



# **Aldham Neighbourhood Plan**

## **Habitats Regulations Screening Determination**

**April 2019**

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# ALDHAM NEIGHBOURHOOD PLAN

## HABITATS REGULATIONS DETERMINATION

### 1. Introduction

This assessment relates to the Aldham Neighbourhood Plan 2018-2036 Pre-Submission Draft which was published for consultation in February 2019.

It is a requirement of European law that a plan or project is subject to an assessment to determine whether it is likely to have a significant effect on the integrity of any European Site, in terms of impacting on the site's conservation objectives.

Submitted neighbourhood plans need to be accompanied by a statement to explain how the proposed plan meets the 'basic conditions' set out in Schedule 4B of the 1990 Town and Country Planning Act. These basic conditions include a requirement to demonstrate how the Plan is compatible with EU obligations, which includes the need to undertake a Habitats Regulations Assessment (HRA). This is one of the matters that will be tested as part of the independent examination of the Plan.

Whether a neighbourhood plan requires a Habitats Regulations Assessment and the level of detail needed will depend on what is proposed in the draft Neighbourhood Plan and the potential impacts on European sites designated for their nature conservation interest

This report therefore determines whether a Habitats Regulations Assessment under the UK Conservation of Habitats and Species Regulations 2017, which enacts the Habitats Directive<sup>1</sup>, is required for the Aldham Neighbourhood Plan.

This determination refers to:

- A HRA Screening Report prepared by Place Services, Essex CC [*hereafter referred to as Place Services*] which can be viewed at: [www.babergh.gov.uk/AldhamNP](http://www.babergh.gov.uk/AldhamNP)
- The responses to this from the statutory consultees (See Appendix 1).

### 2. Legislative Background

One of the basic conditions that Neighbourhood Plans must meet is 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"*

The Conservation of Habitats and Species Regulations 2017 include regulations on the assessment of plans (including neighbourhood plans) and projects on European sites or European offshore marine sites. The first stage is to screen the plan to see whether it is likely to have a significant effect on any Habitats (European) sites. If the plan is "screened in" because likely significant effects cannot be ruled out, the next stage is for an appropriate

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<sup>1</sup> Directive 92/43/EEC 'on the conservation of natural habitats and of wild fauna and flora': <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:31992L0043>.

assessment to be carried out considering the impact on the European site's conservation objectives. Consent for the Plan can only be given if it is "screened out" at the first stage or the appropriate assessment concludes the integrity of the European site will not be adversely affected.

Case law (*People Over Wind, Peter Sweetman v Collie Teoranta*) ruled that it is not permissible to take account of measures intended to reduce or avoid any harmful effects of a plan or project on a European site at the screening stage. Any mitigation measures can now only be considered at the appropriate assessment stage.

### **3. Assessment**

In determining whether a proposed development plan or programme is likely to have significant effects, the local authority must incorporate the 'precautionary principle' into its decision. This means that if there is uncertainty as to whether the plan or programme would cause significant effects on a European site, the full Appropriate Assessment would be required.

A central principle of the Neighbourhood Plan is to support only limited development in Aldham that:

- Is consistent with its lack of services and facilities
- takes account of the very narrow access roads to larger centres: and
- ensures that it will not have an irreversible impact on the characteristics of this small and remote village.

The Plan provides for around 15 dwellings to be developed in the Neighbourhood Plan area between 2018 and 2036. The Plan provides for this growth to be met through:

- the allocation of a site west of Hadleigh Road for seven dwellings
- the allocation of a site north of the Street for five dwellings
- small windfall sites and infill plots for one or two dwellings within the Built-Up Area Boundary
- conversions and new development opportunities outside the Built-Up Area Boundary

There are two Habitats sites which lie within 20 km of Aldham Parish:

- Stour and Orwell Estuaries Special Protection Area
- Stour and Orwell Estuaries Ramsar site

The 13km Zones of Influence (ZOI) for both sites overlap with the Aldham parish boundary and the impact of the Aldham Neighbourhood Plan on these sites has therefore been considered as part of the screening assessment.

