



**Habitat Regulation Assessment:
Braintree District Council Local Development Framework Draft Core
Strategy**

Portfolio Area: Nigel Harley
**Report Presented
by:** Juliet Strathern

Background Papers:

- Planning Policy Statement 12: Creating Strong, Safe and Prosperous Communities through Spatial Planning.
- EC Habitats Directive (92/43/EEC)
- Conservation (Natural Habitats) Regulations 1994 (as amended 2007)
- DCLG (2006) Planning for the Protection of European Sites: Appropriate Assessment HMSO
- English Nature (now Natural England) (2006) The Assessment of Regional Spatial Strategies under the Provisions of the Habitats Regulations – Draft Guidance.
- ERM (2006) East of England Regional Spatial Strategy Habitats Directive Assessment
- RSPB (2007) The Appropriate Assessment of Land Use Plans in England

**Corporate
Implications:**

- **Financial** – The production of the document can be made within existing budgetary provisions. The ongoing mitigation measures and monitoring will mainly be funded by coastal authorities, with a contribution from this District Council funded through the housing and planning delivery grant.
- **Legal**
 - There is a considerable amount of working with adjoining local authorities on this project.
 - Carrying out an Appropriate Assessment of the Core Strategy is a statutory requirement under the Conservation (Natural Habitats) (Amendment) (England and Wales) Regulations 2006.
- **Equalities and Diversity** – There are no

direct equalities and diversity implications arising from the report.

- **Customer Impact** – There are no direct social and community implications arising from the report.
- **Environment and Climate Change** – The Appropriate Assessment seeks to ensure that proposals in the Core Strategy will not have an adverse effect on sites of European importance for nature conservation by ensuring that proper mitigation measures can be taken.

Options:

1. Endorse the proposed changes as suggested by Natural England to the Habitat Regulation Assessment.
2. Approve the Habitat Regulation Assessment as part of the evidence base for the Local Development Framework.
3. Endorse the mitigation and preventative measures in the Habitat Regulation Assessment and amendment report to ensure compliance with the Habitats Regulations.
4. To not endorse the proposed changes as suggested by Natural England to the Habitat Regulation Assessment.
5. To not approve the Habitat Regulation Assessment as part of the evidence base for the Local Development Framework.
6. To not endorse the mitigation and preventative measures in the Habitat Regulation Assessment and amendment report.

Risks:

- The Habitat Regulation Assessment will form part of the evidence base for the Core Strategy. There is a risk that objections could be raised concerning the impact of the Core Strategy on sites of European importance, which could result in the Core Strategy being found to be unsound.

Executive Summary:

Consultants were appointed to carry out a Habitat Regulation Assessment (HRA) on the draft Core Strategy. The HRA is a statutory requirement under the Conservation (Natural Habitats) (Amendment) (England and Wales) Regulations 2006.

The HRA will form part of the evidence base for the Core Strategy. A proactive, precautionary approach has been taken to ensure that international sites which occur nearby, on the Essex Coast, in adjoining local authorities are not adversely affected by the Braintree District Core Strategy policies.

Mitigation and monitoring measures are suggested in the report. Braintree District Council proposes to work in conjunction with adjoining authorities to deliver these measures.

Natural England made various comments regarding the HRA report and suggested changes (see paragraph 4). BDC planning policy officers had a meeting with Natural England to discuss these comments further and have subsequently prepared an amendment report (Appendix 1) to provide additional detail addressing the comments made by Natural England.

Natural England has made further comments relating to this amendment report which have been included into the amendment report (Appendix 1).

Decision

Members of the Local Development Framework Panel are recommended to :

- 1. Endorse the proposed changes as suggested by Natural England to the Habitat Regulation Assessment.**
- 2. Approve the Habitat Regulation Assessment as part of the evidence base for the Local Development Framework.**
- 3. Endorse the mitigation and preventative measures in the Habitat Regulation Assessment and amendment report to ensure compliance with the Habitats Regulations.**

1. Background

- 1.1. The requirement for a **Habitat Regulation Assessment** (HRA) arises from the EC Habitats Directive (92/43/EEC) and its implementation in the UK under the Conservation (Natural Habitats &c.) Regulations

1994 (and as amended 2007). HRA is required for a plan or project which, either alone or in combination with other plans or projects is likely to have a significant effect on the integrity of a European site (one that forms part of the Natura 2000 (N2K) network), plus Ramsar sites (collectively 'International Sites').

- 1.2. Natural England raised concerns over the potential impact of the Braintree District Core Strategy primarily in relation to the Blackwater Estuary Special Protection Area (SPA) but also in relation to the Colne Estuary SPA.
- 1.3. Braintree District Council appointed consultants Royal Haskoning to prepare the HRA report for the draft Core Strategy Development Plan Document. In May 2008 Royal Haskoning prepared and submitted for consultation/internal use a draft report which was based on the Core Strategy Issues and Options Document. This approach was taken as a provisional appropriate assessment of the various policy options within the issues and options document. This enabled an early evaluation as to the acceptability of these as preferred options, thus informing the preferred options selection process.
- 1.4. Natural England, as the statutory consultee was consulted on the final HRA for the draft Core Strategy which was published in June 2009.
- 1.5. The HRA will form part of the evidence base for the Core Strategy.

2. Findings of the Habitat Regulation Assessment - Draft Core Strategy

- 2.1 Although there are no international sites within the boundary of the Braintree District there are however, several sites in neighbouring authorities which have been identified as being potentially vulnerable to impacts. A proactive, precautionary approach has been taken to ensure that international sites which occur nearby, on the Essex Coast, are not adversely affected by the Braintree District Core Strategy policies.
- 2.2 Sites were identified on the basis of their proximity to Braintree District, and Natural England's advice on the sites most susceptible to impacts arising from the Braintree Local Development Framework.

