



# West Bergholt Neighbourhood Plan

## Habitat Regulations Assessment Screening Report

Version 2  
July 2018

# Habitat Regulations Assessment Screening

## Introduction

The Habitats Regulations Assessment of land use plans relates to Special Protection Areas (SPAs), Special Areas of Conservation (SAC) and Ramsar Sites. SPAs are sites classified in accordance with Article 4 of the EC Directive on the conservation of wild birds (79/409/EEC), more commonly known as the Birds Directive. They are classified for rare and vulnerable birds, listed in Annex I to the Birds Directive, and for regularly occurring migratory species. SACs are classified in accordance with EC Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (the Habitats Directive). Article 3 of this Directive requires the establishment of a European network of important high-quality conservation sites that will make a significant contribution to conserving the 189 habitat types and 788 species identified in Annexes I and II of the Directive. These sites are known as the Natura 2000 network and are commonly referred to as European sites. Ramsar Sites are designated under the International Convention on Wetlands of International Importance especially as Waterfowl Habitat (the Ramsar Convention, Iran 1971 and amended by the Paris Protocol 1992). Although Ramsar Sites are not protected in law by the Birds and Habitats Directives as a matter of policy government has decreed that unless otherwise specified procedures relating to SPAs and SACs will also apply to Ramsar Sites.

An appropriate assessment is a decision by the competent authority, in this case Colchester Borough Council, as to whether a proposed plan or project can be determined as not having a significant adverse effect on the integrity of a European site. The integrity of a site is defined as the *“coherence of its ecological structure and function, across its whole area, that enables it to sustain the habitat, complex of habitats and/or the levels of populations of the species for which it was classified”* (Circular 06/05 paragraph 20). A fundamental element of the appropriate assessment is that the precautionary principle must be applied. In the Waddenzee judgment (ECJ Case C-127/02) the European Court of Justice ruled that a plan or project may be authorised only if a competent authority has made certain that the plan or project will not adversely affect the integrity of the site.

The following European sites are within Colchester Borough, or in the case of the Stour and Orwell Estuaries, adjacent to the borough:

### **Sites Designated under the Birds Directive:**

- The Colne Estuary SPA (Mid Essex Coast Phase 2);
- Abberton Reservoir SPA;
- Blackwater Estuary SPA (Mid Essex Coast Phase 4); and
- Stour and Orwell Estuaries SPA.

**Sites designated under the Habitats Directive:**

- Essex Estuaries SAC.

**Sites designated under the Ramsar Convention:**

- Colne Estuary;
- Abberton Reservoir;
- Blackwater Estuary; and
- Stour and Orwell Estuaries.

**Pathways of impact and likely significant effects****Recreational disturbance (physical site disturbance and disturbance to birds)***Physical site disturbance*

Physical disturbance relates to actual damage or degradation of habitat from direct human activities. Examples in the context of this assessment relate to damage to habitat from walking (trampling of vegetation) and the abrasion of intertidal or freshwater habitat from boat wash/anchoring. This issue is relevant to the habitats for which European sites are designated (e.g. damage to saltmarsh communities on the Essex Estuaries SAC) or habitat which supports designated species (e.g. sand and gravel shores on the Colne Estuary SPA). Recreational users can damage habitat and cause severe disturbance to wildlife, particularly nesting birds in summer and feeding and roosting waterfowl in winter.

*Disturbance to birds*

Many human activities have the effect of degrading parts of estuarine ecosystems through for example, over-exploitation of their natural resources and excessive discharge of wastes and pollution. However, over a third of the population nationally live in towns and cities around estuaries and so careful consideration is needed to protect these environmentally important sites and manage the increasing recreation impacts associated with a growing population.

The primary source of non-physical disturbance relates to an increase in the number of visitors to European sites due to increases in housing, an associated increase in demand for recreation and tourism facilities near to these sites.

The appropriate assessment of Colchester Borough's Section 2 Local Plan concluded that there are no likely significant effects arising from recreational disturbance at Abberton Reservoir and so Abberton Reservoir can be screened out of further assessment in terms of recreational disturbance.

