

Capital Community Developments Ltd

TOWN AND COUNTRY PLANNING ACT 1990 SECTION 78 APPEAL

APPEAL by **Capital Community Developments Ltd** against the refusal of planning permission dated 8th July 2019 by **East Suffolk Council** in respect of **Land North Of Gardenia Close And Garden Square, Rendlesham.**

PINS reference: APP/X3540/W/19/3242636
LPA Reference: APP/121/2019

**REBUTTAL PROOF OF EVIDENCE OF NICHOLAS SIBBETT ON BEHALF
OF THE APPELLANT**

17th March 2019

CONTENTS

1. Introduction	1
2. Review of Habitats and Planning Proofs	4
3. Timeline and other matters	11

APPENDICES

1. Suffolk Coastal Local Plan Examination Hearing Day 9 Matter 4 Policies Note on Policy SCLP10.1: Biodiversity and Geodiversity)
2. Email trail from Council to Natural England, various dates
3. Email from Council to Natural England, 11th February 2020
4. Email from Council to Natural England, 24th February 2020 and the Council reply
5. Email from Council to Natural England, 7th February 2020
6. Email from me to Natural England, 13th March 2020
7. Email from Council to Appellant team

1 INTRODUCTION

- 1.1 This short rebuttal is submitted to provide a timeline and comments following receipt of the Council's proofs of evidence to assist with further consideration of habitats mitigation issues that remain unresolved following the latest communication from NE.
- 1.2 Fundamental lack of clarity remains as to how and on what basis the Council assessed the development's potential impact on European sites. Reason for Refusal 6 stated that the development '*does not pass an appropriate assessment*' and yet the Council appears not to have even completed its template HRA pro-forma for this development or explained how the number of houses causes an impact that cannot be mitigated through the proposed and/or existing walking routes in addition to the threshold requirement of 50 houses or more requiring RAMS contributions.
- 1.3 The Council remains concerned about the potential use by so many new dog walkers of a 'long route' to Sandlings SPA, this being far longer than typical walk lengths, so that woodlark and nightjar would be disturbed. It has not considered the reduction in walkers in the closest part of the SPA to the development resulting from closure of a car park or the inconsistency arising from public sector encouragement for recreation in Sandlings SPA. I am unchanged from my view that the distance from the development to the SPA is so far that there would be no direct impacts from this development, and this view

is also reflected in the emerging Local Plan policy and HRA.

- 1.4 Natural England has been inconsistent in its advice relating to this application. Its work with the Council in 2018 is significantly different to that in 2019 on the emerging Local Plan and HRA, yet in 2020 it approved use of the Council's 2018 HRA template without referring to its Local Plan advice.
- 1.5 Natural England commented on the development initially only after I consulted it, in December 2019 when it advised on a c2km walk within Rendlesham (my Proof of Evidence, appendix 10). This advice is inconsistent with the Council's template and the advice Natural England gave on the local plan. After this time, Natural England ceased correspondence with me, which I later found was at the request of the Council. Latterly, Natural England's letter dated 12th March 2020, addressed to the Inspector, is also inconsistent with its advice to me.
- 1.6 Natural England's letter on 12th March 2020 appears to indicate that it was written without regard to the available and proposed walking routes. I have queried this in an email copied to the Inspector and I will report to the Appeal hearing if I receive a substantive reply. As at the date of this rebuttal no reply has been received from NE in response to my request for clarification
- 1.7 I prepared my Proof of Evidence for the above-mentioned Appeal on behalf of the Appellant, which was submitted to the Inspector and copied to the

Council on 3rd March 2020. On 4th March 2020 I received the Council's Proofs of Evidence, including the Habitats Proof by the Council's Ecologist James Meyer, the Planning Proof by the Council's Major Sites and Infrastructure Manager, and the Design Proof by the Council's Principal Design and Conservation Officer. The Council started engaging with our team after Proofs were exchanged; it would have been more helpful if this engagement had been started prior to the planning application determination phase.

- 1.8 On 12th March 2020 a Statement of Common Ground with respect to Habitats Regulations issues was agreed between the Council and the Appellant. On the same day Natural England wrote to the Council and I received a copy on 13th March.
- 1.9 On 16th March 2020, the Council provided email correspondence relating to the Appeal, in particular a series of emails to and from Natural England and including internal emails within the email trails. The Council's Major Sites and Infrastructure Manager states that one internal email not relating to the case was deleted from the email trail.
- 1.10 The Council has also updated its website in relation to RAMS very recently, apparently as a response to this Appeal.
- 1.11 On 16th March 2020 I also saw Suffolk County Council's CIL Compliance Statement which was sent to the Inspector.

2 Review of the Council's Habitats and Planning Proofs

- 2.1 There are a number of matters raised in the Habitats Proof, and related matters in the Planning Proof, to which I would like to draw the Inspector's attention, as they repeat and exacerbate previous policy errors and draw on new and peripherally-relevant information which is intended to support the Council's case, but does not do so.

Local Plan policy understanding and processes

- 2.2 The Council describes the 2011 Appropriate Assessment of the Core Strategies and Development Policies Management Policies document and notes that development within 1km of a European site would be expected to provide greenspace. The Council's Habitat Proof notes that *'this does not mean that sites allocated beyond 1km do not need to provide onsite greenspace'* (para 4.4); yet there is nothing in the Appropriate Assessment to indicate that this is a requirement. This fallacy is repeated in paragraph 4.7. It is noted that the Adastral Park development of 2000 homes was assessed as providing or contributing to a Country Park (para 4.3 of the Council's Habitat Proof) which was later delivered as a Suitable Alternative Greenspace (para 4.5 of the Council's Habitat Proof). A strategic development of 2000 homes is so very different in scale to that proposed at Rendlesham that the comparison is meaningless.
- 2.3 The irrationality of developments further than 1km from a European site potentially requiring on site

SANG is repeated in paragraph 4.7 with regard to the emerging Local Plan. The same paragraph describes the emerging Local Plan HRA as maintaining the 1km distance as the trigger for that requirement.

- 2.4 The Council in its Habitats Proof of Evidence has not addressed its use of a non-policy HRA template which differs significantly from its emerging Local Plan. The Appellant's statement of case raised the lack of policy background which justifies the template, particularly the additional requirements for developments of 50+ dwellings but the Habitats Proof is silent on this matter.
- 2.5 Paragraph 4.5 of the Council's Habitat Proof says that '*there has been widespread acceptance by applicants on the need to demonstrate on/off site mitigation..*' This suggests to me that the Council may have been using its template or the guidance within it for some time as a matter of course, treating it as policy or an established criterion based on critical assessment, whilst at the same time failing to include it in its emerging Local Plan as a policy requirement reflecting the LP HRA.
- 2.6 No evidence has been supplied to demonstrate that the greenspace with a 2.7km walk is necessary for developments of over 50 dwellings, or why for example a development of 49 dwellings would be treated very differently to 50 dwellings. There is no evidence in the Council's Proofs to explain why or if a threshold development size is relevant or how the

threshold was determined. I can only conclude that the template is not evidence-based.

2.7 In the weight given to the emerging Local Plan policies compared to the use of the HRA template, I agree with the Council's Major Sites and Infrastructure Manager in his Planning Proof. He states in paragraph 2.9 that the Council's progress of the Council's emerging Local Plan to a main modifications consultation is a significant and expanding material consideration during this Appeal, with which I agree. However, the Local Plan or its HRA does not set a 50+ dwelling threshold, and yet the Council has adopted this threshold as part of its HRA template.

2.8 The discussion of modifications has led me to search the Local Plan Examination Library for more information arising since the planning refusal and I am grateful to the officer for pointing these out. The October 2019 Local Plan Examination Note on Policy SCLP10.1 Biodiversity (Appendix 1) sets out modifications with respect to Habitats Regulations matters which are to be consulted upon. The key part of the suggested modifications to policy states

The Recreational disturbance Avoidance and Mitigation Strategy has been prepared to provide a mechanism through which impacts from increased recreation can be avoided and mitigated via financial contributions towards the provision of strategic mitigation. Where mitigation is provided through alternative mechanisms, applicants will need to provide an Appropriate Assessment to demonstrate that all

impacts are mitigated for, including in-combination effects. Depending on the size and location of the development, additional measures such as Suitable Alternative Natural Green Spaces (SANGS) may be required as part of development proposals

2.9 This of course emphasises that the standard mechanism for mitigating impacts to European sites is to contribute to the RAMS mechanism. Where applicants do not wish to contribute to RAMS or where the size and location requires it, further measures such as SANGS may be needed. If the Council now interprets the last sentence quoted above as also applying to development which contributes to RAMS, the Local Plan HRA makes it clear that development further than 1km from a European site does not require any mitigation other than RAMS. It is assumed, therefore, the SANGS requirement refers to developments under 1km from a European site and/or to the Saxmundham South Garden Neighbourhood and the Felixstowe North Garden Neighbourhood where these SANGS are to be provided. There is nothing in the suggested modifications or accompanying modified text to support the Council in maintaining the stance adopted in its HRA template with regard to developments of 50+ dwellings.

