

Harborough Local Plan

Habitats Regulations Assessment

Harborough District Council

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Quality information

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Table of Contents

1.	Introduction.....	5
1.1	Background to the Project.....	5
1.2	Legislation.....	5
1.3	Scope of the Project.....	6
2.	Methodology.....	7
2.1	Introduction.....	7
2.2	HRA Task 1 – Likely Significant Effects (LSE).....	8
2.3	Principal Other Plans and Projects That May Act ‘In Combination’.....	9
3.	Likely Significant Effects: Rutland Water SPA and Ramsar sites	10
3.1	Introduction.....	10
3.2	Features of European interest.....	10
3.3	Conservation objectives.....	10
3.4	Principal Risks to Site Integrity.....	10
3.5	Potential Effects of the plan	10
3.5.1	Likely Significant Effects.....	10
3.5.2	Other Plans and Projects.....	12
4.	Conclusions.....	12
	Appendix A Initial Policy Sift	13

1. Introduction

1.1 Background to the Project

AECOM was appointed by Harborough District Council to assist the Council in undertaking a Habitats Regulations Assessment of its Local Plan (hereafter referred to as the 'Plan' or 'Local Plan'). The objective of this assessment was to identify any aspects of the Plan that would cause an adverse effect on the integrity of Natura 2000 sites, otherwise known as European sites (Special Areas of Conservation (SACs), Special Protection Areas (SPAs) and, as a matter of Government policy, Ramsar sites), either in isolation or in combination with other plans and projects, and to advise on appropriate policy mechanisms for delivering mitigation where such effects were identified.

1.2 Legislation

The need for Appropriate Assessment is set out within Article 6 of the EC Habitats Directive 1992, and interpreted into British law by the Conservation of Habitats and Species Regulations 2010. The ultimate aim of the Directive is to "maintain or restore, at favourable conservation status, natural habitats and species of wild fauna and flora of Community interest" (Habitats Directive, Article 2(2)). This aim relates to habitats and species, not the European sites themselves, although the sites have a significant role in delivering favourable conservation status.

The Habitats Directive applies the precautionary principle to European sites. Plans and projects can only be permitted having ascertained that there will be no adverse effect on the integrity of the site(s) in question. Plans and projects with predicted adverse impacts on European sites may still be permitted if there are no alternatives to them and there are Imperative Reasons of Overriding Public Interest (IROPI) as to why they should go ahead. In such cases, compensation would be necessary to ensure the overall integrity of the site network.

In order to ascertain whether or not site integrity will be affected, an Appropriate Assessment should be undertaken of the plan or project in question:

Box 1: The legislative basis for Appropriate Assessment

Habitats Directive 1992

Article 6 (3) states that:

"Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives."

Conservation of Habitats and Species Regulations 2010

The Regulations state that:

"A competent authority, before deciding to ... give any consent for a plan or project which is likely to have a significant effect on a European site ... shall make an appropriate assessment of the implications for the site in view of that sites conservation objectives... The authority shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site".

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Over time the phrase ‘Habitats Regulations Assessment’ (HRA) has come into wide currency to describe the overall process set out in the Habitats Directive from screening through to IROPI. This has arisen in order to distinguish the process from the individual stage described in the law as an ‘Appropriate Assessment’. Throughout this report we use the term HRA for the overall process and restrict the use of Appropriate Assessment to the specific stage of that name.

1.3 Scope of the Project

There is no pre-defined guidance that dictates the physical scope of a HRA of a Plan document. Therefore, in considering the physical scope of the assessment, we were guided primarily by the identified impact pathways (called the source-pathway-receptor model) rather than by arbitrary ‘zones’. Current guidance suggests that the following European sites be included in the scope of assessment:

- All sites within the Harborough district boundary; and,
- Other sites shown to be linked to development within the district boundary through a known ‘pathway’ (discussed below).

