>Modified Policy 18 provides a 150m buffer zone mitigation area within employment allocation sites 44 and 45.</p>	<p>Under the Appraisal of The Plan Policies in Appendix C, Policies <u>18</u>, 35, 43 and 44 the residual effects are likely to be positive or neutral, particularly if a provision for additional green infrastructure is made.</p>
<p>3.2.3 We also note that the assessment identifies a high tide roost on Employment Allocations 44 and 45 and that mitigation measures have been included in the plan. However we do not consider that these mitigation measures were devised in the context of wind turbines and advise that the impact of wind turbines in these areas should be considered in relation to any known roosting areas. We also advise that the mitigation area should be removed from the ‘areas potentially suitable for wind turbines’ and that, in addition, an appropriate buffer around this area should be included.</p>	<p>High tide roost WeBS data has been considered and appended to the HRA.</p> <p>Modified Policy 18 provides a 150m buffer zone mitigation area within employment</p>	<p>None</p>

Comments	Proposed Modification	Implications to the SA
Natural England (dated 31 Jan 2017)		
	allocation sites 44 and 45.	
<p>3.2.4 Further information on SPA birds in this area which may be useful for this assessment can be found on the Humber Nature Partnership and British Trust for Ornithology websites at:</p> <p>http://humburnature.co.uk/admin/resources/final-htrr-report-2013-14.pdf</p> <p>https://www.bto.org/sites/default/files/shared_documents/publications/research-reports/2013/rr642.pdf</p>	Noted.	None
<p><u>3.3 Policy 3 Housing requirement and site allocations</u></p> <p>3.3.1 Natural England notes that the HRA now includes consideration of the impact of recreational pressures as a result of housing growth in the plan and relevant neighbouring plans, however we are not clear from the information presented in the Hull Local Plan Habitats Regulations Assessment Update December 2016 how the conclusions of no adverse effects on integrity have been reached or how the proposed mitigation will be delivered.</p>	Noted	None
<p>3.3.2 We note that the Appropriate Assessment of Policy 35 in Tables F1, F2 and F3 of the report refers to the broad conclusions of the 2012 Footprint Ecology report for the entire Humber Estuary area but does not appear to consider how this information relates to the specific circumstances in Hull and the proposed housing growth. We are unclear about what is meant by the paragraph in Table F1 which states:</p> <p><i>“Most (70%) of interviewees arrived at sites by car and their home postcodes indicated people travelling from their home lived a median distance of 4.4km from the survey point. With respect to the Hull Local Plan this allows for visitors from the eastern area of the Local Plan area.”</i></p> <p>Does this mean that housing allocations from the eastern area of the Local Plan area can be ruled out or are a significant concern? How was this conclusion reached.</p>	<p>Clarification on the impacts from recreation due to the housing allocations has been provided in the HRA.</p> <p>Effects of phasing the Kingswood AAP and East</p>	None

Comments	Proposed Modification	Implications to the SA
<p>Natural England (dated 31 Jan 2017)</p> <p>Similarly we are concerned about the following statement in Table F1”</p> <p><i>“There may be potential in-combination effects with Kingswood Area Action Plan and East Riding of Yorkshire Local Plan Allocation DPD if all three policies are implemented at the same time however these could be mitigated to avoid adverse effects”</i></p> <p>Does this refer to a phasing strategy that takes into account recreational pressures and the phasing of the Kingswood Area Action Plan and East Riding of Yorkshire Local Plan Allocation DPD. Natural England was unable to find this strategy in the Local Plan.</p>	<p>Riding of Yorkshire LPA on the Hull Local Plan have been considered.</p>	
<p>3.3.3 Natural England understands from the assessment in Tables F1, F2 and F3 that the conclusions of no adverse effects on integrity rely on the following mitigation:</p> <ul style="list-style-type: none"> • <i>“The impacts on the Humber Estuary SAC can be further mitigated by promoting alternative sites for dog walking where dogs could be let off the lead without damaging designated habitats. Promoted sites should include inland sites outside the SAC and be extended more widely than just the Humber.”</i> • <i>“Sites away from the SAC habitats could be made more dog friendly. This can be promoted through e.g. the provision of fenced areas to ensure dog safety, safe parking, no conflicts with other users, places for dogs to drink etc.”</i> • <i>“Dog walkers can be directed within sites to reduce disturbance e.g. providing circuits and clear paths below embankments or behind scrub is a way of minimising the visual impact of walkers and their pets. Interpretation and leaflets with clear, simple messages relating to disturbance can also be useful in many locations.”</i> <p>We are unable to find any reference to these mitigation measures in the plan or any other plans and therefore advise that they cannot be considered as mitigation measures.</p>	<p>Modified policy 42, 26 and 36 and monitoring Table 14.2 address dog walking issues.</p>	<p>None</p>