2.10 The Council had had conflicting advice from Natural England which it has not attempted to reconcile in its any of its Proofs. Natural England apparently advised officers regarding the HRA template, but subsequently advised differently on the emerging Local Plan and its HRA. Latest advice usually supersedes earlier advice,

but the Council did not use the later advice on the Local Plan, where no 2.7km walks were required, to inform revisions to its HRA template.

Suffolk Coast Recreational Disturbance Avoidance Mitigation Strategy

- 2.11 The Council in its Habitats Proof refers to the Suffolk Coast Recreational Disturbance Avoidance Mitigation Strategy, underpinned by a Technical Report by Footprint Ecology. The Council's discussion of the RAMS, whilst noting the SANG at Brightwell Lakes aka Adastral Park, very obviously omits the fact that its RAMS Technical Report **does not** include the provision of 2.7km walks as part of the Mitigation Strategy.

Further clarification of the Council's 'assessment' of impacts on European sites

- 2.12 The Council maintains in its Habitats Proof paragraph 7.5 that the development site is in walking distance of the Sandlings SPA. However, in paragraph 7.7 the Council recognises that to reach the nearest point of the SPA and immediately turn back is a 4.9km round trip, clearly more than the non-policy template 2.7km walk which the Council advocates that most dog walkers would use. In any case, quoting data from national sources PFMA and PDSA in paragraph 7.7 about dog walk lengths is inappropriate because specific survey data was available and was used in the emerging Local Plan HRA. Those national sources were in any case available and presumably considered when the non-policy HRA template was written.

- 2.13 Natural England's later advice on the emerging Local Plan (Local Plan examination library, document A7 page 1970 onwards at https://suffolkcoastallocalplan.inconsult.uk/consult.ti/SuffolkCoastalExamination2019/viewContent?content_id=389011) shows that Natural England agreed with the conclusion of the appropriate assessment. The appropriate assessment does not make mention of scheme of 50+ units requiring SANG (except for two named allocations) nor of a requirement for a 2.7km dog walk in every development of 50 plus dwellings and consequently this advice is inconsistent with its advice on the template. It is possible that Natural England had not finalised its advice on the template at that time in light of the Council's request on 24th February 2020 (above).
- 2.14 Natural England commented on the development initially only after I consulted it, in December 2019 when it advised on a c2km walk within Rendlesham (my Proof of Evidence, appendix 10). The advice then provided to me by Natural England is inconsistent with the advice which the Council claims that Natural England gave on its HRA template, which in turn is also inconsistent with the advice it gave on the local plan.
- 2.15 Natural England's letter dated 12th March 2020, addressed to the Inspector, is inconsistent with its advice to me, in that it finally confirms that it collaborated with the Council on the HRA template and confirmed that the use of the template had its agreement. I note that the Council in an email on 4th March 2020 urges Natural England to agree the

template (Appendix 2). The Council says in the email that *'You will see that one thing they raise is the status of our HRA template, whilst we are confident in addressing it, there is a risk that they [the Appellant] are compromising our mutually agreed use of it. It is clearly of substantial benefit to us both in maintaining a streamlined approach to AA's and also appended the IBC adopted RAMS SPD and our version which is due to go out to consultation soon'*. An earlier email to Natural England on 11th February 2020 expressed similar sentiment (Appendix 3).

- 2.16 Natural England's letter on 12th March 2020 also appears to show a significant lack of understanding of the site location. The letter says that *'...the application site in question is very close to the Sandlings Special Protection Area (SPA) and therefore measures are needed to divert residents away from using this European site as their nearest greenspace'*. It appears that the officer is unfamiliar with the site, as a 2.2 – 2.4km one-way walk to the nearest point of Sandlings SPA cannot be considered to be 'very close'. The SPA is certainly not the 'nearest' greenspace as there is greenspace to be provided in the development and greenspace also exists in the village. The emerging Local Plan HRA defines 'very close' where a direct recreational impact might occur, as up to 400m between the development and a European site; and I note that Natural England had agreed with this definition within its emerging Local Plan agreement (see above). This misunderstanding of the site location may well have influenced Natural England's advice. I have

queried this in an email copied to the Inspector and I will report if I receive a substantive reply.

3 Timeline and additional matters

3.1 This timeline is provided to help the Inspector understand how the need for an Appeal has arisen, with a demonstration that the Appellant has striven to meet all reasonable policy requirements but has been effectively prevented from doing this by the lack of transparency and consistent advice from the Council.

Date	Event / understanding	What we later found out
2018, uncertain	Natural England and Council officers produced a HRA Record template	Natural England didn't approve the use of the HRA Record template until 12 th March 2020. There's no evidence to support the template thresholds.
11 th December 2018	Pre-app meeting raised the issue of RAMS payment for offsite works. Details would be sent. No mention of HRA template or any need for a 2.7km walk	HRA template was apparently in use by the Council from 4 th December 2018 according to emails received from the Council in March 2020.
post-11 th December 2018	No RAMS info was sent following pre-app meeting and no mention of any need for a walk. Applicant relied on RAMS info as it appeared on the Council's website in summer 2019	The RAMS technical report gives no mention of a need for a 2.7km walk in addition to tariff payments.
January / February 2019	Natural England agreed with emerging Local Plan and HRA; did not mention inconsistency with HRA template	
May 2019	Council's Ecology Officer requested a 2.7 km walk and referred to a Hampshire County Council development-	The Council could not later produce a filled-in HRA template indicating that they had not used it. There

Date	Event / understanding	What we later found out
	<p>specific document. The HRA template didn't seem to be in use at that time and was not available on the Council's website.</p> <p>Ecology Officer asked the planning officer to consult Natural England and to begin dialogue with Applicant.</p>	<p>is no formal record of it being used to inform the Council's decision</p> <p>Ecology officer's requests were not done so applicant was not made aware of Council's concern.</p>
May 2019	The Council held a meeting at which the HRA template was announced. The Appellant team were not invited to or informed of the meeting, even though it was to be a decision making tool for purposes of the planning application.	Appellant only heard of the meeting and the announcement much later, after the Appeal had been made.
9 July 2019	A reason for refusal was that the development 'does not pass an Appropriate Assessment'	No appropriate assessment was documented and NE was not consulted
December 2019	Appellant consults Natural England after failure of Council to do so, then provides additional info to NE in January 2020. No response received to the January 2020 email.	NE is requested by the Council to not agree anything with the Appellant team. (Email of 24 th February 2020, appendix 4). NE agrees not to agree anything with the Appellant on 27 th February (also appendix 4) but doesn't share this with the Appellant
7 th February 2020	The Council decides to communicate with the Appellant's consultants (appendix 5).	The open communication then ceased with later emails only being provided after a request for all correspondence
February 2020	The Council's Appeal Statement of Case informs the Appellant for the first time that it has a HRA record	The Council could not produce a filled-in HRA Record indicating that they had not even used it properly.

Date	Event / understanding	What we later found out
	template thus enabling the Appellant to start to understand the Council's case.	
March 2020	The HRA Record template is placed on the Council's website for the first time, apparently in response to the Appellant's Proof stating that the template was not available to the public	
12th March 2020	Natural England provides further inconsistent advice.	
13 th March 2020	Email from me to Natural England querying its inconsistencies (Appendix 6)	
16 th March 2020	Email from the Council copied to Inspector saying it had not considered the available dog walking routes I had identified in my email on 13 th March 2020 also copied to the Inspector (Appendix 7). This shows that the Council had not properly assessed the options available. I pointed out existing routes that the Council should have known about simply by looking at OS maps.	

3.2 In its email to Natural England on 4th March (Appendix 2), the Council informs Natural England that the PRow funding [for the Council's preferred route to the north-east] is justified on general access to the countryside grounds, not specifically Habitat Regs. I note that the Council then ignores its own justification and continues to press for it in order to deliver HRA mitigation.

- 3.3 Also in Appendix 2, on 6th March, the Council sends a presentation to Natural England to inform the officer's decision, but explicitly not sharing it with the Appellant or the Inspector.
- 3.4 An email from the Council and copied to the Inspector states that it had not considered the available dog walking routes I had identified in my email on 13th March 2020 which was also copied to the Inspector (Appendix 7).
- 3.5 This indicates that the Council had not properly assessed the mitigation options available. I pointed out existing routes that the Council would have known about simply by looking at OS map coverage of the area. The Council is concerned about the long-distance walk to the SPA but seemingly is not aware of shorter walks options which are available close to the development.
- 3.6 Suffolk County Council's CIL Compliance statement provided at 9pm on 16th March includes a map of the Council's preferred walk provision, which is the first time I have seen the County Council's map. The preferred route is now clear as a one-way 1km factory access track, joining to a busy and fast B-road with no pavement. Other rights of way are near the end of the track but not connected to it, with walkers deterred by the busy fast road from crossing to the other rights of way. A 1km each way factory access track seems to be of less value to dog walkers than other routes identified by me in the village or the 26km loop south of the village (Appendix 6). However, the analysis in

Appendix 6 of my perception of the Council' preferred route is now moderated by my recent understanding that the Council's preferred route does in fact not connect up to the other rights of way at the eastern end of the factory access track.

