

Policy CS33 – Biodiversity and Geodiversity

Summary of Comments Received	Recommended Response
The first bullet point in Policy CS33 should be altered to read; " <u>competently</u> evaluate the value and extent of the assets..."	Accepted. It is recommended that the first bullet point in Policy CS33 is amended to read: " <u>competently</u> evaluate the value and extent of the assets on or within the vicinity of the development site including their position in the hierarchy of international, national and local sites;"
The third bullet point in Policy CS33 should be altered to read; "evaluate the options and opportunities available to <u>protect and</u> enhance the value of the assets and contribute towards wider ecological networks.	No change is recommended, as the wording has been drawn up in consultation with Natural England and 'enhance' was considered to both include and go further than 'protect'.
The fourth paragraph in Policy CS33 should to make it plain that there is a necessary hierarchy of 1) protect and enhance assets within the development 2) provide adequate on-site mitigation 3) provide adequate off-site mitigation, within Wirral and preferably in the same or adjacent Settlement Areas. Mitigation must also provide equivalent habitat with equivalent ecological and social functions.	While a sequence of 'avoid, mitigate and compensate' is accepted, national policy and guidance does not prefer on-site mitigation ahead of off-site mitigation. It is, therefore, recommended that Point 2 of Policy CS33 is amended to read: " <u>where criterion 1 cannot be satisfied, adequate on-site or off-site mitigation can be provided that will secure a net gain to biodiversity or geodiversity;</u> " It is also recommended that a definition of mitigation is added to the Glossary.
Paragraph 22.16 should be altered to remove "major" as this is not a concept used in ecology and would lead to arguments over interpretation.	Accepted but the wording reflects Article 10 of the EC Habitats Directive which states that "Member states shall endeavour, where they consider it necessary, in their land-use planning and development policies and, in particular, with a view to improving the ecological coherence of the Natura 2000 network, to encourage the management of features of the landscape which are of major importance for wild fauna and flora". It is, therefore recommended that paragraph 22.16 is amended to read: "The Council has a <u>general</u> duty to have regard to the purpose of conserving biodiversity and <u>a more specific duty</u> to encourage the management of features of the landscape which are of major importance for wild flora and fauna."
Paragraph 22.18 should be altered to add: " <u>Please note that site designations and boundaries are likely to change as the new criteria are implemented and ecological survey work continues. The Council should be contacted for current data.</u> "	Accepted but it is recommended to amend the final sentence in paragraph 22.18 with simplified wording to read: "The Local Wildlife Partnership is currently reviewing the selection criteria for wildlife sites, in accordance with national guidance, prior to the Council agreeing a revised list of Local Wildlife Sites for inclusion in a site specific Local Plan, which will be kept under regular review".
Paragraph 22.19 should be altered to replace "recognised techniques" with " <u>current best practice</u> ".	Accepted. It is recommended that paragraph 22.19 is amended to read: "Ecological assessments required under Policy CS33 must be undertaken by suitably qualified people, <u>using current best practice...</u> "

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Paragraph 22.20 should be re-ordered and altered to read: " <u>If it is not possible to locate a proposal on a site with less harmful impacts, nor retain and enhance the existing biodiversity within the development, then, following consultation with appropriate ecological professionals, mitigation must be agreed before planning permission will be granted. Mitigation will be secured through planning conditions and where necessary legal agreements. On-site mitigation will usually be preferable to off-site mitigation.</u> "	No change is recommended. The wording of paragraph 22.20, agreed with Natural England, already expresses the hierarchy of avoid, mitigate and as a last resort compensate, as set out in national policy (National Planning Policy Framework, paragraph 118 refers).
The LCR Ecological Framework, mentioned in paragraph 22.21, must be improved when preparing the Wirral Green Infrastructure Strategy.	No change is recommended, as paragraph 22.21 already states that "the Green Infrastructure Strategy will further develop priorities for establishing more effective networks".
Paragraph 22.22 should refer to paragraph 23.20 on invasive species and paragraph 22.22 (or paragraph 23.20) should be altered to read " <u>Plans to deal with invasive species will be required as part of planning applications, where such species are present.</u> "	Accepted. It is recommended that paragraph 22.22 is amended to read: "Natural England's website provides guidance on protected species and priority habitats and priority species. The impact of invasive species is considered in Policy CS37 below. <u>Plans to deal with invasive species will be required as part of planning applications, where such species are present.</u> "
The first paragraph of Policy CS33 should be altered to remove "seek to".	No change is recommended, as removing "seek to" would go beyond national policy, which states that planning policies should minimise impacts on biodiversity and geodiversity (National Planning Policy Framework, paragraph 117 refers).
The mention of "natural environmental assets" confuses the terminology throughout the Core Strategy, which should clarify that nature=wildlife=biodiversity and geodiversity=earth science. The wording should be standardised and/or explained within the Glossary.	Accepted. It is recommended that revised definitions for natural environmental assets, biodiversity assets and geodiversity assets are included in the Glossary.
The first paragraph of Policy CS33 should be altered to read: "The Council will seek to protect and enhance the natural environmental assets of the Borough, including designated biodiversity and geodiversity <u>assets;</u> " rather than "sites" and to " <u>retain and wherever possible enhance coherent ecological networks.</u> " rather than merely "establish" them.	Accepted but it is recommended that the first paragraph of Policy CS33 is amended with slightly modified wording to read: "The Council will seek to protect and enhance the natural environmental assets of the Borough, including designated biodiversity and geodiversity <u>assets;</u> priority habitats and species; ancient woodland; and aged or veteran trees found outside ancient woodland; and wherever possible provide net gains in biodiversity and <u>retain and enhance coherent ecological networks.</u> "

