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HRA Screening of the Oadby and Wigston Local Plan

Prepared by LUC
November 2017

Project Title: Habitats Regulations Assessment of the Oadby and Wigston Pre-Submission Local Plan

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1 Introduction

- 1.1 Oadby and Wigston Borough Council ('the Council') is preparing a new Local Plan to guide development in the Borough up to 2031. Once adopted, the Local Plan will replace the adopted Core Strategy (2010). At the time of preparing the Core Strategy, the Council intended to prepare a number of other documents to sit alongside the Core Strategy to comprise the Local Development Framework (LDF). Due to changes in national planning policy, the Council has decided to undertake a local plan review and include site allocations and development management policies in a new Local Plan.
- 1.2 LUC was appointed by Oadby and Wigston Borough Council in May 2016 to undertake a Habitats Regulations Assessment (HRA) of the Local Plan on its behalf. This HRA Report relates to the Pre-Submission document for the Local Plan and should be read in conjunction with that document.

The requirement to undertake Habitats Regulations Assessment of Development Plans

- 1.3 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 2010¹ and again in 2012². Therefore when preparing its Local Plan, the Council is required by law to carry out a Habitats Regulations Assessment.
- 1.4 The HRA refers to the assessment of the potential effects of a development plan on one or more European Sites, including Special Protection Areas (SPAs) and Special Areas of Conservation (SACs):
 - 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 (including particularly rare and vulnerable species listed in Annex 1 of the Birds Directive, and migratory species).
 - SACs are designated under the Habitats Directive and target particular habitats (Annex 1) and/or species (Annex II) identified as being of European importance.
- 1.5 Currently, the Government also expects potential SPAs (pSPAs)³, candidate SACs (cSACs)⁴, Sites of Community Importance (SCIs)⁵ and Ramsar sites to be included within the assessment⁶.
 - 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).
- 1.6 For ease of reference during HRA, these designations are collectively referred to as European sites, despite Ramsar designations being at the wider international level.
- 1.7 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. This is judged in terms of the implications of the plan for a site's 'qualifying features' (i.e. those Annex I habitats, Annex II species, and Annex I bird populations for which it has been designated). Significantly,

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 The Conservation of Habitats and Species (Amendment) Regulations 2012. Statutory Instrument 2012 No. 1927.

³ Potential SPAs are sites that have been approved by Government and are currently in the process of being classified as SPAs.

⁴ Candidate SACs are sites that have been submitted to the European Commission, but not yet formally adopted.

⁵ SCIs are sites that have been adopted by the European Commission but not yet formally designated as SACs by the Government.

⁶ *Planning Policy Statement 9: Biodiversity and Geological Conservation*. OPDM, 2005.

HRA is based on the precautionary principle - where uncertainty or doubt remains, an adverse impact should be assumed.

Stages of the Habitats Regulations Assessment

1.8 **Table 1.1** below summarises the stages involved in carrying out a full HRA, based on various guidance documents^{7,8}.

Table 1.1 Stages in HRA

Stage	Task	Outcome
Stage 1: Screening (the 'Significance Test')	Description of the plan. Identification of potential effects on European Sites. Assessing the effects on European Sites (taking into account potential mitigation provided by other policies in the plan).	Where effects are unlikely, prepare a 'finding of no significant effect report'. Where effects judged likely, or lack of information to prove otherwise, proceed to Stage 2.
Stage 2: Appropriate Assessment (the 'Integrity Test')	Gather information (plan and European Sites). Impact prediction. Evaluation of impacts in view of conservation objectives. Where impacts considered to affect qualifying features, identify alternative options. Assess alternative options. If no alternatives exist, define and evaluate mitigation measures where necessary.	Appropriate assessment report describing the plan, European site baseline conditions, the adverse effects of the plan on the European site, how these effects will be avoided through, firstly, avoidance, and secondly, mitigation including the mechanisms and timescale for these mitigation measures. If effects remain after all alternatives and mitigation measures have been considered proceed to Stage 3.
Stage 3: Assessment where no alternatives exist and adverse impacts remain taking into account mitigation	Identify 'imperative reasons of overriding public interest' (IROPI). Identify potential compensatory measures.	This stage should be avoided if at all possible. The test of IROPI and the requirements for compensation are extremely onerous.

1.9 When assessing the effects of the Local Plan, in accordance with Regulation 102 of the Conservation of Habitats and Species Regulations 2010, there are potentially two tests to be applied by the competent authority: a 'Significance Test' followed if necessary by an Appropriate Assessment which will inform the 'Integrity Test'. The relevant sequence of questions is as follows:

- Step 1: Under Reg. 102(1)(b), consider whether the plan is directly connected with or necessary to the management of the sites. If not; –
- Step 2: Under Reg. 102(1)(a) consider whether the plan is likely to have a significant effect on the site, either alone or in combination with other plans or projects (the 'Significance Test'). *[These two steps are undertaken as part of Stage 1: Screening shown in Table 1.1 above.]* If Yes; –

⁷ DTA Publications (2016) *Habitat Regulations Assessments Handbook*

⁸ *Planning for the Protection of European Sites. Guidance for Regional Spatial Strategies and Local Development Documents.* Department for Communities and Local Government (DCLG), August 2006.

- Step 3: Under Reg. 102(1), make an Appropriate Assessment of the implications for the site in view of its current conservation objectives (the 'Integrity Test'). In so doing, it is mandatory under Reg. 102(2) to consult Natural England, and optional under Reg. 102(3) to take the opinion of the general public. [*This step is undertaken during Stage 2: Appropriate Assessment shown in Table 1.1 above.*]
 - Step 4: In accordance with Reg.102(4), but subject to Reg.103, give effect to the land use plan only after having ascertained that the plan will not adversely affect the integrity of the European site.
- 1.10 It is normally anticipated that an emphasis on Stages 1 and 2 of this process will, through a series of iterations, help ensure that potential adverse effects are identified and eliminated through the inclusion of mitigation measures designed to avoid, reduce or abate effects. The need to consider alternatives could imply more onerous changes to a plan document. It is generally understood that so called 'imperative reasons of overriding public interest' (IROPI) are likely to be justified only very occasionally and would involve engagement with both the Government and European Commission.
- 1.11 The HRA should be undertaken by the 'competent authority' - in this case Oadby and Wigston Borough Council, and LUC has been commissioned to do this on its behalf. The HRA also requires close working with Natural England as the statutory nature conservation body⁹ in order to obtain the necessary information and agree the process, outcomes and any mitigation proposals. The Environment Agency, while not a statutory consultee for the HRA, is also in a strong position to provide advice and information throughout the process as it is required to undertake HRA for its existing licences and future licensing of activities.