Sites Designated under the Birds Directive:

- Abberton Reservoir SPA
- Blackwater Estuary SPA
- The Colne Estuary SPA
- Crouch and Roach Estuaries
- Hamford Water SPA
- Stour and Orwell Estuaries SPA

Sites Designated under the Habitats Directive:

- Essex Estuaries Marine Special Area of Conservation (SAC)

Sites Designated under the Ramsar Convention:

- Abberton Reservoir
- Blackwater Estuary
- Colne Estuary
- Crouch and Roach Estuaries
- Hamford Water
- Stour and Orwell Estuaries

2.3 The HRA identified the following potential issues based on the analysis of the international sites and the impact of the Core Strategy policies:

- Visual and noise disturbance from recreation.
- Physical disturbance
- Water resources – impacts are to be addressed by a Water Cycle Study
- Water Quality – impacts are to be addressed by a Water Cycle Study

2.4 **Determination of Likely Significant Effect** – The policies of the Draft Core Strategy Preferred Options were subject to the test of likely significant effect. One policy option was determined as having a significant effect – CS17: Housing Delivery Strategy. Therefore, the only element of the Core Strategy to be subjected to Appropriate Assessment is the housing allocation and resultant population increase. The determination of likely significant effect is made on the basis that increased population resulting from housing allocation will increase the likelihood of recreational visits and other sources of human disturbance upon international sites in the vicinity of Braintree District.

2.5 The population increases that will result from Braintree Core Strategy housing allocations comprise only a proportion of the total housing allocations of the wider area which has potential to impact upon international sites. Braintree's contribution to this overall impact is determined as being small. Increases in recreational use due to Braintree housing allocations on all potentially vulnerable international sites are predicted to be sufficiently small that alone, no adverse effect on integrity of potentially vulnerable international sites can be determined.

2.6 **Habitats Regulations Assessment – In Combination** – The HRA considered the spatial strategy and policies of the Core Strategies for adjoining authorities; Chelmsford, Maldon, Colchester and Tendring. Three of these encompass coastal international sites (*Maldon,*

Colchester and Tendring). The Core Strategies for these authorities have been or are in the process of being subject to HRA. This enabled the ‘in combination’ impacts of the Braintree Core Strategy policies to be easily identified. Policy CS17 of the draft Core Strategy preferred options ‘Housing Delivery Strategy’ is likely to have a significant effect ‘in combination’ with the other authorities plans and projects.

The HRA stated that it is not possible to conclude that an adverse effect on the integrity of international sites will not occur, in combination with other plans and projects.

For this reason, prevention and mitigation measures must be applied by Braintree and neighbouring authorities, such that a conclusion of no adverse effect on site integrity can be reached.

3. Recommendations of HRA report – Prevention and Mitigation Measures

3.1 The HRA report stated ‘*accepting that the overall allocation for Braintree must be implemented, and given the District’s distance from international sites, the specific locations of housing is of little significance to those sites. Mitigating any diffuse recreational impacts can be done in three principle ways:*

- *Ensuring that housing has an appropriate allocation of SANG (Sustainable Accessible Natural Greenspace);*
- *Monitoring levels of recreational use of sites, and provenance of users; and*
- *Ensuring that appropriate site management measures are in place on the international sites.*

3.2 The report recommended that the monitoring and site management measures need to be implemented as a collective exercise with adjoining authorities where the international sites occur and can be managed. Monitoring the provenance of recreational users will also further the understanding of the spatial distribution of visitors, thereby further assisting quantification in future assessment of this type and helping identify where SANG can be most effectively placed.

3.3 **Allocation of Suitable Accessible Natural Greenspace (SANG) –** The HRA suggests ‘given the remoteness of Braintree District from the sites concerned, and the correspondingly lower level of potential impact resulting from population increase, a lower allocation rate is proposed. An allocation rate of 4ha per 1000 increase in population is suggested. This should comprise up to three larger areas located in suitable proximity to the main population centres. Based on an estimated population increase of 11,832 this allocation rate will require a total of 47ha of SANG. Please note further detail on SANGs can be found in the amendment report in appendix 1.

- 3.4 The funding mechanisms for SANG will need to be investigated further for instance it could be provided through the developer contributions or Community Infrastructure Levy.
- 3.5 **Monitor visitor numbers and recreational impacts** – To determine the effectiveness of SANG, where it can be effectively located and impact of housing allocations and increased population, a programme of visitor monitoring at the sites should be implemented.
- 3.6 **Implement site and access management** – Site and access management can be implemented either at the outset, and / or in response to evidence from the visitor and recreational use study that impacts are increasing. The extent of these will need to be agreed amongst Natural England and the relevant local authorities and site managers.
- 3.7 **Allocating Responsibility for Required Mitigation** – The HRA recognises that the impacts of any given local authority cannot be considered and rectified in isolation from impacts deriving from those neighbouring authorities. The strategy for preventing and mitigating impacts needs to be developed as a joined up exercise. A fundamental issue to be resolved is the allocation of responsibility (financial or otherwise) in implementing proposals. The HRA has stated that, *‘the main factor to determine in allocating responsibility is proximity to international sites. As a provisional proposal, it is suggested that Tendring, Colchester and Maldon should assume around 80% of the responsibility for required measures in relation to the Colne and Blackwater’*.
- 3.8 **Delivery of Measures** – The means by which the measures are implemented need to be agreed with the various local authorities and Natural England. The HRA recommends that this is done via a memorandum of agreement which will be produced following a proposed workshop. The workshop can be facilitated by Royal Haskoning.
- 3.9 The Core Strategy should also demonstrate a general commitment by incorporating an environmental policy to deliver the necessary mitigation measures (possibly a revised CS2 policy).