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Support the inclusion of Policy CS33 but the wording should be stronger to ensure a beneficial outcome in line with national planning policy. The first paragraph of Policy CS33 should be altered to say that the Council 'will' protect and enhance the natural environmental assets of the Borough.	No change is recommended, as removing “seek to” would go beyond national policy, which states that planning policies should minimise impacts on biodiversity and geodiversity (National Planning Policy Framework, paragraph 117 refers).
It should be clarified that the off-site mitigation of environmental impact is a last resort. Certain types of designated sites, such as grassland sites, cannot be recreated with any certainty of success until 20 years of establishment and management have elapsed. Others, such as semi-natural ancient woodland, cannot be recreated. It is therefore preferable for development to be required to avoid direct impacts on designated sites.	No change is recommended, as compensation is already identified as a last resort in paragraph 22.20.
Potential impacts on protected and priority species and habitats in general should be assessed as described and mitigated as required and appropriate requirements for biodiversity enhancement should be conditioned.	No change is recommended, as paragraph 22.20 already states that mitigation or compensation will be secured through planning conditions and where necessary legal agreements.
Detailed reference should be made to the circumstances in which development will not be permitted and where development will be permitted only in exceptional circumstances of overriding public interest and where there are no alternative sites.	No change is recommended, as national planning policy requires a positive rather than a negative approach to development and the inclusion of criteria-based policies against which proposals for development on or affecting protected wildlife or geodiversity sites will be judged (National Planning Policy Framework, paragraph 113 refers).
Residual impacts must be addressed in accordance with a hierarchy including mitigation, compensation and Biodiversity Offsetting as described in the Natural Environment White Paper and DEFRA guidance.	While a sequence of ‘avoid, mitigate and compensate’ is accepted, national policy and guidance does not prefer on-site mitigation ahead of off-site mitigation. ‘Biodiversity Offsetting’ is a form of compensation. It is, therefore, recommended that Point 2 of Policy CS33 is amended to read: “ <u>where criterion 1 cannot be satisfied</u> , adequate on-site or off-site mitigation can be provided that will secure a net gain to biodiversity or geodiversity;”

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<p>Paragraph 3 of Policy CS33 should be altered to read: “Development that could have an individual or in combination effect on a European Site or its supporting habitat, within or outside of the Borough, must provide sufficient information to enable compliance with the Habitats Regulations. <u>The integrity of international sites including SPA, SAC, and proposed, possible and candidate sites and RAMSAR sites) will be protected.</u>”</p>	<p>No change is recommended, as compliance with Regulation 61 of the Habitat Regulations already specifically requires that the integrity of international sites is protected. It is, therefore, recommended that a revised definition of European Sites is included in the Glossary.</p>
<p>Welcome the fact that the policy wording identifies that development that could have an individual or in combination effect on a European Site or its supporting habitat, within or outside of the Borough, must provide sufficient information to enable compliance with the Habitats Regulations, but Policy CS33 should also make reference to SAC/SPA designations as well as SSSIs.</p>	<p>Accepted. It is, therefore, recommended that Policy CS33 should be amended to read: “Development will be permitted where the applicant can demonstrate that: 1. <u>there will be no adverse effect on a Site of Special Scientific Interest or on the integrity of a European Site; and</u> 2. the identified assets can be incorporated and enhanced within the layout of the development without any harm or net loss to biodiversity or geodiversity; or 3. <u>where criterion 2 cannot be satisfied, adequate on-site or off-site mitigation can be provided that will secure a net gain to biodiversity or geodiversity; and...</u>” It is also recommended that a revised definition of European Sites is included in the Glossary.</p>
<p>Paragraph 5 of Policy CS33 should be altered to read: “Sites identified for specific protection, including any necessary mitigation <u>(which may include additional off site areas, management of international sites and the monitoring of such measures)</u> for the impact on European Sites and their supporting habitats, will be identified in a site-specific Local Plan.”</p>	<p>Accepted but it is recommended that paragraph 22.20 is amended to read: “<u>Mitigation on European Sites may include additional off site areas, management of international sites and the monitoring of such measures.</u>”</p>