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People taking action for wildlife

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Consultation for the Warrington Draft Local Plan 2019

Response from the Cheshire Wildlife Trust (June 2019)

Overview

The Cheshire Wildlife Trust is the leading local conservation charity that focusses on all aspects of wildlife. In our response to the consultation for the Warrington Draft Local Plan we seek to represent the views of our 13,000+ local members, particularly those who live in the Warrington area. Our responses to the policies and allocations are set out below:

Objective W5

Policy DC 3 - Green Infrastructure

We are pleased the Nature Improvement Area is incorporated into this policy guidance however we are disappointed that figure 13 fails to show NIA despite it being referred to in the text.

CWT welcomes the commitments to:

- a) *To secure a net gain in biodiversity;*
- b) *to expand tree cover in appropriate locations across the Borough;*
- c) *to improve landscape character, water and air quality;*
- d) *to help adapt to flood risk and mitigate the impacts of climate change;*
- e) *to contribute to the development of the Northern Forest; and*
- f) *to contribute to the wider regional nature recovery network of wetland sites by enhancing the wetlands across Warrington*

Although we broadly welcome the wording of point 6 we would like to see the words 'seek to' removed i.e.

*6. Where a loss of, or negative impact on green infrastructure functionality or ecological system/network is unavoidable, development proposals should demonstrate what mitigation measures are proposed and/or replacement green infrastructure will be provided. Any replacement or mitigation measure should **seek to** secure a net gain in biodiversity assessed against the latest version of the DEFRA Metric and be deployed as closely as possible to the affected green infrastructure asset **and following good practice guidance.***

Mandatory Net Gain for all proposals that come under the Town and Country Planning Act 1990 was set out in the Chancellor's Spring Statement 2019, therefore the words 'seek to' do not reflect this policy shift.

Securing net gains in biodiversity should follow the Net Gain good practice principles. i.e. Biodiversity Net Gain: Good practice principles for development CIEEM, CIRIA, IEMA, 2016. We suggest this wording is added to the text as shown above.

Policy DC4 - Ecological Network

The Cheshire Wildlife Trust is extremely disappointed with the content of this policy. It appears that the specific guidance as set out in the 2018 NPPF has not been followed and we urge the council to re-draft this policy; a) so that it accurately reflects the guidance for habitats and biodiversity as set out in the 2018 NPPF rather than quoting the 2012 version, and b) that it reflects the requirement for mandatory Net Gain for all developments in England as set out in the Chancellor's Spring Statement 2019.

The following short-comings need to be addressed:

- The policy has no requirement to demonstrate that the mitigation hierarchy is followed (i.e. avoid, mitigate and as a last resort compensate). The mitigation hierarchy is the overarching principle at the heart of achieving sustainable development.
- Outdated/incorrect reference to biodiversity net gains (paragraph 8.4.9) quoting the 2012 NPPF rather than the 2018 NPPF. ***This is unacceptable.***
- No reference to promoting the ***conservation, restoration and enhancement*** of priority habitats or priority species despite specific guidance in the NPPF (Protecting and Enhancing Biodiversity and Geodiversity paragraph 174b NPPF).
- No reference to the three main objectives of the planning system i.e. social, economic and *environmental* (as set out in the introductory paragraphs of the NPPF paragraph 8c).
- There is no specific guidance on the requirement to avoid development that impacts irreplaceable habitats, ancient woodland, ancient trees (paragraph 175 c NPPF).
- There is no ecological network map showing designated sites and 'wildlife corridors and stepping stones that connect them' (paragraph 174a NPPF). This exercise has not been undertaken for Warrington yet guidance is clearly set out in paragraph 174a of the NPPF. A location map for designated sites is **not** the same as an ecological network map.

Suggested amendments to policy DC4

DC4- Paragraph 1.

The first paragraph requires the words 'where possible' removing to demonstrate that the Local authority is taking its responsibilities to the natural environment (and sustainable development) seriously. Mandatory Net Gain for all proposals that come under the Town and Country Planning Act 1990 was set out in the Chancellor's Spring Statement 2019. Guidance on securing measurable net gains for biodiversity are set out in paragraphs 170d, 174b and 175d of the NPPF 2018.

We suggest the following amendment:

1. The Council will work with partners to protect and ~~where possible~~ secure a net gain for biodiversity across the Plan area. These efforts will be guided by the principles set out in the National Planning Policy Framework and those which underpin the strategic approach to the care and management of the Borough's Green Infrastructure in its widest sense contained in Policy DC3.