Appendix 1

Suffolk Coastal Local Plan Examination

Hearing Day 9

Matter 4 Policies

Note on Policy SCLP10.1: Biodiversity and Geodiversity

1. This note responds to an action arising from the Matter 4 hearing session (Friday 20th September) to reconsider the wording in the final paragraph of Policy SCLP10.1: Biodiversity and Geodiversity. Policy SCLP10.1: Biodiversity and Geodiversity can be viewed on page 156 of the Final Draft Local Plan (Document A1).
2. Inspector's question 4.31 asked whether the approach in the policy regarding the requirement for developers to make financial contributions towards the provision of strategic mitigation was consistent with paragraph 34 of the NPPF, and whether the effect of any contribution had been assessed in terms of viability. The Council provided a response to this on page 37 of its Matter 4 statement.
3. During the hearing session there was further discussion around the relationship between the habitat mitigation contribution and other requirements such as SANG provision. This note and modification responds to that.
4. The Council's approach to the mitigation of impacts on European Sites from increased recreational disturbance is set out in the Recreation disturbance Avoidance and Mitigation Strategy (RAMS) (Document H19). The RAMS document sets out a mechanism through which financial contributions can be collected and fed into a strategic mitigation scheme to ensure the co-ordinated delivery of mitigation measures.
5. The proposed modification to the final paragraph of Policy SCLP10.1 set out below, is considered to better reflect the approach set out in the RAMS document and the requirements of the Conservation of Habitats and Species Regulations 2017, as amended. The modification ensures that the mitigation measures are secured, either through a RAMS payment or alternative mechanisms. The modification also reflects the fact that the RAMS document has now been finalised.
6. The Council's response to question 4.31, included a modification to Policy SCLP10.1 (see para 159 of the Matter 4 hearing statement). The modification set out below supersedes the modification included in the Council's earlier hearing statement.

7. Modifications are shown in ~~strike through~~ for deleted text and in underline for additional text. The Council will include this revised wording in the schedule of modifications that is being collated as part of the Examination.

Modifications to Paragraph 10.16:

“The high quality natural environment is important to many local communities as it positively contributes to quality of life, quality of place and mental health. The Council recognises that issues relating to biodiversity and geodiversity need to be considered collaboratively with businesses and other stakeholders to ensure that natural assets are protected. To address the impact of development on the European Sites across the District, the Council has been working in partnership with Waveney District Council, Ipswich Borough Council, Babergh and Mid Suffolk District Councils, Suffolk County Council and Natural England to develop a Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The strategy provides the practical basis and evidence to identify projects to mitigate the impact of new development on the protected sites. In the majority of cases, a RAMS contribution will be the council’s preferred mechanisms for securing mitigation.”

~~10.17 With respect to the effect of increased recreational use of European sites as the result of Special Protection Areas (SPAs) in large scale developments throughout the District, the approach adopted has been to provide Suitable Alternative Natural Greenspaces (SANGs) as part of development proposals. Such an approach has been successfully implemented in developments such as the ‘Brightwell Lakes’ development of approximately 2,000 dwellings in the south of the District. Likewise, compensatory areas have been provided at Sizewell Nuclear Power plants to mitigate the effects of development on SSSIs. In the interests of ensuring the continued effectiveness ~~conservation~~ of mitigation measures such as SANGs and compensatory areas, they will be protected in perpetuity. ~~considerable weight should be afforded to the conservation of such measures where they are included as part of large scale development proposals.”~~~~

Modifications to Policy SCLP10.1:

8. Final paragraph - “Any development with the potential to impact on a Special Protection Area ~~or~~ Special Area for Conservation or Ramsar site within or outside of the District will need to be supported by information to inform a Habitat Regulations Assessment, in accordance with the Conservation of Habitats and Species Regulations 2017, as amended (or subsequent revisions).”

The Recreational disturbance Avoidance and Mitigation Strategy has been prepared to provide a mechanism through which impacts from increased recreation can be avoided and mitigated via financial contributions towards the provision of strategic mitigation. Where mitigation is provided through alternative mechanisms, applicants will need to provide an Appropriate Assessment to demonstrate that all impacts are mitigated for, including in-combination effects. Depending on the size and location of the development, additional measures such as Suitable Alternative Natural Green Spaces (SANGS) may be required as part of development proposals.

A Supplementary Planning Document will be prepared to assist with the implementation of the a strategic Recreational disturbance Avoidance and Mitigation Strategy in order to mitigate for potential adverse effects arising from new growth on Special Protection Areas, Ramsar Sites and Special Areas of Conservation. The Council will work with neighbouring authorities and Natural England to ~~develop and implement this strategy. The strategy will include a requirement for developers to make financial contributions towards the provision of strategic mitigation within defined zones.~~

9. As a result of the above modification there is a consequential change to paragraph 10.22. This ensures consistent wording throughout the Local Plan in relation to the Recreational disturbance and Mitigation Strategy.

Modifications to Paragraph 10.22:

“The Council ~~has is~~ preparing a ‘Recreational disturbance Avoidance and Mitigation Strategy’ (RAMS) with Babergh and Mid Suffolk District Councils, Ipswich Borough Council and Waveney District Council. The strategy will review and monitor effectiveness and amend the approach as deemed necessary.”

10. Also for consistency, the heading at the top of page 157 of the Local Plan should be changed to reflect the title of the relevant policy. This reflects the approach taken in the rest of the plan:

Modification to page 157:

“Visitor Management of European Sites Access to the Special Protection Areas”

Appendix 2

Nick Sibbett

From: Ben Woolnough <Ben.Woolnough@eastsoffolk.gov.uk>
Sent: 15 March 2020 23:27
To: Ben Woolnough
Subject: FW: Rendlesham Appeal
Attachments: DC-19-1141-OUT 279173 Natural England Response.pdf; DC-19-1141-OUT 308079 Natural England Response.pdf

Email 11

From James Meyer, in response to a brief response from Francesca. James sets out and shares a very similar process in use of the template in a recent application in Reydon (responses attached).

From: James Meyer <james.meyer@eastsoffolk.gov.uk>
Sent: 09 March 2020 14:33
To: Shapland, Francesca <Francesca.Shapland@naturalengland.org.uk>
Cc: Ben Woolnough <Ben.Woolnough@eastsoffolk.gov.uk>; Jackson, John (NE) <John.Jackson@naturalengland.org.uk> <John.Jackson@naturalengland.org.uk>
Subject: RE: Rendlesham Appeal

Hi Francesca,

I hope all is well with you?

Following on from the e-mails below, what we need is confirmation that the East Suffolk HRA Template was prepared jointly (between Natural England and East Suffolk Council) and that the process, including for consultation (that Natural England is consulted after the Appropriate Assessment has been undertaken), set out in the template is correct.

The approach set out in the HRA Template is the one we have been following. For example we have recently had an Appropriate Assessment consultation response from Natural England for a site in Reydon (copy attached) which quotes the measures included in Annex 1 of the HRA Template which Natural England recommend for larger scale residential developments (50+ dwellings). This was after the first Natural England consultation response (full copy also attached) on that application advised that: *"Having reviewed the planning documents for this application, it appears that you have not yet undertaken a HRA - Stage 2: Appropriate Assessment to consider this issue. We therefore advise that you do so now using our suggested template and that you should not grant permission until such time as the HRA Appropriate Assessment has been carried out and the conclusions confirmed in line with the our guidance. Please note that we will only provide further comment on your authority's HRA once completed and not the 'shadow' HRA provided by the applicant."*

Many thanks for your help.

Kind regards

James



James Meyer BSc (Hons) MCIEEM | Ecologist

East Suffolk Council

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East Suffolk Council is a new district authority which, from April 2019, delivers services for the residents, businesses and communities previously served by Suffolk Coastal and Waveney District Councils

From: Shapland, Francesca <Francesca.Shapland@naturalengland.org.uk>

Sent: 09 March 2020 13:21

To: Ben Woolnough <Ben.Woolnough@eastsuffolk.gov.uk>

Subject: RE: Rendlesham Appeal

Hi Ben

I think you can share the presentation with the appeal if that would be helpful, I'm just checking with the casework manager.

I'm confused about what you need from us, since PINS haven't contacted us directly on this. Do you need a formal appeal response addressed to you?

Thanks, Francesca

From: Ben Woolnough [<mailto:Ben.Woolnough@eastsuffolk.gov.uk>]

Sent: 06 March 2020 15:19

To: Shapland, Francesca <Francesca.Shapland@naturalengland.org.uk>

Cc: Jackson, John <John.Jackson@naturalengland.org.uk>; James Meyer <james.meyer@eastsuffolk.gov.uk>

Subject: RE: Rendlesham Appeal

Thanks Francesca,

I look forward to your feedback. It would also be helpful if your advice is consistent with the attached presentation that John gave to the RAMS Exec board, which sets out the HRA template and the NE position on consultation that we have been working to:

- . Reduces consultations. Improves efficiency. Focuses effort on the highest priorities.
- . The LPA only needs to consult Natural England where there is a large development requiring detailed advice on GI, or where there is a small development in close proximity to a site, which might require bespoke mitigation.