Zones of Influence (ZoI) have been set as part of the Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS). These are based on the best available evidence and have been endorsed by Natural England. The whole of Colchester Borough lies within the ZoI for various Essex European sites. This means that all residential development in Colchester is likely to significantly affect the integrity of European sites in-combination.

## **Air quality**

Air pollution is most likely to affect European sites where plant, soil and water habitats are the qualifying features, but some qualifying animal species may also be affected, either directly or indirectly, by deterioration in habitat as a result of air pollution. Deposition of pollutants to the ground and vegetation can alter the characteristics of the soil, affecting the pH and nitrogen levels that can then affect plant health, productivity and species composition.

In terms of vehicular traffic, nitrogen oxides (NO<sub>x</sub>, i.e. NO and NO<sub>2</sub>) are considered to be the key pollutants. Deposition of nitrogen compounds may lead to both soil and freshwater acidification, and NO<sub>x</sub> can cause eutrophication of soils and water.

Central government has developed a plan to improve air quality by reducing nitrogen dioxide levels in the UK (July 2017). The plan includes a range of measures that could be taken to mitigate the impact of action to improve air quality.

Colchester's Section 2 Local Plan includes a policy, which states that proposals will be supported that will not result in an unacceptable risk to public health, the environment or general amenity due to the potential of air pollution. Proposals for developments within designated Air Quality Management Areas (AQMAs) or where development within a nearby locality may impact on an AQMA are required, first, to be located in such a way as to reduce emissions overall, and secondly to reduce the direct impacts of those developments. Applicants will be required to prepare and submit a relevant assessment and permission will only be granted where the Council is satisfied that after selection of appropriate mitigation the development will not have an unacceptable significant impact on air quality, health and well - being.

Appropriate safeguards exist in a higher tier plan and air quality can therefore be screened out of further assessment.

## **Water quality**

A growth in population resulting from an increase in housing will result in increased demands on the wastewater treatment system and may necessitate increased discharge consents and possibly even the establishment of new wastewater treatment works. Population expansion has the potential to increase nutrient loading to the European sites, with the potential for impacts on site integrity through eutrophication.

The Water Cycle Study (December 2016), which is a key evidence base document for the Colchester Local Plan and the HRA, found that only the Langham (East) Water Recycling Centre (WRC), which discharges into the River Stour, does not have sufficient capacity to accommodate additional wastewater from the proposed increase in development within the WRC catchment. All other WRCs serving the Borough have sufficient capacity to accommodate additional wastewater/sewage from the proposed increase in development.

Water quality can therefore be screened out of further assessment.

## **Water resources**

Unsustainable rates of abstraction reduce water flows and may result in lower flow velocities, reduced depths and reduced flow continuity that may alter ecological status. This, combined with higher concentrations of nutrients such as phosphate and nitrate may lead to algal blooms. More frequent periods of summer low rainfall are expected under current climate change prediction scenarios which may increase the environmental impact of flow problems. The largest demand for water comes from the public water supply and in order to reduce abstraction, abstractors have been tasked to use water more efficiently.

The Water Cycle Study concluded that, allowing for the planned resource management of Anglia Water Services Essex Resource Zone, Colchester Borough will have adequate water supply to cater for growth over the plan period.

Water resources can therefore be screened out of further assessment.

## **Urbanisation (fly tipping and predation)**

The impact of urbanisation is closely linked to recreational pressure. Both result from an increase in population close to European sites. Fly tipping can adversely affect European sites through the introduction of invasive species. It is becoming a greater problem in rural areas.

Predation of ground nesting birds by cats is potentially a significant issue for European sites. This is particularly relevant where new housing allocations are provided within 0.5 - 1km of a European site, which is the distance recommended by the RSPB as being the typical range of influence for domestic cats. This issue in Colchester Borough relates to the predation of ground nesting species such as Little Tern and Ringed Plover.

Urbanisation can be screened out of further assessment as West Bergholt is approximately 11km from the Colne Estuary SPA/ Ramsar, 12km from the Blackwater Estuary SPA/ Ramsar and 12km from the Stour and Orwell Estuaries SPA/ Ramsar. Fly tipping is an issue 400 metres from a European site and predation is an issue up to 1km from a site.

