



Botesdale and Rickingham Neighbourhood Plan

**Habitats Regulations Screening
Determination**

**SEE UPDATED NOTICE
PUBLISHED JULY 2019**

January 2019

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BOTESDALE and RICKINGHALL NEIGHBOURHOOD PLAN

HABITATS REGULATIONS DETERMINATION 2019

1. Introduction

This assessment relates to the Botesdale and Rickinghall Neighbourhood Plan 2017-2036 Pre-Submission Consultation Plan dated November 2018.

It is a requirement of European law that a plan or project is subject to an assessment to determine whether it will significantly affect 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 an 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 regulation 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 (HRA) under Directive 92/43/EEC, also known as the Habitats Directive¹, is required for the Botesdale and Rickinghall Neighbourhood Plan.

This determination refers to:

- A Screening Report prepared by Essex Place Services which can be viewed at: www.m.suffolk.gov.uk/BotesdaleRickinghallNP
- 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 6 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 European site. If the plan is "screened in" because significant effects cannot be ruled out, the next stage is for an appropriate assessment to be

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>.

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.

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 AA would be required.

The vision of the Neighbourhood Plan is that *"In 2036 Botesdale and Rickinghall will have maintained its significant historic built and natural environment while accommodating sustainable growth that meets the needs of the Parishes and their hinterland and ensures that appropriate levels of infrastructure and services are retained and improved."*

The Neighbourhood Plan provides for 200 dwellings to be developed between 2017 and 2036 to be met through the allocation of sites for 10 or more dwellings as listed below plus smaller sites which are not specifically identified.

- Land at Back Hills – 40 homes
- Land north of Garden House Lane – 42 homes
- Land east of Rectory Hill – 10 homes
- Land to the rear of Willowmere, Garden House Lane – 10 homes
- South of Diss Road – 69 dwellings

There are four European sites which lie within 20 km of Botesdale and Rickinghall Parishes:

- The Breckland SPA
- Waveney and Little Ouse Valley Fens SAC
- Norfolk Valley Fens SAC
- Redgrave and South Lopham Fen Ramsar

The Botesdale and Rickinghall Neighbourhood Plan area contains land within the Zones of influence of two of the habitats listed above: Redgrave and South Lopham Fen Ramsar and Waveney and Little Ouse Valley Fens SAC.

These two Habitats sites were therefore considered to be within the scope of the screening assessment.

A full assessment of the likely effect of the Plan's policies and proposals on these sites is set out in the Screening Assessment prepared by Essex Place Services which can be viewed at:

<https://www.midsuffolk.gov.uk/assets/Neighbourhood-Planning/BoteRick-NP-HRA-SEA-Screening-Report-Final.pdf>

The screening was prepared in accordance with the recent 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 Natura 2000 site.

4. Screening Conclusions

The Screening Report concluded that, subject to Natural England's review, the Botesdale and Rickinghall Neighbourhood Plan is not predicted to have any likely significant effects on a habitats site. Natural England have subsequently confirmed that they concur with the conclusions 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 Essex Place Services and the responses from the statutory bodies it is determined that the Botesdale and Rickinghall Neighbourhood Plan does **not require** further assessment under the Habitats Regulations 2017.

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Date: 17 January 2019
Our ref: 268494

Paul Munson
Mid Suffolk District Council



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Leave
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BY EMAIL ONLY

Dear Mr Munson

Botesdale and Rickingham Neighbourhood Plan - HRA/SEA Screening

Thank you for your consultation on the above dated 20 December 2018 which was received by Natural England on 20 December 2018.

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 and Habitat Regulations 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.

Natural England concurs with the conclusions of the HRA Screening.

Neighbourhood Plan

Guidance on the assessment of Neighbourhood Plans in light of the SEA Directive 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.

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

Yours sincerely

Alice Watson
Consultations Team

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PUBLISHED JULY 2019



Mr Paul Munson
Babergh and Mid Suffolk District Council
8 Russell Road
Ipswich
Suffolk
IP1 2BX

Our Ref: AE/2018/123686/01-LO

Your ref:
Botesdale&Rickinghall SEA/HRA

Date: 18 January 2019

Dear Mr Munson

BOTESDALE & RICKINGHALL NEIGHBOURHOOD PLAN SEA/HRA SCREENING REPORT CONSULTATION

BOTESDALE AND RICKINGHALL PARISH COUNCIL

Thank you for your consultation dated 20 December 2018. We have reviewed the Strategic Environmental Assessment and Habitats Regulations Assessment Screening Report for the Botesdale and Rickinghall Neighbourhood Plan, as submitted, and agree with the conclusions and recommendations of the report.

Our considerations at this stage reflect the scope to which the Draft Plan sets out for future growth and development within its policies. It is noted that there are site allocations detailed in the Plan for built development, and whilst the report explains how the Planning Practice Guidance sets out there is sometimes a requirement for a SEA to analyse the potential likely effects of larger scale development, on this occasion all of the proposed sites have planning permission and therefore cannot be altered through the Plan policies and objectives.

The report recommends that the requirement of a full SEA be screened out, and we consider that this conclusion is suitable.

We also agree that the requirement for a HRA be screened out of the Plan.

We trust that this advice is useful.

Yours sincerely

Mr Ed Hoigail
Planning Advisor



Historic England

Paul Munson
Babergh Mid Suffolk District Council
Endeavour House
8 Russell Road
Ipswich
IP1 2BX

Direct Dial: 01223 582746

Our ref: PL005273/3

16 January 2019

Dear Mr Munson,

RE: Botesdale and Rickinghall Neighbourhood Plan SEA Screening

Thank you for your email of 20 December 2018 regarding 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 Botesdale and Rickinghall Neighbourhood Plan) likely to have a significant effect on the historic environment?". Our comments are based on the information supplied with the Screening Opinion.

We note that the neighbourhood plan allocates sites for development, but that 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.

It 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 dated 20 December 2018. To avoid any doubt, this does not reflect our obligation to provide further advice on later stages of the SA/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/guidance) where



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Historic England

we consider that, despite the SA/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.

Yours sincerely

Edward James
Historic Places Advisor, East of England

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