Structure of the HRA Report

- 1.12 This chapter has introduced the requirement to undertake HRA of the Oadby and Wigston Local Plan. The remainder of the report is structured as follows:
- **Chapter 2: The Oadby and Wigston Pre-Submission Local Plan** summarises the content of the Pre-Submission Local Plan document, which is the subject of this report.
 - **Chapter 3: HRA Screening Methodology** sets out the approach used and the specific tasks undertaken during the screening stage of the HRA.
 - **Chapter 4: HRA Screening Assessment of the Oadby and Wigston Pre-Submission Local Plan** presents the findings of the screening stage of the HRA for the Pre-Submission Local Plan and describes whether significant effects on European sites are likely to result from the implementation of this.
 - **Chapter 5: Conclusions** summarises the overall HRA conclusions for the Pre-Submission Local Plan and describes the next steps to be undertaken.

⁹ Regulation 5 of *The Conservation of Habitats and Species Regulations 2010*. HMSO Statutory Instrument 2010 No. 490.

2 The Oadby and Wigston Pre-Submission Local Plan

- 2.1 The Pre-Submission Local Plan sets out proposed policies to guide development in the Borough up to 2031. The Local Plan sets out these policies over Chapters 4 – 11, according to the following topics:
- Sustainable Places;
 - Cohesive Communities;
 - Housing Delivery;
 - Allocations and Regeneration Opportunity Areas;
 - Economic Prosperity;
 - Town and District Centre Development;
 - Protected Places;
 - Delivery Plan.
- 2.2 Site allocations are included within Chapters 4 (Sustainable Places) and 7 (Housing Delivery) of the Local Plan. The following policies propose development at various sites:
- Policy 2 allocates land across the Borough to provide for new homes and employment uses.
 - Policy 18 allocates land to the north of the Borough in Oadby for mixed use development for the Stoughton Grange Direction for Growth Area;
 - Policy 19 allocates Oadby sewage treatment works for employment land use development;
 - Policy 20 allocates land at the Wigston Direction for Growth area for 'Phase 2' development;
 - Policy 21 allocates land to the southeast of Oadby for residential development for the Cottage Farm Direction for Growth Area.
- 2.3 In addition to the above policies, Policy 23 encourages retail development in town centres, district centres and local centres.

Potential impacts of the Local Plan on European sites

- 2.4 **Table 2.1** below sets out the range of potential impacts that development in general and related activities may have on European sites, and which may therefore occur through implementation of the Local Plan.

Table 2.1 Potential impacts and activities adversely affecting European sites

Broad categories and examples of potential impacts on European sites	Examples of activities responsible for impacts
<p>Physical loss</p> <ul style="list-style-type: none"> • Removal (including offsite effects, e.g. foraging habitat) • Mine collapse • Smothering • Habitat degradation 	<p>Development (e.g. housing, employment, infrastructure, tourism) Infilling (e.g. of mines, water bodies) Alterations or works to disused quarries Structural alterations to buildings (bat roosts) Afforestation Tipping Cessation of or inappropriate management for nature conservation</p>
<p>Physical damage</p> <ul style="list-style-type: none"> • Sedimentation / silting • Prevention of natural processes • Habitat degradation • Erosion • Trampling • Fragmentation • Severance / barrier effect • Edge effects • Fire 	<p>Flood defences Dredging Mineral extraction Recreation (e.g. motor cycling, cycling, walking, horse riding, water sports, caving) Development (e.g. infrastructure, tourism, adjacent housing etc.) Vandalism Arson Cessation of or inappropriate management for nature conservation</p>
<p>Non-physical disturbance</p> <ul style="list-style-type: none"> • Noise • Vibration • Visual presence • Human presence • Light pollution 	<p>Development (e.g. housing, industrial) Recreation (e.g. dog walking, water sports) Industrial activity Mineral extraction Navigation Vehicular traffic Artificial lighting (e.g. street lighting)</p>
<p>Water table/availability</p> <ul style="list-style-type: none"> • Drying • Flooding / storm water • Water level and stability • Water flow (e.g. reduction in velocity of surface water) • Barrier effect (on migratory species) 	<p>Water abstraction Drainage interception (e.g. reservoir, dam, infrastructure and other development) Increased discharge (e.g. drainage, runoff)</p>
<p>Toxic contamination</p> <ul style="list-style-type: none"> • Water pollution • Soil contamination • Air pollution 	<p>Agrochemical application and runoff Navigation Oil / chemical spills Tipping Landfill Vehicular traffic Industrial waste / emissions</p>
<p>Non-toxic contamination</p> <ul style="list-style-type: none"> • Nutrient enrichment (e.g. of soils) 	<p>Agricultural runoff Sewage discharge Water abstraction</p>

Broad categories and examples of potential impacts on European sites	Examples of activities responsible for impacts
<p>and water)</p> <ul style="list-style-type: none"> • Algal blooms • Changes in salinity • Changes in thermal regime • Changes in turbidity • Air pollution (dust) 	<p>Industrial activity Flood defences Navigation Construction</p>
<p>Biological disturbance</p> <ul style="list-style-type: none"> • Direct mortality • Out-competition by non-native species • Selective extraction of species • Introduction of disease • Rapid population fluctuations • Natural succession 	<p>Development (e.g. housing areas with domestic and public gardens) Predation by domestic pets Introduction of non-native species (e.g. from gardens) Fishing Hunting Agriculture Changes in management practices (e.g. grazing regimes, access controls, cutting/clearing)</p>

3 HRA Screening Methodology

- 3.1 HRA screening of the Local Plan has been undertaken in line with current available guidance and seeks to meet the requirements of the Habitats Regulations. The tasks that have been undertaken during the screening stage of the HRA are described below.

