



Redgrave Neighbourhood Plan

Habitats Regulations Screening Determination

November 2020

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REDGRAVE NEIGHBOURHOOD PLAN

HABITATS REGULATIONS DETERMINATION

1. Introduction

This assessment relates to the 'Redgrave Neighbourhood Development Plan 2018 – 2036' (the 'Plan') which was published for Regulation 14 Pre-Submission consultation in September 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 Redgrave 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.midsuffolk.gov.uk/RedgraveNP
- 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:

“By 2036 Redgrave will continue to be a small, beautiful village that has developed sustainably. It will develop in proportion to its rural character; rich in green spaces surrounded by a diverse rural environment with a better balance of housing to meet the needs of its residents.”

The draft Plan then sets out sixteen planning policies. It references those new housing schemes that already benefit from the grant of planning permission and allocates one site for eight dwellings to meet other housing need. The remaining policies seek to shape future development within the designated Plan area and these are themed around ‘Community’, the ‘Built & Natural Environment’, and ‘Business & Infrastructure’.

There are five Habitats site which lie within 20km of Redgrave parish:

Special Protection Area (SPAs)	Special Areas of Conservation (SAC)	Ramsar
Breckland	Waveney & Little Ouse Valley Fens	Redgrave & South Lopham Fens
	Breckland	
	Norfolk Valley Fens	

The Plan area lies within the 5km Impact Risk Zone for Redgrave & South Lopham Fens Ramsar site, the Waveney & Little Ouse Valley Fens SAC but not the Impact Risk Zone for Breckland SAC, Breckland SPA or Norfolk Valley Fens SAC. It was therefore concluded that two Habitats sites (Redgrave & South Lopham Fens Ramsar site, and Waveney & Little Ouse

Valley Fens SAC, should now be assessed for any likely significant effects resulting from the Redgrave Neighbourhood Plan Regulation 14 Pre-Submission Draft.

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

<https://www.midsuffolk.gov.uk/assets/Neighbourhood-Planning/Redgrave-NP-HRA-Screening-Report-Oct20.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

After careful consideration, the Screening Report concluded that, subject to Natural England's review, the Redgrave 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. Their response is reproduced at Appendix 1.

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 Natural England it is determined that the Redgrave Neighbourhood Plan **does not require** further assessment under the Habitats Regulations 2017.

By e-mail dated Mon 2 November 2020



Re: 331466 SEA / HRA Screening Consultation for Redgrave NP

Dear Paul,

Thank you for consulting Natural England.

Based on the documents provided we agree with the conclusions of both the HRA and SEA screening reports

Kind regards.

Richard Hack
Lead Adviser – Sustainable Development (Brecks)
Norfolk and Suffolk Area Team
Natural England

www.gov.uk/natural-england

During the current coronavirus situation, Natural England staff are working remotely and from some offices to provide our services and support our customers and stakeholders. Although some offices and our Mail Hub are now open, please continue to send any documents by email or contact us by phone to let us know how we can help you. See the latest news on the coronavirus at <http://www.gov.uk/coronavirus> and Natural England's regularly updated operational update at <https://www.gov.uk/government/news/operational-update-covid-19>.

