



Chelmondiston Neighbourhood Plan

Habitats Regulations Screening Determination

May 2020

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CHELMONDISTON MARKET NEIGHBOURHOOD PLAN

HABITATS REGULATIONS DETERMINATION

1. Introduction

This assessment relates to a September 2019 working draft of Chelmondiston Parish Councils 'Regulation 14 Pre-submission Neighbourhood Development Plan'. At the time of first issuing this Determination Notice (May 2020) the 'Chelpin Plan' (as it is referred to) had yet to be published for formal consultation.

It is a requirement of European law that a plan or project is subject to an assessment to determine whether it is likely to have a significant effect on the integrity of any European Site, in terms of impacting on the site's conservation objectives.

Submitted Neighbourhood Plans need to be accompanied by a statement to explain how the proposed plan meets the 'basic conditions' set out in Schedule 4B of the 1990 Town and Country Planning Act. These basic conditions include a requirement to demonstrate how the Plan is compatible with EU obligations, which includes the need to undertake a Habitats Regulations Assessment (HRA). This is one of the matters that will be tested as part of the independent examination of the Plan.

Whether a neighbourhood plan requires a Habitats Regulations Assessment and the level of detail needed will depend on what is proposed in the draft Neighbourhood Plan and the potential impacts on European sites designated for their nature conservation interest.

This report therefore determines whether a Habitats Regulations Assessment under the UK Conservation of Habitats and Species Regulations 2017, which enacts the Habitats Directive¹, is required for the Chelmondiston Neighbourhood Plan.

This determination refers to:

- The HRA Screening Report prepared by Place Services, Essex CC [*hereafter referred to as Place Services*] which can be viewed at: www.babergh.gov.uk/ChelmondistonNP
- The responses to this from the statutory consultees (See Appendix 1).

2. Legislative Background

One of the basic conditions that Neighbourhood Plans must meet is that:

"The making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017"

The Conservation of Habitats and Species Regulations 2017 include regulations on the assessment of plans (including neighbourhood plans) and projects on European sites or European offshore marine sites. The first stage is to screen the plan to see whether it is likely

¹ Directive 92/43/EEC 'on the conservation of natural habitats and of wild fauna and flora': <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:31992L0043>.

to have a significant effect on any Habitats (European) sites. If the plan is “screened-in” because likely significant effects cannot be ruled out, the next stage is for an appropriate assessment to be carried out considering the impact on the European site’s conservation objectives. Consent for the Plan can only be given if it is “screened-out” at the first stage or the appropriate assessment concludes the integrity of the European site will not be adversely affected.

Case law (*People Over Wind, Peter Sweetman v Collie Teoranta*) ruled that it is not permissible to take account of measures intended to reduce or avoid any harmful effects of a plan or project on a European site at the screening stage. Any mitigation measures can now only be considered at the appropriate assessment stage. Further case law (*Holohan and Others v An Bord Pleanála*) now also imposes more detailed requirements on the competent authority for any plans or projects at the Appropriate Assessment stage, including, but not limited to cataloguing the entirety of habitat types and species for which a site is protected and being beyond reasonable scientific doubt concerning the effects of the work envisaged on the site concerned.

3. Assessment

In determining whether a proposed development plan or programme is likely to have significant effects, the local authority must incorporate the ‘precautionary principle’ into its decision. This means that if there is uncertainty as to whether the plan or programme would cause significant effects on a European site, the full Appropriate Assessment would be required.

The draft Neighbourhood Plan included the following Vision Statement:

“To conserve and enhance the unique rural character of the Parish of Chelmondiston, its built and natural assets with particular reference to the need for protection of the Conservation Area at Pin Mill, the AONB status of part of the Parish and its sites of Special Interest (SSSI and RAMSAR). By 2031 any development will have been sustainable, with the necessary infrastructure resulting in a place that is thriving and enjoyable for residents, local businesses and visitors”

The draft Plan does not allocate any sites for housing or employment development but does contain ten planning policies that seek to shape future development within the designated plan area.