I've not been able to share this presentation with the appellant and Inspector because of its draft form.

Kind regards

Ben



Ben Woolnough BSc MSc MRTPI
Major Sites and Infrastructure Manager
East Suffolk Council
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East Suffolk Council is a new district authority which, from April 2019, delivers services for the residents, businesses and communities previously served by Suffolk Coastal and Waveney District Councils



From: Shapland, Francesca <Francesca.Shapland@naturalengland.org.uk>
Sent: 06 March 2020 14:24
To: Ben Woolnough <Ben.Woolnough@eastsuffolk.gov.uk>
Subject: RE: Rendlesham Appeal

Hello Ben

Sorry to have missed your call, I've been out at meetings and training this week. PINS haven't contacted us separately. We appreciate your points below about the need for careful handling with this, so I'd like to discuss it with our casework manager if possible. When do you need a response by? I'll review the proofs and have another look at your previous email.

Regards, Francesca

From: Ben Woolnough [<mailto:Ben.Woolnough@eastsuffolk.gov.uk>]
Sent: 04 March 2020 13:39
To: Jackson, John <John.Jackson@naturalengland.org.uk>; Shapland, Francesca <Francesca.Shapland@naturalengland.org.uk>
Cc: James Meyer <james.meyer@eastsuffolk.gov.uk>; Laura Mundy <Laura.Mundy@eastsuffolk.gov.uk>
Subject: Rendlesham Appeal
Importance: High

John and Francesca,

I've tried to call but have only reached voicemails. Regarding the matter below and the Rendlesham appeal I can now attach both the Council's proof and the Appellant's (4 documents). You will see that one thing they raise is the status of our HRA template, whilst we are confident in addressing it, there is a risk that they are compromising our mutually agreed use of it. It is clearly of substantial benefit to us both in maintaining a streamlined approach to AA's and also appended the IBC adopted RAMS SPD and our version which is due to go out to consultation soon.

Please could you review the proofs both for this specific query and the email that I sent which included the appellants – noting the inspector has asked for NE input prior to the inquiry. It may be that you could also take part in the roundtable session dealing with habitats regs if the Inspector finds that useful. Have PINS contacted you separately as their own formal consultation?

It is also worth noting that PROW funding may be secured in the s106 – this is justified on general access to the countryside grounds, not specifically habitat regs. We have said that we believe it can be relied upon as part of their HRA mitigation package, though I believe they are saying an AA can be passed without it as part of their walking route. You will note that James' proof makes the PROW deficiencies in Rendlesham very clear and that is of considerable influence on project level HRA in this case.

As I've previously said, this appeal could potentially set precedent in how we approach project level HRA in East Suffolk and the whole RAMS ZOI, so we need to be particularly careful with it.

If we could have a reply or chat asap that would be very much appreciated.

Kind regards

Ben



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From: Ben Woolnough
Sent: 24 February 2020 10:38
To: Jackson, John <John.Jackson@naturalengland.org.uk>
Cc: Shapland, Francesca <Francesca.Shapland@naturalengland.org.uk>; James Meyer <James.Meyer@eastsoffolk.gov.uk>; Laura Mundy <Laura.Mundy@eastsoffolk.gov.uk>
Subject: FW: RAMS payments

Hi John,

As we are working on our Rendlesham appeal proofs we want to be able refer to our first use of the attached template HRA record which Laura and I developed with you.

Whilst we've not had a formal written acceptance of its use from Natural England, could you please confirm that Laura's statement below from December 2018 is accurate and consistent with your recollection on this work and our use of it since then, including its Annexes 1 and 2.

We may need to include this email trail as an appendix of James' proof.

Kind regards

Ben



Ben Woolnough BSc MSc MRTPI
Major Sites and Infrastructure Manager
East Suffolk Council
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From: Laura Mundy <Laura.Mundy@eastsoffolk.gov.uk>
Sent: 04 December 2018 15:25
To: Liz Beighton <Liz.Beighton@eastsoffolk.gov.uk>; Ben Woolnough <Ben.Woolnough@eastsoffolk.gov.uk>; Philip Perkin <Philip.Perkin@eastsoffolk.gov.uk>; Katherine Scott <Katherine.Scott@eastsoffolk.gov.uk>; Sam Hubbard <Sam.Hubbard@eastsoffolk.gov.uk>

Cc: Andrea McMillan <Andrea.McMillan@eastsuffolk.gov.uk>

Subject: RE: RAMS payments

Hi Liz,

Yes I'd like to try and organise a time to talk this through. As you'll be aware we are really up against it with Local Plan deadlines for the next two weeks, but I'm happy to try and help where I can- I realise this is a tricky issues for everyone.

We are just waiting for some final amendments from Footprint Ecology before we can finalise the Strategy and start the process of adopting/seeking endorsement on it. Although I'm not anticipating that these amendments will change the zones and/or tariffs.

We have always intended to publish the document alongside a set of FAQs. There was an early draft of these, but things have moved on since then and they need to be updated to reflect the latest strategy- I'll try and find time to look again at these ASAP.

In other news, I have had confirmation from John Jackson that he is happy with the amendments we proposed to their HRA record template and he is happy for us (SCDC and WDC) to start using it. I have attached the final template - this is the version that I amended based on comments from DM colleagues. We had discussed the potential need to amend Uniform in order to reflect this requirement, but prior to that happening we can at least use this Word version. Maybe this is an item with can also cover at any catch up that we organise?

Thanks,

Laura

From: Liz Beighton
Sent: 04 December 2018 14:59
To: Laura Mundy; Ben Woolnough; Philip Perkin; Katherine Scott
Subject: RAMS payments
Importance: High

Hi all,
Can we get together to discuss this thorny issue.

Until we have a policy in place we need to see UU's or S106s for all developments in the zone, I understand, including single plots.

I have a number of confused officers as this is so new so it would be useful to have an 'idiots' guide to this.

In addition, I have very confused agents and developers who are frustrated that this is so new with limited discussion/consultation with them. Officers seem to be raising issues with them but late in the day and it isn't a cost they have factored into the development. We could really do with a guide or information in relation to this on the website to help spread the understanding.

Laura – is this something you can assist in?

Has the document been endorsed yet?

Liz Beighton BA (hons) MTP MRTPI
Planning Development Manager
Planning

Suffolk Coastal and Waveney District Councils
Tel: 01394 444778

[mailto: liz.beighton@eastsoffolk.gov.uk](mailto:liz.beighton@eastsoffolk.gov.uk)

On 1 April 2019, we will become East Suffolk Council – a new ‘super district’ authority, serving the residents, businesses and communities of both Suffolk Coastal and Waveney. Importantly, it will be business as usual and the high quality services you receive from us will not be affected.

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Appendix 3

Nick Sibbett

From: Ben Woolnough <Ben.Woolnough@eastsoffolk.gov.uk>
Sent: 15 March 2020 23:15
To: Ben Woolnough
Subject: FW: Rendlesham Appeal HRA
Attachments: Appendix 8 - HRA record.pdf

Email 7.

Based on SoCG progress and criticism of the HRA record template, this email also sought clarification on the Natural England position on our continued agreed use of that. Clearly we have a responsibility wider than just this appeal to ensure NE's opinion on that remains consistent and as originally agreed.

From: Ben Woolnough
Sent: 11 February 2020 20:46
To: Shapland, Francesca <Francesca.Shapland@naturalengland.org.uk>
Cc: James Meyer <James.Meyer@eastsoffolk.gov.uk>
Subject: RE: Rendlesham Appeal HRA

Thanks Francesca,

That would be very much appreciated. I am expecting that James will need to prepare a Habitat Regs proof of evidence, I should be around a fair bit towards the end of the week.

One of my main concerns with this one is the precedent that it may set in relation to our 50+ threshold for bespoke HRA + on-site/local mitigation + RAMS, as per our template HRA (attached) agreed with John and now consistently used by East Suffolk (and hopefully other Suffolk RAMS authorities).

I hope that when it comes to responding to the inspector you can advise her to use the template HRA in coming to a conclusion that their specific shadow HRA was necessary (to consider effects and mitigation beyond RAMS contributions) and that it should be considered against our established position on mitigation – then assess that against Annex I of the document.

Kind regards

Ben



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From: Shapland, Francesca <Francesca.Shapland@naturalengland.org.uk>
Sent: 11 February 2020 16:04
To: Ben Woolnough <Ben.Woolnough@eastsoffolk.gov.uk>
Subject: RE: Rendlesham Appeal HRA

Hi Ben

Thanks for this and for updating me on the application in Melton last week.

I can look at the Statement of Case and get back to you later this week. I'm just not finding a day when I'm in the office at the moment unfortunately!

