



# Myland & Braiswick Neighbourhood Plan Review

## Habitat Regulations Assessment Screening Report

August 2022

# 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 referred to in the NPPF as habitats 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 habitats 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.

Colchester Borough is within the Zones of Influence of the following habitats sites:

### **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);
- Dengie Estuary SPA (Mid Essex Coast Phase 1); 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;

- Dengie 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 habitats 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 habitats 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 with the Zoi for various Essex habitats sites. This means that all residential development in Colchester is likely to adversely affect the integrity of habitats sites in-combination with other plans and projects.

However, the Myland and Braiswick Neighbourhood Plan does not allocate sites for development. It provides requirements for sites allocated in the Section 2 Local Plan, but the plan itself does not allocate sites. Therefore, recreational disturbance can be screened out of further assessment.

### **Air quality**

Air pollution is most likely to affect habitats 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 wellbeing.

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 Habitats 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 habitats sites. Fly tipping can adversely affect habitats 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 habitats sites. This is particularly relevant where new housing allocations are provided within 0.5 - 1km of a habitats 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 Myland and Braiswick is approximately 6.5km from Abberton Reservoir SPA/Ramsar, 8km from the Colne Estuary SPA/ Ramsar, 9.5km from the Blackwater Estuary SPA/ Ramsar and 8km from the Stour and Orwell Estuaries SPA/ Ramsar (all measurements are as the crow flies from the nearest points in Myland and Braiswick and the relevant SPA). Furthermore, the neighbourhood plan does not allocate sites for development. Fly tipping is an issue 400 metres from a Habitats site and predation is an issue up to 1km from a Habitats site.

### **Loss of offsite functional habitat**

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

An assessment of allocated sites in the Section 2 Local Plan was carried out to consider the suitability of all allocated sites to provide offsite functional habitat. None of the allocated sites, including the two sites (Rugby Club/Braiswick sites) in Myland and Braiswick (plus existing commitments?) which are allocated in the Section 2 Local Plan, provide offsite functional habitat.

As the neighbourhood plan does not allocate land for development, loss of offsite functional habitat can be screened out of further assessment.

### **Summary and Conclusion**

All potential issues have been screened out of further assessment. The screening matrix of all policies (Appendix 1) in the draft Myland and Braiswick Neighbourhood Plan shows that no policies have been screened in as there are no housing allocation policies. Furthermore, the neighbourhood plan includes the standard Essex Coast RAMS policy for neighbourhood plans.

The LPA has concluded that as the neighbourhood plan does not allocate land for housing the Myland and Braiswick Neighbourhood Plan does not represent a likely significant effect to a habitats site. The basic condition set out in Schedule 2 of The Neighbourhood Planning (General) Regulations 2012 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 is therefore met.

## Appendix 1. Screening Matrix of Myland and Braiswick Neighbourhood Plan policies

Policy	Likely significant effects?	Screened out? Y/N
Housing Policies		
HOU1	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes
HOU2	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes
HOU3		
Education Policies		
EDU1	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes
Employment Policies		
EMP1	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes
EMP2	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes
EMP3	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes
Environment Policies		
ENV1	As a policy it will not lead directly to the physical development of land, it seeks to maximise opportunities for the creation, restoration, enhancement , expansion and connectivity of green infrastructure, and therefore will not adversely affect any European sites.	Yes
ENV2	As a policy it will not lead directly to the physical development of land and	Yes

	therefore will not adversely affect any European sites.	
ENV3	As a policy it will not lead directly to the physical development of land, it seeks to ensure new developments based on the principles of sustainable drainage, and therefore will not adversely affect any European sites.	Yes
ENV4	As a policy it will not lead directly to the physical development of land, it seeks to ensure the protection and enhancement of biodiversity habitats, and therefore will not adversely affect any European sites.	Yes
ENV5	As a policy it will not lead directly to the physical development of land, it seeks to protect the Myland and Braiswick Green Network, and therefore will not adversely affect any European sites.	Yes
ENV6	As a policy it will not lead directly to the physical development of land. It seeks to protect and improve the local environment and biodiversity and therefore, will not adversely affect any European sites.	Yes
Social Amenity Policies		
SAM1	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes
SAM2	As a policy it will not lead directly to the physical development of land, it sets out requirements for installation of electric vehicle charging points, and therefore will not adversely affect any European sites	Yes
Sport and Leisure Policies		
SPL1	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes
SPL2	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes



SPL3	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes
Roads & Transport Policies		
RAT1	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes
RAT2	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes
RAT3	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes
Development & Public Realm Policies		
DRP1	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes