



Botesdale & Rickinghall Neighbourhood Plan 2017 - 2036

Habitats Regulations Screening Determination

Updated: July 2019

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Foreword

This Notice updates and replaces the Botesdale & Rickingham Neighbourhood Plan HRA Screening Determination Notice published by Mid Suffolk District Council in January 2019.

In late 2018, Mid Suffolk District Council commissioned Place Services, Essex County Council, to undertake a screening assessment of the emerging Botesdale & Rickingham Neighbourhood Plan. The three statutory bodies (Natural England, Environment Agency, and Historic England) were consulted on the content of the Screening Report and their written responses helped inform the HRA (and SEA) Determination Notices published in January 2019.

In Spring 2019, the Botesdale & Rickingham Neighbourhood Plan was submitted for independent examination. The Screening Report (December 2018) and two Determination Notices were reviewed as part of that process.

At examination, it became clear that the 2018 Screening Report contained a factual error. It is now established that all of the site allocations in the Neighbourhood Plan fall within the Zone of Influence (Zoi) for the Waveney & Little Ouse Valley Fens Special Area of Conservation (SAC) and the Redgrave & South Lopham Fen Ramsar. Unfortunately the 2018 Screening Report indicated that the site allocations did not fall within the Zois.

At the Examiner's request, the Botesdale & Rickingham Neighbourhood Plan was re-screened and the statutory bodies consulted for a second time. All three have now confirmed that this new evidence does not alter their original response.

This Determination Notice therefore takes account of all the above and publishes both the original and subsequent consultation responses from the statutory bodies.

Mid Suffolk District Council
July 2019

BOTESDALE & RICKINGHALL NEIGHBOURHOOD PLAN

HABITATS REGULATIONS DETERMINATION 2019

1. Introduction

This assessment relates to the Botesdale & 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 a 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 & Rickinghall Neighbourhood Plan.

This determination refers to:

- The revised (June 2019) Screening Report prepared by Place Services, Essex County Council, (hereafter referred to as Place Services) which can be viewed at:

www.midsuffolk.gov.uk/BotesdaleRickinghallNP

- The responses 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 European site. If the plan is "screened in" because

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>.

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.

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 Rickingham 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 & Rickingham Parishes:

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

The Botesdale & Rickingham Neighbourhood Plan area contains land within the Zones of influence of two of the habitats listed above: Redgrave & South Lopham Fen Ramsar and Waveney & Lt 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 revised (June 2019) 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-Jun19.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 & 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 revised Screening Report prepared by Place Services and the responses from the statutory bodies it is determined that the Botesdale & Rickinghall Neighbourhood Plan does **not require** further assessment under the Habitats Regulations 2017.

BY EMAIL ONLY

Dated: 17 July 2019
 From: Kayleigh Cheese (Natural England)
 To: Paul Bryant (Babergh & Mid Suffolk District Councils)

Dear Paul

Thank you for contacting Natural England regarding the update to the SEA screening report for Botesdale & Rickingham Neighbourhood Plan. We have reviewed the updated information and our response remains the same as the previous one, our ref: 268494, in that we concur with the conclusions that the SEA and HRA can be screened out from any further assessments, following the amendments.

Kind regards

Kayleigh Cheese
 Planning Lead Adviser
 Natural England
 County Hall, Spetchley Road, Worcester
 WR5 2NP

A copy of Natural England's previous response (their ref 268494) appears below:

Date: 17 January 2019
 Our ref: 268494

Paul Munson
 Mid Suffolk District Council

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

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

T 0300 060 3900

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



Mr Paul Bryant
Babergh and Mid Suffolk District Council
Spatial Planning Policy Team
8 Russell Road
Ipswich
Suffolk
IP1 2BX

Our Ref: AE/2018/123686/02-L01
Your ref: Botesdale&RickinghamSEA/HRA
Date: 09 July 2019

Dear Mr [Bryant]

**BOTESDALE & RICKINGHALL NEIGHBOURHOOD PLAN SEA/HRA
SCREENING REPORT CONSULTATION BOTESDALE AND RICKINGHALL
PARISH COUNCIL**

Thank you for re-consulting us on 1 July 2019 regarding the SEA screening report dated June 2019. We have reviewed the document as submitted and can confirm that this does not change our previous response and conclusion that was dated 18 January 2019 and referenced AE/2018/123686/01/L01.

We trust this advice is useful.

Yours sincerely

Miss Natalie Kermath
Planning Advisor

Environment Agency
Cobham Road, Ipswich, Suffolk, IP3 9JD.
Customer services line: 03708 506 506
www.gov.uk/environment-agency
End

A copy of the Environment Agency's previous response dated 18 January 2019
appears on the next page:



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

Our Ref: AE/2018/123686/01-L01
Your ref: Botesdale&RickinghallSEA/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 Abigail
Planning Advisor

Environment Agency
Cobham Road, Ipswich, Suffolk, IP3 9JD.
Customer services line: 03708 506 506
www.gov.uk/environment-agency
End

BY EMAIL ONLY

Dated: 1 July 2019

From: Edward James (Historic England)

To: Paul Bryant (Babergh & Mid Suffolk District Councils)

Dear Paul

Thank you for your phone call, and this subsequent email, explaining the alterations that were necessary to this SEA Screening Report. Having now had an opportunity to review the changes, I can confirm that the alteration to the Zone of Influence (ZOI) for the Waveney and Little Ouse Valley Fens Special Area of Conservation (SAC) and the Redgrave and South Lopham Fen Ramsar, resulting in the site allocations within the neighbourhood plan being encompassed within its extent, does not have a material effect to our assessment of whether or not the neighbourhood plan will have significant effects on the historic environment. Our original response to the consultation and its conclusions are therefore unchanged.

I trust that this is helpful.

Kind regards,

Edward

A copy of Historic England's previous response (dated 16 January 2019) appears below:



Historic England

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

Direct Dial: 01223 582746

Our ref: PL00527345

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.

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 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 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



Historic England, Brooklands, 24 Brooklands Avenue, Cambridge CB2 8BU
Telephone 01223 58 2749 HistoricEngland.org.uk
Please note that Historic England operates an access to information policy.
Correspondence or information which you send us may therefore become publicly available.