Kind regards

Francesca

From: Ben Woolnough [<mailto:Ben.Woolnough@eastsoffolk.gov.uk>]
Sent: 07 February 2020 13:07
To: Shapland, Francesca <Francesca.Shapland@naturalengland.org.uk>
Cc: Jackson, John <John.Jackson@naturalengland.org.uk>; James Meyer <james.meyer@eastsoffolk.gov.uk>; Steven Bainbridge <steven@parkerplanningservices.co.uk>; nick.sibbett@tlp.uk.com; Palmer, Leanne <LEANNE.PALMER@planninginspectorate.gov.uk>
Subject: Rendlesham Appeal HRA
Importance: High

Hi Francesca,

Following our discussion just now, I felt it was probably best for us to openly communicate with the appellant's consultants included in the email.

In the pre-inquiry case conference call yesterday the Inspector was keen to give Habitats Regulations Assessment some up-front consideration rather than the approach other inspectors have taken to treat it as a post-inquiry process 'if minded to allow'. It is likely we will produce a specific Statement of Common Ground on this, it may even be possible that it could be signed by all three parties. Please see the attached note of that call (Point 15).

I've previously shared our Statement of Case where we see issues in the appellant's current approach to mitigation, and walking routes they've previously shared with you, but which have not yet been submitted as part of the appeal. Ideally we should establish clear positions ahead of proofs of evidence, particularly as this issue is capable of being addressed.

I would be very grateful if you could give this your attention.

(Leanne, I have copied you in so that you are aware that we are attempting to progress this matter as the Inspector requested)

Kind regards

Ben



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Appendix 4

Nick Sibbett

From: Ben Woolnough <Ben.Woolnough@eastsoffolk.gov.uk>
Sent: 15 March 2020 23:11
To: Ben Woolnough
Subject: FW: HRA - Rendlesham appeal
Attachments: Rendlesham Appeal Statement of Case - 3242636-merged.pdf

Email 5.

From: Ben Woolnough
Sent: 06 February 2020 10:40
To: Shapland, Francesca <Francesca.Shapland@naturalengland.org.uk>
Cc: James Meyer <James.Meyer@eastsoffolk.gov.uk>
Subject: RE: HRA - Rendlesham appeal

Hi Francesca,

Sorry, I forget to send our Statement of Case to you. Please see our position at paragraphs 5.46 – 5.58. We have an inquiry conference call with the inspector and appellant today so will update you on how the inspector wishes to address habitat regs. If you have any updates then please let me know and it would be good to chat soon.

Kind regards

Ben



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From: Ben Woolnough
Sent: 27 January 2020 15:00
To: Shapland, Francesca <Francesca.Shapland@naturalengland.org.uk>
Cc: James Meyer <James.Meyer@eastsoffolk.gov.uk>
Subject: RE: HRA - Rendlesham appeal

Thank you Francesca,

I'll send you a copy of our statement of case tomorrow so you are fully informed on both the Council's and appellant's positions. Hopefully we can then speak after that and I hope that we will be able to work with the appellant to agree common ground and mitigation to avoid this being dealt with in detail in the inquiry.

Kind regards

Ben



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From: Shapland, Francesca <Francesca.Shapland@naturalengland.org.uk>
Sent: 27 January 2020 12:28
To: Ben Woolnough <Ben.Woolnough@eastsoffolk.gov.uk>
Cc: James Meyer <james.meyer@eastsoffolk.gov.uk>
Subject: RE: HRA - Rendlesham appeal

Hi Ben

Sorry I wasn't able to speak on Thursday as we planned, I was ill, and out at meetings on Friday. Early this week is very difficult due to other work commitments but I'm happy to confirm that NE will not formally agree a position with the applicant on the appeal until I have spoken with you.

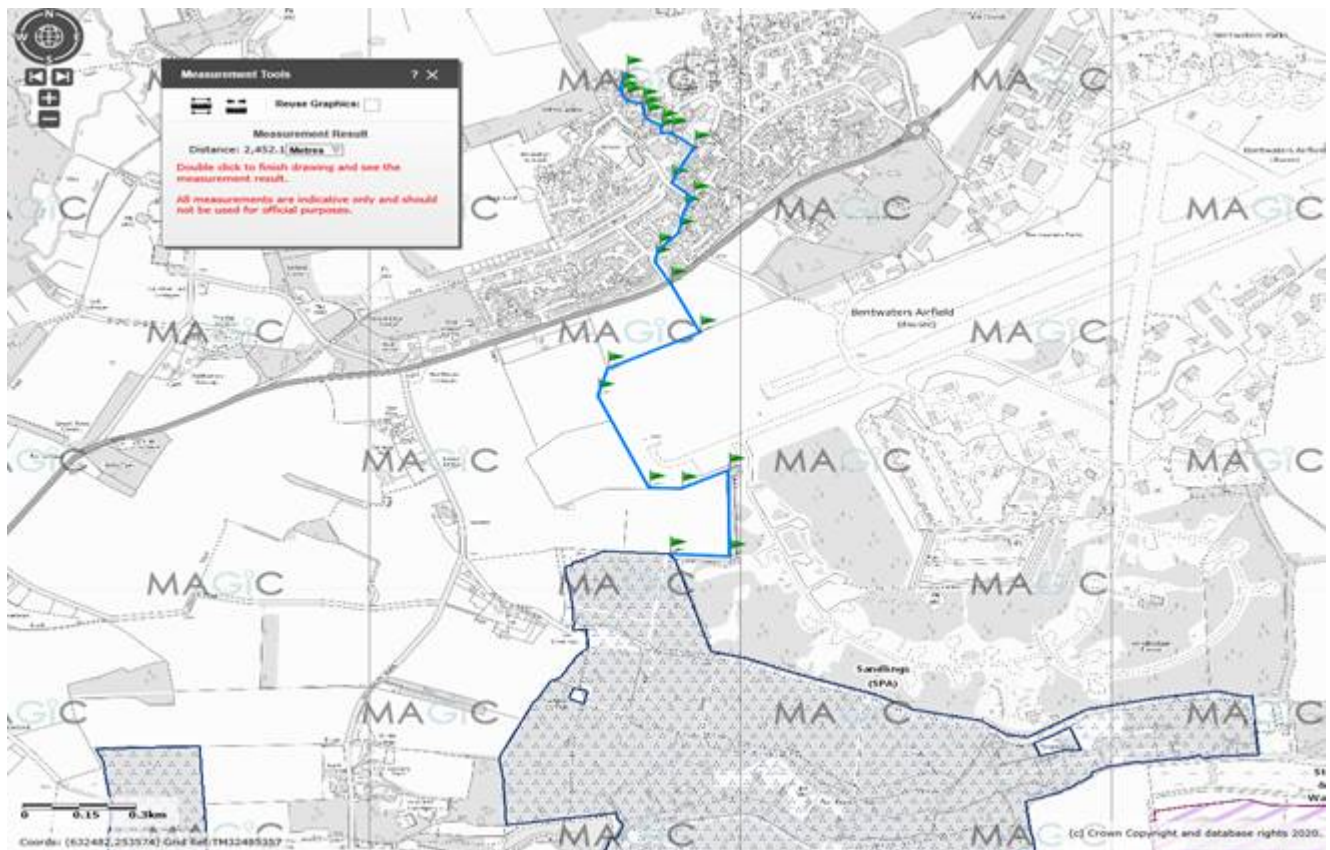
Regards, Francesca

From: Ben Woolnough [<mailto:Ben.Woolnough@eastsoffolk.gov.uk>]
Sent: 24 January 2020 21:48
To: Shapland, Francesca <Francesca.Shapland@naturalengland.org.uk>
Cc: Jackson, John <John.Jackson@naturalengland.org.uk>; James Meyer <james.meyer@eastsoffolk.gov.uk>
Subject: RE: HRA - Rendlesham appeal

Hi Francesca,

Unfortunately we weren't able to get through to you yesterday. Are you available Monday or Tuesday to chat at all?

If not please could I ask that NE do not formally agree a position with the appellant on this appeal until we have spoken. We are producing our statement of case to be submitted on Tuesday and are very likely to maintain defence of the reason for refusal on grounds that it does not address on-site or local off-site mitigation to address LSE.



We also note shortfalls in the HRA produced where it does not give any consideration to the recently created bridleway leading direct from Rendlesham into the Sandlings SPA. Please see below. This is quite unique in being the only rural walk available for the whole village and the Sandlings can be reached in 20-30 mins. This adds to the well known pressure of driven dogs walks from the village, usually with parking at Friday St.

Kind regards

Ben



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From: Ben Woolnough
Sent: 17 January 2020 13:18
To: Shapland, Francesca <Francesca.Shapland@naturalengland.org.uk>
Cc: 'Jackson, John (NE)' <John.Jackson@naturalengland.org.uk>; James Meyer <James.Meyer@eastsuffolk.gov.uk>; Stephanie Walsh <Stephanie.Walsh@eastsuffolk.gov.uk>
Subject: HRA - Rendlesham appeal

Hi Francesca,

I understand that you've had recent communication with Nick Sibbet regarding the 75 home appeal that we have going to public inquiry in March. Particularly in response to our HRA reason for refusal.

Could we please have a chat about the on/off-site requirements? I don't have your number. We need to establish our statement of case next week and I believe that the appellants may be a bit more enlightened on the NE position than us. There are also recent changes to the scheme which affect the HRA.

