



Eye Neighbourhood Plan

Habitats Regulations Screening Determination

January 2019

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EYE NEIGHBOURHOOD PLAN

HABITATS REGULATIONS DETERMINATION 2018

1. Introduction

This assessment relates to the Eye Neighbourhood Plan 2018-2036 Pre-Submission Draft dated 8th 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 Eye Neighbourhood Plan.

This determination refers to:

- A Screening Report prepared by Essex Place Services which can be viewed at: www.midsuffolk.gov.uk/EyeNP
- 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 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 carried out considering the impact on the European site's conservation objectives. Consent

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>.

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 Plan includes the following vision statements about the town that people want to see in the future:

- An attractive town: using the historic core to attract visitors and setting high standards to ensure new development is in keeping with the existing.
- A walkable town: development concentrated within walking distance of facilities, with great cycling facilities too – cutting congestion and improving the air we breathe.
- A connected town: linking up the whole town, including old and new and housing, employment and services.
- An enterprising town: focused on small businesses in the town centre and larger firms, especially those specializing in innovative clean technology and food production, on the former Airfield.
- A green town: integrated into its countryside and with community projects to encourage green energy and conservation.
- A living town: growing in size to cope with new needs through new development providing sufficient low-cost homes.
- An evolving town: changing gradually to meet new needs, locally and regionally, but with planned change when things need to alter

This Plan provides for around 683 dwellings to be developed in the Neighbourhood Plan area between 2018 and 2036. The Plan includes the allocation of the following sites for 10 or more new homes:

- a. Land south of Eye Airfield – around 280 dwellings
- b. Eye Health Centre and Hartismere Health and Care – around 43 dwellings
- c. Chicken Factory, Yaxley Road – around 72 dwellings
- d. Paddock House, Church Street – around 12 dwellings
- e. Land north of Victoria Mill Allotments – around 34 dwellings
- f. Victoria Mill Allotments – around 72 dwellings

In addition a reserve site is identified for around 174 dwellings south of Eye Airfield.

Part of the Chicken Factory site at Yaxley Road is also allocated for retail uses and car parking.

There are three European sites which lie within 20 km of Eye Parish:

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

The European sites listed above all have Impact Risk Zones of 5km and none of these overlap the Eye parish boundary.

There are therefore no European sites considered to be within scope for this 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/Eye-NP-SEA-HRA-Screening-Report-Final.pdf>

The screening has been 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 Eye Neighbourhood Plan is not predicted to have any likely significant effects on a Habitats Site.

Consultation on the Screening Report was carried out with Natural England, Historic England and the Environment Agency.

All three bodies agreed with the conclusion of the Screening Report.

The requirement for the Plan to undertake further assessment under the Habitats Regulations 2017 is therefore **screened out**.

The consultation responses are attached at Appendix 1.

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 Eye Neighbourhood Plan **does not require** further assessment under the Habitats Regulations 2017

Date: 17 January 2019
Our ref: 268127



Babergh and Mid Suffolk District Council

BY EMAIL ONLY

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Dear Sir/Madam

EYE NEIGHBOURHOOD PLAN – SEA/HRA SCREENING REPORT

Thank you for your consultation on the above dated and received by Natural England on 18 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 Habitats 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.

We concur with the results 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 faithfully

Dawn Kinrade
Consultations Team



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Our Ref: AE/2018/123683/01-L01
Your ref: EYE/NP/SEA&HRA

Date: 18 January 2019

Dear Mr Munson

EYE NEIGHBOURHOOD PLAN SEA/HRA SCREENING REPORT CONSULTATION

EYE TOWN COUNCIL, C/O VOLUNTEER CENTRE, 20 BROAD STREET, EYE, IP23 7AF

Thank you for your consultation dated 18 December 2018. We have reviewed the Strategic Environmental Assessment and Habitats Regulations Assessment Screening Report for the Eye Neighbourhood Plan, as submitted, and agree with the conclusions and recommendations of the report.

Strategic Environmental Assessment

The report highlights that the policies in the Draft Plan at the time of writing allocate sites for built development, and combined with the significant number of environmental constraints found within the parish, as shown in our data maps and discussed in greater detail throughout the report, it is considered that the cumulative effects of development in the parish have not been formally identified. We agree that there is potential risk of significant effects arising from the plan, which should be explored further, as recommended in the report, through a full SEA Environmental Report.

We therefore consider the Eye Neighbourhood Plan should be screened in for its requirement of the Strategic Environmental Assessment.

Habitats Regulations Assessment

We agree with the screening report that the HRA be screened out of its requirement for Eye Neighbourhood Plan.

We trust that this advice is useful.

Yours sincerely

Mr Ed Abigail
Planning Advisor

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www.gov.uk/environment-agency

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Our ref: PL00527242

18 January 2019

Dear Mr Munson

Thank you for your email of 18 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 this Screening Report. For the purposes of this consultation, Historic England will confine its advice to the question, "Is it (the Eye Neighbourhood Plan) likely to have a significant effect on the historic environment?". Our comments are based on the information supplied with the Screening Opinion.

The supporting information (screening report) supplied with the consultation indicates that within the plan area there is a range of designated historic environment assets. There is also likely to be other features of local historic, architectural or archaeological value, and consideration should also be given to the wider historic landscape. The documentation indicates that the Eye Neighbourhood Plan proposes to allocate a number of sites for housing/other use, including a site within the conservation area and adjacent to highly significant listed buildings. As a consequence it is possible that there may be significant effects on the historic environment. The screening report indicates that these allocations have not been informed by sufficient supporting information as to their suitability, particularly with regard to the potential for harm to the historic environment.

Given the possibility for significant effects (both positive and negative) upon the historic environment, Historic England hence concurs with the Screening Report's conclusions that a Strategic Environmental Assessment will be required.

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.

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.

We should like to stress that this opinion is based on the information provided by you with your correspondence dated 18 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.

Yours sincerely,

Edward James
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Historic England is subject to both the Freedom of Information Act (2000) and Environmental Information Regulations (2004). Any information held by the organisation can be requested for release under this legislation.