A full assessment of the likely effect of the Plan's policies and proposals on these sites is set out in the Screening Assessment prepared by Place Services, Essex which can be viewed at:

<https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Aldham-NP-SEA-HRA-Screening-Report-Final.pdf>

The screening has been prepared in accordance with the recent Court judgment (CJEU People Over Wind v Coillte Teoranta C323/17) which ruled that mitigation measures cannot be taken into account when carrying out a screening assessment to determine whether a plan or project is likely to result in significant effects on a Habitats site.

#### 4. Screening Conclusions

The Screening Report concludes that it is not possible to rule out likely significant effects in terms of increased recreational disturbance in combination with other plans and projects. Within this ZOI, residents of new housing are considered likely to regularly visit relevant designated Habitats sites for recreation.

There is therefore a need for an Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017

Consultation on the Screening Report was carried out with Natural England, Historic England and the Environment Agency.

All three bodies agreed with or had no comment on the conclusion of the Screening Report.

The consultation responses are attached at Appendix 1.

The requirement for the Plan to undertake further assessment under the Habitats Regulations 2017 is therefore **screened in** for Appropriate Assessment.

An Appropriate Assessment has been prepared and is attached to this determination as Appendix 2. This has been subject to consultation with the statutory bodies.

#### 5. Determination

In the light of the Screening Report prepared by Place Services and the responses from the statutory bodies it is determined that the Aldham Neighbourhood Plan is **screened in** for further assessment under the Habitats Regulations 2017 **and an Appropriate Assessment is required**. This is attached at Appendix 2.

**From: Natural England**  
**Date: 22 March 2019**

**Our refs: 274816 Aldham NP Pre-Submission Consultation Regulation 14**  
**274971 Aldham NP - SEA/HRA Screening Report**

To whom it may concern

Thank you for consulting Natural England on the above Neighbourhood Plan.

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.

Natural England is unable to provide a response to this consultation, as we have to take a risk based approach in deciding when to provide detailed advice to development plan consultations. The lack of comment from Natural England does not imply that there are no impacts on the natural environment. However we would like to take this opportunity to provide you with information sources that the neighbourhood planning body may wish to use in developing the plan, and to highlight some of the potential environmental risks and opportunities that neighbourhood plans or orders may present: this information is attached. In particular we would draw your attention to the SSSI Impact Risk Zones, available as a GIS dataset. Although designed to be used to help local planning authorities decide when to consult Natural England on developments likely to affect designated sites, they may be of use to you in understanding potential impacts from the Plan on nearby designated sites. The dataset and user guidance can be accessed from the [data.gov.uk](http://data.gov.uk) website.

Natural England has not assessed this Plan for impacts on protected species. Natural England has published [Standing Advice](#) which you can use to assess impacts on protected species or you may wish to consult your own ecologist for advice. Natural England and the Forestry Commission have also published standing advice on [ancient woodland and veteran trees](#) which you can use to assess any impacts on ancient woodland.

Yours faithfully,

Kayleigh Cheese  
Planning Lead Adviser  
Essex Local Delivery Team  
Essex, Herts, Beds, Cambs, Northants  
Natural England  
County Hall, Spetchley Road, Worcester  
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[www.gov.uk/natural-england](http://www.gov.uk/natural-england)

We are here to secure a healthy natural environment for people to enjoy, where wildlife is protected and England's traditional landscapes are safeguarded for future generations.

Natural England offers two chargeable services – The Discretionary Advice Service ([DAS](#)) provides pre-application, pre-determination and post-consent advice on proposals to developers and consultants as well as pre-licensing species advice and pre-assent and consent advice. The Pre-submission Screening Service ([PSS](#)) provides advice for protected species mitigation licence applications.



