Doncaster Local Plan Examination
Mr Don Parkinson, Mr Kim Parkinson and Wilton (Thorne) Ltd (ID 05293)
Matter 13 Statement – Natural and Built Environment

Issued September 2020

1.1 This Hearing Statement has been prepared on behalf of Mr Donald Parkinson, Mr Kim Parkinson and Wilton (Thorne) Ltd (ID 05293). The Statement responds to Question Q13.2 only.

1.2 Donald and Kim Parkinson are the majority landowners of draft employment allocation 001: J6 M18, Thorne North and Wilton (Thorne) Ltd is their development partner. Wilton (Thorne) Ltd is part of Wilton Developments Ltd, who has a long established track record of delivering employment sites in the region.

1.3 The Thorne North site comprises 73.63ha of land and is located off Selby Road to the north west of Thorne, to the west of the M18 and to the north of M18 Junction 6.

1.4 The site also is the subject of a pending outline planning application (ref. 16/02136/OUTM) for the development of employment uses. A comprehensive suite of updated plans and documents was submitted to DMBC in April 2020. This information is currently undergoing assessment and the application remains before DMBC for consideration.

Matter 13: Natural and Built Environment

Question 13.2: Are policies 30, 31 and 32 consistent with national policy and will they be effective in protecting and enhancing biodiversity and geodiversity? In particular:

a The requirement in policy 30 for all proposals to deliver a net gain for biodiversity and protect, create, maintain and enhance the Borough’s ecological networks.

b The approach in policy 31 to internationally and nationally important habitats, sites and species.

c The approach in policy 31 part A, policy 32 and Appendix 8 to protecting local wildlife and geological sites and features.

d Are the Council’s suggested changes to policy 31 part C and paragraph 10.40 necessary to make the Plan sound?

e What is the purpose of policy 32?

1.5 On behalf of our client, we have previously commented on the wording of Policy 31, relating to biodiversity and the Habitat Regulations. The representations commented that as originally drafted, Policy 31 does not accord with national policy or relevant legislation. This response is
answered in this context, with the main focus being on the matter of biodiversity net gain and the wording of Policy 31 (see parts b, c and d of the above question).

1.6 Since consulting on the Publication Version of the Local Plan in September 2019, DMBC has issued its Main Modifications which seek to amend elements of the wording to Policy 31 and its supporting text to make them sound in accordance with paragraph 35 of the National Planning Policy Framework (‘NPPF’). These amendments do not however respond to the representations that we have previously made in relation to Policy 31. We have therefore reviewed Policy 31 in light of the Council’s proposed modifications and the status of pending legislation and national policy requirements and our comments are set out below in response to Question 13.2.

**Suggested Changes to Policy 31 (Valuing Biodiversity and Geodiversity)**

1.7 Policy 31 deals with the protection of designated sites and species. As drafted, we consider this policy is *not in accordance with national planning policy and other relevant environmental legislation*.

1.8 In particular, the Department for Environment, Food and Rural Affairs (‘DEFRA’) biodiversity metric and associated requirement for a minimum net gain in biodiversity referred to in part A point 2 of this policy has not yet been incorporated into legislation, and it cannot be assumed that this, or its exact requirements, will become law. Furthermore, relevant legislation could be subject to further changes. It is therefore necessary to ensure that the wording of Policy 31 reflects whatever legal standard is in place at the point the Local Plan is adopted.

1.9 A number of amendments to Part A of this policy are therefore proposed in order to make the policy sound and to accord with current national policy and legislation as set out below. These amendments are the same as those set out within our previous representations.

A) Proposals which may harm designated Local Wildlife Sites, Local Geological Sites, Priority Habitats, Priority Species, protected species *(as defined)* or non-designated sites or features of biodiversity interest, will only be supported where:

1. the mitigation hierarchy is applied so that firstly harm is avoided wherever possible, then appropriate mitigation is provided to lessen the impact of any unavoidable harm, and as a last resort compensation is delivered to offset any residual damage *(and deliver a net gain for)* biodiversity;

2. unless otherwise agreed, a they use the DEFRA biodiversity net gain calculation metric to demonstrate that a proposal will deliver a minimum 10% net gain for biodiversity consistent with relevant legislative requirements;

3. where necessary they protect, restore, enhance and provide appropriate buffers around wildlife and geological features and aim to link these to the wider ecological network;

4. where necessary they produce and deliver appropriate long term management plans for local wildlife and geological sites as well as newly created or restored habitats;

5. they can demonstrate that the need for a proposal outweighs the value of any features to be lost; and

6. if the permanent loss of a geological site is unavoidable, then provision will be made for the site to first be recorded by a suitably qualified expert.
*Protected species are defined at those listed under Schedule 5 and 8 of the Wildlife and Countryside Act 1981 and Schedule 2, 3 and 4 of the Conservation of Habitats And Species Regulations 2017.*

1.10 As drafted, Part B of the policy does not correctly reflect the Habitats Regulations and should be amended to read as follows:

**B) Proposals which may impact Habitats Sites (as defined in the NPPF Annex 2)**

Special Areas of Conservation, Special Protection Areas or RAMSAR Sites will only be supported where it can be demonstrated that there will be no likely significant effects and or no adverse effects on the integrity of European sites. **Where the integrity of a site is affected development will not be permitted** unless there are no alternative solutions and it is justified by an “imperative reasons of overriding public interest” (IROPI) and **compensation measures are secured as defined** under the Habitats Directives 2017 Regulations.

1.11 Part D of Policy 31 effectively duplicates the requirement to assess impacts on Habitats sites. As such, this part of the policy is unnecessary and should be deleted.

1.12 Should this part of the policy be retained, as drafted it does not accurately reflect the definition of functionally linked land and could be read as protecting all habitats (including hedgerows, scrub, grassland, ditches and ponds) irrespective of whether nightjar are present on sites within 3km of the Special Protection Area (SPA). As presently drafted, it is therefore not justified and therefore in order to meet the test of soundness as set out in paragraph 35 of the NPPF, the policy and supporting text should make clear that such habitats are only protected if they are actually regularly used by nightjar for foraging to an extent that the loss (either alone or in combination) would give rise to adverse effects upon the integrity of the SPA in order to be consistent with the Habitats Regulations. If this part of the policy is not deleted as suggested, the following amendments to the text should be made:

**In order to ensure development does not negatively impact on nightjar populations, proposals located within 3km of Thorne and Hatfield Moors Special Protection Area, that adversely impact habitats that nightjars may regularly use for feeding on, will only be supported where they deliver a net gain in nightjar foraging habitat.**

**DMBC Suggested Main Modifications**

1.13 The Council’s Main Modifications Document [ref. DMBC15] suggests three amendments to Policy 31. These relate to part A and C of the policy and to the supporting text at paragraph 10.40. These amendments have been reviewed and no specific comments are raised by our client. If the Inspector considers the minor modifications appropriate, it is considered that they are sound in accordance with paragraph 35 of the NPPF.

**Overall Conclusion**

1.14 The amendments proposed to Policy 31, will ensure that the policy and supportive text are positively prepared and the policy is effective, justified and consistent with national planning policy and other relevant habitat legislation, and can therefore be considered sound in accordance with paragraph 35 of the NPPF.