

Date: 29 June 2017  
Our ref: 216876  
Your ref:

BDC/028



David Green - Land Use Consultants on behalf of Braintree District Council  
[David.Green@landuse.co.uk](mailto:David.Green@landuse.co.uk)

cc Gary Sung  
Senior Planning Policy Officer  
Braintree District Council  
[garsu@braintree.gov.uk](mailto:garsu@braintree.gov.uk)

Customer Services  
Hornbeam House  
Crewe Business Park  
Electra Way  
Crewe  
Cheshire  
CW1 6GJ

T 0300 060 3900

## BY EMAIL ONLY

Dear Mr Green

### **Habitats Regulations Assessment Report of the Braintree Local Plan Part 2: Stage 2 Appropriate Assessment (AA)**

Thank you for your consultation received by email on 17 May 2017.

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.

## SUMMARY OF ADVICE

**Natural England agree with the conclusion of the Appropriate Assessment (AA) report that while Braintree Local Plan part 2 alone is not likely to have a significant effect, potential in-combination effects cannot be ruled out on the Blackwater Estuary and Colne Estuaries Special Protection Areas (SPA) and Ramsar sites, and the Essex Estuaries Special Area of Conservation (SAC).**

**We support the commitment by Braintree District to implement a Recreation and Avoidance Mitigation Strategy (RAMS), the main components including improvements and provision of greenspace and recreational routes, access and visitor management at European Sites and commitments to regular monitoring.**

## DETAILED ADVICE

The *HRA Report for Section 2 of the Braintree Publication Draft Local Plan* (v3.0 Appropriate Assessment, by Land Use Consultants, dated 12 May 2017) hereafter the 'AA Report' uses a 20km basis for consideration of European sites outside of the District, and uses appropriate evidence to compile a logical assessment of the key vulnerabilities and factors that may have an effect on the integrity of European sites. We welcome that the screening takes into account our previous comments of 8 September 2017 (our ref: 193234) regarding reliance on Site Improvement Plans.

We do not dispute the screening-out of all factors described in Chapter 5 with the exception of fishing/fisheries and recreational disturbance. We agree with the conclusion to screen-out Abberton Reservoir, Crouch and Roach Estuaries, Dengie, Stour and Orwell Estuaries SPA and Ramsar sites and Devil's Dyke SAC. We agree with the conclusions in Chapter 7 that in the absence of mitigation there is the potential for Colchester Section 2 and Tendring Part 2 local plans and the shared Strategic Part 1 for North Essex Local Plans to adversely affect the integrity of the Blackwater Estuary and Colne Estuary SPA and Ramsar sites, and the Essex Estuaries SAC.

Pressure from land- and water-based recreational activities at designated sites is a complex issue with widespread sources and we support the decision of the North Essex Authorities to prepare and deliver a RAMS for all relevant European sites where their Local Plans are proposing residential development using Zones of Influence for each site. We refer you to our advice on the Strategic Part 1 for North Essex Local Plans, provided on 28 June 2017 (our ref: 215973) that *“we consider that such an approach is the most effective and efficient means for planning authorities, developers and Natural England to ensure that housing growth is sustainably integrated alongside nature conservation in the long term... We strongly recommend that a consultant is commissioned to undertake this work as soon as possible and that they and the relevant authorities meet with Natural England at the earliest opportunity to discuss the scope and progression of the strategy”*. The RAMS will provide certainty in the mitigation of impacts from increased recreation pressure at European Sites. We acknowledge that there will need to be close alignment between any mitigation that is required for the England Coastal Path and the RAMS as part of a coordinated approach.

The main components of the RAMS is likely to include the following:

- Access and visitor management measures within the European protected sites;
- Improvement of existing greenspace and recreational routes;
- Provision of alternative natural greenspace and recreational routes; and
- Monitoring<sup>1</sup> of the impacts of new development on European designated sites to inform the necessary mitigation requirements and future refinement of any mitigation measures (as reflected in para 7.39 of the AA).

With respect to Green Infrastructure (GI) we welcome that our advice of 27 March 2015 (our ref: 146751) has been adopted regarding the role of GI in providing recreational opportunities *and* relieving damaging impacts on sensitive sites. We support the modification suggested at para 7.56 of the AA Report regarding the commitment for the future Sports and Open Space delivery body to have regard for the RAMS the Plan Policies LPP 53 and LPP67. We have recently provided advice on the Strategic Part 1 regarding the consideration of high quality natural and semi-natural *informal* open space within Masterplan Framework for Garden Communities, and specific reference to the role of open space and GI in providing alternatives to European sites.

A policy commitment must be made toward the production of the RAMS and the RAMS will need to be developed at the earliest opportunity in order to meet the Local Plan timetables. The RAMS will need to be agreed with Natural England prior to adoption of the Section 2 Braintree Local Plan. As described in our advice of 28 June 2017 on the Strategic Part 1, this is to ensure that there is certainty that the RAMS will delivered, and subsequently that the Plan can be considered sound. We look forward to contributing to the RAMS discussing the stakeholders workshops in due course.

We do provide some additional advice on the contents of the AA Report in Annex A.

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us. For any queries relating to the specific advice in this letter only please contact me on 0208 225 7685. For any new consultations, or to provide further information on this consultation please send your correspondences to [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk).

We really value your feedback to help us improve the service we offer. We have attached a feedback form to this letter and welcome any comments you might have about our service.

Yours sincerely

Steve Roe  
West Anglia Area Team

---

<sup>1</sup> We support that the RAMS should contain a commitment by the Authorities to undertake the monitoring work should BTO WeBS core counts and low-tide counts not be available.

## Annex A – Additional Comments

The 'AA Report' - contains a comprehensive review of the plans and projects that have the potential for in-combination effects.

We provide the following comments on the AA Report:

- We note at para 5.11 that the nearest major development lies ~8km from a European site, and we advise that possible functional habitat extent (i.e. for foraging, roosting) may be utilised up to 15km for wintering pink-footed geese and barnacle geese;
- With respect to air pollution (paras 5.19-5.20) - Natural England provided advice to Lewes District Council and the South Downs National Park Authority on the assessment of air quality impact on Ashdown Forest SAC. In the Whealdon Judgement<sup>2</sup>, the court found that Natural England's advice on the in-combination assessment of air quality impacts in this case was flawed. We are considering the details of this decision and the implications for our advice. We advise competent authorities that the effects of plans and projects that are screened out alone should be considered in-combination with other relevant plans and projects affecting the road(s) being assessed. Likely significant effect thresholds would then be applied in-combination. If the in-combination effect is above this threshold, appropriate assessment will be advised. We also advise that competent authorities should seek their own legal advice on any implications of this recent judgment for their decisions. The judgment highlights that where a competent authority is aware of plans or projects that are likely to affect the same road, then these should be considered in-combination (e.g. added up) before applying a screening threshold (1000 AADT change in traffic or 1% of critical load/level) for ruling out likely significant effect; and
- The AA Report reviews BTO WeBS low tide count data for the Colne Estuary SPA at para 7.13. Low tide counts are not carried out every winter and they only cover intertidal habitats, therefore they would not include all waterbird distribution. Notwithstanding this we concur with the conclusion that in combination with Colchester Section 2 and Tendring Part 2 Local Plans and Shared Strategic part1, Section 2 of the Braintree Publication Draft Local Plan is likely to adversely affect the Colne Estuary SPA.

---

<sup>2</sup> CO/3943/2016 Wealden District Council v Secretary Of State For Communities And Local Government  
<http://www.bailii.org/ew/cases/EWHC/Admin/2017/351.html>