



Needham Market Neighbourhood Plan

Habitats Regulations Screening Determination

May 2020

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NEEDHAM MARKET NEIGHBOURHOOD PLAN

HABITATS REGULATIONS DETERMINATION

1. Introduction

This assessment relates to the 'Needham Market Neighbourhood Development Plan 2020 – 2036' which was published for Regulation 14 Pre-Submission consultation in late January 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 Directive¹, is required for the Needham Market 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/NeedhamMarketNP
- 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"

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>.

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:

"To ensure that Needham Market's future growth occurs in a balanced and sustainable way, which preserves and enhances its attractive, historic core and maintains the community way of life already present in the town. Needham Market will continue to be a self-contained settlement providing the necessary housing and jobs needed by its local residents."

The draft Plan does not allocate any sites for housing or employment development but does contain detailed planning policies that seek to shape future development within the designated plan area.

There are five Habitats site which lie within 20 km of Needham Market parish:

- The Stour and Orwell Estuaries SPA *and* Stour and Orwell Estuaries Ramsar
- The Deben Estuary SPA *and* Deben Estuary Ramsar
- The Sandlings SPA

Part of the plan area falls within the Zone of Influence for two of the Habitats Sites listed above (those for the Stour and Orwell Estuaries) so these are therefore considered to be within scope for this assessment.

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 which can be viewed at:

<https://www.midsuffolk.gov.uk/assets/Neighbourhood-Planning/N-Market-NP-HRA-Screening-Report-Mar20.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 Needham Market 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.

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 the statutory bodies it is determined that the Needham Market Neighbourhood Plan **does not require** further assessment under the Habitats Regulations 2017.

Date: 23 April 2020
Our ref: 311842
Your ref: SEA & HRA Screening Reports

communityplanning@baberghmidsuffolk.gov.uk

FAO Paul Bryant
BY EMAIL ONLY



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Crewe
Cheshire
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Dear Paul Bryant

Planning Consultation: SEA and HRA Screening Report on the Needham Market Neighbourhood Plan

Thank you for your consultation on the above dated 12 March 2020 which was received by Natural England on the same day. Please accept our apologies for our delayed response.

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.

Natural England notes that your authority, as competent authority, has undertaken SEA and HRA Screening Reports.

Your assessments conclude that your authority is able to screen out the need for further assessment. Having considered the documents, Natural England advises that we concur with the conclusions.

Yours sincerely

Patrick Robinson
Norfolk and Suffolk Area Team



Historic England

Mr Paul Bryant
Babergh & Mid Suffolk District Councils
Endeavor House
8 Russell Road
Ipswich
Suffolk
IP7 6SJ

Direct Dial: [REDACTED]

Our ref: PL00701022

31 March 2020

Dear Mr Bryant

RE: New Needham Market Neighbourhood Plan SEA Screening

Thank you for inviting Historic England to comment on 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 new Needham Market 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 Screening Report indicates that the Council considers that the plan will not have any significant effects on the historic environment. We note that the plan as redrafted does not propose to allocate any sites for development.

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 12 March 2020. To avoid any doubt, this does not reflect our obligation to provide further advice on later stages of the 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) where we consider that, despite the 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.

Please do contact me, either via email or the number above, if you have any queries.

Yours sincerely,

Edward James
Historic Places Advisor, East of England



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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.



Mr Kevin Hunter
NEEDHAM MARKET TOWN COUNCIL
School Street
Needham Market
Ipswich
IP6 8BB

Our Ref: AE/2020/124987/01-L01
Your ref: SEA/HRA

Date: 12 March 2020

Dear Mr Hunter

STATUTORY CONSULTATION, SEA AND HRA SCREENING OPINION, NEEDHAM MARKET
NEIGHBOURHOOD PLAN

NEEDHAM MARKET TOWN COUNCIL, SCHOOL ST, NEEDHAM MARKET, IPSWICH IP6
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Thank you for consulting us on 12 March 2020 regarding the SEA screening for the Needham
Market Neighbourhood Plan.

We have reviewed the documents submitted and do not disagree with the findings of the report
which state that "it is considered that the Needham Market NDP is unlikely to have significant
environmental effects and that full SEA is therefore not required".

We trust you find this information useful.

Yours sincerely

Mr Mark Macdonald
Planning Advisor

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www.gov.uk/environment-agency
End