Identification of European sites which may be affected by the Local Plan

- 3.2 In order to initiate the search of European sites that could potentially be affected by a Local Plan, it is established practice in HRAs to consider European sites within the local planning authority area covered by the Local Plan, and other sites that may be affected beyond this area.
- 3.3 The HRA of the 2010 Core Strategy, which the Local Plan will replace, used an area of search up to 25km beyond the Borough boundaries in order to identify European sites that could be influenced by the plan. This reflects the approach used by other Leicestershire authorities. LUC consider a 25km zone of search to be sufficiently precautionary to be used for the HRA Screening of the Local Plan and have retained this area of search.
- 3.4 Identification of European sites within or near the Borough boundary involved the use of GIS data to map the locations and boundaries of European sites using publicly available data from Natural England. All European sites lying partially or wholly within 25km from the Borough boundary were included in order to address the fact that Local Plan may affect European sites that are located outside the administrative boundary of the plan.
- 3.5 There are no European sites within Oadby and Wigston Borough. The following sites are included in the HRA because they are located at least partially within 25km of the Borough boundary:
- Rutland Water SPA;
 - Rutland Water Ramsar site;
 - Ensor's Pool SAC.
- 3.6 Whilst the River Mease SAC is further than 25km from the Borough boundary, it has been included in this HRA in order to be consistent with the HRA carried out for the adopted Core Strategy¹⁰.
- 3.7 Water supply in Leicestershire is managed by Severn Trent Water. Part of the supply is sourced from the Upper Derwent reservoirs¹¹. These reservoirs are further than 25km from the Borough boundaries, but lie almost adjacent to the South Pennine Moors SAC and Peak District Moors SPA. However, the Oadby and Wigston Local Plan will not impact these sites, as the Derwent Reservoirs catchment, within which they lie, is closed to any new abstraction¹². As such, these sites are not considered further in this HRA.
- 3.8 The four European sites included in this HRA are mapped in **Figure 3.1**.

Ecological attributes of the European sites

- 3.9 The attributes that contribute to and define the integrity of the European sites considered in this HRA have been described in **Appendix 1**. Such attributes were identified using the Conservation

¹⁰ Borough of Oadby and Wigston Directorate of Community Services (2010) Oadby and Wigston Core Strategy Appropriate Assessment Screening Report.

¹¹ https://s3-eu-west-1.amazonaws.com/media-preprod.aws.stwater.co.uk/upload/pdf/E1_Overview_-_final.pdf

¹² Environment Agency (2013) Derbyshire Derwent Abstraction Licensing Strategy

Objectives for each site, Standard Data Forms for SACs and SPAs¹³ and Information Sheets for Ramsar Wetlands¹⁴, as well as Natural England's Site Improvement Plans¹⁵. This analysis enabled European site interest features to be identified, along with the features of each site that determine site integrity and the specific sensitivities and threats facing the site. This information was then used to inform an assessment of how the potential impacts of the Local Plan may affect the integrity of each site.

Assessment of 'likely significant effects' of the Local Plan

- 3.10 As required under Regulation 102 of the Conservation of Habitats and Species Regulations 2010¹⁶ an assessment of the 'likely significant effects' of the Local Plan was undertaken.
- 3.11 A risk-based approach, involving the application of the precautionary principle, was adopted in the assessment. This ensured that a conclusion of 'no significant effect' was only reached where it was considered very unlikely, based on current knowledge and the information available, that a policy would have a significant effect on the integrity of a European site.

Screening assumptions and information used in reaching conclusions about likely significant effects

- 3.12 For some types of impacts, screening for likely significant effects has been determined on a proximity basis, using GIS data to determine the proximity of potential development locations to the European sites that are the subject of the assessment. There are many uncertainties associated with using set distances as there are very few standards available as a guide to the geographic scope of potential impacts. During the screening stage a number of assumptions have been applied in relation to assessing the likely significant effects on European sites that may result from the Local Plan, as described below. Where a pathway from the Local Plan to a European site cannot be identified, such pathways can be screened out of further assessment.

Physical damage/loss of habitat

- 3.13 Physical damage or loss of habitat could only occur if development took place within the European site. As such, only European sites within the Borough boundaries could be affected this way. Any development resulting from the Local Plan would take place within Oadby and Wigston Borough. As there are no European sites within Oadby and Wigston Borough, the potential for onsite physical damage/loss of habitat at any European sites can be screened out.
- 3.14 Loss of habitat from outside the boundaries of a European site could still have an effect on site integrity if that habitat supports qualifying species from within the European sites, for example habitat that is used for foraging or roosting by birds. The nearest European sites are over 20km from the Borough boundary and these are all aquatic, with no hydrological links to the Borough. In addition, the majority of rural land in Oadby and Wigston Borough consists of arable fields and there are extensive areas of arable land much closer to each of the European sites considered in this HRA. As a result, the Local Plan is not expected to cause physical damage or loss of any supporting habitat. **Likely significant effects associated with physical damage/loss did not need to be considered further in relation to any of the European sites included in this HRA.**

¹³ These were obtained from the Joint Nature Conservation Committee and Natural England websites (www.jncc.gov.uk and www.naturalengland.org.uk)

¹⁴ These were obtained from the Joint Nature Conservation Committee website (www.jncc.defra.gov.uk)

¹⁵ Natural England is in the process of compiling Site Improvement Plans for all Natura 2000 sites in England as part of the Improvement Programme for England's Natura 2000 sites (IPENS).

¹⁶ SI No. 2010/490

Non-physical disturbance (noise, vibration and light)

- 3.15 Noise and vibration effects, e.g. during the construction of new housing or employment development, are most likely to disturb bird species and are thus a key consideration with respect to European sites where birds are the qualifying features, although such effects may also impact upon some mammals and fish species. Artificial lighting at night (e.g. from street lamps, flood lighting and security lights) is most likely to affect bat populations and other nocturnal animals, and therefore have an adverse effect on the integrity of European sites where bats or nocturnal animals are a qualifying feature.
- 3.16 It has been assumed that the effects of noise, vibration and light are most likely to be significant within a distance of 500m from the European site. There is also evidence of 300m being used as a distance up to which certain bird species can be disturbed by the effects of noise¹⁷; however, it has been assumed (on a precautionary basis) that the effects of noise, vibration and light pollution are most likely to cause an adverse effect if development takes place within 500m of a European site with qualifying features sensitive to these disturbances, or known off-site breeding, foraging or roosting areas.
- 3.17 The closest European sites to Oadby and Wigston Borough lie much further than 500m from the Borough boundary (further than 20km), within which all development resulting from the Local Plan would take place. As such, the effects of noise, vibration and light can be screened out in relation to onsite impacts.
- 3.18 As described above, it is not thought that any areas of supporting habitat exist with Oadby and Wigston Borough. **Likely significant effects associated with non-physical disturbance did not need to be considered further in relation to any of the European sites included in this HRA.**