Briefly defined, pathways are routes by which a change in activity provided within a District Plan document can lead to an effect upon an internationally designated site. An example of this would be new residential development resulting in an increased population and thus increased recreational pressure, which could then affect European sites by, for example, disturbance of wintering birds. Guidance from the former Department of Communities and Local Government states that the HRA should be ‘*proportionate to the geographical scope of the [plan policy]*’ and that ‘*an AA need not be done in any more detail, or using more resources, than is useful for its purpose*’ (CLG, 2006, p.6). More recently, the Court of Appeal¹ ruled that providing the Council (competent authority) was duly satisfied that proposed mitigation could be ‘*achieved in practice*’ to satisfy that the proposed development would have no adverse effect, then this would suffice. This ruling has since been applied to a planning permission (rather than a Core Strategy document)². In this case the High Court ruled that for ‘*a multistage process, so long as there is sufficient information at any particular stage to enable the authority to be satisfied that the proposed mitigation can be achieved in practice it is not necessary for all matters concerning mitigation to be fully resolved before a decision maker is able to conclude that a development will satisfy the requirements of Reg 61 of the Habitats Regulations*’.

There are no European sites that lie within Harborough. Outside the district, the nearest European site is Rutland Water SPA and Ramsar site, which is located 7km to the north-east of the district boundary but 22km from the main population centres (Market Harborough and Thurnby/Scraftoft) as the district is largely rural with a fairly sparsely distributed population. This European site is therefore discussed in the analysis for completeness.

The following sites were considered but dismissed from the analysis due to a combination of distance and absence of impact pathways linking them to the district:

- Ensor’s Pool SAC is located 12.4km from Harborough district at its closest and more than 17km from the nearest substantial settlement in the district. It is designated for its population of white-clawed crayfish. As such, introduction of non-native species and changes to local water quality (from surface runoff) could both adversely affect the interest features of this site. However, it is located too far from Harborough district for these pathways to be relevant to this HRA.
- The Upper Nene Valley Gravel Pits SPA and Ramsar site is located 17km to the south east of Harborough district. This site is vulnerable to recreational disturbance but studies undertaken for the North Northamptonshire Joint Core Strategy have identified that the core recreational catchment of the site is 3km, which places Harborough well outside the core catchment. The SPA and Ramsar site are also vulnerable to losses of supporting habitat (i.e. arable fields used by the associated golden plover population) but again studies for the North Northamptonshire Joint Core Strategy have confirmed that the relevant fields are much more local to the site. Local abstraction and runoff could affect the site but Harborough is too far away for there to be a realistic impact pathway.

¹ No Adastral New Town Ltd (NANT) v Suffolk Coastal District Council Court of Appeal, 17th February 2015

² High Court case of R (Devon Wildlife Trust) v Teignbridge District Council, 28 July 2015

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River Mease SAC is located 25km from Harborough District. However, there is no interaction between this watercourse and growth in Harborough district due to a combination of distance and the fact that the river doesn't contribute to supply within, or drainage of, the district.

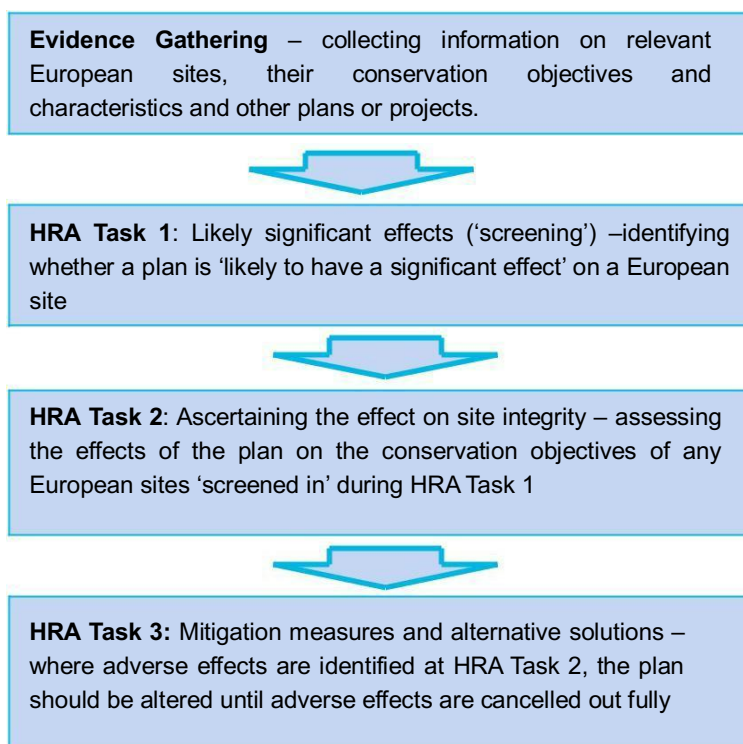
As such neither of these two sites is discussed further. The reasons for designation of Rutland Water SPA/Ramsar site, together with current trends in habitat quality and pressures on the sites are indicated in Chapter 5.