## **Loss of offsite functional habitat**

Fields in close proximity to European sites often provide offsite functional habitat. The loss of these sites, whilst not part of the European site, can significantly affect the qualifying species of the SPA by reducing the extent of their habitat.

Whilst habitats located further from European sites may be used by qualifying species these sites are unlikely to support numbers that would lead to a likely significant effect. Owing to the location of West Bergholt, 11km from the Colne Estuary SPA/ Ramsar, 12km from the Blackwater Estuary SPA/ Ramsar and 12km from the Stour and Orwell Estuaries SPA/ Ramsar, loss of offsite functional habitat can be screened out of further assessment.

## **Summary**

Recreational disturbance is the only issue that has not been screened out of further assessment in the consideration of pathways of impact and likely significant effects. The next sections consider likely significant effects from recreational disturbance alone and in-combination.

In reality the Neighbourhood Plan policies will combine to deliver the overall scale, location and form of development in West Bergholt. However, to be thorough, Appendix 1 includes a screening matrix of all planning policies within the West Bergholt Neighbourhood Plan. Only two policies were screened in for further assessment in-combination: policy PP12 The number of dwellings to be constructed in the NP period, and policy PP21 Exception sites.

### **Likely significant effects alone**

West Bergholt has three main areas of open space: the Lorkin-Daniell Field in Lexden Road with the Orpen Village Hall on site, the area of Heath land in Lexden Road, where the primary school is sited and Poors Land in Colchester Road. All areas are available for sport or recreation. There is an area of 140 allotments in New Church Road and a cricket pitch in Manor Road. With the exception of the cricket pitch, which is privately owned, all of these open spaces are held in trust and managed by the Parish Council.

The rural landscape provides some accessible green space such as Hillhouse Wood and many PROW, including long distance paths such as the Essex Way. Also within the settlement boundary are the open spaces listed in the preceding paragraph and pockets of smaller green space generally within housing areas (amenity greens), the churchyards, allotments and three ponds.

Policy CP7 of the neighbourhood plan states “Development that results in the loss of green or open spaces or that results in any harm to their character, setting, accessibility or appearance, general quality or to amenity value will only be permitted if the community would gain equivalent benefit from provision of a suitable replacement.” Policy CP6 of the neighbourhood plan states: “New areas of open space will be incorporated within the village maintenance plan and all open spaces will be enhanced through a biodiversity plan which seeks to improve the conditions for wildlife.”

The LPA has concluded that due to the provision of open space within West Bergholt, together with the requirement for new areas of open space, and there being no European sites within a reasonable walking distance of West Bergholt, the West Bergholt Neighbourhood Plan alone will not adversely affect the integrity of any European sites.

### **Likely significant effects in-combination**

The screening matrix of all planning policies within the West Bergholt Neighbourhood Plan (appendix 1) shows that only two policies were screened in for further

assessment in-combination: policy PP12 The number of dwellings to be constructed in the NP period, and policy PP21 Exception sites.

Colchester Borough Council has carried out an appropriate assessment of the Section 2 Local Plan. This includes a detailed in-combination assessment, which considers the in-combination effects of the Section 2 Local Plan with other neighbourhood plans and other Local Plan's across Essex, on European sites. A Statement of Common Ground signed by Colchester Borough Council and Natural England, confirms that Natural England agrees with the conclusion that Section 2 will not lead to adverse effects on the integrity of European sites either alone or in-combination.

Policy SS15 of the Local Plan provides for the development of 120 dwellings in West Bergholt and the policies map indicates the broad area of search, which includes the neighbourhood plan allocations for 120 dwellings. Policy SS15 was screened out of further assessment owing to the location of West Bergholt in relation to European sites.

The appropriate assessment of the Section 2 Local Plan recommended the implementation of an Essex Recreational disturbance Avoidance Mitigation Strategy (RAMS), including the Colne and Blackwater Estuaries. Reference to the RAMS is included in the Section 2 Local Plan. The RAMS technical report has been written and work is underway on the mitigation strategy. This is due to be completed in autumn 2018, with consultation on the RAMS SPD taking place in 2019.