Air pollution

- 3.19 Air pollution is most likely to affect European sites where plant, soil and water habitats are the qualifying features, but some qualifying animal species may also be affected, either directly or indirectly, by any deterioration in habitat as a result of air pollution. Deposition of pollutants to the ground and vegetation can alter the characteristics of the soil, affecting the pH and nitrogen availability that can then affect plant health, productivity and species composition.
- 3.20 In terms of vehicle traffic, nitrogen oxides (NO_x, i.e. NO and NO₂) are considered to be the key pollutants. Deposition of nitrogen compounds may lead to both soil and freshwater acidification, and NO_x can cause eutrophication of soils and water.
- 3.21 Based on the Highways Agency Design Manual for Road and Bridges (DMRB) Volume 11, Section 3, Part 1¹⁸ (which was produced to provide advice regarding the design, assessment and operation of trunk roads (including motorways)), it is assumed that air pollution from roads is unlikely to be significant beyond 200m from the road itself. Where increases in traffic volumes are forecast, this 200m buffer needs to be applied to the relevant roads in order to make a judgement about the likely geographical extent of air pollution impacts.
- 3.22 The DMRB Guidance for the assessment of local air quality in relation to highways developments provides criteria that should be applied at the screening stage of an assessment of a plan or project, to ascertain whether there are likely to be significant impacts associated with routes or corridors. Based on the DMRB guidance, affected roads which should be assessed are those where:
- Daily traffic flows will change by 1,000 AADT (Annual Average Daily Traffic) or more; or
 - Heavy duty vehicle (HDV) flows will change by 200 AADT or more; or
 - Daily average speed will change by 10 km/hr or more; or
 - Peak hour speed will change by 20 km/hr or more; or
 - Road alignment will change by 5 m or more.

¹⁷ *British Wildlife Magazine*. October 2007.

¹⁸ *Design Manual for Road and Bridges*. Highways Agency. <http://dft.gov.uk/ha/standards/dmrb/index.htm>

- 3.23 It has been assumed that only those roads forming part of the primary road network (motorways and 'A' roads) are likely to experience any significant increases in vehicle traffic as a result of development (i.e. greater than 1,000 AADT). As such, where a site is within 200m of only minor roads, no significant effect from traffic-related air pollution is considered to be the likely outcome.
- 3.24 No motorways pass through Oadby and Wigston Borough. The only A roads that pass through the Borough are the A6 to Market Harborough and Rothwell, and the A5199 to Northampton. These roads do not pass within 200m of any European site. **Likely significant effects associated with air quality did not need to be considered further in relation to any of the European sites included in this HRA.**

Impacts of recreation

- 3.25 Recreation activities and human presence can have an adverse impact on the integrity of a European site as a result of erosion and trampling or general disturbance. Where Local Plan policies are likely to result in an increase in the local population, or where an increase in visitor numbers to the area is considered likely, there is potential for an increase in visitor numbers and the associated potential impacts at sensitive European sites.
- 3.26 Rutland Water SPA and Ramsar site are known to be located in a popular area for recreation and are vulnerable to associated pressures. The River Mease SAC and Ensor's Pool SAC are not vulnerable to recreational pressures. **The impacts of increased recreation pressure needed to be considered further in relation to Rutland Water SPA and Ramsar site.**

Water quantity and quality

- 3.27 An increase in demand for water abstraction and treatment resulting from the growth proposed in the Local Plan could result in changes in hydrology at European sites, specifically a decrease in water quality or changes to water levels. Depending on the qualifying features and particular vulnerabilities of the European sites, there could be a likely significant effect on site integrity.
- 3.28 Rutland Water SPA and Ramsar and the River Mease SAC are vulnerable to changes in hydrology; however these are not connected to Oadby and Wigston Borough via any waterways or water supply networks. The qualifying features of Ensor's Pool SAC are not vulnerable to changes in hydrology. **Likely significant effects associated with changes in water quality and quantity did not need to be considered further in relation to any of the European sites included in this HRA.**

Summary of screening assumptions

- 3.29 **Table 3.1** summarises the assumptions that have been applied during this HRA screening of the Local Plan.

Table 3.1 Summary of screening assumptions for the Oadby and Wigston Local Plan

European site	Physical damage/loss of habitat (onsite)	Physical damage/loss of habitat (offsite)	Noise, vibration and light pollution (onsite)	Noise, vibration and light pollution (offsite)	Air pollution	Impacts of recreation	Water quantity and quality
Rutland Water SPA	Screened out	Screened out	Screened out	Screened out	Screened out	Screened in	Screened out
Rutland Water Ramsar site	Screened out	Screened out	Screened out	Screened out	Screened out	Screened in	Screened out
River Mease SAC	Screened out	Screened out	Screened out	Screened out	Screened out	Screened out	Screened out
Ensor's Pool SAC	Screened out	Screened out	Screened out	Screened out	Screened out	Screened out	Screened out

Interpretation of 'likely significant effect'

- 3.30 Relevant case law helps to interpret when effects should be considered as a likely significant effect, when carrying out HRA of a land use plan.
- 3.31 In the Waddenzee case¹⁹, the European Court of Justice ruled on the interpretation of Article 6(3) of the Habitats Directive (translated into Reg. 102 in the Habitats Regulations), including that:
- An effect should be considered 'likely', "if it cannot be excluded, on the basis of objective information, that it will have a significant effect on the site" (para 44).
 - An effect should be considered 'significant', "if it undermines the conservation objectives" (para 48).
 - Where a plan or project has an effect on a site "but is not likely to undermine its conservation objectives, it cannot be considered likely to have a significant effect on the site concerned" (para 47).
- 3.32 An opinion delivered to the Court of Justice of the European Union²⁰ commented that:
- "The requirement that an effect in question be 'significant' exists in order to lay down a de minimis threshold. Plans or projects that have no appreciable effect on the site are thereby excluded. If all plans or projects capable of having any effect whatsoever on the site were to be caught by Article 6(3), activities on or near the site would risk being impossible by reason of legislative overkill."*
- 3.33 This opinion (the 'Sweetman' case) therefore allows for the authorisation of plans and projects whose possible effects, alone or in combination, can be considered 'trivial' or *de minimis*; referring to such cases as those "which have no appreciable effect on the site". In practice such effects could be screened out as having no likely significant effect; they would be 'insignificant'.

¹⁹ ECJ Case C-127/02 "Waddenzee" Jan 2004.