There are 14 Habitats sites which lie within 20 km of Chelmondiston parish:

Special Protection Areas (SPAs)	Special Areas of Conservation (SAC)	Ramsar Sites
Stour and Orwell Estuaries	Hamford Water	Stour and Orwell Estuaries
Deben Estuary	Staverton Park & the Thicks	Deben Estuary
Hamford Water	Alde, Ore & Butley Estuaries	Hamford Water
Orfordness & Shingle Street		Alde-Ore Estuary
Sanderlings		Colne Estuary
Colne Estuary		

The Plan area lies within the Zone of Influence of 14 Habitats Sites (7 Sites of Special Scientific Interest) as identified by Natural England to consider impacts on statutory sites. However, only the SSSIs listed by Natural England as in scope for residential development in Chelmondiston Parish are the Stour and Orwell SSSI (SPA and Ramsar site) and Deben Estuary SSSI (SPA and Ramsar site). It was therefore concluded that the four Habitats Sites underpinned by these two SSSIs should be considered to be within scope for this assessment.

The full assessment of the likely effects of the Plan is set out in the Screening Report dated November 2019 prepared by Place Services. A copy of this can be viewed at:

<https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Chelmondiston-NP-HRA-Screening-Report-Nov19.pdf>

The screening has been prepared in accordance with the Court judgment (CJEU People Over Wind v Coillte Teoranta C323/17) which ruled that mitigation measures cannot be taken into account when carrying out a screening assessment to determine whether a plan or project is likely to result in significant effects on a Habitats site.

4. Screening Conclusion

The Screening Report concluded that, subject to Natural England's review, the 'draft' Chelmondiston Neighbourhood Plan is not predicted to have any Likely Significant Effects on any Habitats site, either alone or in combination with other plans and projects.

Natural England have subsequently confirmed that they concur with the conclusion of the HRA Screening.

The requirement for the Plan to undertake further assessment under the Habitats Regulations 2017 is therefore **'screened out.'**

5. Determination

In the light of the Screening Report prepared by Place Services and the responses from the statutory bodies it is determined that the 'draft' Chelmondiston Neighbourhood Plan **does not require** further assessment under the Habitats Regulations 2017.

Date: 06 May 2020
 Our ref: 313929
 Your ref: SEA / HRA Screening Reports

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BY EMAIL ONLY



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Dear Mr Bryant

Chelmondiston Neighbourhood Plan - SEA / HRA Screening Consultation

Thank you for your consultation on the above dated 07 April 2020 which was received by Natural England on the same day.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Screening Consultation: Strategic Environmental Assessment

It is our advice, on the basis of the material supplied with the consultation, that, in so far as our strategic environmental interests (including but not limited to statutory designated sites, landscapes and protected species, geology and soils) are concerned, that there are unlikely to be significant environmental effects from the proposed plan.

Neighbourhood Plan

Guidance on the assessment of Neighbourhood Plans, in light of the Environmental Assessment of Plans and Programmes Regulations 2004 (as amended), is contained within the [National Planning Practice Guidance](#). The guidance highlights three triggers that may require the production of an SEA, for instance where:

- a neighbourhood plan allocates sites for development
- the neighbourhood area contains sensitive natural or heritage assets that may be affected by the proposals in the plan
- the neighbourhood plan may have significant environmental effects that have not already been considered and dealt with through a sustainability appraisal of the Local Plan.

We have checked our records and based on the information provided, we can confirm that in our view the proposals contained within the plan will not have significant effects on sensitive sites that Natural England has a statutory duty to protect.

We are not aware of significant populations of protected species which are likely to be affected by the policies / proposals within the plan. It remains the case, however, that the responsible authority should provide information supporting this screening decision, sufficient to assess whether protected species are likely to be affected.

Notwithstanding this advice, Natural England does not routinely maintain locally specific data on all potential environmental assets. As a result the responsible authority should raise environmental issues that we have not identified on local or national biodiversity action plan species and/or habitats, local wildlife sites or local landscape character, with its own ecological and/or landscape advisers, local record centre, recording society or wildlife body on the local landscape and biodiversity receptors that may be affected by this plan, before determining whether an SA/SEA is necessary.

Please note that Natural England reserves the right to provide further comments on the environmental assessment of the plan beyond this SEA/SA screening stage, should the responsible authority seek our views on the scoping or environmental report stages. This includes any third party appeal against any screening decision you may make.

