

EAST HERTS COUNCIL

NON-KEY DECISION – 16/07

REPORT BY THE LEADER OF THE COUNCIL

BUNTINGFORD COMMUNITY AREA NEIGHBOURHOOD PLAN –
STRATEGIC ENVIRONMENTAL ASSESSMENT AND APPROPRIATE
ASSESSMENT SCREENING REPORT

WARD(S) AFFECTED: MUNDENS AND COTTERED,
BUNTINGFORD

Purpose/Summary of Report

- The purpose of this report is to determine whether or not a Strategic Environmental Assessment (SEA) and/or a Habitats Regulations Assessment (HRA) of the emerging Buntingford Community Area Neighbourhood Plan is required.
- The report concludes that the Neighbourhood Plan does not require either a Strategic Environmental Assessment (SEA) or a Habitats Regulations Assessment (HRA) because the Plan is not likely to have any significant environment effects.

RECOMMENDATIONS FOR DECISION: That the joint parish group be advised that:

(A)	in accordance with Regulation 9 of the Environmental Assessment of Plans and Programmes Regulations 2004, the District Council, as the responsible authority, has determined that an environmental assessment of the emerging Buntingford Community Area Neighbourhood Plan is not required as it is unlikely to have significant environmental effects. In making this determination, the District Council has had regard to Schedule 1 of the Regulations and has carried out consultation with the consultation bodies; and
(B)	the emerging Buntingford Community Area Neighbourhood Plan is unlikely to have a significant effect upon a Natura 2000 designation and therefore does not require an HRA.

1.0 Background

- 1.1 In order for a neighbourhood plan to meet the Basic Conditions to proceed to Referendum, the Local Planning Authority must determine whether a neighbourhood plan requires a Strategic Environmental Assessment (SEA), and/or a Habitats Regulations Assessment (HRA). This report determines whether the Buntingford Community Area Neighbourhood Plan (BCANP) requires either.

SEA Legislative Background

- 1.2 The European Directive 2001/42/EC requires a Strategic Environmental Assessment (SEA Directive) to be carried out for certain plans and programmes to assess their effects on the environment. This Directive was transposed in law by the Environmental Assessment of Plans and Programmes Regulations 2004.
- 1.3 Neighbourhood Plans fall within the scope of this legislation. They are a plan as defined by Article 3(2) of the SEA regulations and Regulation 5 paragraph 2 of the Environmental Assessment of Plans and Programmes Regulations 2004.
- 1.4 Under Article 3(2) of the SEA Directive and Regulation 5 paragraph 6 of the Environmental Assessment of Plans and Programmes Regulations 2004, Strategic Environmental Assessment (SEA) is only required for documents that determine land use in small areas at the local level where it is considered that they are likely to have 'significant environmental effects'. This is carried out through a screening determination.
- 1.5 The role of a screening exercise is to determine whether the effect of the implementation of a plan or programme is likely to have a significant effect on the environment.

HRA Legislative Background

- 1.6 The Conservation of Habitats and Species Regulations 2010 (as amended in 2012) transpose the requirements of the European Habitats Directive 92/43/EEC into UK law. The Habitats Directive and Regulations afford protection to plants, animals and habitats that are rare and vulnerable in a European context.

- 1.7 Habitats Regulations Assessment (HRA) is a systematic process through which the performance of a plan or project can be assessed for its likely impact on the integrity of a European Site. European Sites, also referred to as Natura 2000 sites, consist of Special Protection Areas (SPA), Special Areas of Conservation (SAC); Potential Special Protection Areas and candidate Special Areas of Conservation (pSPA and cSAC); and listed or proposed Ramsar sites.
- 1.8 Article 6(3) of the Habitats Directive states: 'Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans and projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives'.
- 1.9 The first stage of HRA is to screen a plan or programme to identify if there are likely to be any significant effects on Natura 2000 sites. This will indicate whether a full Appropriate Assessment is required.

2.0 Report

SEA

- 2.1 To decide whether a draft neighbourhood plan might have significant environmental effects, its scope needs to be assessed against the criteria set out in Schedule 1 to the Environmental Assessment of Plans and Programmes Regulations 2004.
- 2.2 The local planning authority is required to put in place a process to provide a screening opinion to the qualifying body (in this case, Buntingford Town Council) on whether the proposed neighbourhood plan will require a Strategic Environmental Assessment (SEA). The qualifying body should work with the local planning authority to ensure that the authority has the information that it needs to provide a screening opinion.
- 2.3 When deciding on whether proposals are likely to have significant environmental effects, the local planning authority is required to consult Historic England, Natural England and the Environment Agency (the 'statutory consultees').
- 2.4 Buntingford Town Council (the qualifying body) has produced a draft neighbourhood plan. The BCANP covers:

- The development of housing (design and layout);
 - Protection and enhancement of open spaces and access to the countryside;
 - Local employment opportunities and retention of existing community and retail facilities;
 - Transport and access issues (roads, parking and walking).
- 2.5 The BCANP does not allocate land for housing or for any other significant development. Rather it provides local level guidance on how the community wishes to see future development come forward.
- 2.6 The screening report contains a diagram at Section 5 which demonstrates the application of the SEA Directive to plans and programmes. Appendix 1 of the screening report assesses whether or not an SEA is required.
- 2.7 The Environment Agency, Natural England and English Heritage have all been consulted on the Screening Report and have all confirmed that they agree with the outcome that an SEA is not required for the Neighbourhood Plan. Their responses are attached at **Essential Reference Paper 'B'**.
- 2.8 Having regard to Schedule 1 of the Regulations and following consultation with the consultation bodies it is concluded that an environmental assessment of the emerging BCANP is not required as it is unlikely to have significant environmental effects.
- 2.9 The Local Authority is the 'competent authority' under the Conservation of Habitats and Species Regulations 2010, and needs to ensure that Neighbourhood Plans have been assessed through the Habitat Regulations process. This looks at the potential for significant impacts on nature conservation sites that are of European importance, also referred to as Natura 2000.
- 2.10 There are three key Natura 2000 sites that lie partly within East Hertfordshire – Lee Valley SPA; Lee Valley Ramsar site; and Wormley-Hoddesdon park Woods SAC (although there are also sites in neighbouring authorities, namely Epping Forest SAC). Because Neighbourhood Plans must conform with the development plan for the area (in this case, the East Herts Local Plan 2007), which has itself been subject to an HRA, the key issue will be whether the Neighbourhood Plan will potentially result in an impact not previously considered.

2.11 The HRA on the Local Plan 2007 concluded:

‘The European Sites of nature conservation interest in the district are valued features that have local importance as well as wider significance. The Local Plan Second Review attaches a correspondingly high level of protection to these sites from inappropriate development.

Policy ENV12 [of the Local Plan 2007] establishes a robust approach to the protection of European Sites that reflects the Habitats Directive and will help maintain the importance of these sites through the life of the Plan. While there are several proposals in the Local Plan in proximity to these sites, the requirements imposed through Policy ENV12 ensure that none of the proposals are likely to result in a significant effect on a European site.’

2.12 Given the conclusions of the HRA on the Local Plan 2007 and the fact that the Neighbourhood Plan does not include any land allocations it is concluded that an HRA on the Neighbourhood Plan is not required.

3.0 Implications/Consultations

3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper ‘A’**.

Background Papers

None

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