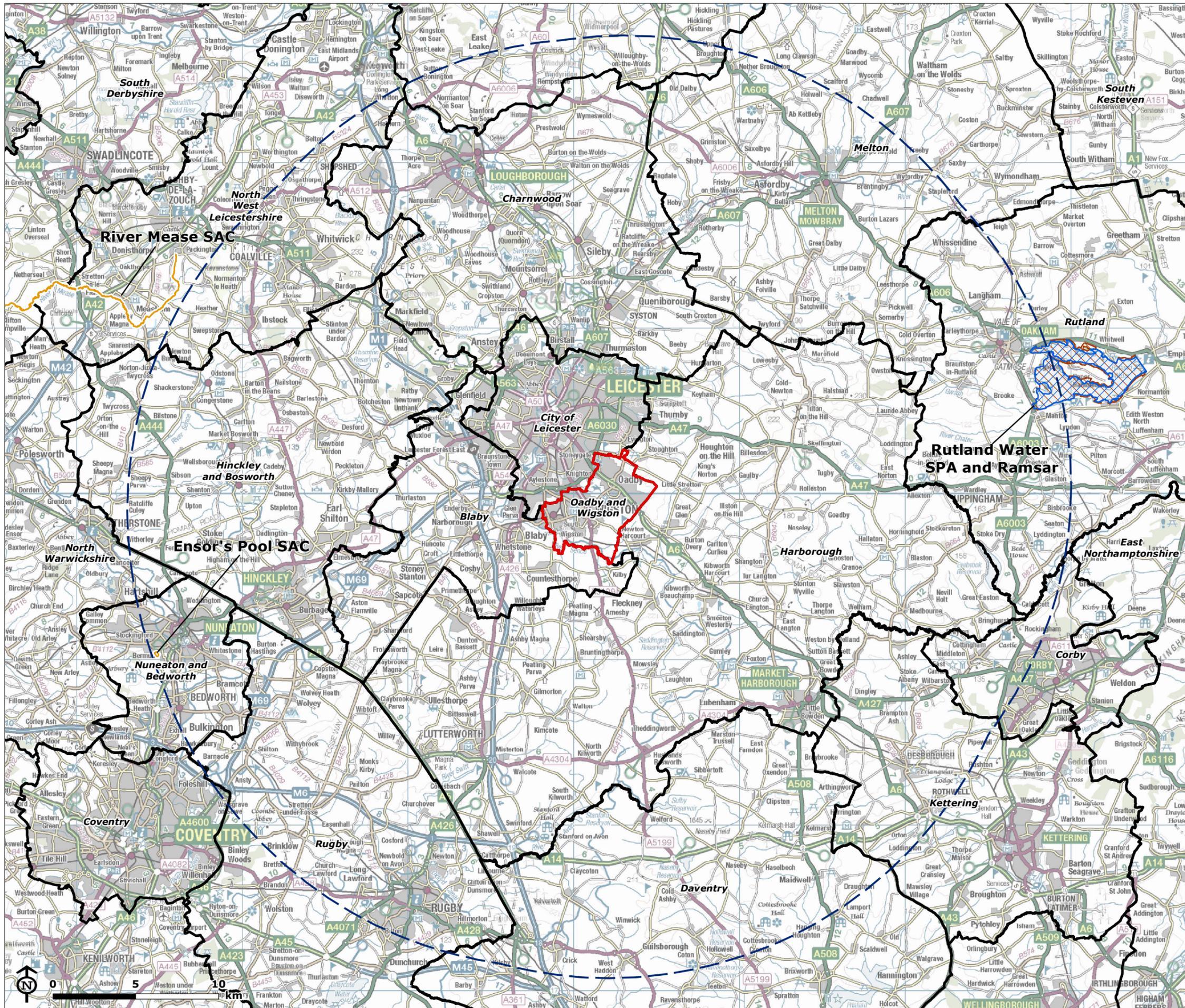
²⁰ Advocate General's Opinion to CJEU in Case C-258/11 Sweetman and others v An Bord Pleanala 22nd Nov 2012.

Mitigation provided by the Local Plan

- 3.34 Some of the potential effects of the Oadby and Wigston Local Plan could be mitigated through the implementation of other policies within the Local Plan, such as those relating to the provision of green infrastructure within new developments (which will help mitigate increased pressure from recreation activities at European sites, depending on the nature of the green infrastructure provided).
- 3.35 The extent to which mitigation may be achieved through the Local Plan was considered during the screening process and has influenced the screening assessments (see **Chapter 4**).

Identification of other plans and projects which may have 'in-combination' effects

- 3.36 Regulation 102 of the Amended Habitats Regulations 2010 requires an Appropriate Assessment where 'a land use plan is likely to have a significant effect on a European site (either alone or in combination with other plans or projects) and is not directly connected with or necessary to the management of the site'. Therefore, it is necessary to consider whether there may be significant effects from the Oadby and Wigston Local Plan in combination with other plans or projects.
- 3.37 The first stage in identifying 'in-combination' effects involves identifying which other plans and projects in addition to the Oadby and Wigston Local Plan may affect the European sites that were the focus of this assessment. There are a large number of potentially relevant plans and projects which could be considered; therefore the review focused on planned spatial growth within the authorities adjacent to Oadby and Wigston Borough, as these are the ones most likely to give rise to in-combination effects on the European sites within 25km of the Borough boundary. **Appendix 2** lists the plans that were considered, outlining the components of each that could have an impact on nearby European sites and considering the findings of the accompanying HRA work (where available).
- 3.38 The purpose of the review of other plans was to identify any components that could have an impact on the European sites that could also be affected by the Oadby and Wigston Local Plan, e.g. proposals for development near to the European sites which could have implications in terms of increased traffic, water use and recreation pressures and infrastructure development. The potential for the effects of these plans to combine with the effects of the Oadby and Wigston Local Plan has been considered in **Chapter 4**.



Oadby and Wigston SA and HRA

Figure 3.1: European sites within 25km of Oadby and Wigston

- Oadby and Wigston District boundary
- Neighbouring LPAs
- Oadby and Wigston District boundary 25km buffer
- Ramsar
- SPA
- SAC

Map Scale @ A3: 1:225,000



4 HRA Screening Assessment of the Oadby and Wigston Pre-Submission Local Plan

Screening assessment

- 4.1 This chapter presents the results of the screening assessment, which was carried out in order to identify the likely significant effects of the Oadby and Wigston Local Plan on European sites around the Borough. The assumptions in **Chapter 3** led to the conclusion that there were no impact pathways between development that could be implemented through the Local Plan and the River Mease SAC or Ensor's Pool SAC. A possible impact pathway was identified between the Local Plan and Rutland Water SPA and Rutland Water Ramsar site: recreational pressure. Impacts of the Local Plan and the effects of these on Rutland Water ('Rutland Water' refers to both the SPA and Ramsar site) are explored further in this chapter.

