



Sproughton Neighbourhood Plan

2018 – 2037

Habitats Regulations Screening Determination

September 2022

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SPROUGHTON NEIGHBOURHOOD PLAN

HABITATS REGULATIONS DETERMINATION

1. Introduction

This assessment relates to a post pre-submission draft version of the ‘Sproughton Neighbourhood Development Plan 2018 - 2037’ [the Sproughton NP], a copy of which was made available for screening in May 2022.

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 report therefore determines whether a HRA under the UK Conservation of Habitats and Species Regulations 2017, which enacts the Habitats Directive¹, is required for the Sproughton NP. In doing so, it refers to:

- The HRA Screening Report (July 2022) prepared by Land Use Consultants, which can be found online at:

<https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Sproughton-NP-HRA-Screening-Report-Jun22.pdf>

- The response to this 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 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

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>.

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.

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 Sproughton NP sets out the following vision which feeds into 24 objectives that sit within seven themes:

In 2037 Sproughton will be a thriving, safe parish that will have balanced the provision of housing growth with the need to maintain and enhance its special character, historic landscape and environment and ensuring that the needs of existing and future residents and businesses are respected.

The Plan then sets out 21 policies (SPTN1 to SPTN21) to realise the vision and deliver the objectives. These policies cover the overall spatial strategy, protection of the natural and historic environment and design and infrastructure considerations. The Plan does not make any site allocations for new housing or other built development.

Eight Habitats Sites were identified as lying within 20km of the Sproughton NP Area:

Special Protection Area (SPA)	Special Area of Conservation (SAC)	Ramsar
Stour and Orwell Estuaries		Stour and Orwell Estuaries
Deben Estuary		Deben Estuary
Hamford Water	Hamford Water	Hamford Water
Sandlings		

A full assessment of the likely effects of the Plan are set out in the Screening Report. [See link in section 1 above]. The screening has been prepared in accordance with the relevant CJEU judgements.

4. Screening Conclusion

The Screening Report concludes that: “*no likely significant effects are predicted on European sites, either alone or in combination with other policies and proposals.*”

It goes on to say that, while no changes to the Sproughton NP are assumed in reaching the above conclusion, to strengthen the protection for European sites provided by Sproughton NP governing residential development, it sets out a number of suggested recommendations regarding Policy SPTN12: Recreation Disturbance Avoidance and Mitigation, including a recommendation based on Natural England’s general advice regarding natural greenspace requirements on larger development proposals.

Consultation on the Screening Report was carried out with Natural England. In their response (see Appendix 1) they agreed with the overall conclusion reached and welcomed the suggested policy amendments.

5. Determination

In light of the HRA Screening Report prepared by LUC, and the response to this from the statutory consultee, it is determined that the Sproughton Neighbourhood Plan is ‘**screened-out**’ for further assessment under the Habitats Regulations 2017 and that an Appropriate Assessment is not required.

Furthermore, the Parish Council are asked to implement the recommendations regarding the Policy SPTN12.

By e-mail dated 12 July 2022

Re: Sproughton NP SEA & HRA Screening Consultation request



Dear Mr Bryant

ref: Consultation on Sproughton NP SEA & HRA Screening Reports (Babergh DC)

Our ref: 398226

Natural England has no further comments to make on this application.

Habitats Regulations Assessment

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.

We also welcome the policy amendments contained in the updated Habitats Regulations Assessments related to recreational disturbance which will strengthen the protection for European sites (Chapter 5, SPTN 12).

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 has not assessed this application 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 ecology services 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.

The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated nature conservation sites. It is for the local planning authority to determine whether or not this application is consistent with national and local policies on the natural environment. Other bodies and individuals may be able to provide information and advice on the environmental value of this site and the impacts of the proposal to assist the decision making process. We advise LPAs to obtain specialist ecological or other environmental advice when determining the environmental impacts of development.

We recommend referring to our SSSI Impact Risk Zones (available on [Magic](#) and as a downloadable [dataset](#)) prior to consultation with Natural England. Further guidance on when to consult Natural England on planning and development proposals is available on gov.uk at <https://www.gov.uk/guidance/local-planning-authorities-get-environmental-advice>

Yours faithfully

Daniel Turner | Lead Adviser | Sustainable Development | Norfolk & Suffolk
www.gov.uk/natural-england