4. **Comments from Natural England on the HRA**

Natural England was consulted formally on the HRA in June 2009. They made the following comments:

- 4.1 There is still further work to be done before the final Core Strategy is submitted for Examination with a final HRA report that is able to

conclude the plan is in accordance with Habitats Regulations and will not adversely affect any European site.

4.2 Introduction – this section would benefit from consistent use of the terms ‘Habitats Regulations Assessment’ (HRA) and ‘Appropriate Assessment’ (AA) as currently the two terms are interchanged within the text.

4.3 Refer to the East of England Regional Spatial Strategy which was the first regional plan to be subject to a HRA, this was initiated at a very late stage in the plans progression towards publication and as a consequence the HRA work had to be retrofitted to the plan. The plan was published without clear compliance with the HRA process many elements of the plan were not rigorously assessed.

4.4 Methodology – Natural Englands own internal guidance used to develop the methodology has been updated. It is essential that the HRA report gives a clear account of the step by step approach to assessment and accurately translates the wording of the legislation into the methodology explained.

4.5 Paragraph 2.1 – refers to ‘assessment alone and in combination’ should be ‘alone or in combination’ in accordance with the regulations.

4.6 Paragraph 2.2 – confusion with the steps required for the HRA process, referring to alternative solutions within mitigation and avoidance measures. It is necessary to add in the alternative solutions step to the text where the explanation within this section currently jumps from unable to ascertain no adverse effect to imperative reasons of overriding public interest.

4.7 It would be beneficial for previous policy assessment work to be included as an appendix, to enable quick reference back to how options were influenced by the HRA, including what mitigation measures were recommended. For example, beneficial to understand how it was previously determined that 80% of responsibility for safeguarding coastal sites lay with neighbouring coastal authorities. Be useful to be able to view this previous analysis when reading the current assessment report.

4.8 Final appropriate assessment – Natural England questions the title ‘final appropriate assessment’ at 3.3 because the HRA is still very much in progress as the plan develops. The assessment is not yet in a position to conclude that the plan would not adversely affect any European site.

4.9 Natural England is concerned that the check of the plan policies for this current assessment report was undertaken on a set of policies dated May 2008, yet the draft Core Strategy produced for public consultation is dated October 2008 and the current HRA assessment

report is dated in June 2009. A re check should therefore be undertaken on the current policies, whilst still continuing to provide an audit trail of previous assessment within the report.

4.10 Background Information on International Sites – Where sites are highlighted as declining in condition, it would be helpful to the assessment for the actual reasons for the decline to be discussed. It would also be beneficial to know whether any measures are currently being applied to rectify the existing situation, and if so what those measures entail.

4.11 Habitats Regulations Assessment – Alone – terminology here has reverted back to HRA rather than AA. The discussion does not cover Abberton Reservoir, which is not a coastal site, and no conclusion is drawn for this site as a result.

4.12 Habitats Regulation Assessment – In combination – The HRA report states at 7.1 that the consideration of in combination effects has been undertaken with regard to any counteracting measures which is not a logical approach. If a neighbouring plan has highlighted potential effects, but fully avoided them with measures applied to the plan, there is not an effect that needs to be considered in combination with the Braintree Plan.

4.13 Conclusion of the In – Combination Assessment – This section refers to the collaborative HRA work and the development of measures to counteract the effects of neighbouring plans but states that to date measures have not been fully implemented. A fully updated account of work to current date is required.

4.14 Measures Required for Compliance with the Habitats Regulations and Other Recommendations –

It is necessary to be cautious over blindly applying solutions developed in one region to another area and in the case of Braintree and surrounding authorities applying measures to a completely different habitat type and recreational experience.

4.15 Any particular types or quantities of measures proposed will need to be justified. The proposal for 4 ha of SANGs per 1000 increase in population for example does not appear to have any particular relationship to available information or evidence.

4.16 If monitoring is to be used as a measure to counteract the effects of recreational pressure, its needs to be accompanied by a suite of implementable actions that will be put into place should the monitoring trigger a warning that European site interest features could be harmed.

4.17 Natural England welcomes the positive approaches taken by Braintree District Council this far in its HRA process, and in particular the willingness to work with adjacent authorities to develop a consistent approach to HRA and implement cross boundary measures to ensure the collaborative protection of European sites. Natural England looks forward

to assisting Braintree District Council and its neighbouring authorities as this initiative progresses.

5 Conclusion

5.1 Officers from BDC had a meeting with Natural England to discuss in further detail the comments above. Subsequently, an amendment report has been prepared addressing in detail the comments raised by Natural England. Natural England has since provided additional comments and feedback regarding the amendment report. These comments have been integrated into the final amendment report in appendix 1.

Corporate Implications				
Financial:	The production of the document can be made within existing budgetary provisions. The ongoing mitigation measures and monitoring can be funded through the housing and planning delivery grant.			
Legal:	<p>There is a considerable amount of working with adjoining local authorities on this project.</p> <p>Carrying out an Appropriate Assessment of the Core Strategy is a statutory requirement under the Conservation (Natural Habitats) (Amendment) (England and Wales) Regulations 2006.</p>			
Equalities & Diversity:	There are no direct equalities and diversity implications arising from the report.			
Customer Impact:	There are no direct social and community implications arising from the report.			
Environment & Climate Change:	The Appropriate Assessment seeks to ensure that proposals in the Core Strategy will not have an adverse effect on sites of European importance for nature conservation by ensuring that proper mitigation measures can be taken.			
Consultation/Community Engagement:		N		N
	Public	N	Staff	N
Key Decision:	No			
Public/Private Report:	Public			
Officer Contact:	Juliet Strathern			
Designation:	Senior Planning Policy Officer			
Ext No:	2559			
Email:	julst@braintree.gov.uk			

APPENDIX 1.