Comments	Proposed Modification	Implications to the SA
Natural England (dated 31 Jan 2017)		
<p>3.3.4 Natural England notes that the conclusion of no adverse effects on integrity also relies on Policy 42 Open Space. We advise that the assessment should consider whether there is sufficient certainty that Policy 42 will deliver the amount of open space necessary in order to mitigate for increased recreational pressures. We note that the policy makes no reference to the need to provide open space in order to mitigate for recreational pressures on the Humber Estuary SAC, SPA, Ramsar and SSSI and that it does not mention any of the mitigation measures identified in para 3.3.3 above in relation to dog walking.</p>	<p>Modified policy 42, 26 and 36 and monitoring Table 14.2 address dog walking issues.</p>	<p>None</p>
<p><u>3.4 Policy 2 Employment allocations</u></p> <p>3.4.1 Natural England notes that the Appropriate Assessment in Table F1 rules out adverse effects on integrity with regards to the air quality impacts from increased motor traffic based on the following:</p> <p><i>“Although one employment allocation site will contribute to the existing congestion on the A63 no cumulative impacts between the allocations on traffic and air quality are anticipated.”</i></p> <p>Natural England does not consider that sufficient evidence or explanation has been included in the assessment in order for us to advise on this assessment and therefore maintain our position from our letter dated 12 September 2016. We are particularly concerned about sensitive salt marsh habitats in the Humber Estuary SAC, SPA and Ramsar.</p>	<p>Further evidence on a “no cumulative impact” conclusion between an employment site and traffic have been provided in the HRA.</p>	<p>No changes to assessment findings. Read HRA for further supporting evidence.</p>
<p>3.4.2 We advise that the HRA is updated to include an assessment of the impact of the increase in traffic emissions on sensitive habitats in the Humber Estuary SAC, SPA and Ramsar as a result of growth proposed in the plan. In addition we advise you consider in combination effects with neighbouring plans in relation to traffic emissions.</p>	<p>Potential traffic growth and traffic emissions associated with neighbouring plans have been considered.</p>	<p>None</p>
<p><u>3.5 Water Quality</u></p> <p>3.5.1 Natural England welcomes the updates to the Appropriate Assessment in tables F1, F2 and F3 which confirms that Yorkshire Water has confirmed that there is capacity within the existing sewage treatment system to accommodate all of the proposed allocations. Natural England therefore concurs with the conclusion that there will be no adverse impacts (including no in- combination impacts) on water quality in the Humber Estuary with regards to this issue.</p>	<p>Noted.</p>	<p>None</p>

Comments	Proposed Modification	Implications to the SA
Natural England (dated 31 Jan 2017)		
<p><u>3.6 Allocations 44 and 45 Queen Elizabeth Dock</u> 3.6.1 Natural England welcomes the update to Policy 2 Employment Allocations which states that at site 45 a bird mitigation area and 150m buffer zone should be set aside in the south eastern part of the site and details should be agreed and the area provided prior to the commencement of construction in any part of the site. The mitigation area and buffer zone should be retained to maintain the ecological value of the site. We also welcome the inclusion of this mitigation zone in the Development Brief for allocation 45 and note its inclusion in the Local Development Order for this area. As such Natural England concurs with the conclusion of no adverse effects on integrity with regards to this issue.</p>	Noted.	None
<p><u>3.7 Policies Map</u> Natural England welcomes proposed change IDs 50, 52 and 53 which includes the policies map so as not to designate land within the Humber Estuary SAC, SPA, Ramsar and SSSI where the areas have not been assessed for alternatives, imperative reasons for overriding public interest and compensated for under the Habitats Regulations. This satisfies Natural England's concerns regarding this issue set out in our letter dated 12 September 2016.</p>	Noted.	None
<p>4 SD008 Proposed Modification to the Hull Local Plan Publication Consultation Document <u>4.1 Policy 44 Biodiversity and Wildlife</u> 4.1.1 Natural England welcomes proposed change ID 7 which addresses our concerns with regards to Policy 44.</p>	Noted.	None
<p>5 SD005 Hull Local Plan Addendum of Proposed Modification Sustainability Appraisal Report 5.1 Natural England broadly welcome SD005 Hull Local Plan Addendum of Proposed Changes Sustainability Appraisal Report provided in support of this consultation. However, we have a number of concerns regarding the Humber Estuary designated sites, as detailed above in our additional comments regarding the Habitats Regulations Assessment in section 3 of this letter. Therefore in order to ensure legal compliance we advise that the Sustainability Appraisal should be updated in the light of the findings of further work on the Habitats Regulations Assessment.</p>	A 2 nd Addendum of the SA has been prepared to reflect the modifications arising from the HRA.	Prepare 2 nd Addendum to SA Report February 2017