2. Methodology

2.1 Introduction

The HRA has been carried out in the continuing absence of formal central Government guidance, although general EC guidance on HRA does exist³. The former Department of Communities and Local Government (DCLG) released a consultation paper on the Appropriate Assessment of Plans in 2006⁴. As yet, no further formal guidance has emerged. However, Natural England has produced its own internal guidance⁵ as has the RSPB⁶. Both of these have been referred to alongside the guidance outlined in paragraph 1.2.3 in undertaking this HRA.

Figure 1 below outlines the stages of HRA according to current draft DCLG guidance. The stages are essentially iterative, being revisited as necessary in response to more detailed information, recommendations and any relevant changes to the plan until no significant adverse effects remain.



³ European Commission (2001): Assessment of plans and projects significantly affecting Natura 2000 Sites: Methodological Guidance on the Provisions of Article 6(3) and 6(4) of the Habitats Directive.

⁴ CLG (2006) Planning for the Protection of European Sites, Consultation Paper

⁵ http://www.ukmpas.org/pdf/practical_guidance/HRGN1.pdf

⁶ Dodd A.M., Cleary B.E., Dawkins J.S., Byron H.J., Palframan L.J. and Williams G.M. (2007)

The Appropriate Assessment of Spatial Plans in England: a guide to why, when and how to do it. The RSPB, Sandy.

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Figure 1: Four Stage Approach to Habitats Regulations Assessment. Source CLG, 2006.

2.2 HRA Task 1 – Likely Significant Effects (LSE)

Following evidence gathering, the first stage of any Habitat Regulations Assessment is a Likely Significant Effect (LSE) test - essentially a risk assessment to decide whether the full subsequent stage known as Appropriate Assessment is required. The essential question is:

“Is the Plan, either alone or in combination with other relevant projects and plans, likely to result in a significant effect upon European sites?”

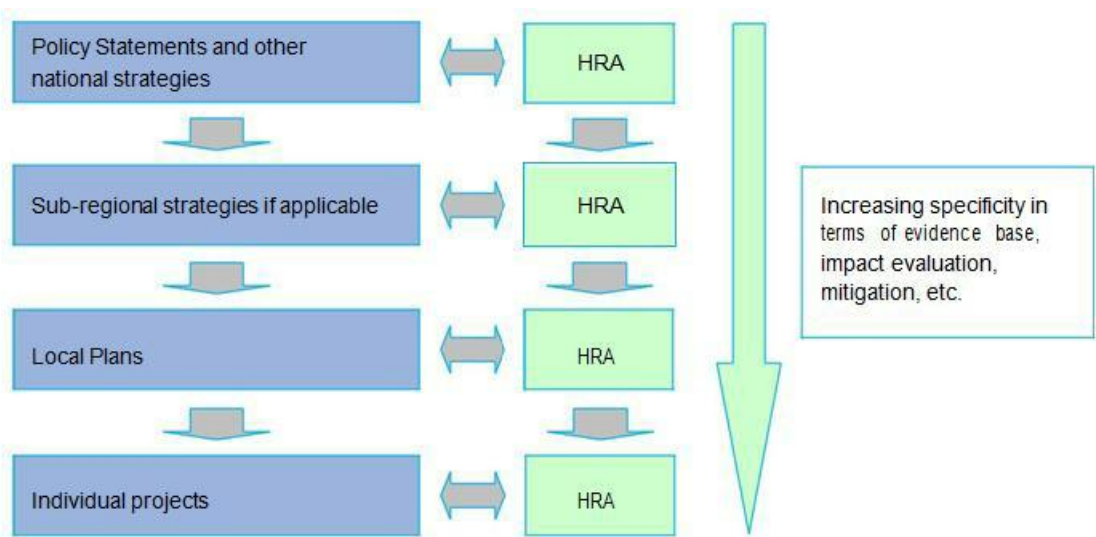
The objective is to ‘screen out’ those plans and projects that can, without any detailed appraisal, be said to be unlikely to result in significant adverse effects upon European sites, usually because there is no mechanism for an adverse interaction with European sites.