The neighbourhood plan includes the LPAs standard RAMS policy for neighbourhood plans (policy PP11), which has been agreed by Natural England. This policy requires development within the zones of influence of a European site to make financial contributions towards the mitigation measures set out in the RAMS and refers to interim measures in the absence of a RAMS. However, the People Over Wind and Sweetman CJEU decision means that avoidance and mitigation measures cannot be considered at the HRA screening stage.

The appropriate assessment of the Section 2 Local Plan has considered the impact of neighbourhood plans, in-combination with the Local Plan. Mitigation has been identified to enable a conclusion of no likely significant effect. Mitigation measures have been written into the Local Plan and good progress is being made on the Essex Coast RAMS, which is the key mitigation measure to address the issue of recreational disturbance. Therefore, the proposals in the West Bergholt neighbourhood plan that are likely to significantly affect the integrity of European sites in-combination, have been appraised as part of the appropriate assessment of the Local Plan Section 2, with mitigation measures identified in the appropriate assessment, and included in the Local Plan and neighbourhood plan.

This means that the West Bergholt neighbourhood plan will not adversely affect the integrity of European sites and mitigation measures were identified through appropriate assessment, not through a screening assessment. The basic condition set out in paragraph 1 of Schedule 2 of The Neighbourhood Planning (General) Regulations 2012, which states that a neighbourhood plan cannot proceed if there is a likely significant effect on a European site, is therefore met.

## Appendix 1. Screening Matrix of West Bergholt Neighbourhood Plan policies

Policy	Likely significant effects?	Screened out?
PP1: Quality of life and wellbeing	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes
PP2: Designation of local green spaces	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes
PP3: Existing public open spaces	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites. Protecting open spaces will lead to positive effects through the provision of accessible alternative open spaces.	Yes
PP4: Community Facilities	The retention of community facilities will not result in any significant effects on European sites as they already exist. Where new facilities are to be delivered these will be within West Bergholt at accessible locations to maximise benefits for the local community.	Yes
PP5: Area of Separation	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes
PP6: Character Area of the village	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes
PP7: Historic and character buildings	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes
PP8: Mature trees and hedgerows	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes
PP9: Roadside planting and hedgerows	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes
PP10: Biodiversity	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes



PP11: Essex Coast RAMS	This policy will mitigate likely significant effects from recreational disturbance and complies with the Section 2 Local Plan.	Yes
PP12: The number of dwellings to be constructed in the NP period	The policy sets out the overall housing requirement for West Bergholt over the Local Plan period. As a policy it will lead to the physical development of land in accordance with the Local Plan spatial strategy (policy SG1). There is potential for likely significant effects in-combination with the Local Plan.	No
PP13: Use of Village Design Statement	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes
PP14: Infill development and amenity of neighbours	Whilst this policy refers to infill development it is principally a design policy. It will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes
PP15: Dormers	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes
PP16: Views across the village	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes
PP17: Boundary walls, fences and gates	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes
PP18: New agricultural buildings	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes
PP19: Conversion of agricultural buildings	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes
PP20: Parking	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes
PP21: Exception sites	As this policy could lead to the development of land, as rural exception sites, there is potential for likely	No

	significant effects in-combination with the Local Plan.	
PP22: Coalescence with Colchester	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes
PP23: Walking, cycling, public transport and other highway improvements	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes
PP24: Speed reduction and accessibility improvements	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes
PP25: Cemetery provision	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes
PP26: Provision of sports facilities	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes
PP27: Expansion of existing business parks	Whilst this policy may lead to the development of land it relates to existing businesses and will not directly lead to new residential development and population growth.	Yes
PP28: Sustainability	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes
PP29: Farm diversification	Whilst this policy may lead to the development of land it relates to farm diversification and promotes increased local employment. It will not directly lead to significant population growth.	Yes
PP30: New businesses, rural tourism and homeworking	Whilst this policy may lead to the development of land it relates to new rural businesses. Tourism facilities are supported but the policy will not directly lead to significant population or tourism growth.	Yes
PP31: Burglary and other crime	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes
PP32: Parking standards	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes

PP33: Broadband services	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes
PP34: Vehicular and pedestrian access	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes
PP35: Traffic impact	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes
PP36: Provision of secure cycle and other storage	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes
PP37: Public rights of way	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes
PP38: Community Infrastructure Levy	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes