



Mark's Tey Neighbourhood Plan

Habitat Regulations Assessment Screening Report

30.03.2020

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 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);
- 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 significantly affect the integrity of Habitats sites in-combination.

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_x, i.e. NO and NO₂) are considered to be the key pollutants. Deposition of nitrogen compounds may lead to both soil and freshwater acidification, and NO_x 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 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 European 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 Mark's Teys is approximately 6.5 Km from the Abberton Reservoir SPA/Ramsar Site and 11.8Km from the Colne Estuary SPA/ Ramsar Site. 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.

Whilst habitats located further from Habitats 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 Mark's Teys which is approximately 6.5 Km from the Abberton Reservoir SPA/Ramsar Site and 11.8Km from the Colne Estuary SPA/ Ramsar Site, 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 Mark's Tey. However, to be thorough, Appendix

1 includes a screening matrix of all planning policies within the draft Mark's Tey Neighbourhood Plan.

Likely significant effects alone

The LPA has concluded that as the neighbourhood plan does not allocate land for housing the draft Mark's Tey Neighbourhood Plan alone will not adversely affect the integrity of any Habitats sites.

Likely significant effects in-combination

The screening matrix of all planning policies within the Mark's Tey Neighbourhood Plan 2020-2033, Pre-submission Consultation Draft Feb 2020 (Appendix 1) shows that no policies have been screened in – as there are no housing allocation policies.

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 Plans across Essex, on Habitats 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 Habitats sites either alone or in-combination.

The policy guiding development for Mark's Tey in the emerging Local Plan is as follows:

Policy SS11: Marks Tey

'Growth within the Marks Tey area will largely be guided by the following documents in addition to this Local Plan:

- (i) The Joint Plan Development Plan document to be prepared with Braintree District Council for development of a new Garden Community, as provided in Section 1 Policy SP9.*
- (ii) The Marks Tey Neighbourhood Plan to be developed to include policies to guide the relationship between the existing community of Marks Tey and the gradual development of a Garden Community, and will provide flexibility, including the scope for the allocation of any small parcels of land for development outside with the Garden Community to be considered in the Neighbourhood Plan at the appropriate time.*

The Anderson's site is allocated as a Local Economic Area as shown on the Policies Map.

This policy should be read in conjunction with the generic Neighbourhood Planning policy SG8'.

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 Strategy Document, which includes

a Technical Report and Mitigation Report, has been prepared and Colchester Borough Council is implementing the RAMS. A draft Supplementary Planning Document is expected to be published for consultation in mid-2020.

The neighbourhood plan includes the LPAs standard RAMS policy for neighbourhood plans, which has been agreed by Natural England.

Policy MT12- Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS)

‘All residential development within the zones of influence of Habitat Sites will be required to make a financial contribution towards mitigation measures, as detailed in the Essex Coast RAMS, to avoid adverse in-combination recreational disturbance effects on Habitat Sites. In the interim period, before the Essex Coast RAMS is completed, all residential development within the zones of influence will need to deliver all measures identified (including strategic measures) through project level HRAs, or otherwise, to mitigate any recreational disturbance impacts in compliance with the Habitat Regulations and Habitats Directive’

The LPA has concluded that as the Mark’s Tey Neighbourhood Plan 2020-2033, Pre-submission Consultation Draft Feb 2020, does not allocate land for housing the plan alone and in-combination will not adversely affect the integrity of any Habitats sites. 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 draft Mark's Tey Neighbourhood Plan policies

Policy	Likely significant effects?	Screened out? Y/N
Policy MT01 – A12, A120 and station infrastructure improvements.	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any Habitats sites.	Yes
Policy MT02 – Create Walking and cycle friendly neighbourhoods	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites. Creating walking and cycling friendly neighbourhoods will lead to positive environmental effects through reduced vehicle use.	Yes
Policy MT03 – A120 Coggeshall Road: A quality street for all.	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites. Enhancements to the street scene will create positive environmental effects encouraging greater use by the local community, and more journeys by walking and cycling	Yes
Policy MT04 – Village settlement boundaries	New development will be supported within existing settlement boundaries i.e. at accessible locations reducing the need for vehicle journeys by the local community	Yes
Policy MT05 – Local character and Design	Conserving local character and design will lead to positive effects through enhancements to the local street scene and environment	Yes
Policy MT05 – Landscape character and locally important views	Conserving landscape character and views will lead to positive effects through enhancements to the local environment	Yes
Policy MT07 – Non-designated heritage assets	Conserving local heritage assets will lead to positive effects through enhancements to the local street scene and environment	Yes
Policy MT08 – Rural Lanes	Conserving the amenity, character and biodiversity of rural lanes will lead to positive effects through enhancements to the local environment	Yes
Policy MT09 – Local Green Spaces	Protecting open spaces will lead to positive effects through the provision of accessible alternative open spaces.	Yes
Policy MT10 – Protecting and enhancing the	Protecting and enhancing open spaces will lead to positive effects through the	Yes

quantity and quality of our open space	provision of accessible alternative open spaces.	
Policy MT11 – Protecting and enhancing our natural environment	Protecting and enhancing our natural environment will lead to positive effects through enhancements to the local environment	Yes
Policy MT12 – Essex Coast Recreational disturbance and Avoidance and Mitigation Strategy (RAMS).	RAMS will lead to positive effects through the avoidance and mitigation of the recreational impacts of development at a strategic level	Yes
Policy MT13 Housing Mix and Choice	Housing mix and choice that meets local need will reduce the need for vehicle journeys outside the local community	Yes
Policy MT14 – London Road Parade	The retention and enhancement of local employment and retail facilities will not result in any significant effects on Habitats sites as they already exist. Maintenance of facilities locally at accessible locations reduces the need for car journeys by the local community.	Yes
MT15 – Marks Tey Employment sites	The retention and enhancement of local employment facilities will not result in any significant effects on Habitats sites as they already exist. Maintenance of facilities locally at accessible locations reduces the need for car journeys by the local community.	Yes