European Commission (2001): Assessment of plans and projects significantly affecting Natura 2000 Sites: Methodological Guidance on the Provisions of Article 6(3) and 6(4) of the Habitats Directive.

³ CLG (2006) Planning for the Protection of European Sites, Consultation Paper
 In evaluating significance, AECOM have relied on our professional judgement as well as the results of previous stakeholder consultation regarding development impacts on the European sites considered within this assessment.

The level of detail in land use plans concerning developments that will be permitted under the plans will never be sufficient to make a detailed quantification of adverse effects. Therefore, we have again taken a precautionary approach (in the absence of more precise data) assuming as the default position that if an adverse effect cannot be confidently ruled out, avoidance or mitigation measures must be provided. This is in line with the former Department of Communities and Local Government guidance and Court rulings that the level of detail of the assessment, whilst meeting the relevant requirements of the Conservation Regulations, should be ‘appropriate’ to the level of plan or project that it addresses. This ‘tiering’ of assessment is summarised in Box 2.

Box 2: Tiering in HRA of Land Use Plans



When discussing ‘mitigation’ for a Local Plan document, one is concerned primarily with the policy framework to enable the delivery of such mitigation rather than the details of the mitigation measures themselves since the Local Plan document is a high-level policy document.

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2.3 Principal Other Plans and Projects That May Act 'In Combination'

In order to fully inform the screening process, a number of surrounding plans have been consulted to determine likely significant effects that could arise from the Harborough Local Plan in combination with these other plans. These were selected because they were the other plans that either surrounded Harborough or were for an authority that included one of the European sites discussed (e.g. North Northamptonshire, within which the Nene Valley Gravel Pits is located). They are:

- Rutland Local Plan Core Strategy (adopted 2011)
- Oadby and Wigston Local Plan Core Strategy (adopted 2010)
- Leicester City Local Plan Core Strategy (adopted 2014)
- Melton Local Plan (Pre-submission draft 2016)
- Blaby Local Plan Core Strategy (adopted 2013)
- Peterborough Local Plan (Further Draft, December 2016)
- North Northamptonshire Joint Core Strategy (adopted 2016)

3. Likely Significant Effects: Rutland Water SPA and Ramsar sites

3.1 Introduction

Rutland Water is a large eutrophic man-made pump storage reservoir created by the damming the Gwash Valley in 1975. The reservoir receives the majority of its water from the Rivers Nene (90%) and Welland (10%). In general the reservoir is drawn down in the summer and filled during the autumn and winter months when river levels are high. The lagoons are one of the most important areas for wintering and breeding wildfowl. The reservoir regularly supports internationally important numbers of gadwall and shoveler and nationally important numbers of eight other species of wildfowl.

3.2 Features of European interest⁷

Rutland Water qualifies as an SPA due to its populations of wintering birds in general and gadwall/shoveler specifically. The waterfowl assemblage includes populations of shoveler *Anas clypeata*, teal *Anas crecca*, wigeon *Anas penelope*, gadwall *Anas strepera*, tufted duck *Aythya fuligula*, goldeneye *Bucephala clangula*, mute swan *Cygnus olor*, coot *Fulica atra*, merganser *Mergus merganser* and great crested grebe *Podiceps cristatus*. It is designated as a Ramsar site for the same features, particularly its populations of gadwall, shoveler and mute swan.