Thanks

Ben



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Appendix 5

Nick Sibbett

From: Ben Woolnough <Ben.Woolnough@eastsoffolk.gov.uk>
Sent: 15 March 2020 23:12
To: Ben Woolnough
Subject: FW: Rendlesham Appeal HRA
Attachments: 3242636 Case Management Conference Summary Note.pdf

Importance: High

Email 6. Shared with all, initiating Natural England input in the appeal, as per the Inspector's request.

From: Ben Woolnough
Sent: 07 February 2020 13:07
To: Shapland, Francesca <Francesca.Shapland@naturalengland.org.uk>
Cc: 'Jackson, John (NE)' <John.Jackson@naturalengland.org.uk>; James Meyer <James.Meyer@eastsoffolk.gov.uk>; Steven Bainbridge <steven@parkerplanningservices.co.uk>; nick.sibbett@tlp.uk.com; Palmer, Leanne <LEANNE.PALMER@planninginspectorate.gov.uk>
Subject: Rendlesham Appeal HRA
Importance: High

Hi Francesca,

Following our discussion just now, I felt it was probably best for us to openly communicate with the appellant's consultants included in the email.

In the pre-inquiry case conference call yesterday the Inspector was keen to give Habitats Regulations Assessment some up-front consideration rather than the approach other inspectors have taken to treat it as a post-inquiry process 'if minded to allow'. It is likely we will produce a specific Statement of Common Ground on this, it may even be possible that it could be signed by all three parties. Please see the attached note of that call (Point 15).

I've previously shared our Statement of Case where we see issues in the appellant's current approach to mitigation, and walking routes they've previously shared with you, but which have not yet been submitted as part of the appeal. Ideally we should establish clear positions ahead of proofs of evidence, particularly as this issue is capable of being addressed.

I would be very grateful if you could give this your attention.

(Leanne, I have copied you in so that you are aware that we are attempting to progress this matter as the Inspector requested)

Kind regards

Ben



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Appendix 6

Nick Sibbett

From: Nick Sibbett
Sent: 13 March 2020 18:55
To: Shapland, Francesca
Cc: Palmer, Leanne; Paul Shadarevian; Anthony Hardy; Jeanie; Ben Woolnough; Nicola Doole; Steven Bainbridge; Jackson, John (NE); james.meyer@eastsoffolk.gov.uk
Subject: Appeal at Rendlesham, NE's ref 311432. Appeal ref APP/X3540/19/3242636
Attachments: S25C-920031313490.pdf; walks plan.pdf

Francesca, I have now seen your letter to the Inspector on the appeal case at Rendlesham dated yesterday.

In your letter you say that the application site in question is very close to the Sandlings SPA and measures are needed to divert residents from using the SPA as their nearest greenspace. Please could you confirm how you define 'very close'? HRA by Footprint Ecology of the emerging Local Plan suggests that up to 400m distance between a development and a European site is the distance at which direct on-foot access effects would occur and I wonder if you have used that HRA to inform your understanding of 'very close'?

I'm a bit confused as to what the Council actually sent you in correspondence, as you say near the end of your letter that the information from the Council about a proposed dog walking route outlined by the applicant largely involves walking on roads and within town infrastructure. I don't recognise this description because there are areas of GI and village roadside pavements on the identified route with no town involved. In December you told me by email *'we'd advise that you should aim to create a dog walking route that joins up with strategic paths and green infrastructure in Rendlesham. This should direct people away from designated sites and make an attractive c.2km loop which leads back to your application site, ideally with access to an off lead area'* Your advice was followed, with a route identified in Rendlesham that joined up the 2ha greenspace in the appeal site with a 2.5ha greenspace at the other end of the village, with routes beside attractive village roads. A drawing of this was sent to you in January 2020 but I didn't hear back from you at that time. The greenspaces include dog bins, dogs off lead areas, will be managed long-term, signage can be supplied and is around 2km. I see this route as 'on-site' infrastructure including the existing greenspace in the village because no development sites of similar size are able to provide 2km+ walks in the development site itself due to size issues. This on-site route also provides new green infrastructure to existing residents of the village so improving their in-village dog walks and reducing recreation pressure elsewhere.

Could you let me see what the Council actually sent you please to inform your 12th March letter? I am worried that it might not have included all options for walking in and around Rendlesham and so you might not have been aware of these options.

There is an existing route, of 2.6km, which residents can use, by walking through the village, into the countryside along a PRoW and then back to the village along an unclassified public road rarely used by traffic. This also seems to provide an alternative to visiting the SPA in addition to the route joining greenspaces in the village.

There are problems with the Council's preferred route which you might not be aware of; I am not sure what you have seen? Firstly, the land is not under the control of the appellant and so there is no ability for it to make a route. A large part of the route is a track used by HGVs to access the factory at Rendlesham Hall and also passes the sewage works making it less attractive for walkers. Secondly, although SCC is working towards a statutory order for the route the exact line is uncertain and there is no landowner agreement as far as we know, so any new route may take some time if it actually occur. The timescale could well not match the timescale of the development and the new route is unlikely to be available as the houses are built. Thirdly, the route is 3 – 4km long depending on which variation is used, so that it is longer than required by most dog walkers and doesn't need the template requirements. The appellant is able and willing to contribute to SCC's work to make an order creating a route here but it can't be tied into a planning consent due to its lack of control and a disputed necessity.

The existing southern route with which the Council is concerned, leading to the SPA at Friday Street, is at least 2.2km one-way from the appeal site so at least 4.4km round trip even to the nearest corner of the Forest, well out of range of most dog walkers. As the Friday Street car park at that location has now closed, the number of dog walkers will be well down on previous numbers even after the new development is built.

These routes are shown on the attached as
Route A – using existing green infrastructure as well as new green infrastructure in the proposed development

Route B – the existing 2.6km walk using in part PRow and an unclassified public road in the countryside
Route C – the long route to the corner of the SPA
Route D1 / D2 – the Council’s preferred new PRow alternatives on third party land we think, I haven’t seen it documented anywhere.

To aid the Inspector, if she were to decide that walking route(s) were necessary, could you review all the routes together and provide Natural England’s advice on all the options please?

I am looking forward to your swift response to assist the Inspector in her consideration of these matters before the Inquiry begins in the near future.

Best regards

Nick

Nick Sibbett
Associate

The Landscape Partnership

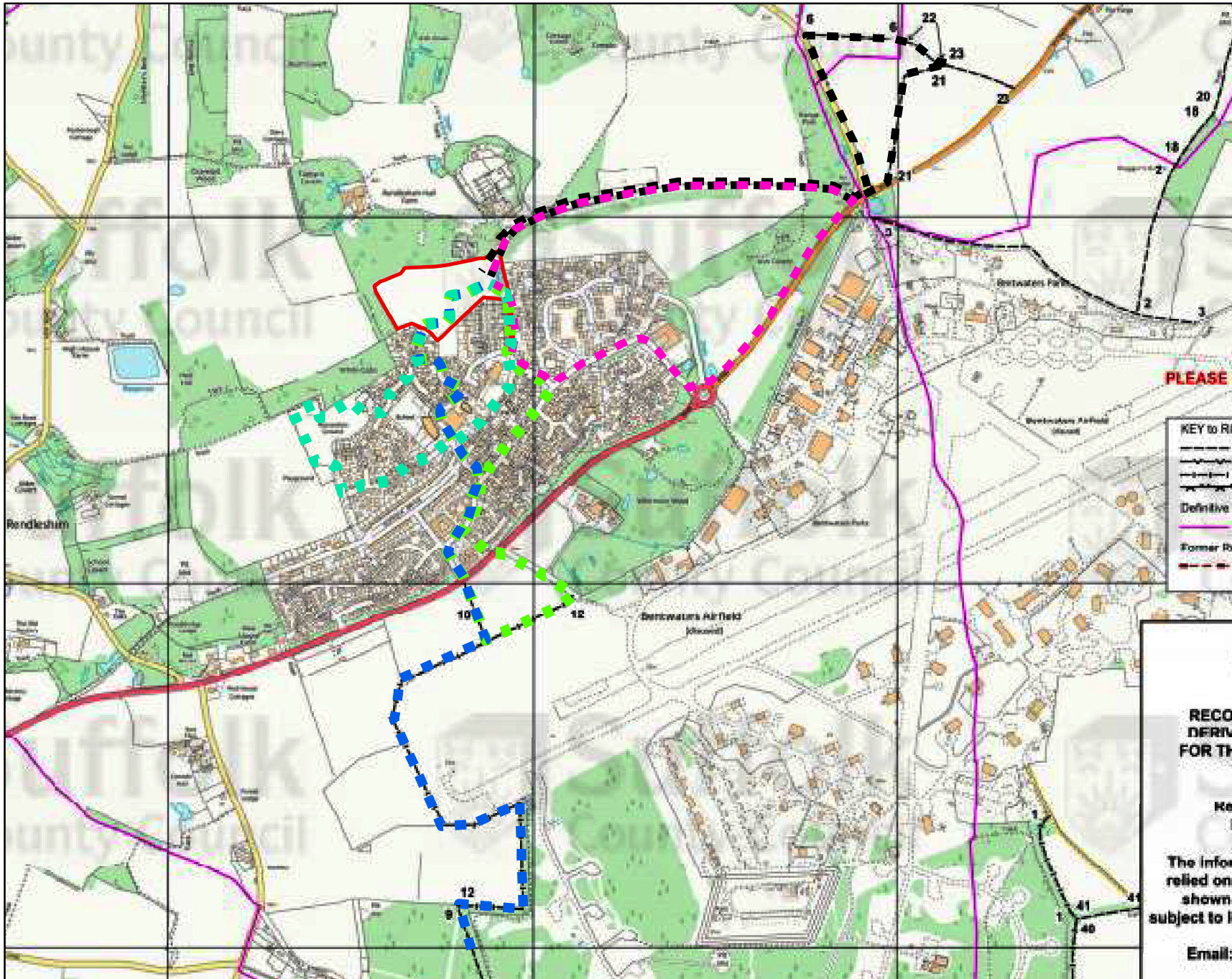
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Greenwood House, 15a St Cuthbert’s Street, Bedford MK40 3JG
t: 01394 380 509 (Woodbridge)
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Key

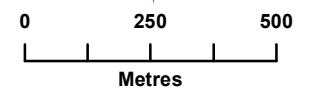
Site

Walk routes

- A = 2.2km
- B = 2.6km
- C = 5-6km
- D1 = 3-4km
- D2 = 3-4km

KEY TO ROAD

- Definitive Road
- Former Road



Project: PS-2018-0645 Rendlesham

Drawing title: Routes A to D

Drawing no: 2018/0645 | RAD

Rev.0 Date: March 2020

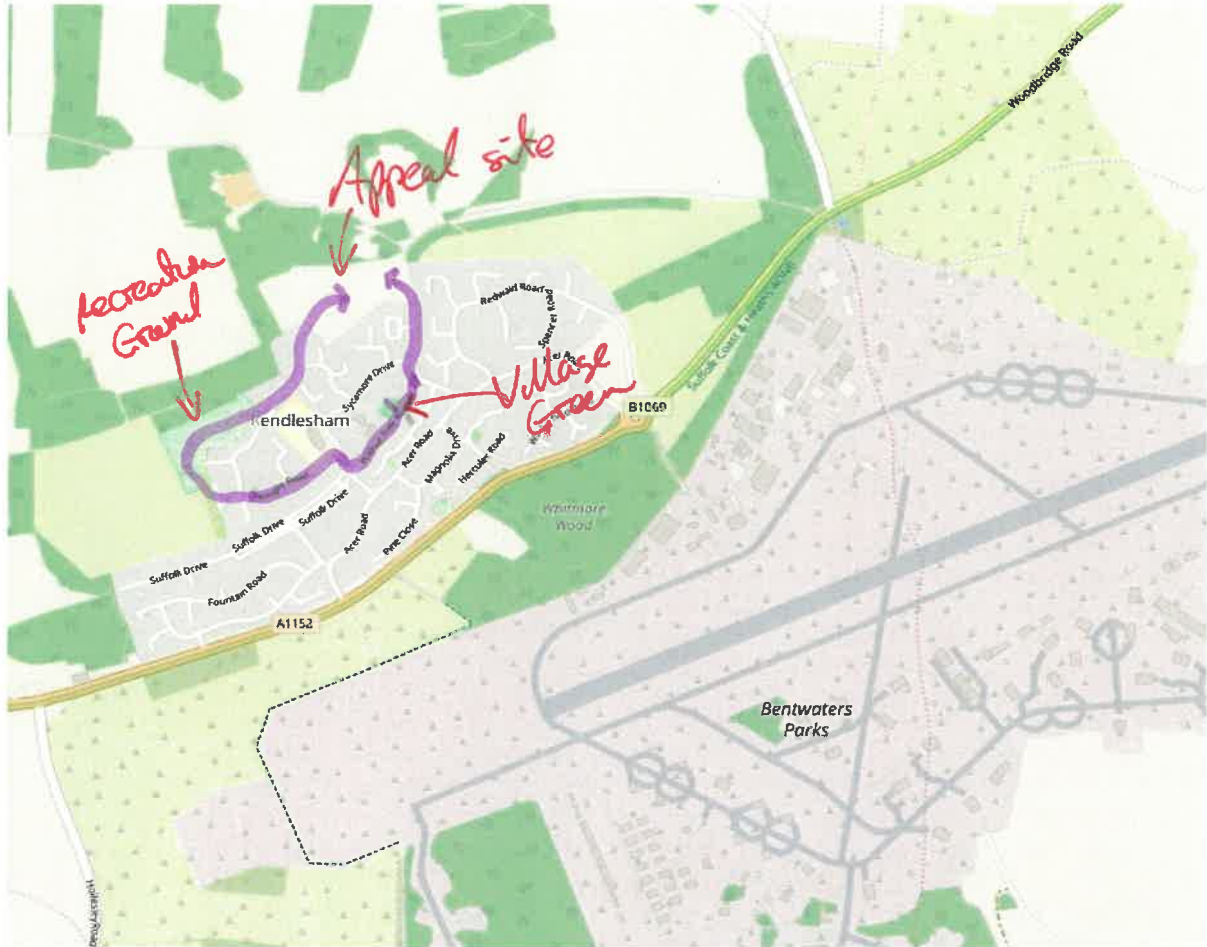
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The information shown is subject to the latest available data.

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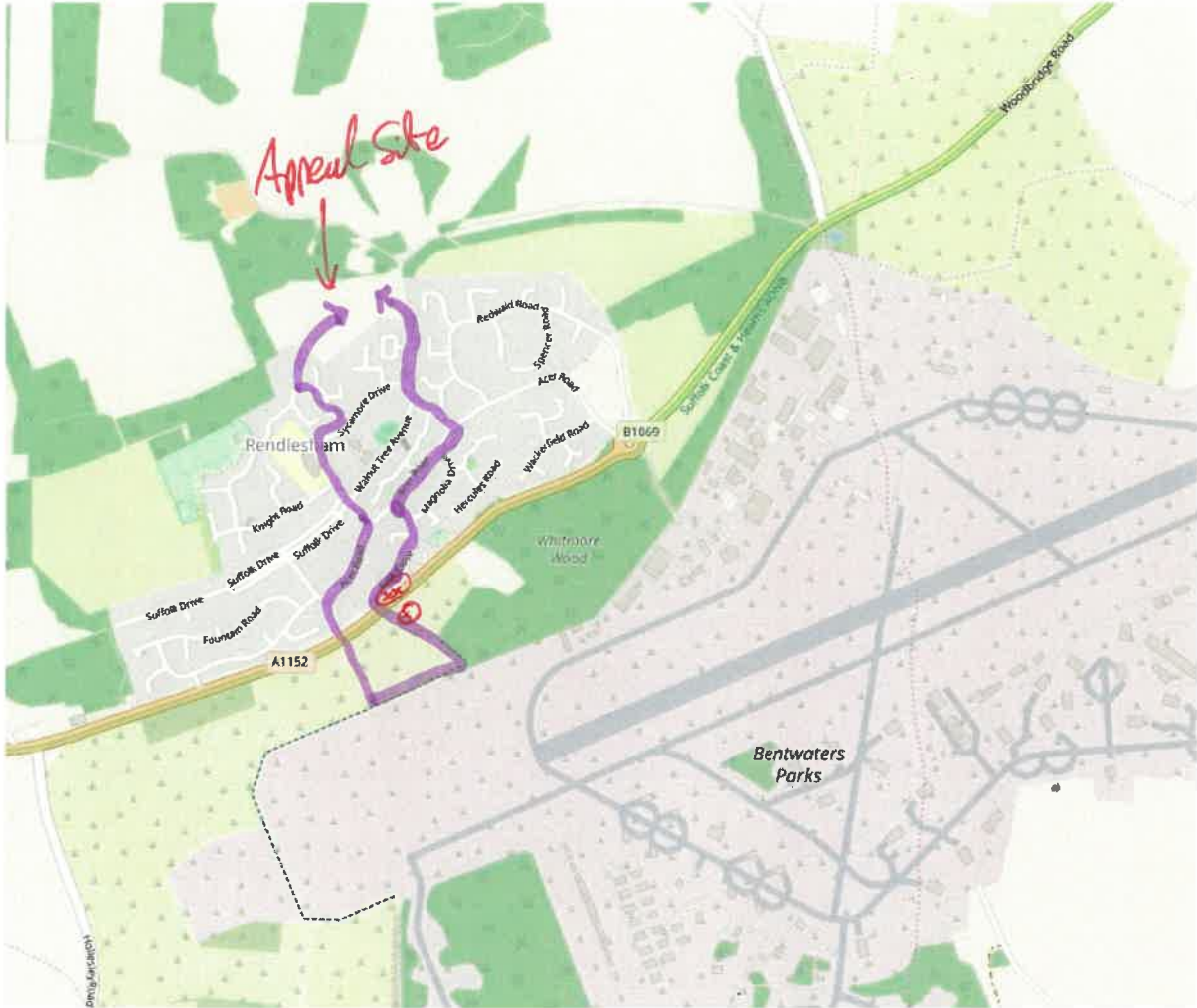




The route identified above is approximately 2.2km long and takes in the area of open space within the appeal site, public pavements to the village recreation ground and returns via public pavements and the village green.



