



Neighbourhood Plan

Habitat Regulations Assessment Screening Report

20th June 2023

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 City 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 City, 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 City'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 (Zol) 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 City lies with the Zol 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 Habitat 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 City 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 City 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 City relates to the predation of ground nesting species such as Little Tern and Ringed Plover.

Urbanisation can be screened out of further assessment as Great Tey is approximately 15km from The Essex Estuaries SAC. 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 15km, 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 Great Tey. However, to be thorough, Appendix 1 includes a screening matrix of all planning policies within the Great Tey Neighbourhood Plan.

Likely significant effects alone

The LPA has concluded that as the neighbourhood plan does not allocate land for housing the Great 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 Great Tey Neighbourhood Plan (appendix 1) shows that zero policies have been screened in as there are no housing allocation policies and no policies will directly lead to development.

Colchester City 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 Plan's across Essex, on Habitats sites. A Statement of Common Ground signed by Colchester City 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 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 City Council adopted an Essex Coast RAMS Supplementary Planning Document (SPD)

The neighbourhood plan states that their environmental policies are in addition to the ones within the Local Plan. However, the Council recommend that the neighbourhood plan includes the LPAs standard RAMS policy for neighbourhood plans, which has been agreed by Natural England.

The Great Tey neighbourhood plan does not allocate land for housing. The housing site referred to in the plan was allocated in the Local Plan.

The LPA has concluded that as the neighbourhood plan does not allocate land for housing the Great Tey Neighbourhood 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 Great Tey Neighbourhood Plan policies

Policy	Likely significant effects?	Screened out? Y/N
POLICY GTTEY1: DESIGN & ASSOCIATED DESIGN CODES	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes
POLICY GTTEY2: LANDSCAPING	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites. Protecting mature trees, hedgerows & native shrubs and retaining green buffer areas will lead to positive effects.	Yes
POLICY GTTEY3: VIEWS	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes
POLICY GTTEY4: ACCESS TO THE COUNTRYSIDE	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes
POLICY GTTEY5: WILDLIFE-FRIENDLY DEVELOPMENT	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites. It seeks to protect and improve the local environment and biodiversity and therefore, will not adversely affect any European sites.	Yes
POLICY GTTEY6: DARK SKIES AND LIGHTING	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes
POLICY GTTEY7: PROVISION AND ENHANCEMENT OF COMMUNITY AND BUSINESS FACILITIES	As a policy it will not lead directly to the physical development of land and therefore will not adversely affect any European sites.	Yes