3.3 Conservation objectives

The conservation objectives of the SPA are to 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;

- 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

3.4 Principal Risks to Site Integrity

- Public disturbance
- Inappropriate water levels
- Water pollution
- Invasive species
- Fisheries management

3.5 Potential Effects of the plan

3.5.1 Likely Significant Effects

A detailed policy by policy analysis is presented in Appendix A. In summary, the Local Plan expects 12,800 dwellings to be delivered over the Local Plan period. Approximately 7,915 of these have already been built (since the Local Plan is back-dated) or already have planning permission or are allocated in plans that have already been made (i.e. Neighbourhood Plans). The rest comprise:

⁷ JNCC (2015) Natura 200 Standard Data Form: Epping Forest SAC

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- about 1,500 in a strategic development area (SDA) east of Lutterworth;
- about 1,200 in a SDA at Scraftoft North;
- about 1,170 on other sites allocated in this Local Plan;
- about 790 on non-allocated sites, or sites to be allocated in neighbourhood plans for Rural Centres and Selected Rural Villages (SRV);
- about 225 on windfall sites outside Rural Centres and Selected Rural Villages.

The Local Plan also expect to increase gypsy/traveller pitches (Policy H6) (5 permanent residential pitches and 26 pitches for travelling show-people) and increase business space (Policy BE1) by 56 ha across the district. In addition to this Policies GD2, GD3, GD4 and H3 also provision for increasing (under certain conditions) small scale residential developments within existing built up areas and within rural communities which have not already been allocated for development within the Local Plan. Planned development sites for residential dwellings and business are included within Policies SC1, MH1, MH2, MH3, MH4, MH5, MH6, L1, L2, F1, F2, and K1.

The main pathways, or impact mechanisms, through which Local Plan development could affect Rutland Water are through recreational pressure, drawdown for public water supply and (possibly) air quality impacts on terrestrial parts of the SPA that provide feeding and roosting locations for SPA birds.

However, Rutland Water is too far from the main population centres for growth in Harborough district to affect recreational pressure on the SPA. Although Rutland Water is located 7km from the north-east of the district boundary, that part of the district is very rural and no allocations are planned, and only low housing targets for SRV's nearest to this part of the district.. The proposed SDAs at Lutterworth and Scraftoft North are the two main housing allocations in the Local Plan. A further 1,140 dwellings are expected within the Market Harborough area. These three settlements will account for 3,840 additional dwellings (beyond those already completed or committed) or nearly 80% of currently uncommitted dwellings in the district. They are all remote from Rutland Water SPA/Ramsar site, being located between 22km and 38km distant from Rutland Water. Other allocated sites e.g. Fleckney and Kibworth are located closer to the districts boundary with Leicester but constitute a small proportion of the overall total and are even from the district's eastern boundary which is 7km from the European site.

Surface water quality could be affected by development within close proximity to the SPA/Ramsar site but that will not apply to any development sites in Harborough district. Rutland Water is a core part of the Anglian Water supply network but Anglian Water does not provide the majority of Public Water Supply to Harborough district⁸, which is instead provided by Severn Trent Water. Anglian Water Water Resource Management Plan underwent a Habitat Regulations Assessment in 2015 based on a 25 year strategy (to 2040). Likely significant effects were assessed for Rutland Water SPA/Ramsar as part of their water supply network; conclusions stated "*Water transfer from Wing which is fed by Rutland Water will be within existing consent limits. Furthermore mitigation measures have been carried out with the construction of new lagoons to avoid impacts from a further decrease in the reservoir water levels due to increased abstraction. Likely significant effects are not reasonably foreseeable*"⁹ therefore it is unlikely that any development within the catchment of Anglian Water will adversely affect Rutland Water SPA/Ramsar.

