

Date: 14 January 2021  
Our ref: 335818  
Your ref: 202604



CD 1.5

Pam Harvey  
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**BY EMAIL ONLY**

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Dear Ms Harvey

**Planning consultation: Outline application for up to 221 dwellings with associated infrastructure/202604**  
**Location: Land at Brook Meadows, West of Tiptree**

Thank you for your consultation on the above dated 27 November 2020.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Please note that Natural England's response formally covers the impacts to statutory designated wildlife sites, however there are significant local wildlife impacts upon which we have provided additional comment to assist the planning authority in reaching its decision, and discharging its own responsibilities towards biodiversity, noting local and national policy provision.

**SUMMARY OF NATURAL ENGLAND'S ADVICE – European designated sites<sup>1</sup> (please also note additional advice below regarding the direct loss of local wildlife site).**

It has been identified that this development site falls within the 'Zone of Influence' (Zol) of one or more of the European designated sites scoped into the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS).

As you will be aware, the Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Colchester Borough Council, working together to mitigate the recreational impacts that may occur on the interest features of the coastal European designated sites in Essex as a result of new residential development within reach of them; the European designated sites scoped into the RAMS are notified for features which are considered sensitive to increased levels of recreation (e.g. walking, dog walking, water sports etc.) which can negatively impact on their condition (e.g. through disturbance birds, trampling of vegetation, erosion of habitats from boat wash etc.). For further information on these sites, please see the [Conservation Objectives](#) and [Information Sheets on Ramsar Wetlands](#) which explain how each site should be restored and/or maintained.

In the context of your duty as competent authority under the provisions of the Habitats Regulations<sup>2</sup>, it is therefore anticipated that, without mitigation, new residential development in

<sup>1</sup> Special Areas of Conservation (SACs), Special Protection Areas (SPAs) and Ramsar sites; the latter are listed or proposed Wetlands of International Importance under the Ramsar Convention and are protected as a matter of Government policy. Paragraph 176 of the National Planning Policy Framework applies the same protection measures as those in place for European sites.

<sup>2</sup> Conservation of Habitats and Species Regulations 2017, as amended (commonly known as the 'Habitats Regulations'). Requirements are set out within Regulations 63 and 64 of the Habitats Regulations, where a series of steps and tests are followed for plans or projects that could potentially affect a European site. The steps and tests set out within Regulations

this location is 'likely to have a significant effect' on one or more European designated sites, through increased recreational pressure, either when considered 'alone' or 'in combination' with other plans and projects.

*We therefore advise that you consider whether this proposal falls within scope of the Essex Coast RAMS. Where it does, you must undertake a Habitats Regulations Assessment (HRA) (Stage 2: Appropriate Assessment) to secure any necessary recreational disturbance mitigation and record this decision within your planning documentation. We have previously provided you with a suggested HRA Record template and associated guidance to help with this process where recreational disturbance to European sites is the sole HRA issue as appears to be the case in this instance (our ref: 244199, dated 16<sup>th</sup> August 2018, template and guidance shown within **APPENDIX 1** of this letter); the use of this template is not mandatory but we provided it in an attempt to streamline the process and make it as straightforward and consistent as possible for the authorities involved in the RAMS.*

***Having reviewed the planning documents for this application, it appears that you have not yet undertaken an HRA (Stage 2: Appropriate Assessment) to consider this issue. We therefore advise that you do so now using our suggested template and that you should not grant permission until such time as the HRA has been carried out and the conclusions confirmed in line with our guidance. Please note that we will only provide further comment on your authority's HRA once completed and not a 'shadow' HRA provided by the applicant.***

### **Other advice - Direct & Indirect Losses to Inworth Grange Tiptree Local Wildlife Site**

The proposals will involve the development of a significant proportion of a designated Local Wildlife site (Inworth Grange Pits, Tiptree). This Local Wildlife Site was the subject of review in 2015, resulting in its extension, including the addition of the areas that are the subject of this planning application. As the site is of acknowledged nature conservation value, the approach to the assessment of the proposals should accord with the guiding principles set out in Chapter 15 of the National Planning Policy Framework (Conserving and enhancing the natural environment). The Framework is clear that a sequential approach should apply which promotes avoidance of adverse impacts in the first instance, mitigating them where avoidance isn't possible and as a last resort compensating for those impacts. In this particular case, it is the applicant's contention (para 158 of their Planning Statement) that "subject to appropriate mitigation the overall integrity of the Local Wildlife Site is unlikely to be significantly affected. On the contrary, a number of remaining areas are to be enhanced and overall the proposals will deliver a net gain in biodiversity."