DC4 - Paragraphs 4, 5, 6 and 7

These paragraphs should clearly set out that any proposals that could impact designated sites, wildlife corridors or protected/priority habitats and species **must demonstrate** how the mitigation hierarchy has been applied (to avoid, mitigate and as a last resort compensate). The mitigation hierarchy is the overarching principle of sustainable development in relation to the environment and should be clearly stated in this policy.

Paragraph 7c. Securing net gains in biodiversity should follow the Net Gain good practice principles. i.e. Biodiversity Net Gain: Good practice principles for development CIEEM, CIRIA, IEMA, 2016.

Supporting information

Paragraph 8.4.7 *Section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. Local planning authorities should take a pragmatic approach, with the aim of fulfilling statutory obligations in a way that minimises delays and burdens.*

The Cheshire Wildlife Trust strongly disagrees with the final sentence of the above as it fails to address the requirement to achieve **sustainable** development. Whilst a pragmatic approach that ‘minimises delays and burdens’ may address the economic objectives of the planning system the approach **must** also address the social and environmental objectives. This is clearly set out in the introductory paragraphs of the 2018 NPPF (paragraph 8c). A caveat such as ‘whilst protecting the environment’ could be added to 8.4.7 to bring it more into line with current ways of working and up-to-date guidance.

Paragraph 8.4.13 provides a ‘definition’ for ecological networks however the ‘definition’ is actually a partial list of ‘relevant evidence in identifying and mapping local ecological networks’ taken from the Natural Environment White paper 2010. Six of the White paper pieces of evidence do not appear in the list provided by Warrington BC. One of the missing pieces of evidence reads:

- main landscape features which, due to their linear or continuous nature, are important for the migration, dispersal and genetic exchanges of plants and animals, including any potential for new habitat corridors to link any isolated sites that hold nature conservation value, and therefore improve species dispersal.

To remove this and other evidence but to portray the partial list as a definition of ecological networks is highly misleading, a misrepresentation and totally unacceptable. A definition for ecological networks is given in the main text of the 2018 NPPF (paragraph 174a) i.e.

Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation.

The NPPF guidance clearly sets out that ecological networks comprise designated sites but also ‘wildlife corridors and stepping stones that connect them’. This should be reflected in point 8.4.13

Allocations

The Cheshire Wildlife Trust is disappointed that the decision process used for the allocations appears not to have adequately taken into account existing biodiversity assets and green infrastructure. The result is that several of the proposed sites **directly conflict** with the emerging local plan policies DC3 and DC4 as well as key environmental policies in the 2018 National Planning Policy Framework.

We would have expected that the Local Authority would have taken a more strategic approach when identifying areas for development, for example by mapping ecological networks and networks of green infrastructure and using these to inform decisions. This is clearly set out in paragraph 174 of the 2018 NPPF.

We urge the council to rethink the proposals where major conflicts with the policies occur.

MD1 - Warrington Waterfront

Moore Nature reserve and Local Wildlife Site

Part of this development is located on a Local Wildlife Site (Moore Nature Reserve) designated primarily for its woodland, acid grassland, reedbeds and bird assemblage (which includes breeding willow tit and is likely to be significant at above county level). The nature reserve is an important asset to the local community and an educational resource with children from all ages taking part in events arranged by the Cheshire Wildlife Trust.

Development will result in the loss of approximately 50% of the Local Wildlife Site (LWS), but potentially more if measures are not taken to securely protect the remaining areas during the construction period. The remaining areas of the LWS will be integrated as Public Open Space resulting in a change of land use with potential negative impacts such as additional disturbance, pollution and invasive species.

Arpley Country Park

The permission for the extension of Arpley landfill was approved in May 2015 and a restoration scheme was submitted in August 2015 (under condition 17 of the planning permission). The objective of the restoration scheme is to:

‘provide a large country park, open to the public for recreation and managed for biodiversity. The restoration scheme will also connect the restored site to a wider network of habitats within the River Mersey corridor’ (paragraph 1.1.4).

Paragraph 1.1.7 of the restoration scheme sets out that *‘The approved restoration scheme for the Arpley Landfill Site as a whole comprises a combination of native woodland planting on the lower slopes and a mosaic of habitats on the crown of the landform with conservation grassland, hedgerows, hedgerow trees and areas of scrub.’*

We note that within the scheme there is provision for barn owls and badgers.

The outline proposals for Warrington Waterfront show a ‘mixed use development site’ on an area of the Arpley mitigation which was marked as an ‘undisturbed area’ with no public entry, standing water, semi-improved grassland, woodland and barn owl mitigation. These benefits will be lost under the proposals for Warrington Waterfront.

The proposals for Warrington Waterfront appear to show that parts of Arpley Country Park will be used as mitigation for the loss of biodiversity. This is completely unacceptable as mitigation cannot be double counted. The proposed additional plantation woodland and scrub will reduce the value gained from the species-rich and semi-improved grassland secured for the landfill mitigation (ideal for barn owls and invertebrates). ***The overall biodiversity value of the Arpley landfill mitigation will be considerably reduced by the plans for Warrington Waterfront.***

Objection

In recognition of the above the Cheshire Wildlife Trust ***objects*** to the proposals at Warrington Waterfront. The loss of the important community asset and the species and habitats it supports, plus serious negative impacts to the Arpley landfill mitigation is contrary to national and local planning policies. The NPPF 2018 sets out in its introductory paragraphs that conserving the natural environment is one of the three core objectives of the planning system (paragraph 8c). Protecting, enhancing and safeguarding local sites is specifically referenced in paragraphs 170, 171, 174 of the NPPF. It is also clearly stated in emerging Local Plan policy DC4 (point 5) that development which impacts a Local Wildlife Site will not be permitted unless it can be clearly demonstrated that *'there are reasons for the development which outweigh the need to safeguard the substantive nature conservation value of the site or feature and the loss can be mitigated through off-site habitat creation to achieve a net gain in biodiversity/geodiversity assessed against the latest version of the DEFRA metric'*.

Furthermore Moore Nature Reserve is part of the key green infrastructure for Warrington (identified in figure 13) and development of this site would be contrary to emerging policy DC3 Green Infrastructure which *'seeks to protect, enhance and extend the multifunctional network'*.

In line with these policy considerations we hope that it can be demonstrated that the mitigation hierarchy has been robustly applied through the consideration of alternative proposals in order to avoid significant harm to biodiversity (as specified in paragraph 175a of the NPPF). As ***a last resort*** offsite compensation for the loss of biodiversity must be secured following good practice guidance (i.e. Biodiversity Net Gain: Good practice principles for development CIEEM, CIRIA, IEMA, 2016).¹

¹ The process of achieving Biodiversity Net Gain must be transparent so that stakeholders and the general public can be assured that appropriate steps have been taken. Compensatory habitat will need to be managed in the long term (minimum 25 years). The mechanism to secure this should be agreed in principle before the application is decided and the measures should be in place at the point when the features are impacted, or ideally in advance.

MD2 - The Warrington Garden Suburb

- The allocation incorporates Grappenhall Hayes Local Wildlife Site (parts 1 and 2) and the Dingle and Fords Rough LWS/Ancient woodland. Both of these sites contain priority habitats and support priority species and both sites must be excluded from the allocations in order to comply with the emerging Warrington policies and the NPPF.

The LWSs should be protected by buffers to help prevent damage caused by polluted water runoff, light pollution, disturbance, the spread of invasive garden species and predation by domestic pets. We suggest a minimum buffer of 15m to protect the sites is secured. To provide maximum benefit to woodland edge species such as bats and invertebrates this should ideally be a scrub/grassland ecotone. A 15 m buffer is in line with the standing advice provided by Natural England in 2015 and is particularly important when protecting irreplaceable habitats such as the ancient woodland at Dingle and Fords Rough.

- The allocation area supports numerous areas of habitat of principal importance and land likely to be recognised as such, including: The Gorse, Tong's covert, The Dungeon, Barry's Covert, Gallows Croft, Damhead covert, Thelwall Gorse, woodland by the Bridgewater canal and Massey's Brook. In order to comply with policy DC-4 and paragraph 174b of the NPPF this must be avoided, mitigated for, or as a last resort compensated for i.e. the mitigation hierarchy must be shown to have been applied.
- Biodiversity Net Gain has been mandated for *all* developments in England that fall under the Town and Country Planning Act 1990, whether or not they impact important wildlife habitats (Chancellor's Spring Statement 2019) so this should be reflected in the published guidance for the development of this site i.e.

A measurable net gain in biodiversity should be demonstrated through the use of the Defra Net Gain metric.

Compensation for the loss of biodiversity must be secured following good practice guidance (i.e. Biodiversity Net Gain: Good practice principles for development CIEEM, CIRIA, IEMA, 2016).²

- There is evidence to suggest that BoCC³ red listed birds such as yellow wagtail, lapwing, grey partridge, yellowhammer and tree sparrow utilise this area. In order to comply policy DC-4 and paragraph 174b of the NPPF measures will be required to ensure the protection and recovery of these species.
- Parts of the site have a good hedgerow network, native hedgerows are a priority habitat and in order to comply with policy DC4 and paragraph 174b of the NPPF they must be taken into consideration and the mitigation hierarchy applied.
- There is a particularly high density of farm ponds within this allocation which are likely to support great crested newts, dragonflies and other priority species. Ponds should be retained and buffered to protect them from impacts caused by development of the surrounding land (impacts may include pollution caused by run-off, the introduction of fish and invasive species introductions).