Comments	Proposed change	Implications to the SA
Yorkshire Wildlife Trust (dated 31 Jan 2017)		
<p>Policy 18 Renewable and low carbon energy</p> <p>Yorkshire Wildlife Trust welcomes and supports the proposed change to the policy wording and the removal of Local Wildlife Sites from areas identified as suitable for wind turbines (Proposed change ID 47).</p> <p>The policy does still however promote the use of Operational Port Areas as wind turbine sites, which may lead to impacts on Humber Estuary SPA bird populations. Yorkshire Wildlife Trust agrees and supports with the RSPB's comments on the proposed policy (dated 30th January 2017) that based on the information submitted so far that impacts on roosting and foraging waders cannot yet be ruled out.</p> <p>Such has briefly been assessed in Table F2 of the Habitats Regulations Assessment, which rules out impacts on high tide roosting birds. Yorkshire Wildlife Trust agrees with and supports the RSPB's comments that this assessment does not preclude usage of the frontage by roosting waders. We therefore agree with the RSPB's recommendation that a more detailed assessment should be undertaken, based on contemporary survey data, to properly consider the potential impacts on roosting birds, in addition to consideration of impacts on feeding birds during low, falling and rising tides.</p> <p>Yorkshire Wildlife Trust agrees with the conclusion of the RSPB that Policy 18 and its promotion that wind turbines in the OPAs will not lead to adverse effects on the integrity of the Humber Estuary SPA are not supported by the evidence provided and that Policy 18 risks being ineffective as it promotes areas as potentially suitable for wind turbine developments that are unlikely to be so.</p>	Noted.	None
<p>Policy 35 Water Transport</p> <p>In our previous response Yorkshire Wildlife Trust expressed concerns about the impacts that the proposed 'The Deep' ferry terminal may have on the Humber Estuary SPA/ SAC/ SSSI. We note that the proposed ferry terminal is still included within the Local Plan, and that in the Council's response to the comments made by Mr Kurt Norton (LPPUB-2) the council states that the proposed terminal will have no significant adverse effects on the Humber Estuary:</p>	<p>The Cruise Terminal viability study has been appended to the HRA.</p> <p>WeBs and habitat data from the local biodiversity records centre has been used to</p>	None

Comments	Proposed change	Implications to the SA
<p>Yorkshire Wildlife Trust (dated 31 Jan 2017)</p>		
<p><i>'The Local Plan Policy 35 supports the proposed cruise terminal adjacent to The Deep subject to a range of environmental and other safeguards. There have been representations made on Policy 35 from residents and nature conservation organisations. The Council considers The Deep to be the best location for the terminal and that it would not have a significant adverse effect on the Humber Estuary which is an international wildlife site. For these reasons, the Council is proposing no changes to Policy 35 and that it should remain in the Local Plan and be included in the submission version which will be examined by an independent planning inspector in early 2017.'</i></p> <p>The above response states that the proposed terminal will not have a significant adverse effect on the Humber Estuary and that it is the best location for the terminal, however no evidence appears to have been submitted in support of this. Yorkshire Wildlife Trust therefore advises that such information is submitted, which should include up-to-date bird and habitat data.</p> <p>Yorkshire Wildlife Trust has reviewed tables F1, F2 and F3 of the HRA which highlight the potential habitat loss/ fragmentation, disturbance and hydrological impacts that the proposed ferry terminal may have on the Humber Estuary SPA/ SAC/ Ramsar. Yorkshire Wildlife Trust does not agree with the conclusion that the promotion of the cruise terminal will not lead to adverse impacts on the integrity of the SAC/ SPA/ Ramsar site, even on the basis of the five avoidance/ mitigation measures included within the HRA.</p> <p>Yorkshire Wildlife Trust has reviewed the comments made on the five avoidance measures by the RSPB and fully supports such comments. In particular, we would like to highlight the land take required for the construction of the jetty. Whilst the use of a floating pontoon and piles may minimise the amount of subtidal/ intertidal habitat lost for the construction of the terminal, the use of the piles will still require the loss of designated habitat from the SPA/SAC/Ramsar site. Such would be in contradiction of the Conservation Objectives for the SPA and SAC, which require the existing designated habitats to be maintained and therefore will result in an adverse</p>	<p>inform the intertidal habitat assessment.</p> <p>Intertidal habitat loss from piling has been calculated.</p> <p>Policy 35 has been modified.</p>	

