



Information to Support Habitat Regulations Assessment

Land behind Broadfields
Wivenhoe

On Behalf of:
Taylor Wimpey

March 2021

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Report Status	Final – Rev B
Date of Issue	25.03.2021

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1.0 Introduction

Purpose

- 1.1 This report has been prepared to support Colchester District Council's (CBC) Appropriate Assessment and decision-making process, as the competent authority under the Conservation of Habitats and Species Regulations 2017 (as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019), in relation to Taylor Wimpey's proposals for residential development (Use Class C3), access, landscaping, public open space, and associated infrastructure works at Land behind Broadfields (the site). The site location is provided in Figure 1.

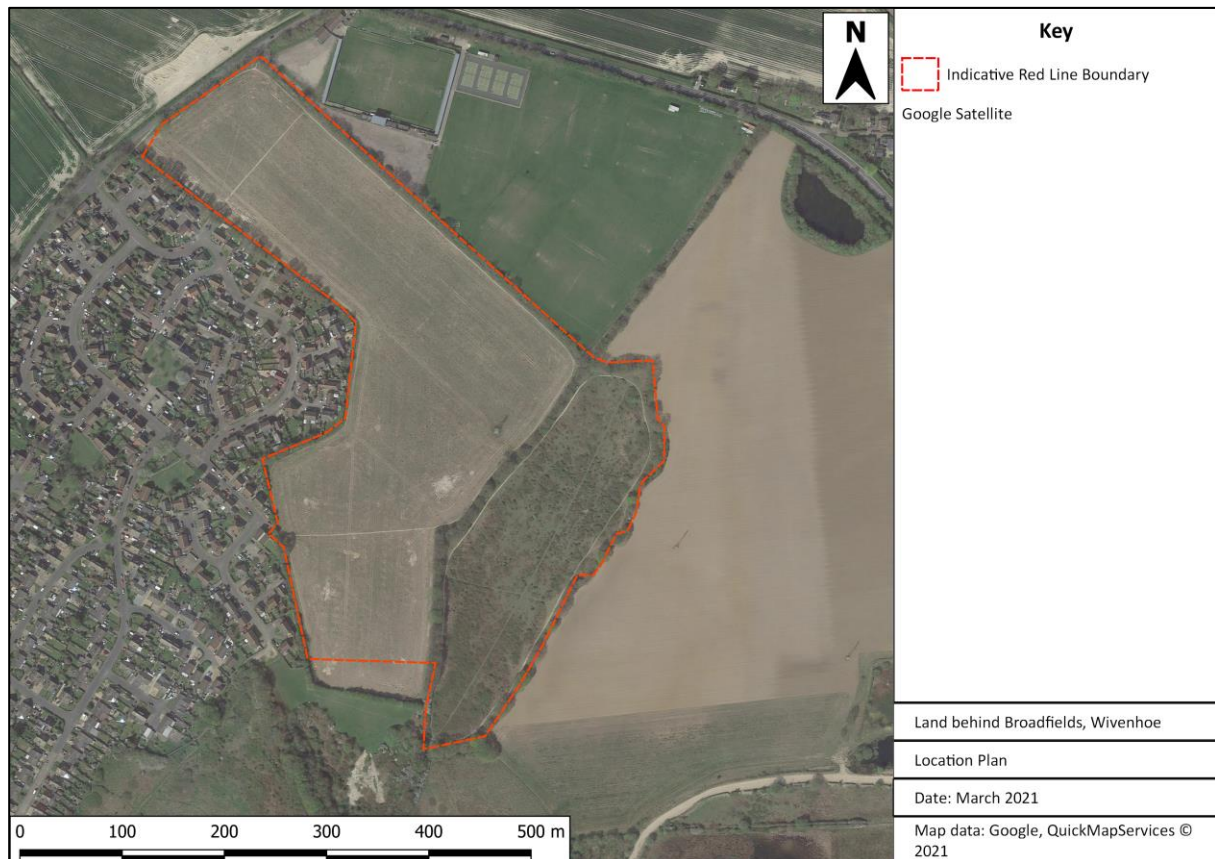


Figure 1: Site Location Plan

- 1.2 This report relates specifically to potential impacts on sites protected under the Conservation of Species and Habitats Regulations (2017, as amended) including Special Protection Areas (SPA), Special Areas of Conservation (SAC), Wetlands of International Importance designated under the 1971 Ramsar Convention (Ramsar), and species and habitats which are listed as qualifying features in the citations of these designated sites. Together these are referred to as 'European sites.'