Habitat Regulation Assessment: Braintree District Council Local Development Framework Draft Core Strategy

Background

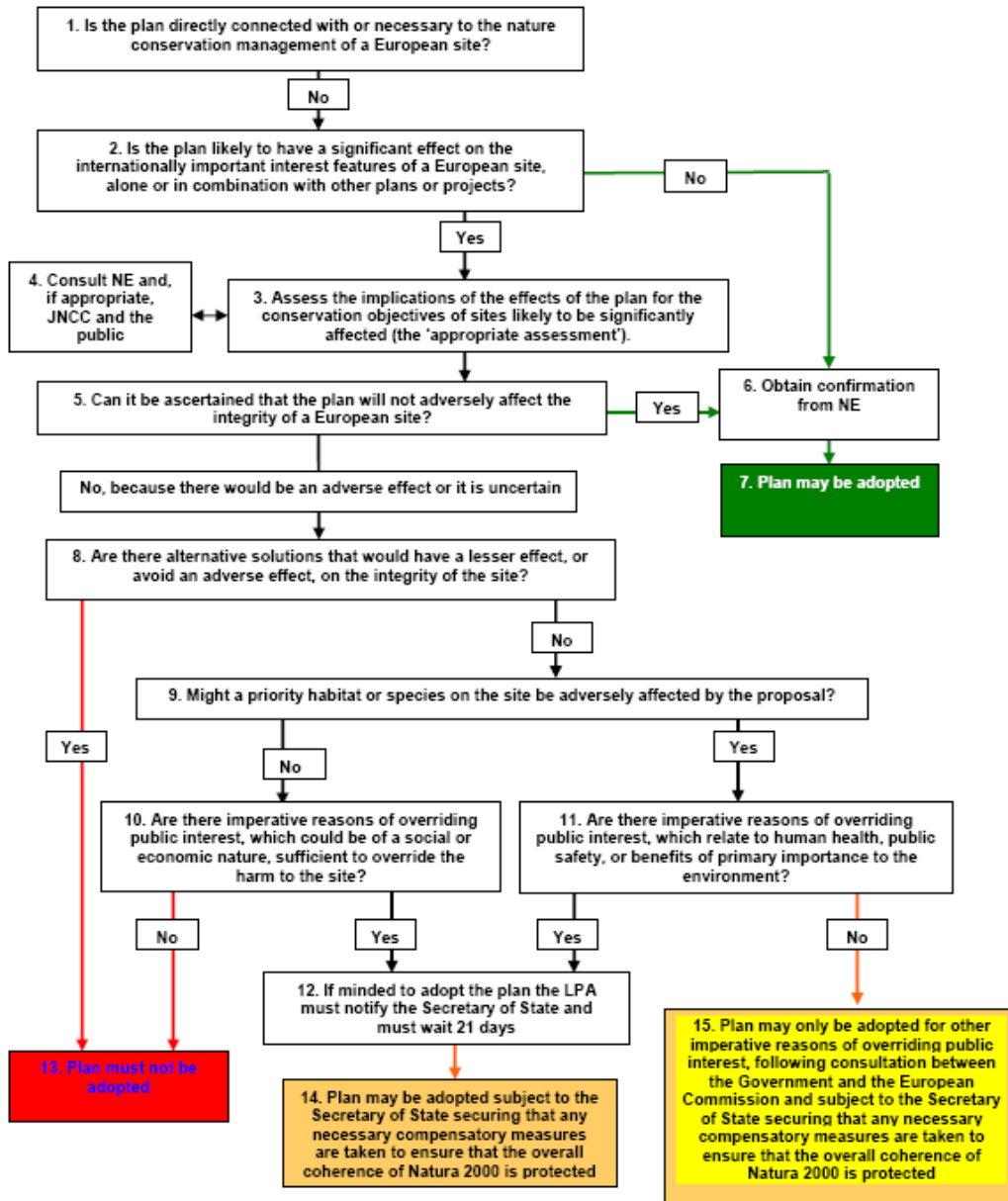
Royal Haskoning who were appointed to undertake a Habitat Regulation Assessment on the draft Core Strategy adopted an approach whereby policies which were deemed to have a likely significant effect, alone or 'in combination' with other plans or projects, would be subject to an Habitat Regulation Assessment. Whether or not a policy is determined via this process as having an adverse effect on site integrity would determine whether preventative or mitigation measures were required and the extent of any impacts or the nature and extent of such measures.

However, this approach preceded the Dilly Lane High Court Judgement, a landmark decision based on the Thames Basin Heaths Delivery Plan. This judgement made clear that anything encouraging the proponents of plans and projects to incorporate avoidance measures at the earliest opportunity was to be encouraged. The approach to avoidance measures and SANGs (Suitable Accessible Natural Green Space's) as outlined in the Thames Basin Heaths Delivery Plan had been upheld at law.

This refreshed approach is reflected in the report below to demonstrate that mitigation measures have been applied at an earlier stage rather than after the screening of 'likely significant effect'.

A flow chart indicating the requirements of the Habitat Regulation Assessment is indicated below:

Flow Chart - Outline of procedure of regulations incorporating advice about additional consultation (*The Habitats Regulation Assessment of Local Development Documents – David Tyldesley and Associates for Natural England Feb 2009*)



This report has been informed by the Royal Haskoning report which can be viewed in appendix A.

Introduction

In August 2009 Braintree District Council received a letter from Natural England responding with comments to the Habitat Regulation Assessment of the draft Core Strategy. Although Natural England welcomed the work that had been undertaken to investigate the indirect effects of the draft Core Strategy on European sites outside the Braintree District, it was clear that further work was required before a final HRA report was able to conclude that the plan was in accordance with the regulations and would not adversely affect any European site.

Braintree District Council had a meeting with officers from Natural England on the 9th November 2009 to discuss the issues raised further and in more detail.

This report seeks to address the comments and concerns of Natural England providing additional information where necessary.