Mitigation within the Local Plan

- 4.2 A number of the Local Plan policies will help to mitigate the potential effects of recreation pressure associated with development proposed in other. These include policies that promote access to recreational facilities and green space, including:
- Policy 8: Green Infrastructure. This policy supports protection and enhancement of green infrastructure assets, including creation of new areas of green space, and linking habitats.
 - Policy 9: Open Space, Sport and Recreation Facilities. This policy seeks to protect and enhance existing open space, sport and recreation facilities and requires new development to contribute to the provision or improvement of these. The supporting text provides quantity standards for open space and recreational facilities, including natural green space. Natural green space is often considered a suitable alternative to divert visitors from European sites, particularly if provided in accordance with guidance from Natural England²¹.
 - Policy 37: Biodiversity and Geodiversity. This policy requires biodiversity to be conserved, protected and enhanced where possible. It encourages net gains to biodiversity, and requires development to minimise losses, and where these are unavoidable, to provide mitigation or compensation as appropriate.
 - Policy 45: Local Green Space. This policy states that proposals which include the loss of Local Green Spaces will not be permitted, unless the positive gains from the development outweigh the harm caused by the loss; applications for new designations will be considered against national planning policy.
- 4.3 The supporting text for Policy 5: Health and wellbeing also states that the Council will work to ensure increased access to the Borough's open spaces and increasing opportunities for physical activity, which may also contribute to promoting recreation within the Borough, although this is not a policy requirement.
- 4.4 In addition, many of the direction for growth area and allocation policies require provision of new open space, including the following:
- Policy 18: Stoughton Grange Direction for Growth Area and Oadby Cemetery Allocation.
 - Policy 20: Wigston Direction for Growth Area.
 - Policy 21: Cottage Farm Direction for Growth Area.
- 4.5 Spatial Objective 11 is 'Conserving and enhancing green (including water assets) infrastructure'. This objective is for development to be respectful of the natural environment, protect green

²¹ Natural England (2008) Guidelines for the Creation of Suitable Accessible Natural Greenspace (SANGS)

infrastructure assets and provide a network of multi-functional green spaces. This is likely to contribute to conserving local biodiversity as well as providing alternative outdoor recreation opportunities for residents.

- 4.6 Other existing nature-based recreational opportunities in Oadby and Wigston include Brocks Hill Country Park and visitor centre and the Grand Union Canal. These are supported by other sites in Leicestershire, such as Knighton Park, including Knighton Spinney Local Nature Reserve, which borders Oadby and Wigston Borough. Such sites are likely to encourage residents of Oadby and Wigston to seek recreational opportunities nearer to home, rather than travelling to Rutland Water.

Other relevant plans and mitigation

- 4.7 Rutland Water is subject to long-standing management arrangements from Anglian Water in conjunction with the Leicestershire and Rutland Wildlife Trust and also through the adopted Rutland Core Strategy (July 2011). Rutland Core Strategy Policy CS24: Rutland Water²², carried forward the approach from the previous Rutland Local Plan, in terms of defining five Recreation Areas, outside of which new development will be restricted to small scale development for recreation, sport and tourism facilities, only where essential for nature conservation or fishing or essential for operational requirements of existing facilities and subject to it being appropriate in terms of location, scale, design and impact on the landscape.
- 4.8 The HRA of the Oadby and Wigston Core Strategy (2010) states that informal recreation space at Rutland Water has been designed to divert visitors from the most sensitive parts of the site. It also states that Natural England and Anglian Water have a management plan in place to address the additional impact for increased tourism. The HRA of the Anglian Water Resources Management Plan²³ states that management of the site for its SPA interests is currently compatible with recreational uses except in periods of drawdown and that a revised strategy with Anglian Water is intended to address this (this is also referred to as an action in Natural England's Site Improvement Plan for Rutland Water).

Screening conclusions

- 4.9 Given the distance between Oadby and Wigston Borough, the emphasis of the Local Plan on maintaining and enhancing recreational and green space, and existing plans and mitigation, the number of additional visitors to Rutland Water SPA and Ramsar site as a result of the Local Plan is likely to be limited. **It has therefore been concluded that the Local Plan may lead to some increase in visitors at Rutland Water SPA and Ramsar site, but the impact of this is unlikely to be significant.**

In-combination Effects

- 4.10 As described in **Chapter 2**, it is necessary to consider the potential for the Oadby and Wigston Local Plan to have significant effects in combination with other plans, as well as individually. A review was undertaken of other plans that may result in significant effects in combination with the policies in the Local Plan, as a result of development being proposed in other areas which could affect the same European sites. The findings of this review can be seen in full in **Appendix 2** and are summarised below.
- 4.11 All of the European sites considered in this assessment lie outside of the Oadby and Wigston Borough boundary, meaning that potential in-combination effects with development planned in neighbouring local authorities are an important consideration. The review of HRA work carried out by neighbouring authorities in relation to their emerging development plans did not identify any likely significant effects which may combine with the effects of the Oadby and Wigston Local Plan. Likely significant effects in combination with the Rutland Local Plan Review could not be

²² This is likely to be replaced by Policy RLP24: Rutland Water, of the emerging Rutland Local Plan Review. However, the policy content discussed in this document is carried through to Policy RLP24 in the July 2017 Consultation Draft Plan, therefore the conclusions of this HRA will remain valid when the Local Plan Review is adopted.

²³ Mott MacDonald (December 2013) Anglian Water 2015 Water Resource Management Plan Habitats Regulations Assessment.

ruled out due to the early stages of these plans and the lack of solid conclusions in the associated HRA work. It will therefore be necessary for the HRA work being undertaken for the Rutland Local Plan Review to consider the potential for in-combination effects with the Oadby and Wigston Local Plan.

5 Conclusions

- 5.1 HRA screening of the Oadby and Wigston Local Plan has been undertaken in accordance with currently available guidance and is based on a precautionary approach, as required under the Habitats Regulations. The findings of the screening stage are presented in **Chapter 4** of this report.
- 5.2 The HRA screening for the Local Plan explored the potential impacts of increased recreational pressure on Rutland Water SPA and Ramsar site. Provided that the proposed policies for open space and biodiversity, as described in **Chapter 4**, are implemented, likely significant effects on any of the European sites considered are not expected as a result of the Oadby and Wigston Local Plan alone.
- 5.3 The potential for the Oadby and Wigston Local Plan to have likely significant effects on European sites in combination with the Local Plan for Rutland County could not yet be ruled out, due to the early stage of this Local Plan and the lack of solid HRA conclusions. This issue will therefore need to be revisited during forthcoming stages of the HRA for the Rutland Local Plan. Any further iterations of the HRA for the Oadby and Wigston Local Plan should consider new evidence relating to this Local Plan if this has become available.

