



Little Cornard Neighbourhood Plan 2020 – 2036

Habitats Regulations Screening Determination

The Conservation of Species and Habitats Regulations 2017
(as amended)

February 2021

Contents

	Page
1. Introduction	2
2. Legislative Background	2
3. Assessment	3
4. Screening Conclusion	4
5. Determination	4
Appendix 1: Response from Statutory Consultee	5

LITTLE CORNARD NEIGHBOURHOOD PLAN

HABITATS REGULATIONS DETERMINATION

1. Introduction

This assessment relates to the 'Complete Draft Little Cornard Neighbourhood Development Plan 2020 - 2036 (November 2020)' which was made available for screening in early December 2020

Under English Law and the Habitats Regulations (*The Conservation of Habitats and Species Regulations 2017, as amended*), a competent authority must carry out an assessment to determine whether a plan or project is likely to have a significant effect on the integrity of any Habitats Site¹, 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 Habitats Sites designated for their nature conservation interest.

This report therefore determines whether a Habitats Regulations Assessment is required for the Little Cornard Neighbourhood Plan. The determination refers to:

1. 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/LittleCornardNP
2. The responses to the above from the Statutory Consultee (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 a Habitats site (European Sites 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

¹ the term used in the (revised) NPPF (2019) to describe the National Network of Sites of nature protection areas in the UK.

first stage or the Appropriate Assessment concludes the integrity of the Habitats site will not be adversely affected.

While the decisions of the Court of Justice of the European Union (CJEU) on HRA made after 31 December 2020 will no longer be binding on any of the courts in the UK, case law is still applicable.

In *People Over Wind v Collie Teoranta C-323/17*, the CJEU ruled that mitigation measures cannot be taken into account when carrying out a screening assessment to decide whether a plan or project is likely to result in significant effects on a Habitats Site. Further case law (*Holohan & Others v An Bord Pleanála C-461/17*) also imposed 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 Habitats Site, the full Appropriate Assessment would be required.

The Neighbourhood Plan vision can be briefly summarised as follows:

... to address, as far as is possible, the challenges that face the community of Little Cornard parish ... through five clearly defined objectives.

The draft Plan contains six policies to address the identified objectives, covering topics including access to the countryside, views and dark skies. There are no allocations made for new housing or other built development, although one policy does set out criteria that would apply to proposals seeking the conversion of agricultural barns and out-buildings.

There are four Habitats Sites which lie within 20 km of Little Cornard parish:

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

As the Plan area is not within the 13Km Zone of Influence for recreational disturbance for the Stour and Orwell sites nor the impact Risk Zone for the Abberton 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 April 2020 prepared by Place Services. A copy of this can be viewed at:

<https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Little-Cornard-NP-HRA-Screening-Report-Jan21.pdf>

The screening has been prepared in accordance with the relevant CJEU judgements.

4. **Screening Conclusion**

The Screening Report concluded that, subject to Natural England's review, the Complete Draft Little Cornard Neighbourhood Plan (November 2020) is not predicted to have any Likely Significant Effects on any Habitats Site, either alone or in combination with other plans and projects.

In their response, Natural England concurred with the view that the proposal can be screened out from further stages of assessment because significant effects are unlikely to occur, either alone or in combination.

5. **Determination**

In the light of the Screening Report prepared by Place Services and information contained in the response from Natural England, it is determined that the Little Cornard Neighbourhood Plan **does not require** further assessment under the Habitats and Species Regulations 2017 (as amended).

Date: 29 January 2021
Our ref: 339680
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BY EMAIL ONLY

Dear Mr. Bryant

Planning Consultation: Screening for the Strategic Environmental Assessment (SEA) and Habitats Regulation Assessment (HRA) for the emerging Little Cornard Neighbourhood Plan

Thank you for your consultation on the above dated 12th January which was received by Natural England on the same date.

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 Opinion Request: Strategic Environmental Assessment and Habitats Regulation Assessment

Habitats Regulation Assessment

Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal in accordance with regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process, and a competent authority should have regard to Natural England's advice. Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question.

Natural England notes that your authority, as competent authority under the provisions of the Habitats Regulations, has screened the proposal to check for the likelihood of significant effects. Your assessment concludes that the proposal can be screened out from further stages of assessment because significant effects are unlikely to occur, either alone or in combination. On the basis of the information provided, Natural England concurs with this view.

Strategic Environmental Assessment

Where Neighbourhood Plans could have significant environmental effects, they may require a Strategic Environmental Assessment (SEA) under the Environment Assessment of Plans and Programmes Regulations 2004 (as amended). Further guidance on deciding whether the proposals are likely to have significant environmental effects and the requirements for consulting Natural England on SEA are set out in the [planning practice guidance](#).

Planning practice guidance also outlines that if an appropriate assessment is required for your neighbourhood plan this will also engage the need for a SEA. One of the basic conditions that will be tested by the independent examiner is whether the neighbourhood plan is compatible with European obligations, including those under the SEA Directive. Where a SEA is required it should be prepared in accordance with [regulation 12](#) of the SEA Regulations.

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 and therefore we concur with your conclusion that an SEA is not required.

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/HRA 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.

POLICY LCO1: CORNARD MERE AND GREAT CORNARD COUNTRY PARK *and* POLICY LCO2: ACCESS INTO THE COUNTRYSIDE

Natural England is pleased to see your aspirations for improving recreational and habitat connectivity between Cornard Mere SSSI and Great Cornard Country Park as well as the wider countryside. Well-connected and managed access routes, particularly where they form circular walks, can provide huge opportunities for residents to exercise and enjoy the countryside as well as acting to alleviate pressures on designated sites and creating habitat corridors which allow species movements.

[cont./]

Particular consideration should be given to ensuring that increased recreational visits to the Cornard Mere SSSI do not result in damage or recreational disturbance. The Natural England [Green Infrastructure Guidance](#) also contains helpful information to support your implementation of these policies. Whilst we recognise there is no new development proposed within this plan, the document [Planning for Dog Ownership in New Developments: Reducing Conflict – Adding Value](#) may be of use as you consider potential new routes and improvements.

Further general advice on neighbourhood planning and the natural environment, including natural environment information sources is provided in Annex I.

For any further consultations on your plan, please contact: consultations@naturalengland.org.uk.

Yours faithfully

Niall Walkden
Norfolk and Suffolk Team

NB: See next page for copy of Annex 1

Annex 1 - Neighbourhood planning and the natural environment: information, issues and opportunities

Natural environment information sources

The [Magic](http://magic.defra.gov.uk/)¹ website will provide you with much of the nationally held natural environment data for your plan area. The most relevant layers for you to consider are: **Agricultural Land Classification, Ancient Woodland, Areas of Outstanding Natural Beauty, Local Nature Reserves, National Parks (England), National Trails, Priority Habitat Inventory, public rights of way (on the Ordnance Survey base map) and Sites of Special Scientific Interest (including their impact risk zones)**. Local environmental record centres may hold a range of additional information on the natural environment. A list of local record centres is available [here](#)².

Priority habitats are those habitats of particular importance for nature conservation, and the list of them can be found [here](#)³. Most of these will be mapped either as **Sites of Special Scientific Interest**, on the Magic website or as **Local Wildlife Sites**. Your local planning authority should be able to supply you with the locations of Local Wildlife Sites.

National Character Areas (NCAs) divide England into 159 distinct natural areas. Each character area is defined by a unique combination of landscape, biodiversity, geodiversity and cultural and economic activity. NCA profiles contain descriptions of the area and statements of environmental opportunity, which may be useful to inform proposals in your plan. NCA information can be found [here](#)⁴.

There may also be a local **landscape character assessment** covering your area. This is a tool to help understand the character and local distinctiveness of the landscape and identify the features that give it a sense of place. It can help to inform, plan and manage change in the area. Your local planning authority should be able to help you access these if you can't find them online.

If your neighbourhood planning area is within or adjacent to a **National Park** or **Area of Outstanding Natural Beauty** (AONB), the relevant National Park/AONB Management Plan for the area will set out useful information about the protected landscape. You can access the plans on from the relevant National Park Authority or Area of Outstanding Natural Beauty website.

General mapped information on **soil types** and **Agricultural Land Classification** is available (under 'landscape') on the [Magic](http://magic.defra.gov.uk/)⁵ website and also from the [LandIS website](http://www.landis.org.uk/index.cfm)⁶, which contains more information about obtaining soil data.

Natural environment issues to consider

The [National Planning Policy Framework](#)⁷ sets out national planning policy on protecting and enhancing the natural environment. [Planning Practice Guidance](#)⁸ sets out supporting guidance.