There are areas of terrestrial habitat within the SPA boundary that could be used by SPA waterfowl as feeding, roosting and loafing areas. These areas of habitat could theoretically be vulnerable to elevated nitrogen deposition from vehicular traffic on roads that lie within 200m of the SPA. This could in turn affect their habitat structure (and thus usability by SPA waterfowl) if there were no other major influences on that structure. However, the only such habitat that lies within 200m of a road is closely mown grassland (regular mowing will more than offset the relatively subtle influence of air quality on structure) and the road in question (the A606 north of the SPA/Ramsar site to the west of Barnsdale Country Club) would not be a significant route for journeys to work from Harborough as it doesn't provide a sensible link between any of the population centres of the district and any likely major employment locations outside the district.

⁸ Water from Rutland Water is drawn off at the Raw Water Pumping Station which serves the existing Wing Water Treatment Works 8km away. From Wing about half the treated water flows by gravity to Peterborough and the remainder is pumped 15km to Beanfield Reservoir near Corby. A further pumping station at Beanfield transfers part of the inflow another 19km to Hannington Reservoir in Northampton serving the southern part of the supply zone.

⁹ <http://www.anglianwater.co.uk/assets/media/2015 WRMP HRA Main Report.pdf> [Accessed 04/08/2017]

3.5.2 Other Plans and Projects

Analysis of other plans and projects becomes of particular relevance where pathways of impact exist that link development in a particular Local Plan area with a European site, but the contribution of that Local Plan is small. However, even the Rutland District Core Strategy concluded that it would have no likely significant effect on Rutland Water SPA/Ramsar in combination. Moreover, in the case of Harborough District, no realistic impact pathways have been identified to Rutland Water SPA/Ramsar. It therefore follows that there would be no adverse effect of the Harborough Local Plan 'in combination'.

4. Conclusions

It is possible to conclude that development in the Harborough Local Plan will not have a likely significant effect on any internationally important wildlife sites either alone or in combination with other plans and projects. These conclusions are based on the findings of this screening which conclude that no Natura 2000 sites are located within the district and no impact pathways have been identified linking Natura 2000 sites outside of the district e.g. Rutland Water SPA/Ramsar to development within Harborough District. Therefore an Appropriate Assessment is not required.

Appendix A Initial Policy Sift

The table below presents an initial sift of policies and allocations within the Local Plan, from the point of view of HRA. This exercise identifies those policies (shaded orange) whose implications are then discussed further in the main body of the report.

Policy	Potential for Likely Significant Effects?
GD1 Achieving sustainable development	No LSE – by definition sustainable development must be that which does not adversely affect internationally important wildlife sites. The NPPF makes this clear
GD2 Settlement development	Possible LSE requiring consideration in the main body of the report, since this controls either the quantum or location of new development
GD3 Development in the countryside	Possible LSE requiring consideration in the main body of the report, since this controls either the quantum or location of new development
GD4 New housing in the countryside	Possible LSE requiring consideration in the main body of the report, since this controls either the quantum or location of new development
GD5 Landscape and townscape character	No LSE – no impact mechanism exists, designing townscapes to represent the character of the local area does not affect European sites
GD6 Areas of Separation	No LSE – no impact mechanism exists, creating an area of no development between larger towns in the district does not affect European sites
GD7 Green Wedges	No LSE – no impact mechanism exists, providing green wedges which promote recreational opportunities can reduce recreational pressure on European sites
GD8 Good design in development	No LSE – no impact mechanism exists, development design standards do not affect European sites
GD9 Minerals Safeguarding Areas	No LSE – no impact mechanism exists, given that Harborough district is 7 km from Rutland water at its closest there will not be any effect of minerals development on the SPA/Ramsar from within the District
H1 Provision of new housing	Possible LSE requiring consideration in the main body of the report, since this controls either

