



Capel St Mary Neighbourhood Plan 2024 - 2037

**Strategic Environmental Assessment
and
Habitat Regulation Assessment
Determination Notices**

November 2024

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CAPEL ST MARY NEIGHBOURHOOD PLAN (September 2024)

Strategic Environmental Assessment & Habitat Regulation Assessment Screening Determination Notices (November 2024)

Overview

This report, which is divided into two parts, relates to the Regulation 14 Pre-submission draft version of the Capel St Mary Neighbourhood Plan 2024 - 2037' [hereafter referred to as the 'Capel St Mary NP'] which was published for consultation in September 2024. A copy of this was made available for screening purposes in the same month. The purpose of this document is to determine whether a Strategic Environmental Assessment (SEA) and or an Appropriate Assessment in relation to Habitat Regulation Assessment (HRA) matters are required.

Part A addresses SEA matters. Part B addresses HRA matters.

The report also refers to:

- the SEA and HRA Screening Reports that have been prepared on behalf of the district council by Land Use Consultants, which can be found online at:

<https://www.babergh.gov.uk/documents/d/babergh/cstm-np-sea-screening-report-oct24>

<https://www.babergh.gov.uk/documents/d/babergh/cstm-np-hra-screening-report-oct24>

- and the screening consultation responses from the statutory bodies reproduced in Appendix 1.

The Capel St Mary NP contains the following vision, which feeds into five themes and eight objectives:

“That Capel St Mary retains its rural character whilst providing a sustainable future through: -

- *meeting local housing needs*
- *respecting the local built and natural environment*
- *retaining and enhancing local infrastructure and services.”*

The vision and objectives are then translated into eleven policies (CSM 1 to CSM 11). The Capel St Mary NP does not allocate any sites for new housing or other built development but does state (Policy CSM 1) that *“the neighbourhood plan area will accommodate development commensurate with [the] settlement hierarchy defined in the adopted Local Plan”* and that *“the focus for new development will be within the settlement boundary where the principle of development is accepted”*.

The remaining policies address a range of topics including housing mix, design considerations, flooding and sustainable drainage, biodiversity, local green spaces, employment, services and facilities.

Part A - Strategic Environmental Assessment Determination

1. Introduction

One of the basic conditions that all neighbourhood plans will be tested against by the independent examiner is whether the making of that Plan is compatible with European Union obligations, as incorporated into UK law. Whether a neighbourhood plan requires a SEA and the level of detail needed will depend on what is proposed in the draft Neighbourhood Plan and the characteristics of the local area.

2. Legislative Background

European Union Directive 2001/42/EC (the SEA Directive), transposed into UK law through the SEA Regulations, requires a Strategic Environmental Assessment to be undertaken for certain types of plans or programmes that would have a significant environmental effect. The Environmental Assessment of Plans & Programmes Regulations 2004 (the Regulations) require that this is determined by a screening process, which should use a specified set of criteria (set out in Schedule 1 of the Regulations). The results of this process must be set out in a SEA Screening Statement, which must be publicly available.

In accordance with Regulation 9 of the SEA Regulations 2004, Capel St Mary Parish Council (the qualifying body) asked Babergh District Council (BDC) (the responsible authority) to determine whether an environmental report on their revised pre-submission draft neighbourhood plan was required due to significant environmental effects. In making this determination, BDC have had regard to Schedule 1 of the Regulations.

In line with the advice contained within the National Planning Policy Framework (NPPF) and Planning Practice Guidance, the Plan's potential scope has been assessed against the criteria set out in Schedule 1 of the 2004 Environmental Assessment Regulations. As mentioned already, Land Use Consultants (LUC) were commissioned to prepare a screening report to assess whether SEA would be required.

SEA can be required in some limited situations where a sustainability appraisal is not needed. Neighbourhood Planning is one of these situations. Sustainability Appraisals (SAs) may incorporate the requirements of the Strategic Environmental Assessment Regulations, which implement the requirements of the 'Strategic Environmental Assessment Directive' on the assessment of the effects of certain plans and programmes on the environment.

A Sustainability Appraisal ensures that potential environmental effects are given full consideration alongside social and economic issues, and it is good practice to do one to understand how a plan is to deliver sustainable development. However, NPPF Planning Practice Guidance states that there is no legal requirement for a neighbourhood plan to undertake a Sustainability Appraisal as set out in Section 19 of the Planning and Compulsory Purchase Act 2004. It is down to the qualifying body to demonstrate whether the plan is likely to have significant environmental effects. This is the purpose of the SEA Screening Report.

