

**Statement of Common Ground between the South
Worcestershire Councils (Malvern Hills District Council,
Wychavon District Council and Worcester City Council)
and Natural England relating to the Strategic Housing
Allocation at Mitton (South Worcestershire Development
Plan Review)**

Date: 10 March 2025



1. Introduction

- 1.1. In accordance with the NPPF (paragraph 24)¹, public bodies have a duty to cooperate with each other and with other prescribed bodies on planning issues that cross administrative boundaries. This forms part of each local planning authority's evidence for their respective emerging Local Plans.
- 1.2. This Statement of Common Ground (SoCG) has been prepared to fulfil the duty to cooperate requirements in accordance with paragraph 27 of the NPPF² and the section of the Planning Practice Guidance on Maintaining Effective Cooperation.

2. Purpose

- 2.1. This SoCG has been produced to support the South Worcestershire Development Plan Review (SWDPR), which has been jointly prepared by the South Worcestershire Councils (SWCs) - Malvern Hills District Council, Wychavon District Council and Worcester City Council. It sets out how the SWCs have engaged with the statutory consultation body Natural England in order to fulfil its duty to Cooperate requirements.

3. Scope

- 3.1. Planning Practice Guidance (PPG)³ provides details on the scope of a SoCG, which is detailed below.
 - a short description and map of the administrative areas covered by the statement;
 - the key strategic matters being addressed by the statement;
 - the plan-making authorities responsible for joint working detailed in the statement, and list of any additional signatories;
 - governance arrangements for the cooperation process;
 - if applicable, the housing requirements in any adopted and (if known) emerging strategic policies relevant to housing within the area covered by the statement;
 - distribution of needs in the area as agreed through the plan-making process, or the process for agreeing the distribution of need (including unmet need) across the area;
 - a record of where agreements have (or have not) been reached on key strategic matters, including the process for reaching agreements on these; and

¹ 'Local planning authorities and county councils are under a duty to cooperate with each other, and with other prescribed bodies, on strategic matters that cross administrative boundaries' (NPPF, 2023, Para 24)

² 'In order to demonstrate effective and on-going joint working, strategic policy making authorities should prepare and maintain one or more statements of common ground, documenting the cross-boundary matters being addressed and progress in cooperating to address these. These should be produced using the approach set out in national planning guidance, and be made publicly available throughout the plan-making process to provide transparency'

³ Paragraph: 011 Reference ID: 61-011-20190315

- any additional strategic matters to be addressed by the statement which have not already been addressed.
- 3.2. The PPG also recognises that the *‘level of cooperation detailed in the statement is expected to be proportionate to the matters being addressed. The statement is expected to be concise and is not intended to document every occasion that strategic policy-making authorities meet, consult with each other, or for example, contact prescribed bodies under the duty to cooperate. The statement is a means of detailing key information, providing clear signposting or links to available evidence on authorities’ websites.’*⁴

4. Relevant Parties and Geography

- 4.1. The relevant parties to this SoCG are the South Worcestershire Local Authorities (Malvern Hills District Council, Wychavon District Council and Worcester City Council) and the statutory consultation body Natural England. The administrative areas of Malvern Hills District Council, Wychavon District Council and Worcester City Council are located in Worcestershire County.
- 4.2. As Natural England is a statutory consultation body, it is important that during the South Worcestershire Development Plan Review effective duty to cooperate discussions are undertaken regarding strategic planning matters including, where relevant, those that cross administrative boundaries.
- 4.3. The map below illustrates the location of the South Worcestershire Councils and the adjoining local authorities:

⁴ Paragraph: 011 Reference ID: 61-011-20190315

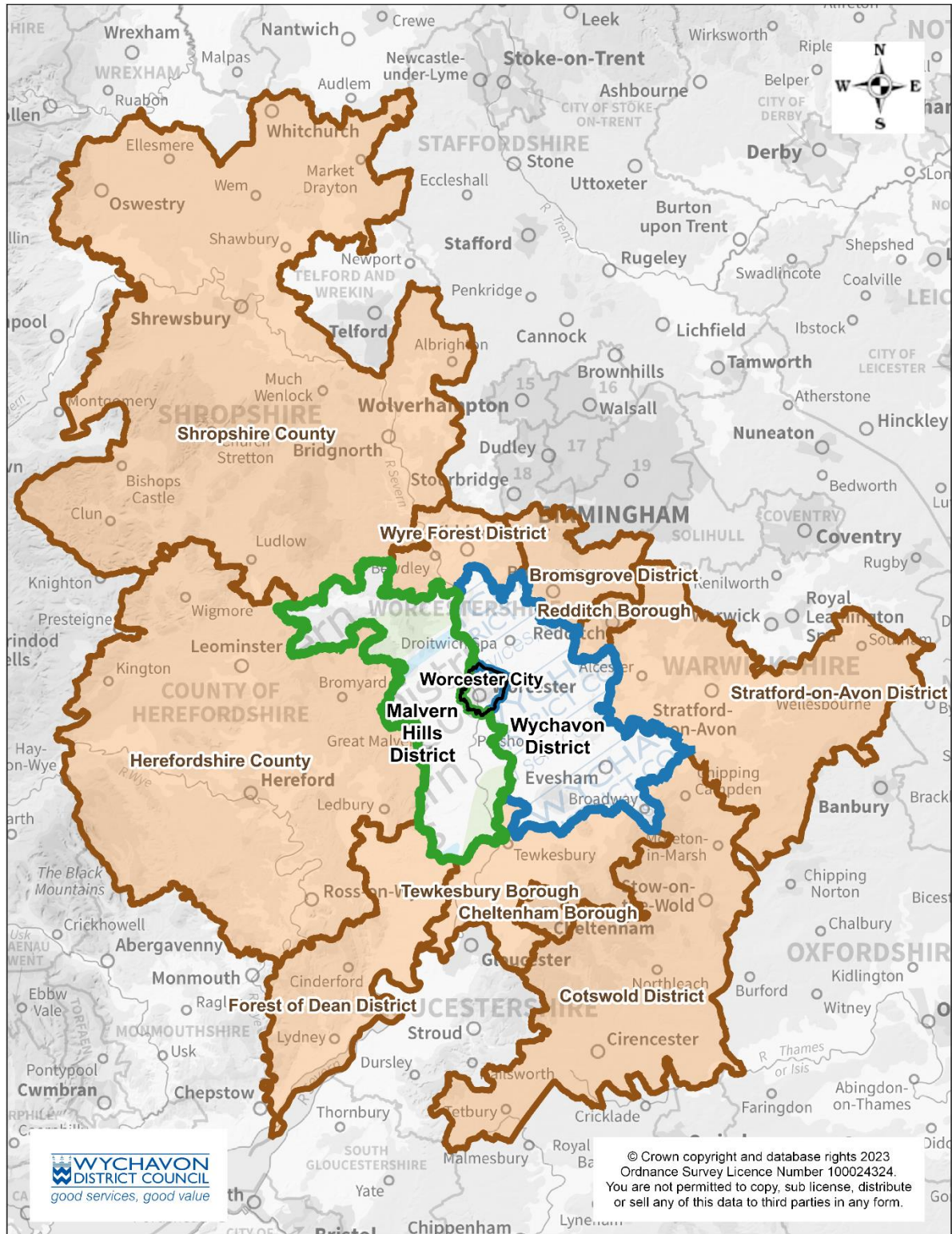


Figure 1. The South Worcestershire Councils' administrative boundaries in context of neighbouring local authorities

5. Duty to Cooperate

South Worcestershire Development Plan Review

- 5.1. The Development Plan for the SWCs currently comprises the South Worcestershire Development Plan (SWDP, adopted 2016), the Worcestershire Minerals Local Plan (2022) and the Worcestershire Waste Core Strategy (2012), together with made Neighbourhood Plans, including the Bredon, Bredon's Norton and Westmancote NP. The SWDP was prepared jointly by the three SWCs working together under plan making arrangements. On completion of the SWDP Review process, the SWDP will be replaced by the 'South Worcestershire Development Plan Review, 2021-2041' (SWDPR).
- 5.2. The SWDPR includes strategic and detailed policies, together with site allocations for the Plan period 2021 to 2041.
- 5.3. There has been ongoing and active engagement between the SWCs and Natural England throughout the SWDPR process and duty to cooperate discussions have occurred at appropriate times during the SWDPR process.
- 5.4. As part of the development of various Development Plan Documents (DPDs), the SWCs have consulted Natural England during the following consultations:

South Worcestershire Development Plan Review DPD

Consultation Stage	Consultation End Date
SWDPR Issues and Options Regulation 18 (I)	17 December 2018
SWDPR Preferred Options Regulation 18 (II)	16 December 2019
SWDPR Further Regulation 18 (III) Sustainability Appraisal Consultation	19 April 2021
SWDPR Publication (Regulation 19)	23 December 2022
Evidence Base ⁵	Consultation End Date
Village Facilities and Rural Transport Proposed Methodology	2 July 2018
Call for Sites and Proposed SHELAA Methodology	2 July 2018
Sustainability Appraisal Scoping Report	3 July 2018
Development Boundaries Review Proposed Methodology	8 October 2018
Renewable and Low Carbon Energy Call for Sites	16 December 2019
Country Park Call for Sites	24 July 2020

⁵ A full suite of evidence base documents has been produced and consulted on during each plan making consultation stage.

Traveller and Travelling Showpeople Site Allocations DPD

Consultation Stage	Consultation End Date
Preferred Options	9 May 2016
Revised Preferred Options (I)	18 April 2018
Revised Preferred Options (II)	5 July 2021
Publication	13 December 2022

- 5.5. Duty to cooperate discussions will continue with Natural England at appropriate times as the SWDPR progresses.

6. Habitats Regulation Assessment (HRA) Publication Version

- 6.1. The South Worcestershire Development Plan Review Habitat Regulations Assessment technical volume 2, “Public Access and Disturbance Assessment at Potentially Functionally Linked Bird Sites” report by Lepus Consulting (dated August 2022) (HRA, Vol 2, Exam ref CD7) states the following in regard to the proposed allocation at Mitton:

“It is noted that there is proven linkage between this site and the SPA and Ramsar in terms of Shelduck and it is of high importance for a number of species being used as a migratory route”(para 6.1.8).

“Given the proximity of the strategic allocation at Mitton urbanisation effects may cause an impact. These should be addressed through site design and project level HRA. This should consider disturbance impacts once more details on site specific layouts are known. This may include locating development away from the Bredon’s Hardwick Gravel Pit (ideally at a distance of 400m, the reasons for which are discussed in Section 4.3) and incorporation of visual and noise buffer zones (for instance a barrier created by planting) to screen the development from the lower level bird habitat and minimise urbanisation impacts such as light spill and noise pollution. An analysis of construction and operational noise impacts should be undertaken at the project level. This may require seasonal limits to be placed on particularly noisy activities. Lighting should also be carefully designed to ensure no increased illumination at the bird site. It is recommended that these project level requirements be incorporated into the policy wording for this particular allocation” (para 6.1.9).

7. Natural England’s Response to Regulation 19 (Publication)

Regulation 19 – Publication (2022) (Consultee ID: 1172390)

- 7.1. At the Regulation 19 consultation stage (Publication, 2022), Natural England commented on a number of policies, including SWDPR 54 Mitton. They considered SWDPR 54 (Mitton) to be both sound and legally compliant but recommended that paragraph 4.9 in the Reasoned Justification (RJ) should also refer to Functionally Linked Water (FLW) because ‘there is

potential for impacts on migratory fish associated with the Severn Estuary Special Area of Conservation (SAC), e.g. River lamprey (Lampetra fluviatilis) and European eel (Anguilla anguilla), through the watercourses that join the River Teme SSSI. These potential impacts need to be considered in a project level Habitat Regulations Assessment.'

- 7.2. Although the policy itself refers to Functionally Linked Land (FLL) and FLW, the RJ only refers to FLL. The SWCs consider that a minor modification to the RJ could cover this point and will need to be added to the list of proposed changes (WS0/2: [Microsoft Word - Minor Mods - 1 Strategic Policies](#)).

