



**Newton
Neighbourhood Plan
Habitats Regulations
Screening Determination**

December 2020

Contents

	Page
1. Introduction	2
2. Legislative Background	2
3. Assessment	3
4. Screening Conclusion	4
5. Determination	4
Appendix 1: Responses from Statutory Consultees	5

NEWTON NEIGHBOURHOOD PLAN

HABITATS REGULATIONS DETERMINATION

1. Introduction

This assessment relates to the 'Newton Neighbourhood Development Plan 2018 – 2036' which was published for Regulation 14 Pre-submission consultation between 17 August and 12 October 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 Newton 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/NewtonNP
- The response to this from the statutory consultee (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 Newton will be a sustainable Hinterland village and will have balanced housing growth within the historic environment and provide safe access to community assets while protecting wildlife habitats and open green spaces.”

The draft Plan contains nine policies to help realise and deliver the vision. It does not make any site specific housing allocations but it does contain policies that set out the overall development strategy for the plan area and the criteria that would apply to small scale affordable housing schemes on rural exception sites outside the settlement boundary.

There are four Habitats Sites which lie within 20 km of Newton parish:

Special Protection Area	Ramsar
Stour and Orwell Estuaries	Stour and Orwell Estuaries
Abberton Reservoir	Abberton Reservoir

As the Plan area is not within the Zone of Influence for the Stour and Orwell SPA or Ramsar site nor the Impact Risk Zone for Abberton Reservoir none of these Habitat Sites are screened in for assessment for any likely significant effects 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/Newton-NP-HRA-Screening-Report-Nov20.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 Newton Neighbourhood Plan Regulation 14 Pre-Submission Draft is not predicted to have any Likely Significant Effects on the Integrity of the Habitats Site in scope, 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 response from the statutory body it is determined that the Newton Neighbourhood Plan **does not require** further assessment under the Habitats and Species Regulations 2017 (as amended).

Date: 14 December 2020
 Our ref: 335837
 Your ref: Newton Neighbourhood Plan



Paul Bryant
 Neighbourhood Planning Officer
 Babergh & Mid Suffolk District Councils
paul.bryant@baberghmidsuffolk.gov.uk

Hornbeam House
 Crewe Business Park
 Electra Way
 Crewe
 Cheshire
 CW1 6GJ

BY EMAIL ONLY

T 0300 060 3900

Dear Paul

Newton Neighbourhood Plan SEA/HRA screening

Thank you for your consultation on the above dated 01 December 2020 which was received by Natural England on 01 December 2020

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 Request: 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.

Habitats Regulations Assessment (HRA) Screening

Natural England agrees with the report's conclusions that the Newton Neighbourhood Plan would not be likely to result in a significant effect on any European Site, either alone or in combination and therefore no further assessment work would be required.

For any new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk

Yours sincerely

Jacqui Salt
Consultations Team