



**Department
for Environment
Food & Rural Affairs**

Nobel House
17 Smith Square
London SW1P 3JR

T: 08459 335577
helpline@defra.gsi.gov.uk
www.defra.gov.uk

Elizabeth Truss MP
Member of Parliament for South West Norfolk
The Limes
32 Bridge Street
Thetford
Norfolk
IP24 3AG

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From Richard Benyon MP
Minister for Natural Environment and Fisheries

Dear Liz,

Thank you for your email of 26 October requesting a meeting with myself and CLG Planning Minister Nick Boles, to discuss the planning regime and the Habitats Directive.

I understand that one of your constituents [REDACTED] raised concerns regarding the local planning authority's reluctance to approve a planning application within the Breckland Special Protection Area (SPA). This is despite Natural England's conclusion that the planning application would not in their view impact on the SPA which is classified for its internationally important breeding population of stone curlew. I note that the planning application was subsequently allowed on appeal.

I note your constituent's concerns regarding the implementation of the Habitats Directive and [REDACTED] frustrations regarding the apparent delays in approving planning applications that may impact on the SPA. However, such applications must be assessed on a case by case basis, noting that the application of the Habitats Regulations, which transpose the Habitats Directive, is devolved to the relevant competent authorities. Defra has no role in arbitrating over planning issues of this nature.

In carrying out their statutory obligations, Local Planning Authorities are entitled to develop their own Habitats Regulations Assessment screening mechanisms in order to simplify the planning approval process. I understand that research commissioned by Breckland District Council provided substantial evidence that stone curlew in the SPA were affected by development within a broad radius around the SPA. As a result the four local planning authorities containing the SPA have adopted policies that development proposals in the



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area from which impacts were most likely, a 'buffer' of 1500m around the SPA, should be subject to assessment under the Habitats Regulations.

In making such assessments, Local Planning Authorities must have regard to advice from Natural England but are under no statutory obligation to accept such advice and are entitled to take a more precautionary approach, which they appear to have done in this instance.

Nevertheless, I agree that there is further scope to streamline the consenting process. In that regard, I understand that a number of recent planning protocols have been developed in Breckland, which indicate progress in the interpretation of local policies for the protection of the SPA. In addition, following the England review of implementation (Habitats Directive) Defra is currently reviewing guidance on Habitats Regulation Assessments and will be consulting on new overarching guidance shortly, which may inform future planning policies such as those developed to protect the SPA at Breckland. Defra and CLG are also considering the provision of guidance to Local Planning Authorities on the application of the 'buffer' approach in order to ensure that such policies are implemented in a rational way in consultation with relevant stakeholders.

In view of the above it appears that progress is being made to reduce burdens and streamline the consenting process for both developers and consenting authorities. I have discussed with my colleague Nick Boles at CLG and we have concluded that it would be premature to meet at this moment in time in view of apparent progress. However, please do come back to me in the event that there is clear evidence to suggest a serious breakdown in the application of the Habitats Directive in regard to planning in the Breckland area.

Details of the Defra England review of implementation (Habitats Directive) and consultation on new overarching guidance can be found on the following links:

<http://www.defra.gov.uk/habitats-review/>

<http://www.defra.gov.uk/rural/protected/habitats-wildbirds/>

Yours ever

Richard

RICHARD BENYON MP



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