8. Discussions Since the Regulation 19 (Publication)

- 8.1. Following the dismissal of two appeals, for 500 homes at Mitton and the school (18/00771/OUT and 20/00008/OUT refer) in November 2022, and after the SWDPR Reg19 Publication consultation, the developers submitted two further outline planning applications for the same proposals, 500 homes and the school (W23/00682/OUT and W23/00683/OUT).
- 8.2. It was whilst Natural England considered these applications that they raised concerns about the potential impact of the development, and the proposed allocation, on the local area's curlew population. Subsequently, Natural England submitted a position statement on this matter to the SWCs which was added to the SWDPR Examination website: [EXAM 8 - Natural England Position Statement re SA54: Mitton](#). It advises that curlews are a Priority species under the NERC Act (2006) and a species of High Conservation Concern in the UK. Curlew is included within the bird assemblage for which the Severn Estuary Special Protection Area (SPA) is designated.
- 8.3. In 2022, Natural England identified FLL used by birds associated with the Severn Estuary SPA. This term refers to areas beyond the SPA that support the designated bird populations and play a crucial role in maintaining their conservation status. Natural England's position statement outlines the global importance of protecting the curlew, the relevance of FLL and the proposed allocation in relation to two areas of FLL, namely Mitton (15305), 300m west of the proposed allocation and Bredon's Hardwick Gravel Pits (40260), 100m west. The position statement also provided context on curlew sightings in the area and comments on the Cowfield Marsh Local Wildlife Site, which lies immediately to the east of the site beyond the Carrant Brook, noting that, although it was not in itself, an ideal habitat for curlew, it had encouraged curlew to forage in the fields adjoining Carrant Brook. Additional research conducted by local ornithologists have reported Curlew sightings overhead in this area and are known to forage in fields within the development site, north of the marsh.
- 8.4. The Natural England position statement also advised that the SWDPR HRA did not include reference to the use of fields within the Mitton allocation by foraging Curlew. A recommendation was made to include this in the HRA, noting that impacts arising from the development at Mitton may have impacts to the over-wintering curlew population and the breeding population at county and regional levels. It also stated that the recommendations made by HRA Vol 2 in paragraph 6.1.9 (Exam document ref CD7) were not followed in either the SWDPR or in Planning application 23/00682/OUT.

- 8.5. In response to Natural England's position statement, the SWCs commissioned a further report from their HRA consultants, LEPUS ([EXAM 16 – Review of Curlew at Mitton](#)), which included an assessment of Natural England's recommendations. It concluded that further bird surveys would be necessary to establish how curlew are using the strategic allocation at Mitton and the frequency of their use. Natural England advise that curlew surveys should be carried out from late March to late July. Overall, the report concludes the potential loss of the Mitton site, along with other important foraging grounds like the Garden Town at Ashchurch, could lead to fragmentation and decline of Curlew foraging habitats. Protecting areas along the River Avon is crucial to maintain the Favourable Conservation Status' (FCS) of Curlew. Potential mitigation measures to protect curlew can only be explored once further surveys have established how and when curlews are using the strategic allocation site at Mitton and other linked habitats.
- 8.6. The report also summarised technical conditions required for the conservation objective for the Severn Estuary SPA waterbird assemblage with reference to the FCS in terms of the desired population size and distribution of the waterbird assemblage in respect of Regulation 33 of the Conservation Advice for the Severn Estuary EMS. It summarised that the target for disturbance in feeding and roosting areas (such as the aforementioned in paragraph 6.24) is to ensure no significant reduction in numbers or displacement of wintering birds attributable to disturbance from the established baseline.
- 8.7. The Lepus report outlines that the NECR207 report emphasises the importance of considering survey data strength, species sensitivity, and development intensity when assessing impacts on functionally linked land. It highlights the need to evaluate supporting habitats beyond SPA boundaries to determine their criticality for species populations and their role in maintaining or restoring FCS. The strategic site at Mitton, linked to the Severn Estuary SPA, requires further assessment to confirm its functional linkage and protection under Habitats Regulations. Current data is insufficient to determine Curlew usage at Mitton, necessitating more detailed surveys
- 8.8. The Lepus report also stated important contextual information regarding the wider importance of the curlew in the UK and their relevance to the strategic allocation at Mitton:
- The UK, particularly the UK lowlands, is regarded as globally important for the Eurasian Curlew, which contain approximately 25% of the global population. There are around 500 pairs of Curlews remaining in the UK lowlands, of which 300 pairs are south of Birmingham, with many of these populations, on the verge of local extinction.
 - Curlew populations at Bredon's Hardwick and Mitton are very important to national Curlew conservation efforts. The Breden Hardwick / Fleet Lane / Upham Meadow complex contains the highest concentration of breeding Curlews of the Severn and Avon Vales, which is approximately half of the 35 pairs of breeding Curlews in the entirety of the Severn and Avon area. The meadows along the River Avon at Bredon's Hardwick and Mitton are used by this local population as evening roost sites during March/April time. The Curlews that use this area are linked to the Seven Estuary SPA, which is used by certain pairs as a breeding ground, with five nests identified in the area in 2023.
 - Due to the above, Curlews will be frequently moving across the development site between the Avon and Carrant Brook for foraging purposes. They are also ground-nesting birds, being vulnerable to species such as corvids, foxes, and domestic cats and dogs during

breeding seasons. They are particularly sensitive to visual and noise disturbance. Therefore, development in these areas may cause Curlew to leave the area.

