



**Wilby**  
**Neighbourhood Plan**

**Habitats Regulations**  
**Screening Determination**

**June 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

# WILBY NEIGHBOURHOOD PLAN

## HABITATS REGULATIONS DETERMINATION

### 1. Introduction

This assessment relates to the 'Wilby Neighbourhood Development Plan 2018 – 2036' which was published for Regulation 14 Pre-Submission consultation between late January and mid-March 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 Directive<sup>1</sup>, is required for the Wilby 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/WilbyNP](http://www.midsuffolk.gov.uk/WilbyNP)
- 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"

---

<sup>1</sup> 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:

*“Our vision for future Wilby sees the rural beauty if its natural environment preserved, with changes to its amenities and built environment managed pro-actively, creatively and sustainably to the benefit of all those living here, working here, visiting or passing through.”*

The draft Plan contains ten planning policies, which focus specifically on meeting the vision and plan objectives. The Plan also allocates one site which is expected to deliver five new dwellings during the plan period. There are no planning permissions attached to this site.

There are thirteen Habitats sites which lie within 20km of Wilby parish:

Special Protection Areas (SPAs)	Special Areas of Conservation (SAC)	Ramsar Sites
Minsmere-Walberswick	Minsmere to Walberswick Heaths & Marshes	Minsmere-Walberswick
Deben Estuary	Staverton Park and The Thicks	Deben Estuary
Alde-Ore Estuary	Alde-Ore and Butley Estuaries	Alde-Ore Estuary
Sanderlings	Waveney & Little Ouse Valley Fens	Redgrave & South Lopham Fens
	Dew’s Pond	

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 March 2020 prepared by Place Services. A copy of this can be viewed at:

<https://www.midsuffolk.gov.uk/assets/Neighbourhood-Planning/Wilby-NP-HRA-Screening-Report-Feb20.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 Wilby 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 in 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 Natural England it is determined that the Wilby Neighbourhood Plan **does not require** further assessment under the Habitats Regulations 2017.

Date: 20 March 2020  
Our ref: 310357  
Your ref: Wilby Neighbourhood Plan



[communityplanning@babergmidsuffolk.gov.uk](mailto:communityplanning@babergmidsuffolk.gov.uk)  
FAO Paul Bryant  
**BY EMAIL ONLY**

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

T 0300 060 3900

Dear Mr Bryant

### **Wilby Neighbourhood Plan - SEA and HRA Screening Consultation**

Thank you for your consultation on the above dated 26 February 2020 which 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 Report: Strategic Environmental Assessment**

Natural England agrees with the conclusion of the screening report and that an SEA is not required.

#### **Screening Report – Habitats Regulation Assessment**

Natural England notes that your authority, as competent authority under the provisions of the Habitats Regulations, has screened the proposal to check for the likelihood of significant effects. Your assessment concludes that your authority is able to rule out the likelihood of significant effects arising from the neighbourhood plan. Natural England agrees with the conclusion of the screening report that this plan is not likely to result in an adverse effect on any international site from recreational disturbance effects.

For any queries relating to the specific advice in this letter only please contact Patrick Robinson on [REDACTED]. For any new consultations, or to provide further information on this consultation please send your correspondences to [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk).

Yours sincerely

Patrick Robinson  
Norfolk and Suffolk Area Team