*Mr Paul Munson  
Babergh District Council  
Endeavour House Russell Road  
Ipswich  
Suffolk  
IP1 2BX*

**Our Ref:** AE/2019/123977/01-L01

**Your ref:** AldhamNP/SEA

**Date:** 29 March 2019

*Dear Mr Munson*

**ALDHAM NEIGHBOURHOOD PLAN - SEA SCREENING**

**ALDHAM PARISH**

*Thank you for your consultation dated 26 February 2019. We have reviewed the Strategic Environmental Assessment Screening Report prepared by Essex Place Services for the Aldham Neighbourhood Plan, as submitted and agree with the conclusions and recommendations of the report that the requirement for a full SEA can be screened out of the Plan.*

*We trust that this advice is useful.*

*Yours sincerely*

*Mr Ed Abigail  
Planning Advisor*

*Environment Agency,  
Cobham Road, Ipswich, Suffolk, IP3 9JD.  
Customer services line: 03708 506 506  
[www.gov.uk/environment-agency](http://www.gov.uk/environment-agency)  
End*



Historic England

EAST OF ENGLAND OFFICE

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Our ref: PL00552808

11 April 2019

Dear Sir/Madam Community Planning

RE: Aldham Neighbourhood Plan SEA Screening

Thank you for your email of 26 February 2019 regarding the above 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 Aldham 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 Aldham Neighbourhood Plan will not have any significant effects on the historic environment. We note that there are two small site allocations included in the draft plan, once of which is subject to planning permission already. The other is not likely to have significant effects on the historic environment. 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 dated 26 February 2019. To avoid any doubt, this does not reflect our obligation to provide further advice on later stages of the SA/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/guidance) where we consider that, despite the SA/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.



Yours sincerely,

Edward James  
Historic Places Advisor, East of England



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*Historic England is subject to both the Freedom of Information Act (2000) and Environmental Information Regulations (2004). Any information held by the organisation can be requested for release under this legislation.*



## 5. APPROPRIATE ASSESSMENT

### 5.1 Introduction

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Stage 2 of the HRA process is Appropriate Assessment which requires the competent authority to consider the Integrity test. For this test 2, 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.

### 5.2 Policies / Allocations and Habitats Sites within Scope

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The Likely Significant Effects considered at screening stage relating to site allocations for residential development have been carried forward for consideration at Appropriate Assessment. The policies and their potential to have adverse effects on any Habitats Site due to recreational disturbance pathway are now considered in more detail.

At the Screening stage the only Habitats Sites listed as having the potential for likely significant effects as a result of disturbance, is the Stour & Orwell Estuaries SPA and Ramsar site.

While much disturbance would be localised, the extent of disturbance reflects the 13km Zone of Influence (ZOI) that have been identified in the Suffolk Coast RAMS in relation to recreational disturbance. However this is only triggered in combination with other plans and projects (Natural England advice to LPAs Nov 2016 and June).

Therefore, this is addressed below.

### 5.3 Recreational Disturbance

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The two policies in the Aldham Neighbourhood Plan for housing development without an existing consent issued by Babergh DC (ALD2 and ALD4), are screened in as having the potential for Likely Significant Effect on the Stour & Orwell Estuaries SPA and Ramsar site.

Wetland birds are particularly vulnerable to disturbance, including recreational disturbance. Non-breeding wetland birds are particularly vulnerable to disturbance, including recreational disturbance and trampling of sensitive vegetation e.g. saltmarsh, and nutrient enrichment and erosion of habitats is a likely result of increased visitors to the coastal Habitats sites. For breeding SPA birds, different issues result from recreational disturbance. Key breeding roosts are known on particular estuaries/shorelines and in specific locations where habitat and conditions enable territories to become established. Recreational pressure adds to the stresses of defending a territory, laying eggs and rearing chicks which means that SPA birds are often more vulnerable, and levels of public access to breeding areas can rise in the summer months too. During the breeding season, recreational disturbance can affect breeding success as it can result in nest desertion, potential trampling of eggs and an increase in predation rates etc. (Liley & Sutherland 2007).