This approach turns the Framework guidance on its head by citing the "compensation" as the basis for assessing the merits of the proposal. In terms of nature conservation, there are clearly alternative sites (or a reduced scale of development) that would have less harmful impacts yet these options have not been examined. Moreover, as identified in the representation from the Essex Wildlife Trust, there is doubt over the accuracy of the inputs to the Biodiversity Net Gain (BNG) Assessment which raises a serious doubt as to whether any BNG can be claimed at all.

In this context, Natural England has significant reservations about the approach that the applicant has taken to its overall assessment of the ecological impact of the development and reminds the Local Planning Authority of its responsibility to satisfy itself on the accuracy/validity of any BNG Assessment submitted by an applicant. Please note it is not routinely Natural England's role to validate BNG assessments, and consequently we have not offered specific comments in this regard, but we draw the Council's attention to the concerns raised the Essex Wildlife Trust on this point. We also refer the Council to its duty to consider biodiversity as part of its decision making (see below). In our opinion, the nature conservation contribution of this site is clearly significant for the county and developing the site would therefore conflict with the guiding principles of the Framework as outlined above.

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63 and 64 are commonly referred to as the 'Habitats Regulations Assessment' process. The Government has produced core guidance for competent authorities and developers to assist with the Habitats Regulations Assessment process. This can be found on the Defra website. <http://www.defra.gov.uk/habitats-review/implementation/process-guidance/guidance/sites/>

## ***Sites of Special Scientific Interest Impact Risk Zones***

The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires local planning authorities to consult Natural England on “Development in or likely to affect a Site of Special Scientific Interest” (Schedule 4, w). Our SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI. The dataset and user guidance can be accessed from the [data.gov.uk](https://data.gov.uk) website

Further general advice on the consideration of protected species and other natural environment issues is provided in **APPENDIX 2** of this letter.

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

For any queries regarding this letter, for new consultations, or to provide further information on this consultation please send your correspondences to [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk).

Yours sincerely

Tessa Lambert  
Lead Adviser – Land Use Planning  
West Anglia Area Team

**APPENDIX 1: Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) Habitat Regulation Assessment (HRA) Record template (from our ref: 244199, dated 16<sup>th</sup> August 2018, Annex B)**

Application details	
Local Planning Authority:	
Case officer	
Application reference:	
Application description:	
Application address:	
Status of Application:	
Grid Ref:	

### HRA Stage 1: screening assessment

**Test 1 – the significance test:** Based on the development type and proximity to European designated sites, a judgement should be made as to whether the development constitutes a ‘likely significant effect’ (LSE) to a European site in terms of increased recreational disturbance

**Is the development within the zone of influence (Zoi) for the Essex Coast RAMS with respect to the below sites?**

- Essex Estuaries Special Area of Conservation (SAC)
- Hamford Water Special Protection Area (SPA) and Ramsar site
- Stour and Orwell Estuaries SPA and Ramsar site (Stour on the Essex side only)
- Colne Estuary SPA and Ramsar site
- Blackwater Estuary SPA and Ramsar site
- Dengie SPA and Ramsar site
- Crouch and Roach Estuaries SPA and Ramsar site
- Foulness Estuary SPA and Ramsar site
- Benfleet and Southend Marshes SPA and Ramsar site
- Thames Estuary and Marshes SPA and Ramsar site (Essex side only)

**YES**

↓

**NO**

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**Does the planning application fall within the following development types?**

- New dwellings of 1+ units (excludes replacement dwellings and extensions)
- Houses in Multiple Occupancy (HMOs)
- Student Accommodation
- Residential care homes and residential institutions (excludes nursing homes)
- Residential caravan sites (excludes holiday caravans and campsites)
- Gypsies, travellers and travelling show people plots

Conclude no LSE to the above designated sites in terms of recreational disturbance:

- An Appropriate Assessment (AA) is not required where recreational disturbance to these sites is the only issue or recreational disturbance to these sites can be scoped out of any HRA covering other issues.
- Check NE [IRZs](#) to see whether recreational disturbance is an issue for non-coastal European sites or Sites of Special Scientific Interest (SSSIs). If so, this will also need assessing outside of this HRA form.

**YES**

↓

**NO**

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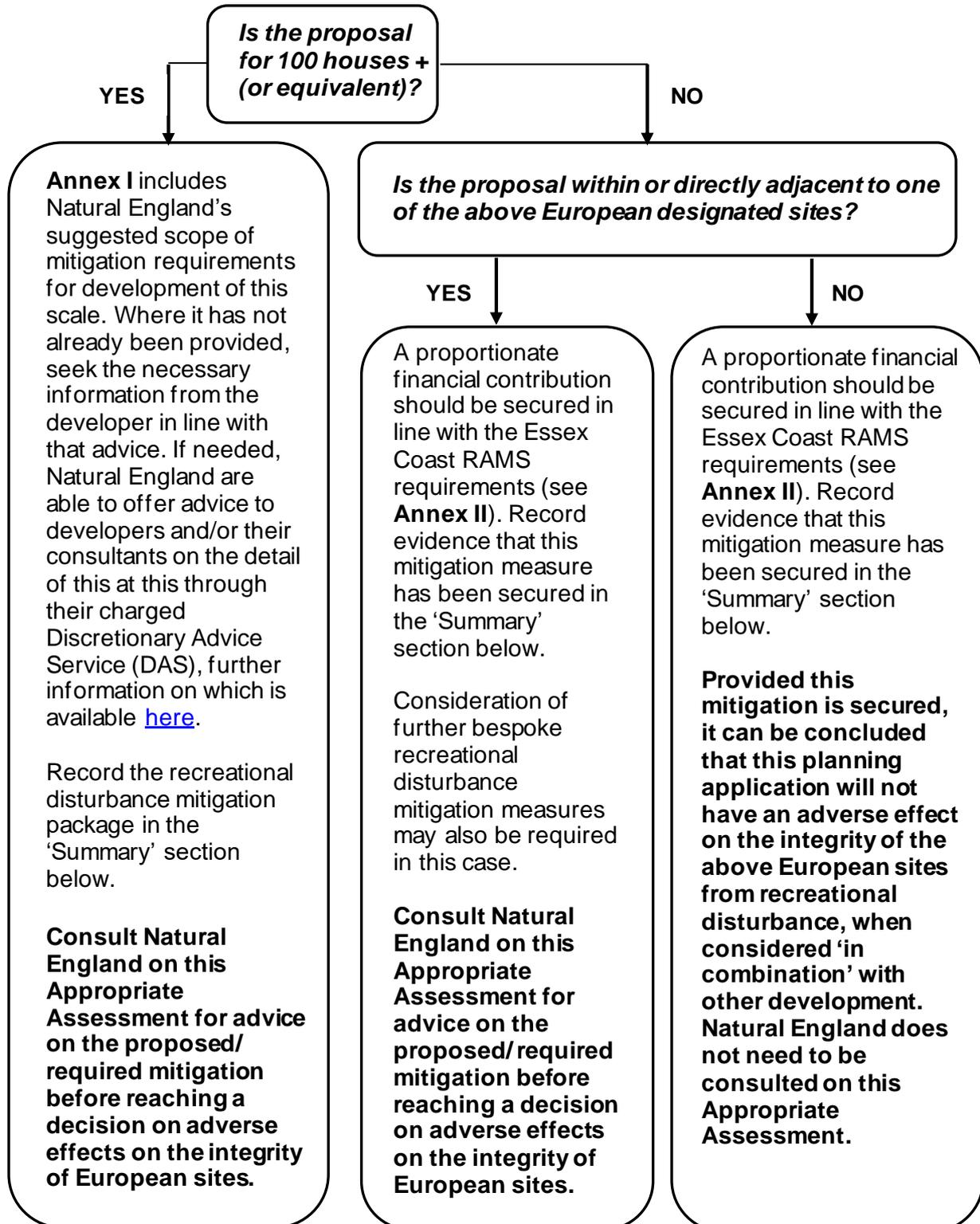
Conclude LSE. This proposal is within scope of the Essex Coast RAMS as it falls within the ‘zone of influence’ for likely impacts and is a relevant residential development type as listed above. It is anticipated that such development in this area is ‘likely to have a significant effect’ upon the interest features of the aforementioned designated site(s) through increased recreational pressure, when considered either alone or in combination. Therefore:

- Proceed to HRA Stage 2: Appropriate Assessment to assess recreational disturbance impacts on the above designated sites
- Check [IRZs](#) to see whether recreational disturbance is an issue for non-coastal European sites or Sites of Special Scientific Interest (SSSIs). If so, this will also need assessing outside of this HRA form.

The proposal is outside the scope of the Essex Coast RAMS. However, applications involving tourist accommodation (including holiday caravans and campsites), for example, could still potentially have recreational disturbance impacts (and other impacts) on designated sites, including those listed above. In cases such as these, consult Natural England for bespoke advice before concluding no LSE.

## HRA Stage 2: Appropriate Assessment

**Test 2 – the integrity test:** The applicant must provide sufficient evidence to allow the Appropriate Assessment to be made, which is the stage at which avoidance and/or mitigation measures can be considered



**Summary of the Appropriate Assessment :** To be carried out by the Competent Authority (the local planning authority) in liaison with Natural England (where necessary)

**Summary of recreational disturbance mitigation package**

[INSERT]

**Conclusion**

*Having considered the proposed avoidance and mitigation measures above, [INSERT LPA] conclude that with mitigation the project will not have an Adverse Effect on the Integrity of the European sites included within the Essex Coast RAMS.*

*Having made this appropriate assessment of the implications of the plan or project for the site(s) in view of that (those) site(s)'s conservation objectives, and having consulted Natural England and fully considered any representation received (where necessary), the authority may now agree to the plan or project under regulation 63 of the Conservation of Habitats and Species Regulations 2017.*

**Local Planning Authority Case Officer comments, signed and dated:**

## **Annex I – Natural England’s recommendations for larger scale residential developments within the Essex Coast RAMS zone of influence (100 units +, or equivalent, as a guide)**

Developments of this scale should include provision of well-designed open space/green infrastructure, proportionate to its scale. Such provisions can help minimise any predicted increase in recreational pressure to the European sites by containing the majority of recreation within and around the development site boundary away from European sites. We advise that the Suitable Accessible Natural Green Space (SANGS) guidance [here](#) can be helpful in designing this; it should be noted that this document is specific to the SANGS creation for the Thames Basin Heaths, although the broad principles are more widely applicable. As a minimum, we advise that such provisions should include:

- High-quality, informal, semi-natural areas
- Circular dog walking routes of 2.7 km<sup>3</sup> within the site and/or with links to surrounding public rights of way (PRoW)
- Dedicated ‘dogs-off-lead’ areas
- Signage/information leaflets to householders to promote these areas for recreation
- Dog waste bins
- A commitment to the long term maintenance and management of these provisions

Natural England would be happy to advise developers and/or their consultants on the detail of this at the pre-application stage through our charged Discretionary Advice Service (DAS), further information on which is available [here](#).

However, the unique draw of the above European sites means that, even when well-designed, ‘on-site’ provisions are unlikely to fully mitigate impacts when all residential development within reach of the coast is considered together ‘in combination’. We therefore advise that consideration of ‘off-site’ measures (i.e. in and around the relevant European designated site(s)) is also required as part of the mitigation package for predicted recreational disturbance impacts in these cases.

As such, in the interim period before the RAMS is adopted, a financial contribution should also be agreed with and collected from the developer, prior to commencement, on the basis that it can be used to fund strategic ‘off site’ measures (i.e. in and around the relevant European designated site(s)). These measures should be targeted towards increasing the relevant European site(s) resilience to recreational pressure and be in line with aspirations of the emerging RAMS. As an example in this interim period, this could include funding towards existing wardening schemes at the relevant European designated site(s). A suitable delivery mechanism for the measures must be agreed to secure them and ensure they are implemented from the first occupation of dwellings. Alternatively, we understand that it may be acceptable at the outline planning stage to include a suitably-worded planning condition which secures full adherence with the emerging Essex Coast RAMS at the Reserved Matters stage.

Once the RAMS has been adopted, a financial contribution should be secured from these developments prior to commencement.

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<sup>3</sup> Taken from *Jenkinson, S., (2013), Planning for dog ownership in new developments: reducing conflict – adding value. Access and greenspace design guidance for planners and developers*

## APPENDIX 2

Natural England offers the following additional advice:

### **Landscape**

Paragraph 170 of the National Planning Policy Framework (NPPF) highlights the need to protect and enhance valued landscapes through the planning system. This application may present opportunities to protect and enhance locally valued landscapes, including any local landscape designations. You may want to consider whether any local landscape features or characteristics (such as ponds, woodland or dry stone walls) could be incorporated into the development in order to respect and enhance local landscape character and distinctiveness, in line with any local landscape character assessments. Where the impacts of development are likely to be significant, a Landscape & Visual Impact Assessment should be provided with the proposal to inform decision making. We refer you to the [Landscape Institute](#) Guidelines for Landscape and Visual Impact Assessment for further guidance.

### **Protected Species**

Natural England has produced [standing advice](#)<sup>4</sup> to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice. Natural England will only provide bespoke advice on protected species where they form part of a SSSI or in exceptional circumstances.

### **Local sites and priority habitats and species**

You should consider the impacts of the proposed development on any local wildlife or geodiversity sites, in line with paragraph 170 & 174 of the NPPF and any relevant development plan policy. There may also be opportunities to enhance local sites and improve their connectivity. Natural England does not hold locally specific information on local sites and recommends further information is obtained from appropriate bodies such as the local records centre, wildlife trust, geoconservation groups or recording societies.

Priority habitats and Species are of particular importance for nature conservation and included in the England Biodiversity List published under section 41 of the Natural Environment and Rural Communities Act 2006. Most priority habitats will be mapped either as Sites of Special Scientific Interest, on the Magic website or as Local Wildlife Sites. List of priority habitats and species can be found [here](#)<sup>5</sup>. Natural England does not routinely hold species data, such data should be collected when impacts on priority habitats or species are considered likely. Consideration should also be given to the potential environmental value of brownfield sites, often found in urban areas and former industrial land, further information including links to the open mosaic habitats inventory can be found [here](#).

### **Environmental enhancement**

Development provides opportunities to secure a net gain for nature and local communities, as outlined in paragraphs 8, 118 170, 174-175 of the NPPF. We advise you to follow the mitigation hierarchy as set out in paragraph 175 of the NPPF and firstly consider what existing environmental features on and around the site can be retained or enhanced or what new features could be incorporated into the development proposal. Where onsite measures are not possible, you may wish to consider off site measures, including sites for biodiversity offsetting. Opportunities for enhancement might include:

- Providing a new footpath through the new development to link into existing rights of way.
- Restoring a neglected hedgerow.
- Creating a new pond as an attractive feature on the site.
- Planting trees characteristic to the local area to make a positive contribution to the local landscape.
- Using native plants in landscaping schemes for better nectar and seed sources for bees and birds.
- Incorporating swift boxes or bat boxes into the design of new buildings.
- Designing lighting to encourage wildlife.
- Adding a green roof to new buildings.

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<sup>4</sup> <https://www.gov.uk/protected-species-and-sites-how-to-review-planning-proposals>

<sup>5</sup> <http://webarchive.nationalarchives.gov.uk/20140711133551/http://www.naturalengland.org.uk/ourwork/conservation/biodiversity/protectandmanage/habsandspeciesimportance.aspx>

You could also consider how the proposed development can contribute to the wider environment and help implement elements of any Landscape, Green Infrastructure or Biodiversity Strategy in place in your area. For example:

- Links to existing greenspace and/or opportunities to enhance and improve access.
- Identifying opportunities for new greenspace and managing existing (and new) public spaces to be more wildlife friendly (e.g. by sowing wild flower strips)
- Planting additional street trees.
- Identifying any improvements to the existing public right of way network or using the opportunity of new development to extend the network to create missing links.
- Restoring neglected environmental features (e.g. coppicing a prominent hedge that is in poor condition or clearing away an eyesore).

### ***Access and Recreation***

Natural England encourages any proposal to incorporate measures to help improve people's access to the natural environment. Measures such as reinstating existing footpaths together with the creation of new footpaths and bridleways should be considered. Links to other green networks and, where appropriate, urban fringe areas should also be explored to help promote the creation of wider green infrastructure. Relevant aspects of local authority green infrastructure strategies should be delivered where appropriate.

### ***Biodiversity duty***

Your authority has a [duty](#) to have regard to conserving biodiversity as part of your decision making. Conserving biodiversity can also include restoration or enhancement to a population or habitat. Further information is available [here](#).