Comments	Proposed change	Implications to the SA
<p>Yorkshire Wildlife Trust (dated 31 Jan 2017)</p> <p>effect on the integrity of the SAC/ SPA/ Ramsar site.</p> <p>In addition, we would like to highlight that regardless of the issues of the five avoidance measures described within the HRA, there is still the major shortfall that they have not been secured by policy within the Local Plan. If such avoidance measures are later to be found unfeasible, then adverse effects on the integrity of the SPA/ SAC may arise. At present there is neither sufficient scientific nor policy certainty to ensure no adverse effects on integrity from the proposed terminal.</p> <p>Yorkshire Wildlife Trust therefore re-iterates our previous representation that it is our view that the cruise terminal allocation is removed from the Local Plan, or that all mitigation/ compensation options are fully explored prior to the adoption of the allocation. If the allocation is going to be further explored this should be further assessed using up-to-date bird and habitat data, however we would like to highlight that the conduction of such surveys may not guarantee the delivery of a viable development. The policy therefore may be unsound if the proposed ferry terminal is undeliverable.</p>		
<p>Hull Local Plan Habitats Regulations Assessment</p> <p>In-combination impacts</p> <p>Yorkshire Wildlife Trust welcomes the addition of projects to the in-combination assessment in the HRA. Yorkshire Wildlife Trust is however concerned that the criteria for the selection of projects to be included in the assessment has not been included in the document. In addition, the three projects included all fall within the Hull City boundary, with no projects outside of this authoritative boundary being included. Yorkshire Wildlife Trust would like to highlight that the SPA/SAC/ Ramsar designations for the Humber Estuary cover the entire estuary, meaning that distant projects may potentially act together cumulatively to have an impact on the nature conservation designations. It is therefore essential that in-combination assessments include plans and project across the whole of the estuary in order to get an accurate assessment of in- combination impacts.</p>	Plans and projects on the south bank of the Humber Estuary have been considered for potential in-combination effects.	None
<p>Tables F1, F2 and F3</p> <p>Yorkshire Wildlife Trust fully supports the comments made by the RSPB on the proposed mitigation measures for Policy 3. We would like to highlight the need to secure the delivery of such measures within the Local Plan, in</p>	Policy 35 has been modified.	None

Comments	Proposed change	Implications to the SA
Yorkshire Wildlife Trust (dated 31 Jan 2017)		
addition to funding.		
<p>Conclusion It is the Yorkshire Wildlife Trust's opinion that, based on the issues detailed above, that the Local Plan is neither sound nor legally compliant. This is due to the fact that it is not yet possible to rule out impacts on the Humber Estuary SPA/ SAC/ Ramsar sites (in particular Policies 35 and 18) and be compliant with the Habitats Regulations. It is therefore not known at this stage whether Policies 18 and 35 are deliverable or effective, therefore the Local Plan cannot currently be considered sound.</p>	Noted.	None