3. Criteria for determining likely significance of effects

The criteria are set out in the following table:

1. The characteristics of plans and programmes, having regard, in particular, to:
 - a) the degree to which the plan or programme sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources,
 - b) the degree to which the plan or programme influences other plans and programmes including those in a hierarchy
 - c) (the relevance of the plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development,
 - d) environmental problems relevant to the plan or programme,
 - e) the relevance of the plan or programme for the implementation of Community legislation on the environment (e.g. plans and programmes linked to waste-management or water protection).
2. Characteristics of the effects and of the area likely to be affected, having regard, in particular, to:
 - a) the probability, duration, frequency and reversibility of the effects,
 - b) the cumulative nature of the effects,
 - c) the trans-boundary nature of the effects,
 - d) the risks to human health or the environment (e.g. due to accidents),
 - e) the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected),
 - f) the value and vulnerability of the area likely to be affected due to:
 - i) special natural characteristics or cultural heritage,
 - ii) exceeded environmental quality standards or limit values,
 - iii) intensive land-use,
 - g) the effects on areas or landscapes which have a recognised national, Community or international protection status.

[Source: Schedule 1 of Environmental Assessment of Plans & Programmes Regulations 2004]

4. Assessment

The neighbourhood plan vision, and a summary of its policies are set out in the Overview. A full assessment of the likely effects of the Plan are set out in the relevant screening report.

5. SEA Screening Conclusion

The LUC Screening Report concludes that the Capel St Mary NP “...does not directly impact on land use through the allocation of sites for housing or other forms of development.” and that on this basis, “the Plan is unlikely to have significant environmental effects and full SEA is therefore not required.”

Consultation on the SEA Screening Report was carried out with the Environment Agency (EA), Historic England (HE), and Natural England (NE). Written responses were received from HE and NE (see Appendix 1). No formal response was received from the Environment Agency.

- HE concluded that, 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], that the preparation of a Strategic Environmental Assessment is not required.
- NE concluded that, on the basis of the material supplied with the consultation, that significant effects on statutorily designated nature conservation sites or landscapes are unlikely.

6. SEA Determination

In light of the SEA Screening Report (Oct 2024) prepared by LUC and having also considered the responses to this from the statutory consultees, it is our determination that the Capel St Mary Neighbourhood Plan (September 2024) **does not require** a Strategic Environmental Assessment in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004.

Part B – Habitats Regulations Determination

1. Introduction

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 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 at the independent examination.

The assessment itself and the level of detail needed will depend on what is proposed in the draft Neighbourhood Plan and the potential impacts on Habitats Sites designated for their nature conservation interest.

This notice therefore determines whether an Appropriate Assessment under the UK Conservation of Habitats and Species Regulations 2017, which enacts the Habitats Directive¹, is required for the Capel St Mary NP.

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 a Habitats Site (European Site or a European offshore marine site). The first stage is to screen the plan to see whether it is likely to have a significant effect on any Habitats sites. If the plan is 'screened-in' because likely significant effects cannot be ruled out, the next stage is for an Appropriate Assessment to be carried out considering the impact on the Habitats 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 Habitats site will not be adversely affected.

Case law is also relevant, including most notably the 'People over Wind' and 'Holohan' rulings. The 'People Over Wind, Peter Sweetman v Collie Teoranta' judgement 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. The 'Holohan and Others v An Bord Pleanála' judgement 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.

¹ 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>.

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 Habitats Site, the full Appropriate Assessment would be required.

The neighbourhood plan vision, and a summary of its policies are set out in the Overview. A full assessment of the likely effects of the Plan are set out in the relevant screening report. The screening has also been prepared in accordance with the relevant CJEU judgements.

The following European sites were identified as lying within 20km of the designated Plan Area:

- The Stour and Orwell Estuaries Special Protection Area and Ramsar site
- Deben Estuary Special Protection Area and Deben Estuary Ramsar
- Hamford Water Special Area of Conservation, Special Protection Area, and Ramsar site
- Colne Estuary Special Protection Area and Ramsar site
- Essex Estuaries Special Area of Conservation
- Abberton Reservoir Special Protection Area and Ramsar site

The closest of these is the Stour and Orwell Estuaries SPA and Ramsar site which lies approximately 2.5 km south of the Parish.