Background to HRA Process

1.3 The HRA process is a four-stage stepwise process to ensure that there are no direct or indirect impacts on protected sites integrity (qualifying habitats or species) arising from a proposed development. In summary these are:

- **Stage 1 – Screening:** To test whether a plan or project either alone or in combination with other plans and projects is likely to have a significant effect on a protected site;
- **Stage 2 – Appropriate Assessment:** To determine whether, in view of a protected site’s conservation objectives, the plan, either alone or in combination with other projects and plans, would have an adverse effect, or even a risk of this, on the integrity of the site with respect to the site structure, function and conservation objectives. If adverse impacts are anticipated, potential mitigation measures to alleviate impacts should be proposed and assessed;
- **Stage 3 – Assessment of Alternatives:** Where a plan is assessed as having an adverse impact, or risk of this, on the integrity of an international site even with mitigation in place, there should be an examination of alternatives such as alternative locations and designs of development; and,
- **Stage 4 – ‘IROPI’:** Final stage assessment where there are no alternative solutions and where adverse impacts remain. Only where there are ‘imperative reasons of overriding public interest (IROPI), compensatory measures may be agreed and provided to offset adverse impacts and so maintain the overall coherence of the site or integrity of the Habitat Regulations (2019) site network.

1.4 A recent European court ruling (Court of Justice of the European Union (ECJ) on the interpretation of the Habitats Directive in the case of People Over Wind and Sweetman vs Coillte Teoranta (date: April 2018, ref: C 323/17)) determined mitigation measures cannot be considered when deciding whether a plan or project is likely to have a significant effect on a Habitat Regulations site. A competent authority must therefore take account of measure intended to avoid or reduce the harmful effects of a plan or project as part of the Appropriate Assessment. Only then can a conclusion be drawn as to whether the plan or project will have an adverse effect on the integrity of the site. This overruled the prior approach under English law that incorporated mitigation and avoidance measures could (and should) be considered at the screening stage when judging the likelihood of a significant effect. Although the UK is no longer subject to new ECJ rulings since 31st December 2020, ECJ rulings prior to this date are still binding under the EU Withdrawal Act.

1.5 The first two steps in the HRA sequential process are relevant to the current proposal and these are the screening and appropriate assessment stages, as described below.

Stage 1: Screening

1.6 Issues to consider and include within an HRA screening assessment may include:

- proposed details of the methods used to determine which protected sites to include within the assessment;
- a description of the protected site(s) and all associated interest features potentially affected;
- a description of the development, processes, timings, and method of work;
- an outline and interpretation of baseline data;

- an appraisal of the project's likely significant effects (LSE) on the protected site(s); and
- an appraisal, where known, of other plans or projects likely to have a significant effect in combination with the proposed development.

Stage 2: Appropriate Assessment

1.7 Where required, in addition to the issues set out under 'Stage 1: Screening', HRAs should include the following:

- evidence about the project's impacts on the integrity of protected sites;
- a description of any mitigation measures proposed which avoid or reduce each impact, and any residual effect; and
- the timing of mitigation measures in relation to the progress of the development.

2.0 Site Context & Development Proposals

2.1 The site is located at Ordnance Survey Grid Reference TM04642331 and comprised a fallow arable field to the west and an ex-arable field now comprised of scrub and grassland habitats to the east, each surrounded by established boundary treelines. The site is bordered by existing residential to the west, Wivenhoe Football Club to the north, arable to the east, and scrub, woodland and open water and habitats to the south. To the south is the main settlement of Wivenhoe and the River Colne Estuary. To the north west lies the larger town of Colchester. To the east the local landscape is predominantly rural-arable in nature.

2.2 The site has been allocated for residential development within the Wivenhoe Neighbourhood Plan. This plan has been adopted by Colchester Borough Council and is incorporated in the new emerging Colchester Borough Local Plan, of which Section 1 has now been formally adopted. Of the total site area of 15ha, approximately 3.5ha is proposed for residential development of 120 dwellings, with the remainder to be retained, enhanced through semi-natural landscaping and ongoing management and/or utilised to accommodate policy conditions, which include the provision of new sports fields (2ha) and public open space. The eastern section of the site forms part of the non-statutory designated Wivenhoe Cross Pit Local Wildlife Site (LoWS) and will be retained as a wildlife corridor.

3.0 Screening Stage – Protected Sites

3.1 A review of sites designated under the Conservation of Species and Habitats Regulations (2017, as amended) was undertaken to identify the protected sites considered in this report. The Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) (Essex County Council and Place Services, 2019) was referred to in order to determine the Zone of Influence (ZoI) for Essex coastal European sites (Table 1):

Table 1: Zol of Essex coastal European designated sites (Place Services, 2019)

European designated site	Underpinning SSSI*	Zol (km)
Stour and Orwell Estuaries SPA and Ramsar	Orwell Estuary SSSI Stour Estuary SSSI Cattawade Marshes SSSI	13
Hamford Water SPA and Ramsar	Hamford Water SSSI	8
Colne Estuary SPA and Ramsar	Colne Estuary SSSI	9.7
Blackwater Estuary SPA and Ramsar	Blackwater Estuary SSSI	22
Dengie SPA and Ramsar	Dengie SSSI	20.8
Crouch and Roach Estuaries Ramsar and SPA	Crouch and Roach Estuaries SSSI	4.5
Foulness Estuary SPA and Ramsar	Foulness SSSI	13
Essex Estuaries SAC	Blackwater Estuary SSSI Colne Estuary SSSI Crouch and Roach Estuaries SSSI Dengie SSSI Foulness SSSI	..**
Benfleet and Southend Marshes SPA and Ramsar	Benfleet and Southend Marshes SSSI	4.3
Thames Estuary and Marshes SPA and Ramsar	Mucking Flats and Marshes SSSI	8.1

*Underpinning SSSIs are listed for Essex sites as these are what the SSSI Impact Risk Zones (IRZs) on MAGIC (<https://magic.defra.gov.uk/>) are aligned to.

**The Essex Estuaries SAC comprises of the Colne Estuary, Blackwater Estuary, Dengie, Crouch and Roach Estuaries and Foulness Estuary and so follow the respective Zols throughout.

Ramsar: Wetland of International Importance especially as Waterfowl Habitat designated under the Ramsar Convention (1971)

SAC: Special Conservation Area

SPA: Special Protection Area

SSSI: Site of Special Scientific Interest

- 3.2** The search determined that the site is within the Zol of four Essex coastal European sites included in the Essex RAMS, the closest being the Colne Estuary SPA & Ramsar (part of the Essex Estuaries SAC), at 1.9km south.
- 3.3** The site is also within 10km of one non-coastal European site: Abberton Reservoir SPA and Ramsar, at 6.2km south-west.
- 3.4** Summary details are provided in Table 2. Full details of the qualifying features for all sites are provided on the Joint Nature Conservation Committee UK protected sites database (accessed online at <http://jncc.defra.gov.uk>).

Table 2: European sites within up to 22km.

Site Name	Distance/ Direction	Size (ha)	Description and Reasons for Designation
Colne Estuary SPA & Ramsar <i>Part of Essex Estuaries SAC</i>	1.9km South	2714	The Colne Estuary is a comparatively short and branching estuary, with five tidal arms that flow into the main channel of the River Colne. There is a wide variety of coastal habitats which include mud-flat, saltmarsh, grazing marsh, sand and shingle spits, disused gravel pits and reedbeds which provide feeding and roosting opportunities for the large numbers of waterbirds that use the site. The estuary is of international importance for breeding little tern <i>Sterna albifrons</i> , and also supports internationally important wintering populations of avocet <i>Recurvirostra avosetta</i> , golden plover <i>Pluvialis apricaria</i> , hen harrier <i>Circus cyaneus</i> , dark-bellied brent goose <i>Branta bernicla bernicla</i> and redshank <i>Tringa totanus</i> .

Site Name	Distance/ Direction	Size (ha)	Description and Reasons for Designation
Abberton Reservoir SPA & Ramsar	6.2km South west	726	Abberton Reservoir is located close to the coast of Essex in eastern England. It is a large, shallow, freshwater storage reservoir built in a long, shallow valley and is the largest freshwater body in Essex. It is one of the most important reservoirs in Britain for wintering wildfowl, with a key role as a roost for wildfowl and waders feeding in adjacent estuarine areas. The site is also important for winter feeding and autumn moulting of waterbirds. The margins of parts of the reservoir have well-developed plant communities that provide important opportunities for feeding, nesting and shelter. Abberton Reservoir is important especially as an autumn arrival area for waterbirds that subsequently spend the winter elsewhere.
Blackwater Estuary SPA & Ramsar <i>Part of</i> Essex Estuaries SAC	8.3km South west	4403	The Blackwater Estuary is the largest estuary in Essex and one of the largest estuarine complexes in East Anglia. This site qualifies by supporting breeding and wintering bird assemblages of European importance, including a breeding population of little tern, and wintering populations of avocet, golden plover, hen harrier, black-tailed godwit and dark-bellied brent goose.
Stour & Orwell Estuaries SPA & Ramsar	10.4km North	3673	The Stour and Orwell Estuaries include extensive mudflats, low cliffs, saltmarsh and small areas of vegetated shingle. The site is designated as a wetland of international importance, and for supporting overwintering populations of European importance of several bird species.
Dengie SPA & Ramsar <i>Part of</i> Essex Estuaries SAC	13.8km South	3134	Dengie is a large and remote area of tidal mudflat and saltmarsh at the eastern end of the Dengie peninsula, between the Blackwater and Crouch Estuaries. The saltmarsh is the largest continuous example of its type in Essex. Foreshore, saltmarsh and beaches support an outstanding assemblage of rare coastal flora.

4.0 Screening Stage – Assessment of Likely Significant Effects

Construction Phase

- 4.1** Given the distance of the development site from the designated sites (minimum 1.9km) and scale and nature of the development proposed, it is considered that there are no likely significant direct or indirect effects during the construction phase.
- 4.2** Although arable habitats exist on site that could potentially be utilised for nesting, winter feeding or roosting by bird species for which the Colne Estuary SPA/Ramsar is designated, suitability for these species was considered to be limited by the relatively enclosed nature of the site. Furthermore, breeding and wintering bird surveys (see SES Ecological Impact Assessment Report, March 2021) recorded no waterfowl, wader or gull species utilising the site, indicating that it does not represent functionally linked land to the Colne Estuary SPA/Ramsar.

Operational Phase - Direct Effects

- 4.3** Given the distance of the development site from the designated sites (minimum 1.9km) and scale and nature of the development proposed, it is considered that there are no likely significant direct effects during the operational phase.

Operational Phase - Indirect Effects

- 4.4** Given the distance of the proposed development site from the designated sites and scale and nature of the proposals, indirect effects both alone and in-combination during the operational phase are considered to be limited to recreational disturbance.

- 4.5** As the site lies within the Zone of Influence (Zoi) of the Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS), the proposed development is considered to lead to a likely significant effect on the Essex coastal European sites identified in Table 2 above due to increased recreational pressure. Hence mitigation is required in line with the HRA Record Form provided to Local Planning Authorities in Essex by Natural England (August 2018). Due to the scale of the proposed development (100+ units), mitigation is considered to be required for likely significant effects of the development alone, as well as in-combination with other plans and projects.
- 4.6** The potential for indirect effects of increased recreational disturbance to Abberton Reservoir SPA/Ramsar is screened out as access to habitats supporting qualifying features is well managed and largely restricted, with existing public rights of way set back from the waters edge to minimise bird disturbance and trespassing/disturbance maintained to an acceptably low level through regular policing.

5.0 Mitigation Measures

- 5.1** Operational stage increased recreational disturbance was considered at the Screening Stage to lead to LSE. Consequently, mitigation is required in line with the recently established Essex Coast RAMS policy.
- 5.2** Natural England guidance (2018) states that for any development of 100+ dwellings within the Zoi of the RAMs, a combination of on-site and off-site mitigation measures should be employed to ensure the integrity of nearby European designated sites, with on-site mitigation to be provided in the form of greenspace designed in accordance with Suitable Alternative Natural Greenspace (SANGS) guidelines (Natural England, 2008), and off-site mitigation to be provided via a financial contribution from the developer towards the delivery of strategic mitigation measures identified within the RAMs.
- 5.3** The following mitigation measures are therefore proposed to ensure no adverse effects on the integrity of the European sites screened in to this assessment.

In-isolation Effects

- 5.4** Due to the scale of the development (over 100 dwellings), on-site semi-natural open space designed in accordance with Natural England Suitable Alternative Natural Greenspace (SANGs) guidance (2008) will be delivered to mitigate for effects of the development in isolation. While new residents are still likely to visit the Colne Estuary SPA/Ramsar for recreation due to its close proximity, the provision of alternative and immediate recreational walking opportunities on-site should reduce the frequency of new resident visits to this site and the other more distant coastal Habitat Regulations sites.
- 5.5** The on-site semi-natural open space will include:
- High-quality, informal, semi-natural areas of grassland and scrub
 - Circular dog walking routes of 2.7 km, taking into account proposed walking routes within the site and links to surrounding public rights of way (PRoW), avoiding the estuary footpaths
 - An area where dogs can be exercised safely 'off-lead'
 - Dog waste bins

- 5.6** A visual information board on site and information leaflets to new householders will promote these areas and non-estuarine walking routes for recreation. The developer will commit to the long-term maintenance and management of these provisions via agreement.
- 5.7** The Thames Basin Heaths Guidance from Natural England suggests provision of 8ha of SANGs per 1,000 new population is necessary to adequately mitigate impacts. This is required to alleviate reductions in breeding success on sensitive ground-nesting birds on heathlands where public access is unconstrained; hence this is likely to be more than required to alleviate disturbance to foraging and roosting, non-breeding waterbirds on estuaries and coastlines where access is generally limited to coastal paths and in some areas to the foreshore. Nonetheless this guidance is a useful benchmark upon which to assess appropriate open space provision for coastal SPAs; with 120 units proposed and an average household size of 2.4 individuals (2011 Census), 2.3ha of SANGs provision is recommended under Thames Basin Heaths guidance for this site.
- 5.8** The development design allocates only 3.5ha of the total 15ha site for housing. A further 2ha is proposed for sports pitch facilities, with the remaining 9.5ha to comprise open space. This will include two main semi-natural Public Open Spaces (POS); one to the north of the new development, and a second to the east within the LoWS field. The LoWS area will deliver approximately 4.2ha of semi-natural open space incorporating the adjacent 10m semi-natural buffer. A further 2.88ha of semi-natural tussock and wildflower grassland habitats will be delivered within the northern POS and 'no-build' area below the electricity pylons running east-west through the development site. This approach will deliver well in excess of suggested levels of semi-natural open space to be provided under Natural England guidance.
- 5.9** No formal Public Rights of Way (PRoW) currently exist through either the LoWS field or the development site. However, they have historically been regularly informally accessed for walking by existing Wivenhoe residents, as evidenced by a number of well-worn paths through the site. Recreational carrying capacity will therefore be enhanced through extensive semi-natural landscaping within the northern POS and creation of a wider network of informal mown paths and all-weather cycle/footpaths, linking to existing local PRoW and off-site walking routes. Facilities will additionally be enhanced through provision of two dog waste bins (one in the northern POS, and one further adjacent to the access to the eastern LoWS field), together with a visual information board highlighting the alternative non-estuarine walking routes available.
- 5.10** SANGs design guidelines specify that greenspace aiming to mitigate against potential effects on European designated sites should be '*semi-natural spaces with little intrusion of artificial structures.*' Therefore, the newly landscaped northern POS will incorporate grassland sown with tussock and wildflower mixes subject to a low-intensity management regime, delivering a naturalistic parkland feel. Retention of existing mature treelines along the site boundaries and enhancement of these features via landscaped buffer areas bordering the development site will provide the feel of continuous green linkage through the site. The LoWS field will be retained as a wildlife corridor in accordance with Wivenhoe Neighbourhood Plan policies and opened to public access.
- 5.11** Proposals for the on-site semi-natural open space are highlighted on the landscape masterplan in Figure 2 below.

5.13 A network of informal mown paths, linking to existing local PRoW and off-site walking routes, will be created/maintained around the boundaries of the development and through the two main POS.

5.14 In addition, the developer will deliver:

- A direct cycle route through the new development and a combined footpath and cycle link to the carpark at the adjacent Broad Lane Sports Ground to the north
- A contribution to upgrading the existing public footpath from Henrietta Close to the south of the proposed housing site leading to The Cross

5.15 These provisions will ensure circular walks of 2.7km are provided via on-site paths together with links to nearby off-site greenspace to the south of the site. Walking opportunities within the site and linkages to offsite greenspace are shown in Figure 4. Within the site itself, residents will be able to access a semi-natural mosaic of scrub and grassland habitats, with existing mature treelines adding to the recreational experience. Linkages to paths off-site to the south will additionally allow residents to take in woodland and open water habitats.

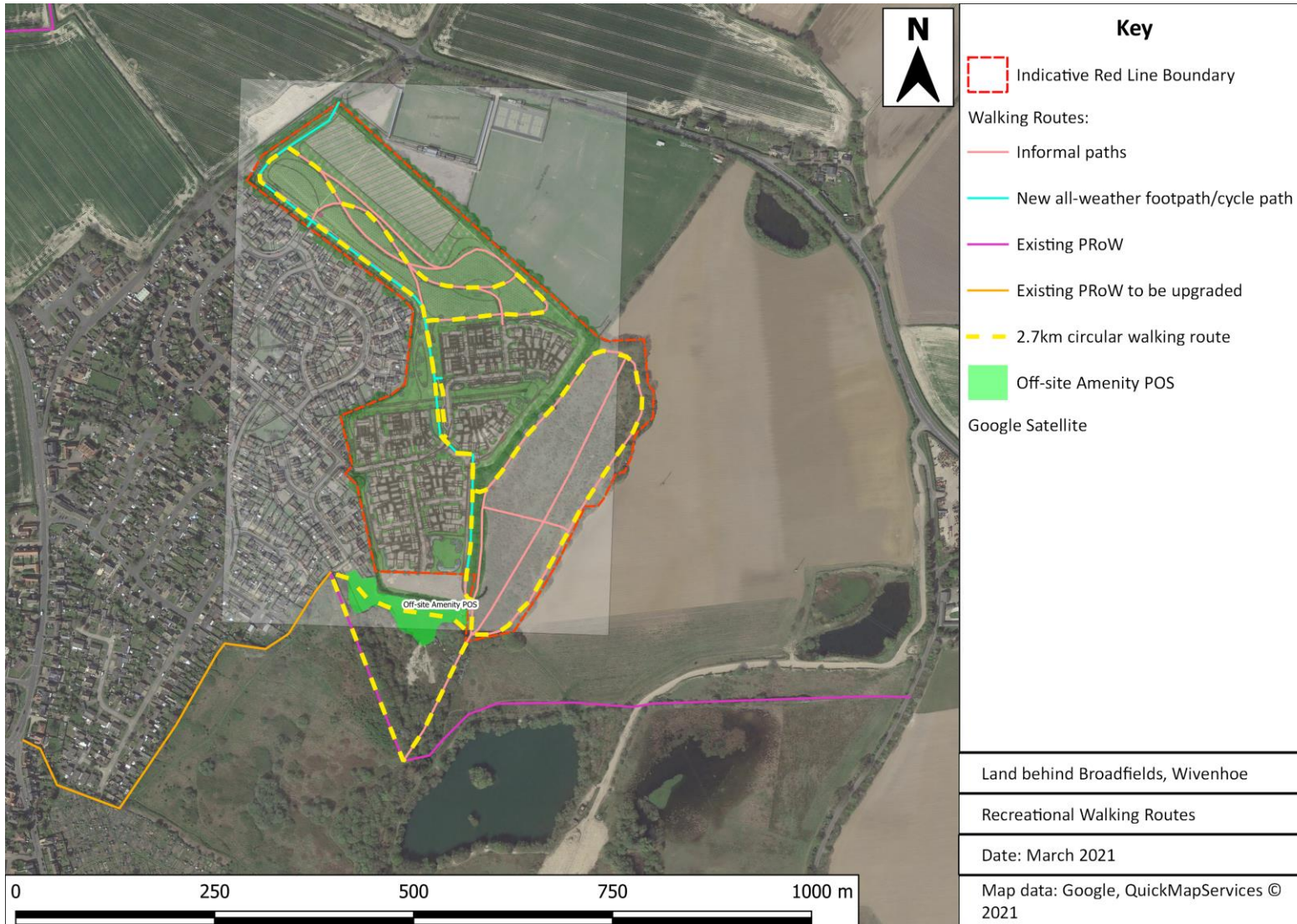


Figure 3: Walking Routes on and Linked to the Site

In-combination Effects

- 5.16** Mitigation in the form of a contribution to the Essex Coast RAMS prior to commencement is proposed to ensure that there are no increased recreational pressures on the Essex coastal protected sites in combination with other plans and projects within the Zone of Influence of the coastal Habitat Regulations sites.
- 5.17** The current charge (as of 1st April 2020) is £125.58 per dwelling which equates to a total of £15,069.60 for this site with 120 dwellings proposed.

6.0 Appropriate Assessment Stage - Assessment of Effects on Integrity

In-isolation Effects

- 6.1** The proposed mitigation is for the development to provide on-site SANGS coupled with access to local PRow and promote these alternative areas/routes to new residents for recreation and dog walking to discourage regular visitation of the coastal European designated sites.
- 6.2** On this basis, **no adverse effects on the integrity** of nearby coastal European sites are anticipated to result from the site proposals in-isolation.

In-combination Effects

- 6.3** The proposed mitigation is for the development is to provide a one-off financial contribution of £125.58 per dwelling, in line with Essex RAMs requirements, to assist the appropriate management of the coastal European sites.
- 6.4** On this basis, **no adverse effects on the integrity** of nearby coastal European sites are anticipated to result from the site proposals in-combination with other plans and projects.

Conclusion

- 6.5** Given the package of mitigation measures proposed including the provision of SANGS within the site and a financial contribution to the Essex Coast RAMS to mitigate increases in recreational pressure, there are no predicted impacts that could contribute to adverse effects on the interest features of the Essex coastal SPA and Ramsar sites forming part of the Essex Estuaries SAC that are within the Zone of Influence of the site, considering either the proposed development alone or in-combination with other plans or projects.

7.0 References

Essex County Council and Place Services (2019). *Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) Habitats Regulations Assessment Strategy document 2018-2038*. Place Services, Chelmsford.

Natural England (2008). *Appendix 4: Natural England SANGS Guidance. Three Rivers District Council Core Strategy Issues and Options, Appropriate Assessment Screening*. Online at:
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