Next Steps

- 5.4 The Oadby and Wigston Local Plan Pre-Submission document is being published for consultation from November to December 2017. This HRA report is being published alongside the consultation document and it is also being sent to Natural England for comment.
- 5.5 The HRA will need to be updated to reflect any advice and comments from Natural England as well as any further changes that may be made to the Local Plan as it develops.

LUC
November 2017

Appendix 1

Attributes of European Sites included in this HRA

European site	Area (ha)	Location	Qualifying features	Key vulnerabilities and environmental conditions to support site integrity
Rutland Water SPA	1,556	Approximately 25km to the north east of Oadby and Wigston Borough	<p>Over winter the area regularly supports:</p> <ul style="list-style-type: none"> Northern shoveler Eurasian teal Eurasian wigeon Gadwall Tufted duck Common goldeneye Mute swan Eurasian coot Common merganser Great crested grebe Waterfowl assemblage 	<p>The SPA is vulnerable to pressures from recreation, nutrient inputs, and changes in water level. The site is one of the most popular tourist attractions in the East Midlands. Fishing, walking water sports and cycling currently take place and the reservoir has been zoned to allow this to take place.</p> <p>The reservoir is filled from the River Nene and the River Welland. In the past phosphate levels have led to algal blooms. Although these have currently had few visible effects on the wildfowl, continued eutrophication could lead to an algal dominated system that may reduce the value of the area for both plant feeding and invertebrate feeding wildfowl.</p> <p>Rutland water is a major source of urban water supply. Increased abstraction in the summer up to the current licensed limit may cause further and more extensive periods of drawdown which can effect populations of invertebrates on which some species depend, whilst rapid filling can render other food sources unavailable for dabbling ducks. Drawdown may also increase disturbance through recreation uses.</p> <p>The Conservation Objectives for the site²⁴ are to 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;

²⁴ European Site Conservation Objectives for Rutland Water SPA (UK9008051), Natural England, 2014.

European site	Area (ha)	Location	Qualifying features	Key vulnerabilities and environmental conditions to support site integrity
				<ul style="list-style-type: none"> 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>Priority issues identified in the Site Improvement Plan include:</p> <ul style="list-style-type: none"> Water abstraction/inappropriate water levels Invasive species Water pollution Public access/disturbance
Rutland Water Ramsar site	1,360.34	Approximately 25km to the north east of Oadby and Wigston Borough	Waterfowl Gadwall Northern shoveler Mute swan	<p>The Ramsar Information Sheet for this site does not identify any features that may affect the site's ecological character. All qualifying features for this site are also qualifying features for Rutland Water SPA, and the sites consist of the same geographic area. Priority issues identified in the Site Improvement Plan for the SPA apply to all qualifying features of the Ramsar site. These include:</p> <ul style="list-style-type: none"> Water abstraction/inappropriate water levels Invasive species Water pollution Public access/disturbance
River Mease SAC	23.03	Approximately 26km to the north west of Oadby and Wigston Borough	Water courses of plain to montane levels with the Ranunculus fluitans and Callitriche-Batrachion vegetation Spined loach Bullhead White-clawed (or Atlantic stream) crayfish Otter	<p>The SAC is vulnerable to water pollution, human-induced changes in hydraulic conditions and invasive non-native species.</p> <p>Water pollution in the River Mease is primarily associated with elevated levels of phosphate from sewage treatment works. Phosphate stripping has been undertaken at several sewage treatment works, but this could be</p>

European site	Area (ha)	Location	Qualifying features	Key vulnerabilities and environmental conditions to support site integrity
				<p>further improved. High levels of ammonia are also a concern, although the source and impacts of this are not fully understood.</p> <p>Invasive species such as Himalayan balsam and Japanese knotweed are present along the banks of the river. American signal crayfish are known to be present in some parts of the river. These species are likely to alter the wider ecosystem and features of the SAC.</p> <p>The Conservation Objectives for the site²⁵ 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:</p> <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 the qualifying natural habitats and the habitats of qualifying species rely; • the population of each of the qualifying features; and, • the distribution of the qualifying features within the site. <p>Natural England has also produced supplementary advice on restoring site features, which gives detailed targets for each of the conservation objectives noted above.</p>

²⁵ European Site Conservation Objectives for Rutland Water SPA (UK9008051), Natural England, 2014.

European site	Area (ha)	Location	Qualifying features	Key vulnerabilities and environmental conditions to support site integrity
				<p>Priority issues identified in the Site Improvement Plan include:</p> <ul style="list-style-type: none"> • Water pollution • Changes in drainage/abstraction • Inappropriate weirs/dams etc. • Siltation.
Ensor's Pool SAC	3.86	Approximately 25km to the south west of Oadby and Wigston Borough	White-clawed (or Atlantic stream) crayfish	<p>This site is vulnerable to changes in abiotic conditions, linked to climate change.</p> <p>This site consists of a marl pit with standing water. The estimated population of crayfish at the pool is 50,000 and it was thought to act as a 'refuge' from crayfish plague due to its isolation from other waterbodies. Two surveys in 2014 recorded no crayfish at the pool, although the cause of this apparent decline is unknown.</p> <p>The Conservation Objectives for this site are currently under review, but they are likely to be similar to the conservation objectives of other SACs.</p> <p>The Site Improvement Plan identifies a single priority issue:</p> <ul style="list-style-type: none"> • Changes in species distributions.

Appendix 2

Plans with the Potential for In-Combination Effects with the Oadby and Wigston Local Plan

Local Plans and Strategies

Leicester City Core Strategy, adopted 2014 and saved policies from the 2006 Leicester Local Plan

Leicester lies to the north west of Oadby and Wigston Borough.

Leicester City Council has an adopted Core Strategy and is currently in the process of preparing a new Local Plan. However, this is at a relatively early stage in development, with a number of site options and development management policies being consulted on, therefore the content of this plan is currently uncertain. As such, this review focuses on the adopted statutory development plan.