The majority of the HRAs produced by Suffolk LPAs as part of the production of their respective Local or Strategic Plans identified that the level of planned housing growth may lead to disturbance of designated non-breeding & breeding birds and sensitive habitats in coastal designated Habitats (European) sites within and beyond each individual LPA boundary.

All residential development with the 13km ZOI of the emerging Suffolk Coast RAMS will require mitigation to avoid Adverse Effects on the integrity of the Stour & Orwell Estuaries SPA and Ramsar site

**Table 8: Assessment of mitigation to meet the Integrity Test**

Policy Number	In-combination effects - potential impacts and comments	With mitigation, will the Policy avoid any Adverse Effect on Site Integrity of the Habitats Sites?	Residual effects
Policy ALD2 – Housing Development	<p>Trigger to assess policy for in-combination effects</p> <p>Residential development is within 13 km of the Stour &amp; Orwell Estuaries SPA &amp; Ramsar site.</p> <p>It is considered that the following applications are, without mitigation, likely to lead to significant in-combination effects on the SPA &amp; Ramsar site, in combination with the proposed development:</p>	<p>Yes. Significant impacts can be avoided from the Plan 'in combination' with other plans and projects by the delivery of effective visitor management and monitoring measures will be secured e.g. through a legal agreement.</p>	<p>None if mitigation measures for recreational disturbance impacts are secured in perpetuity through the emerging Suffolk Coast RAMS.</p>
Policy ALD4 – Land north of The Street	<p>Trigger to assess policy for in-combination effects:</p> <p>Residential development is within 13 km of the Stour &amp; Orwell Estuaries SPA &amp; Ramsar site.</p> <p>It is considered that the following applications are, without mitigation, likely to lead to significant in-combination effects on the SPA and Ramsar site, in combination with the proposed development.</p>	<p>Yes. Significant impacts can be avoided from the Plan 'in combination' with other plans and projects by the delivery of effective visitor management and monitoring measures will be secured e.g. through a legal agreement.</p>	<p>None if mitigation measures for recreational disturbance impacts are secured in perpetuity through the emerging Suffolk Coast RAMS.</p>

### 5.3.1 Use of Mitigation Measures

The policies identified will trigger a proportionate financial contribution in line with the Suffolk Coast RAMS Strategy. The contribution towards visitor access management and monitoring at the SPA / Ramsar site will need to be paid in line with the emerging strategic level mitigation scheme. This mitigation aims to avoid impacts from the development in combination with other plans and projects.

### 5.3.2 Applying the Integrity Test

With the mitigation proposed, the Plan is not likely to result in any adverse effects on site integrity.

### 5.3.3 Embedding Mitigation into the Neighbourhood Plan

With revised text, Policy ALD7 will ensure that all new housing developments within the ZOI of the Stour & Orwell Estuaries SPA and Ramsar site will need to provide mitigation measures to avoid recreational disturbance impacts. In line with Natural England's advice, relevant development will be required to provide a mixture of appropriate mitigation measures both on-site or nearby as well as off-site within the coastal Habitats Site. This will either be secured through a project level Habitats Regulations Assessment or a proportionate financial contribution in line with or towards the emerging Suffolk Coast RAMS.

### References

- Aldham Neighbourhood Plan Second Draft (January 2019)
- Atkins (2011) Habitats Regulations Assessment for Babergh District Council Core Strategy
- Habitats Regulations Assessment (Appropriate Assessment) for Mid Suffolk District Council Core Strategy(2007)
- Atkins (2010) St. Edmundsbury Borough Council Core Strategy HRA screening
- Babergh District Council (2014) Local Plan Core Strategy and Policies
- Natural England Conservation objectives for European Sites: East of England Website
- Natural England letter to Babergh DC (Jack Haynes,June2017) ref 218775
- The Landscape Partnership (2011) Suffolk Coastal District Council Habitats Regulations Assessment for Core Strategy and Development Management Policies Document
- Tydlesley,D., and Chapman, C., (2013) The Habitats Regulations Assessment Handbook, (Feb 2019) edition UK: DTA Publications Limited