



## West Mersea Neighbourhood Plan

# Strategic Environmental Assessment (SEA) Screening Determination

October 2020

# West Mersea Neighbourhood Plan Strategic Environmental Assessment (SEA) Determination

## 1. Introduction

The Strategic Environmental Assessment (SEA) Directive (2001/42/EC) on the assessment of the effects of certain plans and programmes requires an environmental assessment to be made of certain plans or programmes. 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). The SEA Directive has been transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004.

Planning Practice Guidance - Strategic environmental assessment and sustainability appraisal: Sustainability appraisal requirements for neighbourhood plans (2014) states that *‘in some limited circumstances, where a neighbourhood plan could have significant environmental effects, it may fall within the scope of the Environmental Assessment of Plans and Programmes Regulations 2004 and so require a strategic environmental assessment.’*

## 2. The Screening Process

Colchester Borough Council, as the relevant Local Planning Authority (LPA), have been approached to provide a screening opinion on whether the proposed neighbourhood plan will require a Strategic Environmental Assessment. Whether a neighbourhood plan requires a strategic environmental assessment, and (if so) the level of detail needed, will depend on what is proposed in the draft neighbourhood plan.

This document sets out that screening opinion based on the scope of, and detail contained within the Draft West Mersea Neighbourhood Plan (July 2020).

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

Environmental Regulations Paragraph	SEA Requirement	Comments
2	Is the plan:  (a) subject to preparation or adoption by an authority at national, regional or local level; or (b) prepared by an authority for adoption, through a legislative	Yes, the plan is subject to preparation and adoption at local level. There are legislative and regulatory provisions in place for Neighbourhood Plans.

	procedure by Parliament or Government; and, in either case, (c) required by legislative, regulatory or administrative provisions?	
5(2)	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)?	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).
4(c)	Is the plan or programme likely to have significant environmental effects?	No. The West Mersea Neighbourhood Plan is likely to have positive environmental effects through a variety of policies that promote the achievement of sustainable development. However, the plan is unlikely to have significant environmental effects. Two of the policies relate to site allocations. However, these site allocations are allocated in the emerging Colchester Local Plan and are not allocated in the neighbourhood plan. The neighbourhood plan includes principles for these sites, which will result in positive environmental effects.
6	Does the plan (a) determine the use of a small area at local level; or (b) is a minor modification to a plan or programme of the description set out in either of those paragraphs?	(a) Yes, the plan determines the use of a small area of land at local level.  (b) The plan is a minor modification to the Colchester 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).
The local planning authority has concluded that the West Mersea 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.		

In accordance with regulation 9(2)(b) the consultation bodies were consulted on this conclusion prior to the local planning authority making a formal determination.

### 3. Significance of effects on the environment

To decide whether a draft neighbourhood plan might have significant environmental effects, its potential scope should be 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.

The following table explores the potential scope of the West Mersea 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 Requirement	Comments
1. The characteristics of plans and programmes, having regard, in particular, to -	
(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 and the site allocations are made in the Local Plan.
(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 policies requiring the protection of and new areas of open space, policy requirements for community facilities for the site allocations, protection of employment sites, protection of biodiversity and biodiversity net-gain.
(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 programmes linked to waste management or water protection).	This plan has no relevance to the implementation of Community legislation.
<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 West Mersea.
(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	West Mersea is an environmentally sensitive area. The Colne and Blackwater Estuaries surround the island. These are designated as SSSIs, SPAs and form part of the Essex Estuaries SAC. There are numerous buildings listed for architectural merit within the plan area. However, the plan does not allocate land for development and is unlikely to harm the sensitive natural environment or heritage assets.

(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 recognised at national or international level.
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**4. Consultation**

The environmental consultation bodies were consulted on the SEA screening opinion from 8 September - 14 October 2020. Their consultation responses are set out below.

***Historic England***

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 West Mersea 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 itself propose to allocate any sites for development, but merely provides minor modifications relating to sites already allocated in the Colchester Borough Council Local Plan.

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.

### ***Natural England***

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.

Guidance on the assessment of Neighbourhood Plans, in light of the Environmental Assessment of Plans and Programmes Regulations 2004 (as amended), 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.

## ***Environment Agency***

Thank you for consulting us on the above SEA screening for the West Mersea Neighbourhood plan. We have reviewed the SEA screening report as submitted and can confirm that we do not disagree with the conclusion reached, that a SEA report is not required.

The SEA screening report confirms that allocated sites are submitted in the neighbourhood plan, however, that they are part of the Colchester Local Plan. Due to this they should have already been screened within the Colchester Local Plan and therefore do not require a SEA report at the neighbourhood plan stage.

### **5. Screening Determination**

The West Mersea 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. However, none of these effects will be significant. Therefore, the LPA has determined that the West Mersea Neighbourhood Plan will not require an assessment of the significant environmental effects of the plan under the SEA Directive and Environmental Assessment Regulations based on the content of the July 2020 pre-submission draft plan.