



## Marks Tey Neighbourhood Plan

# Strategic Environmental Assessment (SEA) Screening Determination

December 2020

# Neighbourhood Plan Strategic Environmental Assessment (SEA)

## 1. Introduction

A neighbourhood plan is required to fully consider the requirements of the SEA regulations, which transpose the EU's SEA Directive (2001/42/EC on the assessment of the effects of certain plans and programmes) into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004. This requires those making plans that could impact on the environment to consider whether they are likely to have a significant effect or not. The objective of SEA, as defined in the Government's guidance on strategic environmental assessment, is *'to provide for a high level of protection of the environment and contribute to the integration of environmental considerations into the preparation and adoption of plans .... with a view to promoting sustainable development'* (Article 1).

Regulation 15 of the Neighbourhood Planning (General) Regulations 2012 (as amended) requires that a Neighbourhood Plan being submitted to the Local Planning Authority must include either an environmental report (complying with the SEA Regulations) or, in the case where it has been deemed an environmental assessment under the SEA Regulations is not required, a Statement of Reasons for this determination.

## 2. The Screening Process

Colchester Borough Council, as the relevant Local Planning Authority (LPA), was approached to provide a screening opinion on whether the proposed neighbourhood plan required a Strategic Environmental Assessment. Whether a neighbourhood plan requires a strategic environmental assessment, and what the level of detail should be if required depends on what is proposed in the draft neighbourhood plan.

A screening opinion was prepared by Colchester Borough Council in April 2020 based on the scope and detail contained within the Marks Tey Neighbourhood Plan 2020-2033, Pre-submission Consultation Draft Feb 2020. The screening opinion determined that the Marks Tey Neighbourhood Plan is not likely to have significant environmental effects and consequently that a Strategic Environmental Assessment (SEA) is not required (See Table 1 below).

**Table 1: Establishing the Need for SEA**

Environmental Regulations Paragraph	SEA Requirement	Comments
2	<p>Is the plan:</p> <p>(a) subject to preparation or adoption by an authority at national, regional or local level; or</p> <p>(b) prepared by an authority for adoption, through a legislative procedure by Parliament or Government; and, in either case,</p> <p>(c) required by legislative, regulatory or administrative provisions?</p>	<p>Yes, the plan is subject to preparation and adoption at local level. There are legislative and regulatory provisions in place for Neighbourhood Plans.</p>
5(2)	<p>Is the plan (a) prepared for agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use, and does it (b) sets the framework for future development consent of projects listed in Annex I or II to Council Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment, as amended by Council Directive 97/11/EC(9)?</p>	<p>Yes, the plan is prepared for town and country planning purposes and sets the framework for future development consent of projects listed in Annex I or II to Council Directive 85/337/EEC (urban development projects).</p>
4(c)	<p>Is the plan or programme likely to have significant environmental effects?</p>	<p>No. The Plan does not allocate any additional sites.</p>
6	<p>Does the plan (a) determine the use of a small area at</p>	<p>(b) The plan is a minor modification to the Colchester</p>

	local level; or (b) is a minor modification to a plan or programme of the description set out in either of those paragraphs?	Borough Adopted Core Strategy and Site Allocations and emerging Local Plan.
5(3)	Has it been determined that the plan requires an assessment pursuant to Article 6 or 7 of the Habitats Directive?	No (see HRA screening opinion).
<p>The local planning authority has concluded that the Marks Tey Neighbourhood Plan is not likely to have significant environmental effects and consequently a Strategic Environmental Assessment (SEA) is not required. The criteria specified in Schedule 1 to the Environmental Assessment of Plans and Programmes Regulations 2004 has been taken into account in reaching this conclusion. This statement records the local planning authority's determination under regulation 9(1) that a SEA is not required.</p>		

### 3. Significance of effects on the environment

To decide whether the draft neighbourhood plan might have significant environmental effects, its potential scope was assessed against the criteria set out in Schedule 1 to the Environmental Assessment of Plans and Programmes Regulations 2004, or Annex II of the SEA Directive 2001/42/EC.

When deciding on whether the proposals are likely to have significant environmental effects, the local planning authority should consult the statutory consultation bodies. Where the local planning authority determines that the plan is unlikely to have significant environmental effects (and, accordingly, does not require an environmental assessment), it should prepare a statement of its reasons for the determination. Where a statement of reasons is provided in respect of a neighbourhood plan a copy of the statement should be provided to the qualifying body in order that the statement can be made available to the independent examiner; for example, by including it in the basic conditions statement. Where a neighbourhood plan is likely to have a significant effect on the environment a strategic environmental assessment must be carried out.

Table 2 identifies the scope of significance of effects of the Marks Tey Neighbourhood Plan against the criteria set out in Schedule 1 to the Environmental Assessment of Plans and Programmes Regulations 2004.

**Table 2: Schedule 1 Criteria for Determining the Likely Significance of Effects on the Environment**

SEA Criteria	Comments
<b>1. The characteristics of plans and programmes, having regard, in particular, to -</b>	
(a) the degree to which the plan or programme sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources.	The plan sets the framework for development proposals within the neighbourhood plan area. Neighbourhood Plans must be in conformity with the development plan, for Colchester in this case, and so whilst there will be differences between policies (as without which there is no point in preparing a Neighbourhood Plan) the Neighbourhood Plan will effectively be a minor modification to the development plan. The plan includes policies that are specific to the neighbourhood plan area.
(b) the degree to which the plan or programme influences other plans and programmes including those in a hierarchy.	The plan will form part of the development plan, however strategic policies of the Borough Council's adopted plans take priority.
(c) the relevance of the plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development.	The plan will promote sustainable development through addressing objectives on the following topics: <ul style="list-style-type: none"> <li>• Getting around</li> <li>• Sense of Place</li> <li>• A Stronger Community</li> <li>• A Healthier Environment</li> <li>• Housing</li> <li>• Business and employment</li> </ul>
(d) environmental problems relevant to the plan or programme; and	There are no environmental problems relevant to this plan. The qualifying body has identified problems, which this plan seeks to address.
(e) the relevance of the plan or programme for the implementation of Community legislation on the environment (for example, plans and	This plan has no relevance to the implementation of Community legislation.

programmes linked to waste management or water protection).	
<b>2. Characteristics of the effects and of the area likely to be affected, having regard, in particular, to -</b>	
(a) the probability, duration, frequency and reversibility of the effects;	Effects are likely beyond the plan period. There is a high probability of positive effects as once adopted the neighbourhood plan will form part of the development plan and will be used to determine planning applications in Marks Tey.
(b) the cumulative nature of the effects;	The cumulative effect of this plan and the Borough's local plan will result in positive effects.
(c) the transboundary nature of the effects;	There are no transboundary effects; this plan applies to the neighbourhood plan area only.
(d) the risks to human health or the environment (for example, due to accidents);	The plan poses no risk to human health.
(e) the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected);	Only the neighbourhood plan area will be affected by this plan.
(f) the value and vulnerability of the area likely to be affected due to - (i) special natural characteristics or cultural heritage; (ii) exceeded environmental quality standards or limit values; or (iii) intensive land-use; and	Marks Tey is not in an environmentally vulnerable area. Within its boundaries lies part of the Marks Tey Brick Pit SSSI, but this is not likely to be affected by the proposals in the plan. There are 23 buildings listed for architectural merit, but none of these are likely to be affected by the proposals in the plan.
(g) the effects on areas or landscapes which have a recognised national, Community or international protection status.	The landscape surrounding the neighbourhood plan area is not protected at a national, Community or international level. Within its boundaries lies part of the Marks Tey Brick Pit SSSI, but this is not likely to be affected by the proposals in the plan.

#### 4. Consultation

The environmental consultation bodies were consulted on the SEA screening opinion from May 6<sup>th</sup> to June 19<sup>th</sup>, 2020. Their consultation responses are set out below.