- The Severn Estuary Special Protection Area (SPA) was established under the EU Birds Directive and is implemented through UK legislation to protect internationally important populations of wildfowl and wetland birds. The SPA includes species such as the Bewick swan (Annex 1 species) and regularly occurring migratory species like the European white-fronted goose, Dunlin, Redshank, Shelduck, and Gadwall. Additionally, it supports an internationally important assemblage of birds including Wigeon, Teal, Pintail, Pochard, Tufted duck, Ringed plover, Grey plover, Whimbrel, Curlew, and Spotted redshank.
- The wider Severn and Avon vales serve as a habitat network for these birds, providing essential areas for feeding, overwintering, and breeding under various conditions. In 2022, Natural England identified 'functionally linked land' used by birds associated with the Severn Estuary SPA. This term refers to areas beyond the SPA that support the designated bird populations. Two such areas near the proposed development site are Mitton (15305), 300m west of the proposed development site, and Bredon's Hardwick Gravel Pits (40260), 100m west. These areas play a crucial role in maintaining the conservation status of the bird populations.

8.9. The report outlined that survey data currently available for the strategic allocation site is based on bird surveys that were taken in April / May 2017, 2020, and 2023. These surveys revealed no records of Curlew (Section 4.3 of EXAM 16). Lepus stated that these surveys are only considered to be snap shots in time and, therefore, do not represent long-term trend data that indicate how frequently Curlew are using the site. It is also noted that there are reports from local ornithologists of curlews foraging in the area.

8.10. Based on a review of aerial photography, Lepus identified potential alternative Curlew foraging opportunities along the River Avon, which are closer to the complex of functionally linked WeBS sites at which Curlew have been known to breed. These parcels include areas of arable land to the north and south of the Avon and within its floodplain. However, without more detailed bird survey data, it is not possible to accurately conclude the availability and importance of other parcels of land outside the WeBS sites for Curlew in terms of their suitability as breeding and foraging habitats. This includes the Carrant Brook and adjacent habitat.

8.11. Given the above, the outcome of further bird surveys is required to inform whether the strategic site at Mitton is functionally linked to the SPA in terms of '*providing an important role in maintaining or restoring the population of qualifying species at favourable conservation status*' (as set out in Report NECR207, which defines the term 'functional linkage').