Natural England commented that the report would benefit from consistent use of the terms 'Habitats Regulations Assessment' (HRA) and 'Appropriate Assessment' (AA) as currently the two terms are interchanged within the text. Natural England also commented that the HRA must give a clear step by step approach to assessment, and accurately translate the wording of legislation into the methodology.

The terms HRA and AA have been defined below to demonstrate understanding. The flow chart also illustrates the step by step process of a HRA.

Habitats Regulations Assessment and Appropriate Assessment

The Habitats Regulations Assessment addresses the requirements set out in Articles 6(3) and (4) of the European Communities (1992) Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora ("Habitats Directive").

The first stage of a Habitats Regulations Assessment is a 'likely significant effect' test (often referred to as screening). This is a risk assessment, based on the precautionary principle, to determine whether a proposed plan either alone or in combination with other plans or policies is likely to have a significant effect on one or more European sites (within or close to District) designated for the protection of habitats and species (collectively termed 'Natura 2000 sites'). Natura 2000 is a Europe wide network of sites of international importance for nature conservation established under the European Council Directive 'on the conservation of natural habitats and of wild fauna and flora' (92/43/ECC Habitats Directives). At this stage it is appropriate (and established by legal precedent¹) to include avoidance and

¹ <http://www.bailii.org/cgi-bin/markup.cgi?doc=/ew/cases/EWHC/Admin/2008/1204.html&query=Dilly+and+Lane&method=boolean>

mitigation measures when making judgements on whether a ‘likely significant effect’ is predicted.

If significant effects are likely an ‘Appropriate Assessment’ is required to determine whether the proposed plan or policies would adversely affect the integrity of a European Site. An ‘Appropriate Assessment’ is a specific stage and only one step of the whole process for the Habitat Regulation Assessment. The ‘Appropriate Assessment’ assesses the implications for the European site in view of that site’s conservation objectives, and in determining whether the plan will adversely affect the integrity of the European site, the competent authority will have regard to the manner in which it is proposed to be carried out or to any conditions or restrictions subject to which they propose that the permission should be given. This may also include compensatory measures to ensure the overall coherence of the European network of designated sites (the so-called Natura 2000 Network) is maintained.. Plans or projects which are unable to ascertain no adverse effect on integrity may still, however, be permitted if there are no alternatives, and there are Imperative Reasons of Over-riding Public Importance (IROPI) as to why they should go ahead. It is only after these latter two tests have been rigorously met that compensatory measures will be necessary to ensure legal compliance with the Habitats Regulations.

Flow Chart – Process for a Habitat Regulation Assessment

Stage 1	
Screening	<p>Identify Natura 2000 sites within and adjoining the Core Strategy area and acquire, examine and understand the conservation objectives for each feature of the site.</p> <p>Consider the effects arising from policies and proposals in the plan .</p> <p>Assess whether any elements of the plan are likely to have a significant effect on any interest feature of each Natura 2000 site, either indirectly, directly, alone or in combination with other projects and plans, bearing in mind any avoidance and mitigation measures proposed, and whether changes in policy wording would enable a ‘no likely significant effect’ conclusion</p> <p>If no significant effects are likely to occur as a result of implementation, the plan (or certain policies and proposals within it) can be published with no further reference to Habitat Regulations i.e. ‘screened out’ from stage 2. If there are likely significant effects arising from elements of the plan on certain Natura 2000 sites, or it is uncertain whether such effects will be significant, progress to stage 2.</p>
Stage 2	

<p>Appropriate Assessment</p>	<p>Undertake an assessment of the implications of the plan (those policies and proposals within it identified in stage 1 as requiring AA) for each Natura 2000 site likely to be affected, in light of their conservation objectives.</p> <p>Consider how the plan in combination with other plans or projects will interact and affect the site when implemented.</p> <p>Consider the effect of the plan on the integrity of the site and consider alternatives.</p> <p>If it can be demonstrated that the plan will not have an adverse effect on European sites, the plan can be adopted. If the plan is still likely to have an adverse impact on the site(s) progress to stage 3.</p>
<p>Stage 3</p>	
<p>Assessment where no alternatives exist</p>	<p>The competent authority must demonstrate that the plan includes policies which are least damaging.</p> <p>The competent authority must establish if there are <i>'imperative reasons of overriding public interest'</i> (IROPI) to proceed with the plan or policy.</p> <p>Identify and agree compensation measures and how this will be monitored.</p>

At the meeting, officers from Natural England stated that it would be useful for context to have an update on the Review of the East of England Plan and summarise Braintree District Councils position in relation to this, particularly in regarding the various scenarios for future growth.

Review of the East of England Plan – Regional Spatial Strategy

The current East of England Plan (1) sets out regional planning policy to 2021. Regional plans should set out a long term strategy for at least 20 years and the current plan only covers the next 12 years. A review of the East of England Plan is required to ensure provision for the East of England's development needs from 2011 to 2031.

It is proposed that the review of the East of England Plan will be completed in 2011, with public consultation at key stages. During the first stage of consultation (from 2nd September to 24th November 2009) EERA is seeking responses to four different approaches to housing and economic growth:

Scenario 1 – 26,060 new homes p/a – continuation of existing target and broadly based on views of local councils in the region.

Scenario 2 – 30,100 new homes p/a – promotes growth in areas identified by the Regional Scale Settlement Study in January 2009. Three medium sized new settlements including possibly locating in either Uttlesford or Braintree.

Scenario 3 – 29,970 new homes p/a – promotes growth around successful business locations where new jobs are attracting workers.

Scenario 4 – 33,650 new homes p/a – promotes growth where households are projected to grow.

Braintree District Council's response to the consultation (approved by the Local Development Framework Panel on the 18th Nov 2009) is to support the overall levels of growth for the region as set out in scenario 1 but suggest that there should be scope to vary the distribution between Districts where a higher level of growth would secure and deliver the provision of key strategic infrastructure improvements.

It is proposed a revised draft regional planning policy will be developed by March 2010 and there will be a further public consultation before the Secretary of State for Communities and Local Government finalises the revised East of England Plan in 2011.

Natural England stated chapter 6 'HRA – Alone' of the report warranted a more precise justification for disregarding an effect from increased housing alone.

Braintree District – 'Alone' and 'In combination' Effects

The Green Spaces Strategy 2006 concluded in a household and user survey that only 3% of the people surveyed *regularly* visited open spaces outside of the District. Based on this assumption, it is unlikely that the residents of the Braintree District would visit the European sites on a repeated daily basis, with the majority of recreational impacts on the designated sites experienced at the weekend, when people are drawn to the sea. During the week the vast majority of people will use their local green space for walking, exercising and walking dogs as people want to use facilities in close proximity to their houses. The increase in recreational use due to Braintree's housing allocations and population increase on all the potentially vulnerable designated sites are predicted to be relatively small so that alone, no likely significant effect on the European sites can be determined.

Many of the adjoining authorities including Chelmsford, Colchester, Tendring and Maldon encompass the European sites within their boundaries, therefore daily visits by local residents are more likely as they would be using their 'local' green spaces. These authorities (with exception of Maldon) also have a higher housing provision target set by the East of England Plan compared to Braintree District, with Colchester and Chelmsford identified as key centres for development. Therefore, the population increase in these authorities is likely to be higher than that anticipated for Braintree District.

The effects (*e.g. climate change, water quality and increase of recreational visits to the sites*) of a population increase in the adjoining authorities of

Maldon, Tendring, Chelmsford and Colchester on the Colne Estuary Special Protection Area (SPA)/Ramsar site, Blackwater Estuary SPA/Ramsar site and Essex Estuaries SAC (Special Area of Conservation) could, in combination with increase in population of Braintree District, result in a likely significant effect on these European sites. However, the majority of these effects can be avoided and mitigated through policies in the Core Strategy and Development Management DPD, informed by evidence gathered through monitoring and surveying of the sites.

Natural England were concerned that the policies which were checked in the current assessment report were dated May 2008, yet the draft Core Strategy produced for public consultation is dated October 2008 and the current HRA assessment report is dated June 2009. Natural England suggested a recheck should be undertaken on the current policies, whilst continuing to provide an audit trail of previous assessment within the report.

Audit Trail of the Core Strategy Policies

The stage 1 screening process (appendix 3) was previously undertaken using the draft preferred option policies as indicated in the table below. Prior to the preferred options public consultation in November 2008, many of the policies were amalgamated and minor changes were made to the wording. However, the strategy and principles remained the same including the material issues (*identified during the initial stage 1 screening process*) likely to have a significant effect on European sites. Of key relevance is the population increase associated with housing allocation – see Statement 1 and GP3 which in combination with increase in population of visitors from adjoining authorities could result in a likely significant effect on the integrity of European sites. Thus, the only element of the Core Strategy to be subjected to further assessment is the housing allocation and resultant population increase.

Following the consultation on the preferred options for the Core Strategy in November 2008 the majority of the policies were amended further and updated to improve them in view of the comments received from the public and various bodies including Natural England.

DRAFT PREFERRED OPTIONS POLICY -			FINAL PREFERRED OPTIONS POLICY – CONSULTATION NOV – DEC 08			SUBMISSION POLICY -	
Policy Number	Title		Policy Number	Title		Further assessment required?	
CS1 –	Promoting and Delivering a Sustainable Future	Changed to >>>	Policy GP1 – Guiding Principle	Promoting and Delivering a Sustainable Future	Amendments following consultation >>>	Remove word ‘policy’ and assert that this is a principle which	No

						underlines policies.	
CS2 –	Spatial Principles	Changed to >>>	BOX 2	The Preferred 'Spatial Policy Statement' for Braintree District	Amendments following consultation >>>	Include preference to previously development land and refer to GP1.	No
CS3 -	'Option 2 Greenfield Spatial Option at both Braintree and Witham'	Changed to >>>	Statement 1 GP3	The Proposed Growth Locations	Amendments following consultation >>>	Include as a policy within growth location policy. Expand on the factors used to examine the growth locations and set out the reasons for rejecting sites. Exclude – land east of Panfield Lane from proposed growth locations and retain it for open space and sporting facilities. Exclude – Land to north east of	No – (It has previously been determined following the stage 1 screening that this policy could have an in combination adverse effect).

						<p>Witham (adjacent to Eastways /Waterside Park) employment site. Retain – Land to west of A131 at Great Notley for a business park and enlarge the site. Retain – Land to south west of Witham off Hatfield Road for 600 dwellings. Retain – Land to north east of Witham off Forest Road, Rivenhall for 300 dwellings.</p> <p>Extend period covered by plan to 2026.</p>	
CS4-	Making Efficient Use of Land	Changed to >>>	Merged with Policy CS8 and GP2/GP3	Housing Provision and Delivery Protection and	Amendments following consultation >>>	No changes to GP2 wording. Split the policy in	No

				Enhancement of Environment in District		two parts. Merge the spatial policy with statement 1. Include a separate policy for affordable housing and gypsies/travellers.	
CS5-	Transport and Accessibility	Changed to >>>	Policy CS1	Promoting Accessibility for All	Amendments following consultation >>>	Include reference to travel plans and demand management.	No
CS6-	Natural Environment	Changed to >>>	Policy CS2	Natural Environment	Amendments following consultation >>>	Include specific reference to flood risk and the sequential test. Include details how natural environment will be protected and enhanced. Include reference to protection and enhancement of biodiversity and geodiversity.	No
CS7-	Built Environment	Changed	Policy CS3	Built	Amendments	Include a	No

		to >>>		Environment	following consultation >>>	separate Climate Change policy. Include reference to protection of setting of historic buildings. Include reference to good quality built environments.	
CS8-	The District Economic Strategy	Changed to >>>	Policy CS5	Distribution of Employment	Amendments following consultation >>>	Include phasing as part of CS5.	No
CS9-	Rural Economic Strategy	Changed to >>>	Policy CS6	Rural Economy	Amendments following consultation >>>	Include reference to home working and refer to infrastructure study.	No
CS10-	Delivering Job Growth and Employment Land Provision	Changed to >>>	Merged with CS5	Distribution of Employment	Amendments following consultation >>>	Include phasing as part of CS5.	No
CS11-	Regeneration	Changed to >>>	Policy CS7	Town Centres and Regeneration	Amendments following consultation >>>	Include promotion of mixed use development and incorporating services and community facilities.	No

						Include a separate 'retail hierarchy policy'.	
CS12-	Safeguarding Existing Employment Areas	Changed to >>>	Merged with CS7	Town Centres and Regeneration	Amendments following consultation >>>	See above.	No
CS13-	Employment Redevelopment Areas	Changed to >>>	Merged with CS7	Town Centres and Regeneration	Amendments following consultation >>>	See above.	No
CS14-	New Employment Locations	Changed to >>>	Merged with CS5	Distribution of Employment	Amendments following consultation >>>	See above.	No
CS15-	New Innovation and Enterprise Business Park	Changed to >>>	Merged with CS5	Distribution of Employment	Amendments following consultation >>>	See above.	No
CS16-	Mixed Use Developments	Changed to >>>	Policy CS8 CS4	Housing Provision and Delivery Development of Economy	Amendments following consultation >>>	Include ' <i>support for existing business to expand.</i> ' Include further reference to 'three towns, one vision' regeneration	No

						proposals. See above.	
CS17-	Housing Delivery Strategy	Changed to >>>	Policy CS8	Housing Provision and Delivery	Amendments following consultation >>>	See above.	No
CS18-	Delivering the Services and Facilities We Need	Changed to >>>	Policy CS9	Services and Facilities	Amendments following consultation >>>	Include further detail regarding Community Infrastructure Levy.	No

Natural England stated that where sites were highlighted as declining in condition it would be helpful to discuss the actual reasons for decline. It would also be beneficial to know whether any measures are currently being applied to rectify the situation.

Decline of the Blackwater Estuary and Colne Estuary.

The Blackwater Estuary has been identified as being in 'unfavourable condition' which is declining. The Colne Estuary comprises 60 SSSI's units, 44 of which are favourable, and 16 are identified as declining.

The vulnerabilities of these sites and how they are being addressed are explained below:

Coastal Erosion – One of the main threats to the site is erosion of habitats due to combination of sea level rises and isostatic forces. The harsh sea walls along the coastline are preventing the salt marsh and intertidal areas from migrating inland. The increasing storm events are also contributing to the problem. Alternative flood defence techniques are being used to address the problem and a Shoreline Management Plan has been prepared for the Essex Coast to manage the coastline sustainably.

Nutrient Enrichment – This tends to occur from agricultural run off and treated sewage effluent. This problem will be addressed through the Essex Estuaries candidate SAC scheme of management.

Water Based Recreation – The Blackwater Estuary Management Plan addresses the control of motorised craft (with particular reference to jet skis). Enforcement of speed limits should ensure that roosting birds are not subject to disturbance and salt marsh habitats are protected from damage by jet skis.

Drought – Droughts over recent years have caused lowered water tables in grazing marshes. Attempts are being made to restore this by pumping water from adjacent ditches.

Climate Change – The location, character and dynamic behaviour of saltmarshes is governed by physical factors including sediment supply, tidal regime, wind wave climate, movement of relative sea level. These factors can be influenced by climate change and could consequently lead to a decline in the condition of estuaries.

Climate change can also affect the species and habitats of the estuaries potentially leading to decline of the estuaries.

Natural England expressed concern that the report did not cover Abberton Reservoir and draw any conclusions for the site.

Natural England also stated that if a neighbouring plan has highlighted potential effects on a European site, but fully avoided them with measures applied to the plan, there is not an adverse effect on integrity that needs to be considered in combination with the Braintree Plan.

Impact on Abberton Reservoir

Abberton Reservoir is located close to the coast of Essex in eastern England. It is a large shallow freshwater storage reservoir built in a long, shallow valley and is the largest freshwater body in Essex. Abberton Reservoir is identified as an inland nature reserve.

Abberton Reservoir is a public water supply reservoir which supplies the Braintree District. The Core Strategy provides for the provision of an additional 4,600 dwellings within the District to 2026, (*this housing provision target is set by the RSS, not the District Council – therefore the District Council cannot differ or deviate from this figure*) which will require additional water supply from Abberton Reservoir. There are proposals to raise the water level at Abberton Reservoir which could affect the species which favour the shallow waters. No mitigation measures have been identified as part of this proposal.

Although, Abberton Reservoir is situated some distance from the Braintree District an increase in the population within the District could potentially increase visitation and recreational pursuits and could potentially cause disturbance to habitats and potentially affect the water quality at Abberton Reservoir. Colchester Borough Council has carried out a Habitat Regulation Assessment for the Allocations DPD (September 2009), which identifies the potential in combination effects of the plan and summarises appropriate mitigation measures. The Abberton Reservoir Committee (involving Essex Wildlife Trust and Natural England) can manage visitors to the reservoir for example controlling the number of fishing licenses issued. The Abberton Reservoir Committee has the power to control the amount of water sports (*which at present is none, with no waterborne recreational use planned for the raised reservoir*), which will ensure that pollution does not reach unacceptable levels. The water quality can be managed by increasing investment into sewage treatment works, technological innovation and the Environment Agencies review of licences ensures no adverse effects. The Water Cycle Study which forms part of the evidence base for the Braintree District LDF recognises that additional protection is required to receiving waters i.e. River Blackwater and River Colne and their dependant habitats i.e. Abberton Reservoir, Blackwater Estuary which are considered particularly sensitive. The study sets out the constraints from the water environment and identifies measures which will be required to accommodate development within these constraints.

The survey and monitoring of visitors to the site, compared to site condition and housing completions will ensure that if disturbance is an issue mitigation measures can be introduced e.g. fencing off particular sensitive areas or providing new dwellings with an increased level of local recreational space.

Natural England expressed caution in applying solutions to counteract the effects of recreational pressure in one region to another, any particular types or quantities of measures proposed would need to be justified.

In 2006 an 'England Leisure Visits Survey' was carried out (based on a phone poll of 23,500 respondents). The survey was led and coordinated by the Countryside Agency (now Natural England).

The survey indicated that for recent day visits people typically travelled:

- 10.8 miles (17.2km) to visit a countryside site for the day
- 11.3 miles (18.1 km) to visit a woodland site for the day
- 16 miles (25.5 km) to visit a coastal site for the day

In all cases more of the journeys were made by car than on foot. Although these are generalised figures, based on the broadly 'typical' distance travelled, residents of the Braintree District may travel to European sites (*Braintree District is approximately 23km from coastal international sites*). Therefore, sites within these distances could be affected by trampling or

disturbance to the wildlife areas particularly with a proposed increase in housing of an additional 4,600 dwellings identified in the Core Strategy to 2026.

Royal Haskoning proposed the allocation of SANGS (Suitable Accessible Natural Green Space) as a mitigation measure to offset the impacts such that no likely significant effect on the European sites could be concluded. SANGs are intended to provide mitigation for potential impact of residential development on the SPA by providing alternative areas for recreation with a view to reducing visitor pressure on the SPAs.

The Haven Gateway Green Infrastructure Plan will seek to safeguard and create green lungs and corridors within and between the towns of the Haven Gateway acting as a 'Suitable Accessible Natural Green Space' facilitating sustainable growth across the gateway and also reducing the number of potential visitors to international sites, reducing disturbance.

The Braintree District LDF policies will seek to ensure that existing green infrastructure, and open space currently available for recreation use is protected. The LDF policies will also seek to ensure that sufficient space is provided to cope with an increase in residential capacity and new area/linkages are delivered.

The Braintree District Green Spaces Strategy was approved by the LDF panel in September 2008 and forms part of the evidence base for the LDF. The key aims of the strategy are to provide accessible high quality green spaces and sport/recreation facilities. It also feeds into the Open Space Supplementary Planning Document which was approved by the LDF panel in November 2009.

SANGs will be provided on new or existing public open space taking into account the availability of land and potential for development. There are many existing sites within the Braintree District which could be considered as suitable SANGs (over 300 ha) including Great Notley Country Park, Flich Way, Blackwater Rail Trail (although only partially within the Braintree District) and the 251 Local Wildlife Sites (*however, it should be noted that many of the Local Wildlife sites are in private ownership and have no public access*) throughout the Braintree District and the 6 Local Nature Reserves. However, it is important to ensure that the sites of high nature conservation value which are likely to be damaged by increased visitor numbers are assessed and considered alongside relevant policies in the DPD.

Natural England has produced quality guidelines and a site quality checklist for SANGs which can be used to determine if proposed SANGs are suitable. We are confident that once Natural England scrutinise the potential SANG sites (of over 300 ha) situated throughout the Braintree District this will conclude that the SANGs will be sufficient and in accordance with the quality guidelines and site quality checklist.

Natural England's Accessible Natural Greenspace Standard (ANGst) provides a set of benchmarks for ensuring access to places near to where people live. It provides a framework for green infrastructure provision which is reflected in the aims of the Green Spaces Strategy.

Box I.1: Accessible Natural Green Space Standards (ANGSt)

Natural England's ANGSt state that:

- that no person should live more than 300m from their nearest area of accessible natural green space of at least 2ha in size;
- there should be a least one 20ha accessible natural green space within 2km from home;
- there should be one accessible natural green space 100ha site within 5km;
- there should be one accessible natural green space 500 hectare within 10km;
- at least 1ha of statutory Local Nature Reserve (LNR) should be provided per 1000 population.

Natural England agreed with the findings of the report that SANGs alone would be unlikely to fully mitigate the effects of increased recreational pressure, and welcomed the inclusion of monitoring. Natural England stated that if monitoring is to be used as a tool to inform the effects of recreational pressure, it needs to be accompanied by a suite of implementable actions that will be put into place should the monitoring trigger a warning European site interest features could be harmed.

Mitigation and Avoidance Measures

Statement 1 and GP3 of the preferred options for the Braintree Core Strategy in combination with adjoining authorities could have a likely significant effect on the integrity of European sites of importance, however this could be mitigated through the provision of SANGS and informed by the implementation of site monitoring.

Braintree District Council has been in discussion regarding this matter with the Spatial Policy team for Colchester Borough Council and Tendring District Council. As stated in Colchester Borough Councils Appropriate Assessment for the Allocations DPD, *'the spatial policy team has devised a methodology which involves surveying visitors to sites over lifetime of the DPD over the breeding season and over the wintering season and comparing this data to SSSI sites condition (monitored by Natural England) and housing completions. This programme would highlight if and where adverse impacts are occurring which will enable the Council and Natural England and other relevant stakeholders to implement site management measures to avoid / mitigate the impacts. This would include for example, geographical or spatial restrictions to the sites or signage to make visitors aware of the sensitivity to the area.'* This methodology was submitted to Natural England in May 2009. Braintree District Council is proposing to work with Colchester/Tendring District Council and hopefully Maldon District Council on this approach and anticipate once Natural England approves the methodology, the programme can commence.

