



# **Assington Neighbourhood Plan**

## **Habitats Regulations Screening Determination**

**May 2020**

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# ASSINGTON NEIGHBOURHOOD PLAN

## HABITATS REGULATIONS DETERMINATION

### 1. Introduction

This assessment relates to the 'Assington Neighbourhood Development Plan 2018 – 2036' which was published for Regulation 14 Pre-Submission consultation in February 2020.

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 Assington Neighbourhood Plan.

This determination refers to:

- The HRA Screening Report prepared by Place Services, Essex CC [*hereafter referred to as Place Services*] which can be viewed at: [www.babergh.gov.uk/AssingtonNP](http://www.babergh.gov.uk/AssingtonNP)
- 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. Further case law (*Holohan and Others v An Bord Pleanála*) now also imposes more detailed requirements on the competent authority for any plans or projects at the Appropriate Assessment stage, including, but not limited to cataloguing the entirety of habitat types and species for which a site is protected and being beyond reasonable scientific doubt concerning the effects of the work envisaged on the site concerned.

### 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.

The Neighbourhood Plan includes the following Vision Statement:

*"In 2036 Assington will remain a rural and attractive village, having protected its countryside setting by ensuring that new development is in proportion to and respectful of the character of the village, while at the same time maintaining a thriving, vibrant and open community."*

The draft Plan contains twenty-four planning policies. Of those, six are site specific housing allocations, all but one of which relate to sites with planning permissions already attached. Other policies seek to realise and deliver the vision.

There are six Habitats site which lie within 20 km of Assington parish:

- Abberton Reservoir SPA and Abberton Reservoir Ramsar
- The Colne Estuary SPA and Colne Estuary Ramsar
- The Stour and Orwell Estuaries SPA and Stour and Orwell Estuaries Ramsar

As the Plan area is not within the Zone of Influence for any of these Habitats Sites, none are screened in for assessment for any likely significant effect resulting from this draft Plan.

A full assessment of the likely effects of the Plan is set out in the Screening Report dated March 2020 prepared by Place Services. A copy of this can be viewed at:

<https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Assington-NP-HRA-Screening-Report-Feb20.pdf>

The screening has been prepared in accordance with the 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 Conclusion**

The Screening Report concluded that, subject to Natural England's review, the Assington Neighbourhood Plan is not predicted to have any Likely Significant Effects on any Habitats site, either alone or in combination with other plans and projects.

Natural England have subsequently confirmed that they concur with the conclusion of the HRA Screening.

The requirement for the Plan to undertake further assessment under the Habitats Regulations 2017 is therefore **'screened out.'**

#### **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 Assington Neighbourhood Plan **does not require** further assessment under the Habitats Regulations 2017.

Date: 02 April 2020  
Our ref: 313427



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## BY EMAIL ONLY

Dear Paul Bryant

### SEA & HRA Screening Statements on the Assington Neighbourhood Plan

Thank you for your consultation on the above dated and received by Natural England on 31 March 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.

#### Screening Request: Strategic Environmental Assessment

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.

Natural England agrees with HRA screening statement.

#### Neighbourhood 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.

For any queries relating to the specific advice in this letter only please contact Matthew Dean on [REDACTED]. For any 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

Matthew Dean  
Consultations Team

**By e-mail dated Fri 24 April 2020**



Historic England

Re: Assington NP – SEA / HRA Screening Consultation

Dear Paul,

Thank you for your email of 31 March 2020 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 Assington Neighbourhood Plan) likely to have a significant effect on the historic environment?". Our comments are based on the information supplied with the Screening Opinion, which includes the draft Assington Neighbourhood Plan.

The Screening Report indicates that the Council considers that the Assington Neighbourhood Plan will not have any significant effects on the historic environment. We note that the plan seeks to allocate land for up to 34 residential units, primarily on sites that already benefit from planning permission. Site ASSN8 does not, but we consider it unlikely that the development of the site in accordance with the allocation policy will result in significant effects.

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 31 March 2020. 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.

Please do contact me if you have any queries.

Kind regards,

Edward James MA BA ACIfA  
Historic Places Adviser - East of England  
Historic England



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Paul Bryant  
Babergh Mid Suffolk Councils

Our Ref: AE/2020/125073/01-L01  
Your ref: REG 14

Date: 29 April 2020

Dear Mr Bryant,

**SEA SCREENING DRAFT NEIGHBOURHOOD PLAN – ASSINGTON**

Thank you for consulting us on the above SEA Screening report. We have reviewed the documents as submitted and can confirm that we do not disagree with the conclusion reached that no SEA report is required.

The Neighbourhood plan proposes allocated sites, however all but 1 already have obtained planning permission. We would advise that the remaining proposed development should consider contaminated land, foul drainage and flood risk when being submitted for planning permission.

If a SEA report is ruled in we would advise that these constraints should be considered within the SEA report are the same as above that we have highlighted for the future proposed development.

We trust the above is useful.

Yours sincerely

Miss Natalie Kermath  
Planning Advisor

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End