² The process of achieving Biodiversity Net Gain must be transparent so that stakeholders and the general public can be assured that appropriate steps have been taken. Compensatory habitat will need to be managed in the long term (minimum 25 years). The mechanism to secure this should be agreed in principle before the application is decided and the measures should be in place at the point when the features are impacted, or ideally in advance.

³ Birds of Conservation Concern 4 published by the BTO 2015

- The northern area of the allocation lies within the Great Manchester Wetland Nature Improvement Area. This area was designated in 2011 as an '*essential network of wildlife corridors will link biodiversity across the landscape and allow wetland habitats to thrive and survive*'. Measures to improve and reconnect wildlife habitats should be incorporated into the plans to help achieve the objectives of the NIA. Most important is protecting and enhancing the existing habitats within the NIA including the habitats at Grappenhall Hayes Local Wildlife Site and ensuring there are ecological links to the new Country Park area.

MD4 – Land at Peel Hall

- The allocation incorporates Radley Plantation and Pond Local Wildlife Site which supports priority habitat and priority species. The site should be excluded from the allocation in order to comply with the emerging Warrington policies and the NPPF. The LWS should be protected by a buffer to help prevent damage caused by polluted water runoff, light pollution, disturbance, the spread of invasive garden species and predation by domestic pets. We suggest a minimum buffer of 15m to protect the site is secured. To provide maximum benefit to woodland edge species such as bats and invertebrates this should ideally be a scrub/grassland ecotone. A 15 m buffer is in line with the standing advice provided by Natural England in 2015.
- The allocation area supports numerous areas of habitat of principal importance (priority habitats) and land likely to be recognised as such, including: a traditional orchard at Peel Hall, woodland and grassland habitats at Radley Common and to the north of Windermere Avenue. In order to comply with policy DC-4 and paragraph 174b of the NPPF these must be avoided, mitigated for, or as a last resort compensated for i.e. the mitigation hierarchy must be shown to have been applied.
- Biodiversity Net Gain has been mandated for **all** developments in England that fall under the Town and Country Planning Act 1990 whether or not they impact important wildlife habitats (Chancellor's Spring Statement 2019) so this should be reflected in the published guidance for the development of this site i.e.

A measurable net gain in biodiversity should be demonstrated through the use of the Defra Net Gain metric.

Compensation for the loss of biodiversity must be secured following good practice guidance (i.e. Biodiversity Net Gain: Good practice principles for development CIEEM, CIRIA, IEMA, 2016).⁴

⁴ The process of achieving Biodiversity Net Gain must be transparent so that stakeholders and the general public can be assured that appropriate steps have been taken. Compensatory habitat will need to be managed in the long term (minimum 25 years). The mechanism to secure this should be agreed in principle before the application is decided and the measures should be in place at the point when the features are impacted, or ideally in advance.

MD3 - SW urban extension, OS1- Land at Burtonwood, OS2 - Croft, OS3 - Culcheth, OS4 - Hollins Green, OS5-8 Lymm and OS9 - North Winwick

The brief policy guidance relating to the natural environment for these potential allocations is wholly inadequate as it fails to address the following:

- Biodiversity Net Gain has been mandated for **all** developments in England that fall under the Town and Country Planning Act 1990 whether or not they impact important wildlife habitats (Chancellor's Spring Statement 2019) so this should be reflected in the published guidance for the development of these allocations i.e.

A measurable net gain in biodiversity should be demonstrated through the use of the Defra Net Gain metric.

Compensation for the loss of biodiversity must be secured following good practice guidance (i.e. Biodiversity Net Gain: Good practice principles for development CIEEM, CIRIA, IEMA, 2016).⁵

- These allocations support several areas of habitat of principal importance including ponds and semi-natural woodland (for example at Rushgreen road/Tanyard Farm Lymm, and south of Grange Mill House in the SW Urban extension). The mature native hedgerows, many of which contain mature trees, within these sites are also classified as habitats of principal importance. In order to comply with policy DC-4 and paragraph 174b of the NPPF habitats of principal importance (priority habitats) must be avoided, mitigated for, or as a last resort compensated for i.e. the mitigation hierarchy must be shown to have been applied.
- Several of these allocations contain mature individual trees and no guidance has been provided on how these should be avoided where possible.

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⁵ The process of achieving Biodiversity Net Gain must be transparent so that stakeholders and the general public can be assured that appropriate steps have been taken. Compensatory habitat will need to be managed in the long term (minimum 25 years). The mechanism to secure this should be agreed in principle before the application is decided and the measures should be in place at the point when the features are impacted, or ideally in advance.