4. HRA Screening Conclusion

The Screening Report concludes that:

'... no likely significant effects are predicted on European sites as a result of the Capel St Mary Neighbourhood Plan, either alone or in combination with other policies and proposals'

and, therefore, that

'an Appropriate Assessment is not required for the Capel St Mary Neighbourhood Plan as none of the policies will result directly in development and likely significant effects from the plan can therefore be ruled out.'

Consultation on the HRA Screening Report was carried out with the Environment Agency (EA) and Natural England (NE). No formal response was received from the Environment Agency.

- NE concluded that, on the basis of the material supplied with the consultation, that significant effects on Habitats sites, either alone or in combination, are unlikely (see Appendix 1).

5. HRA Determination

In light of the HRA Screening Report (October 2024) prepared by LUC and having considered the responses to this from the statutory consultees, it is our determination that the Capel St Mary Neighbourhood Plan is '**screened out**' from further assessment under the Habitats Regulations 2017 and that an Appropriate Assessment is not required.

Appendix 1

By e-mail dated 30 October 2024
Re: Capel St Mary SEA Screening Consultation



Dear Paul,

Thank you for inviting Historic England to comment on this 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 Capel St Mary 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 plan will not have any significant effects on the historic environment. We note that the plan does not propose to allocate any sites for development.

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. To avoid any doubt, this does not reflect our obligation to provide further advice on later stages of the 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) where we consider that, despite the 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, either via email or the number below, if you have any queries.

Ross McGivern (he/him)
Historic Places Adviser
East of England Region | Partnerships Team
Historic England | Brooklands | 24 Brooklands Avenue | Cambridge | CB2 8BU

Date: 1 November 2024
Our ref: 490044
Your ref: Capel St Mary Neighbourhood Plan



Mr Paul Bryant
Babergh & Mid Suffolk District Councils

BY EMAIL ONLY

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Dear Mr Bryant

Capel St Mary Neighbourhood Plan Revised - SEA & HRA Screening Report Consultation

Thank you for your consultation on the above dated and received by Natural England on 8 October 2024.

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 (SEA) and Habitats Regulations Assessment (HRA)

It is Natural England's advice, on the basis of the material supplied with the consultation, that:

- **significant effects on statutorily designated nature conservation sites or landscapes are unlikely; and,**
- **significant effects on Habitats sites¹, either alone or in combination, are unlikely.**

The proposed neighbourhood plan is unlikely to significantly affect any Site of Special Scientific Interest (SSSI), Marine Conservation Zone (MCZ), Special Areas of Conservation (SAC), Special Protection areas (SPA), Ramsar wetland or sites in the process of becoming SACs or SPAs ('candidate SACs', 'possible SACs', 'potential SPAs') or a Ramsar wetland. The plan area is unlikely to have a significant effect on a National Park, Area of Outstanding Natural Beauty or Heritage Coast, and is unlikely to impact upon the purposes for which these areas are designated or defined.

Guidance on the assessment of Neighbourhood Plans, in line with the Environmental Assessment of Plans and Programmes Regulations 2004 is contained within the [Planning Practice Guidance](#). This identifies three triggers that may require the production of an SEA:

- 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.

Natural England does not hold information on the location of significant populations of protected species, so is unable to advise whether this plan is likely to affect protected species to such an extent as to require an SEA. Further information is included in Natural England's [standing advice](#) on protected species.

Furthermore, Natural England does not routinely maintain locally specific data on all environmental assets. The plan may have environmental impacts on priority species and/or habitats, local wildlife sites, soils and best and most versatile agricultural land, or on local landscape character that may be sufficient to warrant an SEA. Information on ancient woodland, ancient and veteran trees is set out in Natural England/Forestry Commission [standing advice](#).

We therefore recommend that advice is sought from your ecological, landscape and soils advisers, local record centre, recording society or wildlife body on the local soils, best and most versatile agricultural land, landscape, geodiversity and biodiversity receptors that may be affected by the plan before determining whether a SEA is necessary.

Natural England reserves the right to provide further advice on the environmental assessment of the plan. This includes any third party appeal against any screening decision you may make. If a SEA is required, Natural England must be consulted at the scoping and environmental report stages.

Please send any new consultations, or further information on this consultation to consultations@naturalengland.org.uk

Yours sincerely

Sally Wintle
Consultations Team

1 Habitats sites are those referred to in the [National Planning Policy Framework](#) (Annex 2 - glossary) as "any site which would be included within the definition at regulation 8 of the Conservation of Habitats and Species Regulations 2017 for the purpose of those regulations, including candidate Special Areas of Conservation, Sites of Community Importance, Special Areas of Conservation, Special Protection Areas and any relevant Marine Sites".