Comments	Proposed change	Implications to the SA
RSPB (dated 30 Jan 2017)		
<p>The RSPB continues to be of the view that the Hull Local Plan is neither sound nor legally compliant, and therefore objects to the adoption of the Local Plan in its currently proposed form. This is on the basis that it is not currently possible for the Local Plan to demonstrate legal compliance with the Conservation of Habitats and Species Regulations 2010 (as amended) (“the Habitats Regulations”), specifically Regulation 102(4). It is therefore not possible to demonstrate that the policies are deliverable and effective, and as such the Local Plan cannot currently be considered sound. The policies and issues of concern to the RSPB are, in summary:</p> <p>Policy 18 and its continued promotion of wind turbines in port areas immediately adjacent to the Humber Estuary Special Protection Area (SPA);</p> <p>Policy 35 and its promotion of a cruise terminal at the Deep, which is likely to involve land take from the Humber Estuary Special Area of Conservation (SAC), SPA, Ramsar site and Site of Special Scientific Interest (SSSI);</p> <p>The incomplete assessment of potential in combination impacts in the Habitats Regulations Assessment (HRA), and</p> <p>Policy 3 and the currently unsecured mitigation measures relied upon to conclude that the Policy is compliant with the Habitats Regulations.</p>	Noted.	None
<p>Annex: RSPB Further Comments on Hull Local Plan Submission Documents and Proposed Changes</p> <p>Introduction</p> <p>The RSPB has been actively involved in the Hull Local Plan (“the Plan”) process, responding to all relevant consultations received. Throughout this process, the RSPB’s primary focus has been the conservation and enhancement of the Humber Estuary and its internationally important habitats and wildlife. The international importance of the Humber is recognised by its designation as a Special Area of Conservation (SAC) and Special Protection Area (SPA), which together afford the Estuary the highest level of protection under the Conservation of Habitats and Species Regulations 2010 (as amended). The importance of the Humber is further recognised by its status as a Wetland of International Importance under the Ramsar convention, and as a Site of Special Scientific Interest (SSSI).</p>	Noted.	None

Comments	Proposed change	Implications to the SA
<p>RSPB (dated 30 Jan 2017)</p> <p>The RSPB submitted comments to the consultation on the Publication version of the Plan (“our previous representation”). The detail of our previous representation will not be repeated here but, in summary, the RSPB’s view was that the Publication version was neither sound nor legally compliant as a result of concerns over:</p> <ul style="list-style-type: none"> • Policy 18 and the promotion of wind turbine development on both Operational Port Areas (OPAs) and Local Wildlife Sites (LWSs). • Policy 35 and the promotion of a cruise terminal within the Humber Estuary, likely to involve land take from the SAC/SPA/Ramsar site/SSSI and disturbance to SPA/Ramsar/SSSI bird species. • The Habitats Regulations Assessment (HRA) and the absence of an assessment of potential impacts of the Plan in combination with projects. <p>The RSPB notes that Hull City Council (“the Council”) has responded to these concerns in the Statements of Representations (SD017 and SD018) and, in some instances, through proposed changes to the Plan (SD008). We also note that an updated HRA (“the HRA”) (HRA003) has been submitted. The RSPB’s responses to these documents, changes and any other matters of relevance to our primary focus are detailed below.</p>		
<p>Policy 18 Renewable and low carbon energy</p> <p>The RSPB notes that the Council proposes the removal of LWSs from the areas identified as suitable for wind turbines (Proposed Change (“PC”) ID47). The RSPB welcomes and supports this proposed change and considers it satisfactorily addresses the potential soundness issue raised in our previous representation over LWSs and their protection.</p> <p>The RSPB is, however, disappointed to note that the Council continues and indeed strengthens (PC ID48) its promotion of the OPAs as suitable for wind turbines. There is some limited consideration of the potential for turbines in such areas to lead to indirect impacts on bird species of the SPA (via disturbance and displacement) in Table F2 of the HRA. This assessment states:</p> <p><i>The majority of the coastal frontage along the port area consists of rock revetment and the area is highly disturbed from port activities e.g. vessel movements. In addition no bird records were recorded on the</i></p>	<p>WeBS data has been used to inform the assessment.</p> <p>Policy 18 modified.</p>	<p>None</p>

Comments	Proposed change	Implications to the SA
<p>RSPB (dated 30 Jan 2017)</p> <p><i>proposed wind turbine sites. Therefore, it is unlikely that SPA and Ramsar featured birds use these areas as high tide roosting areas. The eastern extent of the port area is reported to be used as a high tide roost and this has been assessed and the relevant mitigation measures are stated against the assessment for employment sites 44 and 45 later in this table.</i></p> <p>This assessment largely rules out the potential for impacts on birds roosting at high tide on the basis of the hard nature of the frontage and the ongoing port activities. Neither factor in themselves preclude usage of the frontage by waders for roosting, as shown by the historic use of a number of structures on the Hull frontage, as briefly referenced in the assessment. Indeed, species such as turnstone (<i>Arenaria interpres</i>) – part of the SPA assemblage - favour hard substrates for both roosting and feeding (e.g. Snow & Perrins, 19981). In addition, the assessment reports that no bird records were noted for the proposed wind turbines sites but no source or survey information is given to support this statement, meaning the quality of this data and validity of the conclusions cannot be judged.</p> <p>The generalised assumptions used in the above assessment are therefore insufficient and a more detailed assessment should be undertaken, based on contemporary survey data, to properly consider the potential impacts on roosting birds. In addition, consideration needs to be given to use of intertidal areas by feeding birds during low, falling and rising tides, as this is not currently considered.</p> <p>Examination of the Wetland Bird Survey (WeBS) data available for the sectors including the Hull dock frontages shows a number of SPA species that occur in this area in numbers greater than 1% of the latest 5 year peak mean population for the Humber at both low and high tide. While the sectors are considerably larger than the dock frontages and so include a wider range of habitats, the data are still illustrative of the potential value of this area and therefore the risks of relying on assumptions to define the assessment, reiterating the need for recent field data. A summary of the relevant peak counts for key species is provided in Appendix 1 to this Annex.</p> <p>On this basis, the RSPB continues to be of the view that the conclusions of the HRA – that Policy 18 and its promotion of wind turbines in the OPAs will not lead to adverse effects on the integrity of the Humber Estuary</p>		