Screening Request: Habitat Regulation Assessment

Natural England notes that your authority, as competent authority under the provisions of the Habitats Regulations, has screened the Neighbourhood Plan to check for the likelihood of significant effects.

Your assessment concludes that the proposal can be screened out from further stages of assessment because significant effects are unlikely to occur, either alone or in combination. Having considered the document, Natural England advises that we concur with the conclusions.

For any queries relating to the specific advice in this letter only please contact me on [REDACTED] [REDACTED]. For any new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

Yours sincerely

Patrick Robinson
Norfolk and Suffolk Area Team

By e-mail dated Tue 5 May 2020



Historic England

Re: Chelmondiston NP – SEA / HRA Screening Consultation

Dear Paul,

Thank you for inviting Historic England to comment on the above consultation. As the Government's adviser on the historic environment Historic England is keen to ensure that the protection of the historic environment is fully taken into account at all stages and levels of the local planning process. Therefore we welcome this opportunity to review the Screening Report for this plan. For the purposes of this consultation, Historic England will confine its advice to the question, "Is it (the Chelmondiston Neighbourhood Plan) likely to have a significant effect on the historic environment?". Our comments are based on the information supplied with the Screening Opinion.

The Screening Report indicates that the Council considers that the plan will not have any significant effects on the historic environment. We note that the plan does not propose to allocate any sites for development.

On the basis of the information supplied, and in the context of the criteria set out in Schedule 1 of the Environmental Assessment Regulations [Annex II of 'SEA' Directive], Historic England concurs with the Council that the preparation of a Strategic Environmental Assessment is not required.

The views of the other two statutory consultation bodies should be taken into account before the overall decision on the need for an SEA is made.

I should be pleased if you can send a copy of the determination as required by REG 11 of the Environmental Assessment of Plans and Programmes Regulations 2004.

We should like to stress that this opinion is based on the information provided by you with your correspondence below. To avoid any doubt, this does not reflect our obligation to provide further advice on later stages of the SEA process and, potentially, object to specific proposals which may subsequently arise (either as a result of this consultation or in later versions of the plan) where we consider that, despite the SEA, these would have an adverse effect upon the environment.

Historic England strongly advises that the conservation and archaeological staff of the relevant local authorities are closely involved throughout the preparation of the plan and its assessment. They are best placed to advise on; local historic environment issues and priorities, including access to data held in the Historic Environment Record (HER), how the allocation, policy or proposal can be tailored to minimise potential adverse impacts on the historic environment; the nature and design of any required mitigation measures; and opportunities for securing wider benefits for the future conservation and management of heritage assets.

In particular, and separate from our recommendation on whether an SEA is required or not, I was very pleased to see the inclusion of a list of locally important buildings included and protected by a policy in the plan, but would suggest that the selection criteria for the neighbourhood heritage assets under Policy CNDP4 is robust and included as part of the evidence base. I would refer the plan group to our Advice Note 7: Local Heritage Listing for some hopefully helpful advice on how to ensure that they do this.

Please do contact me, either via email or the number below, if you have any queries.

Kind regards,

Edward James MA BA ACIfA
Historic Places Adviser - East of England
Historic England

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Ms Gill Davis – Parish Clerk
Chelmondiston Parish Council
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Chelmondiston
Ipswich
IP9 1HT

Our Ref: AE/2020/125118/01-L01
Your ref: SEA/HRA Screening

Date: 06 May 2020

Dear Ms Davis

CHELMONDISTON NEIGHBOURHOOD PLAN SEA/HRA SCREENING

CHELMONDISTON SUFFOLK

Thank you for your consultation dated 07 April 2020. We have reviewed the SEA/HRA Screening Report for the Chelmondiston (Chelpin) Neighbourhood Plan, as submitted, and do not disagree with the conclusions detailed in the report.

We have considered the level of future growth which the Chelpin Neighbourhood Plan demonstrates within the parish over the plan period. The policies do not currently highlight any specific newly allocated sites for development: We therefore conclude that the recommendations and conclusions of the reports are suitable.

We trust this advice is useful.

Yours sincerely

Mr Mark Macdonald
Planning Advisor

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End