##### ***Natural England***

Marks Tey Neighbourhood Plan - The Habitats Regulations Assessment Screening Opinion and Sustainable Environment Assessment screening follows previous consultations with Natural England on the Colchester Local Plan and consultation on the Marks Tey Neighbourhood plan (our ref 309833) and those comments should be read in conjunction with this letter. At this time Natural England advises that the emerging strategic solution, the Essex Coast Recreational Avoidance and Mitigation Strategy (Essex RAMS) is a key consideration in the context of the Habitats Regulation Assessment. The Essex RAMS seeks to mitigate the recreational impacts as a result of new development within the Zones of Influence (Zol). We would direct you to our recent letter to your Local Planning Authority, reference 244199 (dated 16 August 2018) for further guidance on the Essex RAMS in the interim period.

Marks Tey Neighbourhood Plan Policies - The Marks Tey Parish falls in its entirety within one or more of the Zones of Influence (Zol). Therefore, residential development within the parish area will be subject to the requirements of this strategic solution. This will be in accordance with the RAMS supplementary planning document once adopted. Natural England welcomes Policy MT12- Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) within the neighbourhood plan. We would also suggest an addition to this policy directly referencing the need for the consideration of avoidance measures within the boundaries of any developments such as on-site greenspace and links to footpaths to ensure compliance with the Habitats Regulations.

Strategic Environmental Assessment (SEA) - It is our advice, on the basis of the material supplied with the consultation, that, in so far as our strategic environmental interests are concerned (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.

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.

Natural England acknowledges that there are no European designated sites within the plan area itself, but does contain Marks Tey Brick Pit Site of Special Scientific Interest (SSSI). As has been identified within the HRA screening for both the Neighbourhood Plan (as referenced below), the plan area does fall within the Zone of Influence for the Essex Coast Recreational Avoidance and Mitigation Strategy (RAMS) which is currently in development. Notwithstanding this, in light of there being no housing allocations within the Neighbourhood plan, Natural England would agree with the conclusion of no likely significant effect as identified and 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.

Habitats Regulations Screening - Natural England welcomes the consultation on the Habitats Regulations Assessment (HRA) undertaken for The Marks Tey Neighbourhood Plan. Noting the context of the plan area in that there are no residential allocations, we would agree with the conclusion of No Likely Significant Effect and have no further comments to make in this regard.

We would also take this opportunity to advise you that any windfall applications which would be in excess of what has been assessed in the Neighbourhood Plan Habitats Regulations Assessment (HRA), would need to be subject to their own, project level HRA.



## ***Historic England***

Marks Tey SEA Screening Consultation - Thank you for inviting Historic England to comment on this 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 Marks Tey 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 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. 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.

## ***Environment Agency***

No comment

## **5. Statement of Reasons for Determination**

5.1 The Neighbourhood Plan does not allocate any additional sites over or above those identified in the Adopted Local Plan and the emerging Local Plan. Any policies for change in the Neighbourhood Plan represent only minor modifications to the Colchester Borough Adopted Core Strategy and Site Allocations and emerging Local Plan. The limit of development means that the impact is not considered significant.

5.2 Marks Tey is not in an environmentally vulnerable area. Within its boundaries lies part of the Marks Tey Brick Pit SSSI, but this is not likely to be affected by the proposals in the plan.

5.3 There are 23 buildings listed for architectural merit, but none of these are likely to be affected by the proposals in the plan.

5.4 The landscape within the neighbourhood plan area has valued characteristics and views at the local level but is not protected at a national, Community or international level. As the plan includes a policy that seeks to protect local features and views of local value, it is considered that any impact of these policies on landscape will not be significant.

5.5 There is a high probability of positive effects from the built environment policies in the plan as, once adopted, the Neighbourhood Plan (NP) will form part of the development plan and can be used to manage any proposed development in the NP area.

## **6 Determination Statement**

The Mark's Tey Neighbourhood Plan determines the use of a small area at local level and is effectively a minor modification to the Colchester Borough Local Plan. The plan will result in positive, long term effects. None of these effects will be significant adverse. Therefore, the Local Planning Authority has determined that the Mark's Tey Neighbourhood Plan will not require an assessment of the significant environmental effects of the plan under the Strategic Environmental Assessment SEA (Directive) and Environmental Assessment Regulations based on the content of the July 2020 pre-submission draft plan.