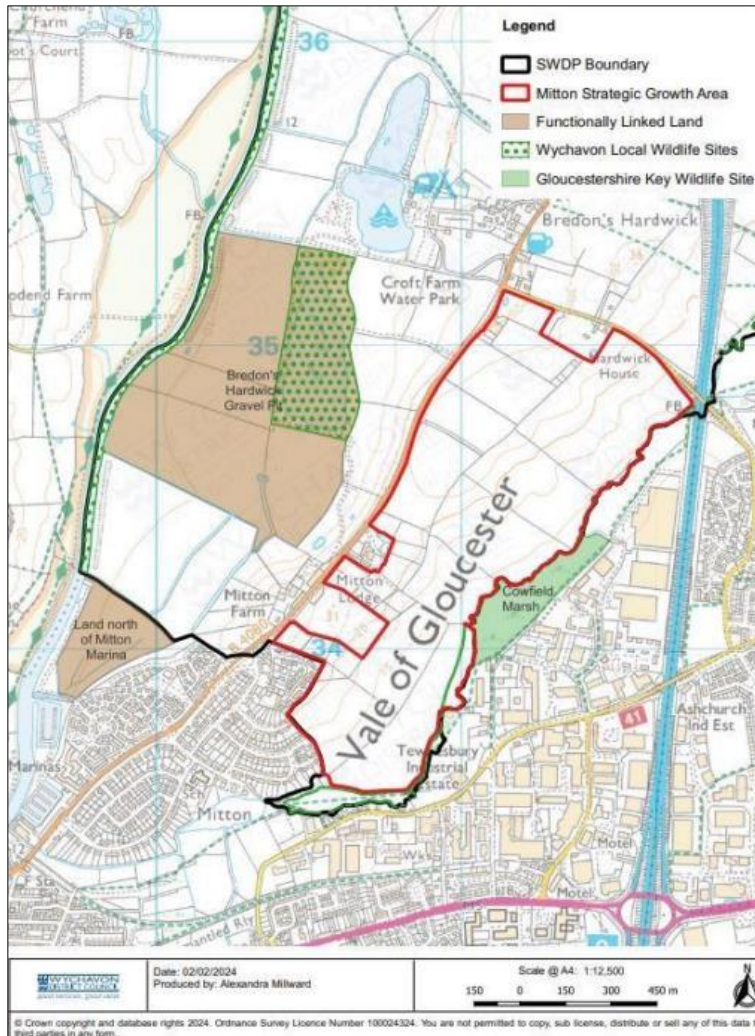


Figure 2. The Mitton Strategic Allocation Boundary in relation to nearby identified areas of Functionally Linked Land and Key Wildlife Sites

9. Matters of Agreement

9.1. Natural England consider that the proposed site allocation at Mitton (Policy SWDPR 54) has emerged as a significant issue post Regulation 19 consultation and the preparation of the HRA. The UK, particularly the UK lowlands, is regarded as globally important for the Eurasian Curlew, which contain approximately 25% of the global population. Overall, Natural England consider that the proposed allocation and development would negatively impact on curlew, which is a priority species under the NERC Act (2006) and species of High Conservation Concern in the UK. It is recognised that it is not currently possible from the data available to conclude with certainty how the curlew population are using the site at Mitton and the frequency of this use. The matters of agreement between the SWCs and Natural England are therefore as follows:

- Both parties agree the importance of protecting areas along the River Avon to maintain the Favourable Conservation Status (FCS) of Curlew.
- Both parties agree that reference to 'Functionally Linked Water' should be added to the Reasoned Justification.


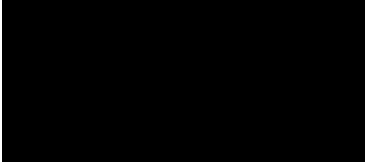
- Both parties agree to work together to better understand the potential impact of the Mitton proposed allocation on the curlew population within the area and to explore whether any impacts of the proposed development could be mitigated and / or otherwise addressed.

10. Issues to be Resolved

- 10.1. The SWCs and Natural England agree that the following additional work needs to be undertaken, and matters resolved:
- 10.2. Further bird surveys are required as set out above. Once satisfactorily completed, the results of the surveys shall inform the role of these sites in maintaining and restoring the FCS of Curlew and whether the exploration of potential mitigation measures is feasible in this area, which might include the following:
 - The extent of any potential buffer (e.g. whether 300m, 360m or 400m) from the FLL and what development is affected within the buffer – e.g. residential, school, sports pitches.
 - Noise Impact Assessments to consider the noise from construction, the school, housing, and sports pitches and their impact on the curlew, and what mitigation measures could be required.
 - Visual disturbance assessments and any relevant mitigation.
 - The proposed active travel route should be relocated away from the Cowfield Marsh to avoid adverse impacts on the site and consequent disturbance of bird species.
 - The potential for enhancing biodiversity generally, including along the Carrant Brook.
- 10.3. Natural England have also highlighted the potential cumulative impact of the strategic allocation at Mitton in tandem with the impact of other proposed developments such as the proposed Garden Community at Ashchurch, which collectively could lead to fragmentation and decline of Curlew foraging habitats.
- 10.4. Overall, it is considered that consultation and engagement with Natural England has been progressed in a positive and progressive manner by both bodies. Whilst there are currently unresolved issues, it is agreed that following further bird surveys the parties will work together to consider the issues raised.
- 10.5. The parties agree that they will continue to work positively together and, where relevant, with other prescribed bodies on any strategic cross boundary issues of relevance.

11. Signatories

11.1. This SoCG has been agreed and signed by the following:

South Worcestershire Councils	Natural England
Name: Ian Macleod	Name: Emma Johnson
Position: Director of Planning and Infrastructure, Malvern Hills District Council and Wychavon District Council	Position: Deputy Director West Midlands
Date agreed: 19/03/2025	Date agreed: 12/03/2025
Signature: 	Signature: 
And,	
Name: Duncan Rudge	
Position: Head of Planning, Worcester City Council	
Date agreed: 19/03/2025	
Signature: 