Your local planning authority should be able to provide you with further advice on the potential impacts of your plan or order on the natural environment and the need for any environmental assessments.

¹ <http://magic.defra.gov.uk/>

² <http://www.nbn-nfbr.org.uk/nfbr.php>

³ <http://webarchive.nationalarchives.gov.uk/20140711133551/http://www.naturalengland.org.uk/ourwork/conservation/biodiversity/protectandmanage/habsandspeciesimportance.aspx>

⁴ <https://www.gov.uk/government/publications/national-character-area-profiles-data-for-local-decision-making>

⁵ <http://magic.defra.gov.uk/>

⁶ <http://www.landis.org.uk/index.cfm>

⁷ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/807247/NPPF_Feb_2019_revised.pdf

⁸ <http://planningguidance.planningportal.gov.uk/blog/guidance/natural-environment/>

Landscape

Your plans or orders may present opportunities to protect and enhance locally valued landscapes. You may want to consider identifying distinctive local landscape features or characteristics such as ponds, woodland or dry stone walls and think about how any new development proposals can respect and enhance local landscape character and distinctiveness.

If you are proposing development within or close to a protected landscape (National Park or Area of Outstanding Natural Beauty) or other sensitive location, we recommend that you carry out a landscape assessment of the proposal. Landscape assessments can help you to choose the most appropriate sites for development and help to avoid or minimise impacts of development on the landscape through careful siting, design and landscaping.

Wildlife habitats

Some proposals can have adverse impacts on designated wildlife sites or other priority habitats (listed [here](#)⁹), such as Sites of Special Scientific Interest or [Ancient woodland](#)¹⁰. If there are likely to be any adverse impacts you'll need to think about how such impacts can be avoided, mitigated or, as a last resort, compensated for.

Priority and protected species

You'll also want to consider whether any proposals might affect priority species (listed [here](#)¹¹) or protected species. To help you do this, Natural England has produced advice [here](#)¹² to help understand the impact of particular developments on protected species.

Best and Most Versatile Agricultural Land

Soil is a finite resource that fulfils many important functions and services for society. It is a growing medium for food, timber and other crops, a store for carbon and water, a reservoir of biodiversity and a buffer against pollution. If you are proposing development, you should seek to use areas of poorer quality agricultural land in preference to that of a higher quality in line with National Planning Policy Framework para 171. For more information, see our publication [Agricultural Land Classification: protecting the best and most versatile agricultural land](#)¹³.

Improving your natural environment

Your plan or order can offer exciting opportunities to enhance your local environment. If you are setting out policies on new development or proposing sites for development, you may wish to consider identifying what environmental features you want to be retained or enhanced or new features you would like to see created as part of any new development. Examples 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.
- Think about how lighting can be best managed to encourage wildlife.
- Adding a green roof to new buildings.

⁹ <http://webarchive.nationalarchives.gov.uk/20140711133551/http://www.naturalengland.org.uk/ourwork/conservation/biodiversity/protectandmanage/habsandspeciesimportance.aspx>

¹⁰ <https://www.gov.uk/guidance/ancient-woodland-and-veteran-trees-protection-surveys-licences>

¹¹ <http://webarchive.nationalarchives.gov.uk/20140711133551/http://www.naturalengland.org.uk/ourwork/conservation/biodiversity/protectandmanage/habsandspeciesimportance.aspx>

¹² <https://www.gov.uk/protected-species-and-sites-how-to-review-planning-proposals>

¹³ <http://publications.naturalengland.org.uk/publication/35012>

You may also want to consider enhancing your local area in other ways, for example by:

- Setting out in your plan how you would like to implement elements of a wider Green Infrastructure Strategy (if one exists) in your community.
- Assessing needs for accessible greenspace and setting out proposals to address any deficiencies or enhance provision.
- Identifying green areas of particular importance for special protection through Local Green Space designation (see [Planning Practice Guidance on this](#) ¹⁴).
- Managing existing (and new) public spaces to be more wildlife friendly (e.g. by sowing wild flower strips in less used parts of parks, changing hedge cutting timings and frequency).
- Planting additional street trees.
- Identifying any improvements to the existing public right of way network, e.g. cutting back hedges, improving the surface, clearing litter or installing kissing gates) or extending 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).

¹⁴ <http://planningguidance.planningportal.gov.uk/blog/guidance/open-space-sports-and-recreation-facilities-public-rights-of-way-and-local-green-space/local-green-space-designation/>