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	the quantum or location of new development
H2 Affordable housing	No LSE – no impact mechanism exists; whether or not housing is affordable does not affect European sites
H3 Rural exception sites	Possible LSE requiring consideration in the main body of the report, since this controls either the quantum or location of new development
H4 Specialist housing	No LSE – no mechanism exists; whether or not housing is specialised does not affect European sites
H5 Density, mix and housing standards	No LSE – no mechanism exists, density, mix and housing standards within developments do not affect European sites.
H6 Gypsy, Traveller and Travelling Showpeople accommodation	Possible LSE requiring consideration in the main body of the report, since this controls either the quantum or location of new development
BE1 Provision of new business development	Possible LSE requiring consideration in the main body of the report, since this controls either the quantum or location of new development
BE2 Strategic Distribution	No LSE – Magna Park is 40km from the nearest sensitive European site (Rutland Water SPA/Ramsar site)
BE3 Existing employment areas	No LSE – the existing main employment areas are many kilometres from any European sites
BE4 Bruntingthorpe Proving Ground	No LSE – Bruntingthorpe Proving Ground is 32km from the nearest sensitive European site (Rutland Water SPA/Ramsar site)
BE5 Leicester Airport, Stoughton	No LSE – Leicester Airport is 22km from the nearest sensitive European site (Rutland Water SPA/Ramsar site)
RT1 Provision of new retail uses	No LSE – no impact mechanism exists, provision of new retail space does not affect European sites.
RT2 Town and local centre uses and boundaries	No LSE – no impact mechanism exists, promotion of town and local centres for retail uses

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	does not affect European sites.
RT3 Shop fronts and advertisements	No LSE – no impact mechanism exists, improving shop fronts in town and local centres do not affect European sites.
RT4 Tourism and leisure	No LSE – no impact mechanism exists, promoting tourism within Harborough district does not affect European sites.
HC1 Built heritage	No LSE – no impact mechanism exists, development of heritage assets does not affect European sites
HC2 Community facilities	No LSE – no impact mechanism exists, development of community facilities does not affect European sites
HC3 Public houses, post offices and village shops	No LSE – no impact mechanism exists, development of public houses, post offices and village shops does not affect European sites
GI1 Green infrastructure networks	No LSE – no impact mechanism exists, safeguarding green infrastructure networks within the district does not affect European sites
GI2 Open space, sport and recreation	No LSE – no impact mechanism exists, new open space, sports and recreational facilities and improvements to existing facilities do not affect European sites
GI3 Cemeteries	No LSE – no impact mechanism exists, provision of burial facilities do not affect European sites
GI4 Local Green Spaces	No LSE – no impact mechanism exists, protection of local green spaces does not affect European sites
GI5 Biodiversity and geodiversity	No LSE – no impact mechanism exists, protection of biodiversity and geodiversity does not affect European sites
CC1 Mitigating climate change	No LSE – no impact mechanism exists, reducing and mitigating the effects of climate change does not affect European sites
CC2 Renewable energy generation	No LSE – the areas specified in this policy for larger wind turbines are more than 20km from the nearest sensitive site (Rutland Water SPA/Ramsar site) and even small wind turbines

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	would be situated a minimum of 7km away.
CC3 Managing flood risk	No LSE – no impact mechanism exists, flood management and design does not affect European sites
CC4 Sustainable drainage	No LSE – no impact mechanism exists, promoting sustainable drainage systems within developments does not affect European sites
IN1 Infrastructure provision	No LSE – no impact mechanism exists, provision of infrastructure for developments does not affect European sites
IN2 Sustainable transport	No LSE – no impact mechanism exists, sustainable transport does not affect European sites.
IN3 Electronic Connectivity	No LSE – no impact mechanism exists, provision of electronic communication networks do not affect European sites.
IN4 Water resources and services	No LSE – no impact mechanism exists, protecting water resources within the district does not affect European sites.
IMR1 Review of the Local Plan	No LSE – no impact mechanism exists, review of the Local Plan does not affect European sites.
SC1 Scaptoft North Strategic Development Area MH1 Overstone Park MH2 East of Blackberry Grange MH3 Burnmill Farm MH4 Land at Airfield Farm MH5 Airfield Business Park MH6 Compass Point Business Park L1 East of Lutterworth Strategic Development Area L2 Land south of Lutterworth Road / Coventry Road F1 Land off Arnesby Road F2 Land off Marlborough Drive	Possible LSE requiring consideration in the main body of the report, since this controls either the quantum or location of new development

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K1 Land south and west of Priory Business Park

