



Little Waldingfield Neighbourhood Plan

Habitats Regulations Screening Determination

June 2020

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LITTLE WALDINGFIELD NEIGHBOURHOOD PLAN

HABITATS REGULATIONS DETERMINATION

1. Introduction

This assessment relates to a draft of the 'Little Waldingfield Neighbourhood Development Plan 2018 – 2036' which was made available for screening in advance of Parish Council commencing their Regulation 14 Pre-submission consultation in early June 2020.

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 Little Waldingfield 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/LittleWaldingfieldNP
- 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 to have a significant effect on any Habitats (European) sites. If the plan is "screened-in"

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>.

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 Neighbourhood Plan includes the following Vision Statement:

"In 2036 Little Waldingfield will be a distinct vibrant rural village accommodating limited sustainable development together with facilities and services that:

- *Meets the needs of the local community;*
- *Respects the high quality historic and natural environment; and*
- *Embraces new technology"*

The draft Plan contains nineteen planning policies. It provides for around 10 additional dwellings to be built over the plan period, of which 3 are expected to come forward on two allocated sites. All benefit from existing planning permissions. Other plan policies seek to realise and deliver the vision.

There are two Habitats Sites which lie within 20 km of Little Waldingfield parish:

- The Stour and Orwell Estuaries SPA and Stour and Orwell Estuaries Ramsar

As the Plan area is not within the Zone of Influence for any of these Habitats Sites, none are screened in for assessment for any likely significant effect resulting from this draft Plan.

A full assessment of the likely effects of the Plan is set out in the Screening Report dated April 2020 prepared by Place Services. A copy of this can be viewed at:

<https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Little-Waldingfield-NP-HRA-Screening-Report-Apr20.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 Little Waldingfield 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 Little Waldingfield Neighbourhood Plan **does not require** further assessment under the Habitats Regulations 2017.

Date: 29 May 2020
 Our ref: 316035
 Your ref: Little Waldingfield NP - SEA / HRA Screening Consultation



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BY EMAIL ONLY

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Dear Mr Bryant

Screening consultation: Neighbourhood Plan SEA / HRA Screening Consultation.
Location: Little Waldingfield

Thank you for your consultation on the above dated 1 May 2020 that 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 Opinion Report: Strategic Environmental Assessment (SEA)

Natural England concur with the conclusions of the Little Waldingfield Parish Council Neighbourhood Plan SEA Screening Opinion Report. It is our advice, that, in so far as our strategic environmental interests are concerned (including but not limited to statutory designated sites, landscapes and protected species, geology and soils), that the neighbourhood plan does not have the potential to have significant environmental effects in relation to the baseline, and that SEA is not required.

Screening Report: Habitats Regulations Assessment (HRA)

Natural England agrees with the conclusion of the "Habitats Regulations Assessment (HRA): Screening Report – April 2020" that the Pre-Submission draft Little Waldingfield Neighbourhood Plan is not predicted to have any Likely Significant Effect on any international site, either alone or in combination with other plans and projects.

For any queries relating to the specific advice in this letter only please contact me on [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 Fri 29 May 2020

**Re: Little Waldingfield NP – SEA / HRA
Screening Consultation**



Historic England

Dear Paul,

Thank you for inviting Historic England to comment on this consultation. I have now had an opportunity to review the Waldingfield Neighbourhood Plan, and the accompanying SEA Screening Report. I would like to commend the Parish Council on their approach to the historic environment in the plan, especially the inclusion of consideration of local heritage assets (non-designated), and policies protecting important views. Furthermore the accompanying character assessment, available on the Parish Council website, reinforces the evidence base in a very helpful way. I will not make further comment on this now, as I am aware that the draft plan will be consulted upon at Regulation 14 in due course, but may do so then.

With regard to this 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 Little Waldingfield 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 considers that the plan will not have any significant effects on the historic environment. We note that the plan proposes to allocate two small sites for development to include up to 3 homes, but that both of these sites already benefit from planning permission.

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. 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.

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)

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Mr Paul Bryant
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Our Ref: AE/2020/125168/01-L01

Your ref: SEA

Date: 29 May 2020

Dear Mr Bryant

LITTLE WALDERINGFIELD NEIGHBOURHOOD PLAN, SEA SCREENING.

Thank you for consulting us on the above consultation. We have reviewed the SEA Screening report as submitted and can confirm that we do not disagree with the conclusion reached that a SEA report has been screened out.

The designated Neighbourhood Plan area lies on a source protection zone and has areas of flood zones 2 and 3. However, the two allocated sites in the Neighbourhood Plan already have planning permission. Due to this, we do not disagree with the conclusion reached in the report dated April 2020.

We trust the above is useful.

Yours sincerely

Miss Natalie Kermath
Planning Advisor

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End