Comments	Proposed change	Implications to the SA
RSPB (dated 30 Jan 2017)		
SPA – are not supported by the evidence provided. As such, we maintain our position, from our previous representation, that Policy 18 risks being ineffective as it promotes areas as potentially suitable for wind turbine developments that are potentially not so.		
<p>Policy 35 Water transport</p> <p>To respond to a number of representations on Policy 35, specifically the cruise terminal, from residents and nature conservation organisations, including the RSPB’s previous representation, the Council has provided a response in SD018 against a representation by Mr Kurt Norton (LPPUB-2). In this response, the Council states:</p>	Policy 35 has been modified.	None
<p>The Local Plan Policy 35 supports the proposed cruise terminal adjacent to The Deep subject to a range of environmental and other safeguards. There have been representations made on Policy 35 from residents and nature conservation organisations.</p> <p>¹ Snow, D.W. and Perrins, C.M., 1998. <i>The Birds of the Western Palearctic Concise Edition. Volume 1: Non-passerines</i>. Oxford University Press</p> <p><u><i>The Council considers The Deep to be the best location for the terminal and that it would not have a significant adverse effect on the Humber Estuary which is an international wildlife site. For these reasons, the Council is proposing no changes to Policy 35 and that it should remain in the Local Plan and be included in the submission version which will be examined by an independent planning inspector in early 2017.</i></u> [Our underlining]</p> <p>This response states that the Council considers it possible to conclude that the proposed cruise terminal will not have significant adverse effects on the Humber Estuary and its international nature conservation designations. However, no further detail is provided in the response to support this statement. It should be noted that the key test is whether or not the proposals will lead to adverse effects on the integrity of the SAC/SPA/Ramsar site, rather than likely significant effects. It is the integrity test that the RSPB considers throughout this representation; we assume that the reported test of “no significant adverse impacts” is also referring to the adverse effects on integrity test.</p>	Correct. The HRA refers to the test of likely significant effect and the adverse effects on integrity test.	

Comments	Proposed change	Implications to the SA
RSPB (dated 30 Jan 2017)		
<p>Turning to the HRA, Tables F1, F2 and F3 identify three main potential impacts of a cruise terminal on the Humber Estuary SAC/SPA/Ramsar site: habitat fragmentation/loss; disturbance, and changes to the hydrological regime. The RSPB agrees that these are likely to be the main issues. In all cases, the HRA concludes that the promotion of the cruise terminal in Policy 35 will not lead to adverse effects on the integrity of the SAC/SPA/Ramsar site. This is on the basis of five avoidance/mitigation measures:</p> <ol style="list-style-type: none"> 1. The policy wording requiring the cruise terminal proposal to demonstrate no significant adverse impacts (assumed to mean no adverse effects on integrity) during all phases of its construction or operation; 2. The likely design involving a floating pontoon anchored with piles entailing no loss of intertidal habitats; 3. The existing background shipping activity ameliorating the impact of any increases in vessel traffic associated with the terminal; 4. Construction to only be undertaken outside of the overwintering period, and 5. Operation of the terminal likely to be limited to between April and October. 	Noted.	None
<p>There are, however, a number of failings with all of these proposed measures. Taken in turn, using the numbering above:</p> <ol style="list-style-type: none"> 1. The policy wording is of no value as a targeted mitigation or avoidance measure, as Policy 44 of the Local Plan and the existence of the Habitats Regulations already confer this protection on the Estuary and its 	1. Policy 35 has been modified.	None