Housing:

CS Policy 1: Location of Development states 'Evidence that supported housing figures in the RSS identifies the amount of new housing that should take place in Leicester by 2026'. Section 4.1 of the Core Strategy identifies this housing figure as 25,600 homes between 2006 and 2026. This is equivalent to 1,280 homes per year. CS Policy 1 requires just over half of this housing to be located in the Strategic Regeneration Area, a quarter to be built on smaller, non-strategic sites in the city, and the remainder to be built in a sustainable urban extension (SUE) at Ashton Green and at Hamilton on committed housing sites.

Employment Land Provision:

CS Policy 10: Employment Opportunities identifies a requirement for at least 50,000sqm of class A office development in the city centre. It also encourages the following areas for employment growth:

- 100-1000sqm Class D1 uses between New Walk and the Cathedral;
- Development and technology based businesses at Abbey Meadows Science and Innovation Park;
- Up to 10ha of new employment land within the proposed SUE at Ashton Green;

Further employment sites will be identified in the Site Allocations and Development Management DPD.

HRA Findings

The HRA report accompanying the Core Strategy is the 2014 Habitats Regulations Appropriate Assessment Screening Report, which is an amended version of the 2009 HRA report. This concluded that the Leicester City Core Strategy would not have likely significant effects on European sites either alone or in combination with other plans. **Significant in-combination effects with the Oadby and Wigston Local Plan are not considered likely.**

Blaby District Local Plan (Core Strategy), adopted 2013

Blaby District Local Plan (Delivery) Development Plan Document, Preferred Options (October 2016)

Blaby lies to the south west of Oadby and Wigston Borough.

Blaby District has an adopted Local Plan (Core Strategy) and is in the process of preparing the second part of the Local Plan, the Local Plan (Delivery) Development Plan Document (DPD). As the Local Plan (Delivery) DPD is not yet adopted, it is not part of the statutory development plan. As the Local Plan (Delivery) DPD is in addition to the Local Plan (Core Strategy), it is not expected to change the housing or employment targets.

Housing:

The housing requirement for Blaby District between 2006 and 2029 is for a minimum of 8,740 homes, as set out in Policy CS1 – Strategy for locating new development. The policy also specifies that at least 5,750 of these homes should be located within and adjoining the Principal Urban Area (PUA).

Employment Land Provision:

Policy CS1 states that a minimum of 68ha of employment land will be provided in the 2006 to 2029 period. At least 57ha of this will be located within and adjoining the PUA.

HRA Findings

The HRA report accompanying the Local Plan is the 2012 Appropriate Assessment Scoping Report. This concluded that the Blaby District Core Strategy would not have likely significant effects on European sites either alone or in combination with other plans. The HRA Screening Report for the Blaby Local Plan (Delivery) DPD Preferred Options (2016) concluded that the DPD would not have likely significant effects on European sites either alone or in combination with other plans. **Significant in-combination effects with the Oadby and Wigston Local Plan are not considered likely.**

Harborough Local Plan 2011-2031 Proposed Submission (September 2017)

Harborough lies to the east of Oadby and Wigston Borough.

Housing and Employment Land Provision:

The amount of housing will be based on the HEDNA, however, a Memorandum of Understanding MoU) is currently being prepared by the nine local authorities within the Leicester and Leicestershire Housing Market Area to identify how unmet housing needs from Leicester will be addressed. The identified housing requirement in Harborough is 557 dwellings per annum, a total of 11,140 over the plan period. The plan provides for this, plus an additional 15% contingency, therefore makes provision for 12,800 dwellings over the plan period. This provision will be concentrated in a Strategic Development Area on land north of Scraptoft, Market Harborough and a Strategic Development Area east of Lutterworth.

The Plan also provides for a minimum of 59 hectares for office B1 (a) and (b), industrial B1 (c) and B2, and non-strategic storage and distribution B8 over the plan period. This will be focused in Market Harborough and Lutterworth.

HRA Findings:

The Draft HRA (2017) considered the possible effects of the Harborough Local Plan on Rutland Water SPA and Ramsar sites in terms of recreational disturbance, drawdown for public water supply and air quality impacts on the terrestrial parts of the SPA that provide feeding and roosting locations for SPA birds. The HRA concluded that there would be no likely significant effects arising as a result of the plan as no realistic impact pathways were identified to Rutland Water SPA/Ramsar site. **Significant in-combination effects with the Oadby and Wigston Local Plan are not considered likely.**

Rutland Core Strategy DPD (Adopted July 2011)

Rutland Site Allocations and Policies DPD (Adopted October 2014)

Rutland Local Plan Review: Consultation Draft Plan (July 2017)

Rutland is not adjacent to Oadby and Wigston Borough, but has been included in the in-combination effects assessment as it contains Rutland Water SPA and Ramsar site, on which the Oadby and Wigston may have a small, but insignificant, effect.

Work has commenced on a partial review of the adopted Core Strategy (2011), in order to extend the plan period to 2036. A Consultation Draft Plan was published in July 2017.

Housing and Employment Land Provision:

The Core Strategy provides for an additional 3,000 dwellings between 2006 and 2026, which amounts to an average of 150 dwellings per annum. From April 2010, 70% new housing was required to be located within and adjoining Oakham and Uppingham and 20% within and adjoining the Local Service Centres. The remaining 10% is to be delivered within the Smaller Service Centres and Restraint Villages.

The Local Plan Review states that the remaining housing requirement from 2016-2036 is 1,503 dwellings, but the plan proposes sites to delivery 1,676 dwellings, again, with the majority of these proposed around Oakham and Uppingham.

HRA Findings:

The HRA for the Core Strategy is included in the Sustainability Appraisal Report (June 2011). This stated that the Core Strategy itself would generally not lead to likely significant effects on European sites, but

clarifies that other DPDs that add more detail to the Core Strategy, including the Site Allocations DPD, will also need to be assessed under the Habitats Regulations. The HRA for the Site Allocations DPD (2013) states that the DPD is not likely to lead to significant effects on any European sites either alone or in combination with other plans and programmes.

The HRA Screening Report for the Local Plan Review: Consultative Draft (July 2017) states that it cannot be concluded whether there would be no likely significant effects or adverse effects since these judgements can only be made in relation to the completed DPD. It states that there is potential for adverse impacts to arise at Rutland Water SPA and Ramsar site, including as a result in increased visitor pressure. HRA re-screening will be undertaken at the next preferred options stage in the Local Plan review to re-assess likely significant effects in light of any changes made to the DPD. **Therefore, it is not yet possible to conclude whether there could be likely significant effects from the Oadby and Wigston Local Plan in combination with the Rutland Local Plan Review and this issue will need to be examined further during later stages of the HRA for the Rutland Local Plan.**