Comments	Proposed change	Implications to the SA
RSPB (dated 30 Jan 2017)		
<p>designated habitats and wildlife. The key issue is whether it can be demonstrated at the time of the adoption of the Local Plan that the cruise terminal will not lead to adverse effects on the integrity of the SAC/SPA/Ramsar site. This is required to ensure that the Local Plan is compliant with the requirements of Regulation 102(4) of the Habitats Regulations. The approach of attempting to defer assessment to the project level does not remove this requirement and also greatly increases the risk of the Plan becoming unsound, if the Policy promoting the cruise terminal is ultimately found to be undeliverable due to the project failing to pass the tests of the Habitats Regulations (Regulations 61 and 62). As identified in our previous representation, and based on the further assessment below, the RSPB considers this to be a very real risk.</p>		
<p>2. Although the proposed design has the potential to reduce the impacts in comparison to, for example, a solid quay, it does not fully remove them. It is important to note that all intertidal and subtidal areas of the Humber Estuary are designated as SAC/SPA/Ramsar site; therefore loss of any such habitat has the potential to adversely affect the designations. The use of piles will clearly entail the loss of either subtidal or intertidal, or indeed both, and therefore the loss of designated habitat from the SAC/SPA/Ramsar site. Both the SAC and SPA have Conservation Objectives to maintain the extent and distribution of the designated habitats. The loss of habitat to the piles therefore has the potential to contravene these objectives and so entail an adverse effect on the integrity of the SAC/SPA/Ramsar site.</p>	<p>2. Intertidal habitat loss from piling has been calculated.</p>	<p>None</p>
<p>3. While the background shipping activity is a relevant consideration, no information on the likely vessel types or movements associated with the terminal is provided. Such information is necessary in order to understand the potential impacts of vessel movements if a robust assessment is to be made of the likely impacts of any changes to the baseline.</p>	<p>3. Cruise terminal feasibility study has been appended to the HRA.</p>	<p>None</p>
<p>4. No definition of the “overwintering” period is provided. It should be noted that the Humber Estuary is designated for its breeding and migratory (<i>i.e.</i> autumn and spring) waterbird populations, as well as its</p>	<p>4. HRA has been updated to clarify that</p>	<p>None</p>

Comments	Proposed change	Implications to the SA
RSPB (dated 30 Jan 2017)		
<p>overwintering. Full consideration of all relevant bird species and their use of the proposed terminal area, based on contemporary survey data, is therefore required before it can be concluded whether timing restrictions are sufficient and, if so, what restrictions should be put in place. It should also be noted that the Humber Estuary SSSI is designated for its nationally important breeding, migratory and wintering bird populations, which includes species not covered by the SPA/Ramsar designations, and these too must be given consideration.</p>	<p>the Humber Estuary is designated for breeding and migratory birds (ie autumn, spring and winter).</p>	
<p>5. As for point 4, there is insufficient evidence to conclude that the proposed timing restrictions are sufficient to address the potential impacts of the proposed terminal.</p> <p>Putting aside the issues with the specific avoidance measures proposed, the fundamental failing of the approach taken by the Council is that none of these measures are in any way secured through the Local Plan. While the HRA states (p28) that the Council has “agreed” to these measures, there is no policy or binding commitment to them. Indeed, the design and construction/operation measures are only described in the HRA as “likely” on the basis of feasibility studies, as opposed to firm commitments. As such, there is neither sufficient scientific nor policy certainty to support the conclusions of no adverse effects on integrity from the proposed terminal. It is therefore the RSPB’s view that it is not possible to give effect to the Local Plan in its current form, in accordance with Regulation 102(4) of the Habitats Regulations.</p> <p>The RSPB’s views on the changes required to address these matters remain as at our previous representation. We do, however, highlight that to properly assess these issues, a comprehensive suite of up-to-date bird and habitat data would be required, as well as the additional non-avian information highlighted above. Even then, we reiterate our view from our previous representation that it is by no means certain that these processes would lead to a viable development and so a sound policy. As such, we continue to be of the view that removal of the promotion of a cruise terminal from the Local Plan is the most appropriate way forward.</p>	<p>5. Supporting evidence on suitability for timing restrictions has been included in the HRA.</p>	<p>None</p>
<p>HRA In-combination Assessment</p> <p>The addition of projects to the in-combination assessment in the HRA is welcomed by the RSPB. However, it is unclear on what basis the list of three projects (p18) has been selected. It appears to be limited to projects</p>	<p>Plans and projects on the southern bank of the Humber have been considered for potential</p>	<p>None</p>

Comments	Proposed change	Implications to the SA
<p>RSPB (dated 30 Jan 2017)</p> <p>within the Hull City boundary. While this may be appropriate, it is important that the list is defined on the basis of ecological, rather than administrative, criteria.</p> <p>The Humber Estuary's designations are single site designations covering the entire Estuary. As such, geographically distant projects, including those in different Local Planning Authority areas, have the potential to act together to cumulatively impact the Humber's designated wildlife. To illustrate: birds that feed and roost on the South bank of the Humber frequently make movements across the Estuary to make use of habitats on the North bank (e.g. Cutts et al., 20162). These cross-Estuary movements are in part relied upon for some of the mitigation associated with the Green Port Hull development, through the provision of artificial roost structures on the South bank replacing those lost at Green Port Hull. This shows that it is vital that any in-combination assessment considers any and all plans and projects from around the whole Estuary that have the potential to impact cumulatively upon the Estuary's designated habitats and wildlife.</p> <p>Based on the above, the RSPB's views on the soundness and legal compliance of this element of the plan, as well as the changes required, continue to be as set out in our previous representation.</p>	in-combination effects.	
<p>Other Matters</p> <p>The RSPB notes that additional information has been added to Tables F1, F2 and F3 of the HRA to further describe the mitigation measures for Policy 3 used to reach the conclusions of no adverse effects on the integrity on the SAC/SPA/Ramsar site.</p> <p>The mitigation measures included, amongst others, the following:</p> <ul style="list-style-type: none"> • The promotion of alternative sites for dog walking, where dogs could be let off the lead without damaging the designated habitats or disturbing the designated bird species. These promoted sites should include sites outside the SAC and without SPA bird usage. • Making sites away from SAC habitats and SPA birds more dog friendly by promotion of a range of measures focused on better facilities for dog walkers 	Policy 42, 26 and 36, and monitoring table 14.2 have been modified to address dog walking issues.	None

Comments	Proposed change	Implications to the SA
<p>RSPB (dated 30 Jan 2017)</p> <ul style="list-style-type: none"> • The directing of dog walkers within sites so that they take routes that are less disturbing to wildlife • The provision of interpretation materials and leaflets with clear messaging on disturbance <p>The RSPB welcomes the identification of these measures and agrees that, given the potential impacts and circumstances of this particular Local Plan, they have the potential to form the basis for a sound mitigation strategy for the impacts of recreational disturbance to the SAC/SPA/Ramsar site. However, none of these measures are actually secured or committed to within the Local Plan itself, and no means of funding has been identified (e.g. via inclusion in a Community Infrastructure Levy charge schedule). Policy 42, as identified in the HRA, does promote the provision of additional quality green space with the City but neither the wording nor supporting text of Policy 42 include commitments to any of the above measures. In light of this, they cannot be relied upon as mitigation in the HRA, as there is no commitment to their delivery and therefore no confidence that they will address the impacts of recreational disturbance.</p> <p>In order to address the above issue and ensure robust HRA conclusions, and therefore legal compliance and soundness, on this matter it will be necessary for the above mitigation measures to be secured through the Local Plan. Additional wording committing to these measures should therefore be added to Policy 3 and/or Policy 42 and their supporting text.</p>		
<p>Conclusions</p> <p>Based on the issues detailed above, the RSPB continues to be of the view that the Local Plan is neither sound nor legally compliant, and therefore objects to the adoption of the Local Plan in its currently proposed form. This is on the basis that it is not currently possible for the Local Plan to demonstrate legal compliance with the Habitats Regulations, specifically Regulation 102(4). It is therefore not possible to demonstrate that the policies are deliverable and effective, and as such the Local Plan cannot currently be considered sound.</p>	Noted.	None
<p>Attendance at the Examination</p> <p>As detailed in our previous representation, the RSPB wishes to participate in the Examination hearings to address</p>	Noted.	None

Comments	Proposed change	Implications to the SA
RSPB (dated 30 Jan 2017)		
these matters, should it not be possible to resolve them in advance. Given the relatively straightforward changes required to address our concerns, we would welcome the opportunity to discuss these further with the Council, with the aim of agreeing the changes required in a Statement of Common Ground, thus reducing the time pressures on the Examination and its participants.		

Conclusion

The 2nd Addendum concludes that the proposed modifications will not result in significantly altering the Submitted Hull Local Plan SA Report.