The recreation ground is approximately 2.5ha in size and is dog friendly and dog-waste bins provided.

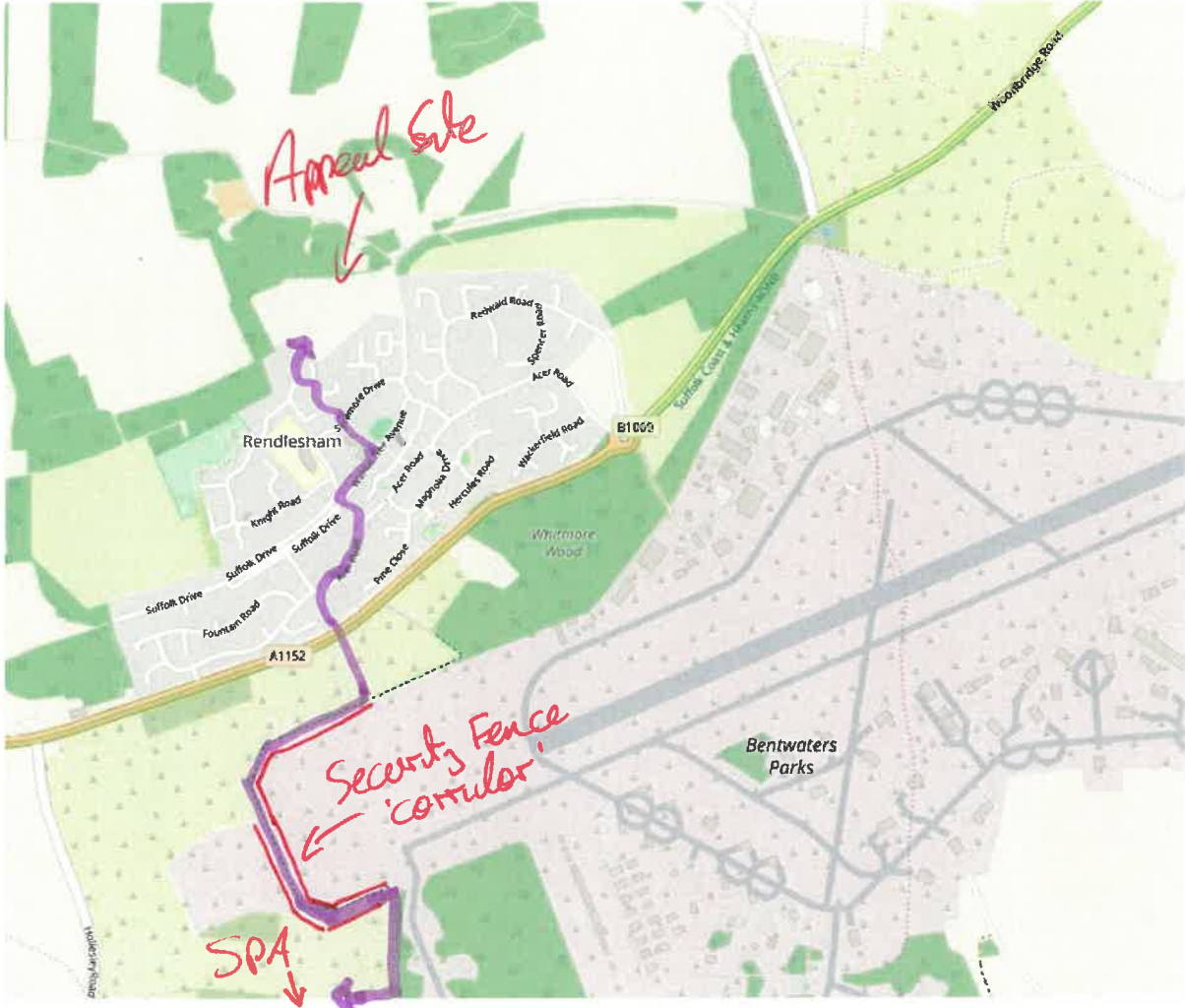


The route identified above is **approximately 2.6k long** and takes in the area of open space within the appeal site, public pavements through the village, a public footpath and bridleways back to the village. The image below shows the point at which the route crosses the road back to the village, complete with dog-waste bin at the end of the public road marked **x** above and where the footway accesses into Rendlesham marked **xx** above.



The route was devised alongside a major planning application (submitted in 2010 and approved in 2014) and masterplan for the reuse of the former airbase (Bentwaters Parks). It was a specific requirement of the Parish Council as a short dog walking route and as an alternative to the longer 5-6km route into the forest which was also provided as part of that masterplan exercise.

C



The route identified above is **at least 5km long**, to the edge of the SPA and longer if walkers wish to enter Rendlesham Forest.

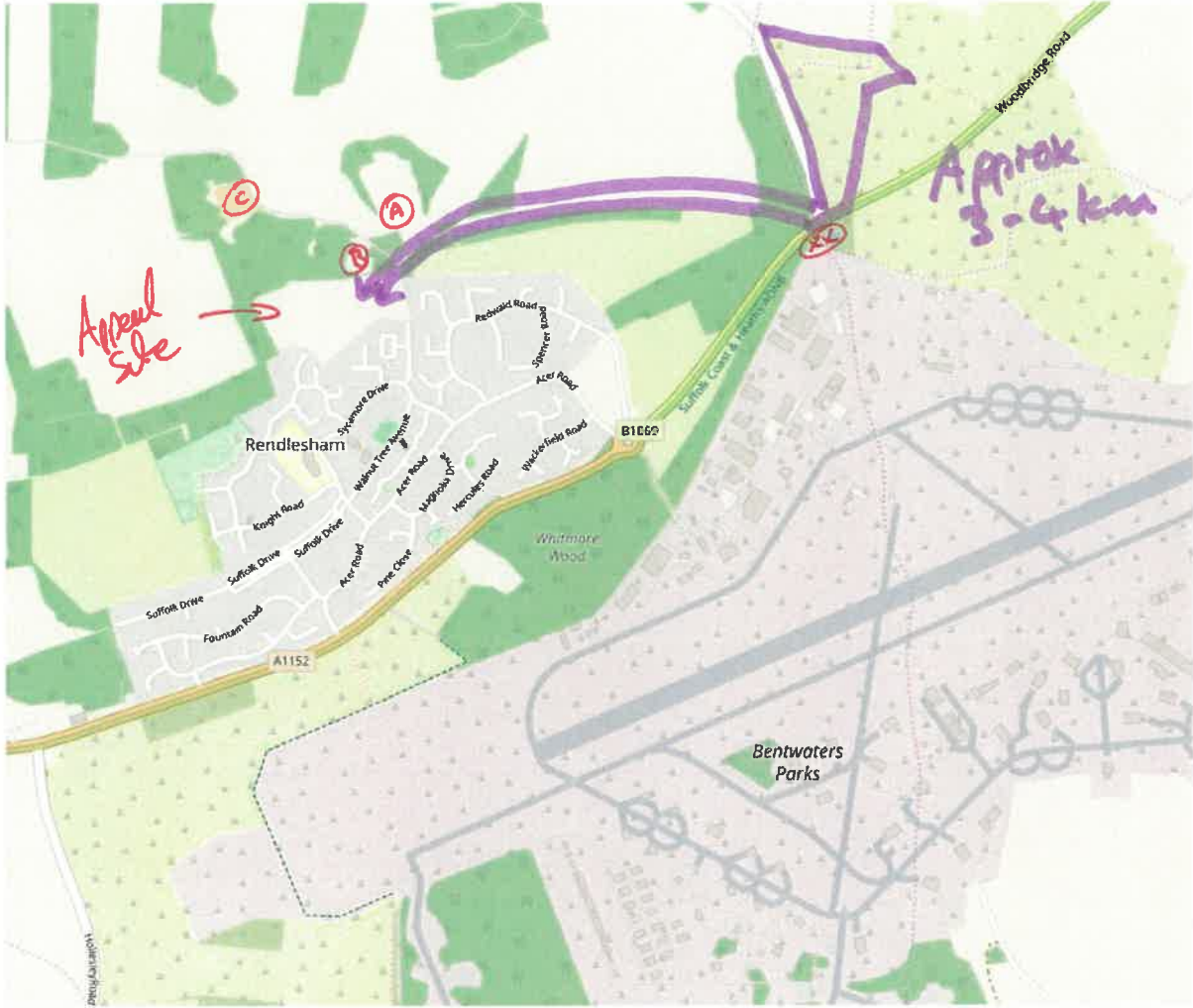
In their Statement of Case the Council stated that this was the only public right of way available from Rendlesham for dog walkers – this is not correct, the shorter route shown on the preceding page demonstrates this.

Where this walk crosses the Bentwaters commercial site walkers have to walk for around 0.5km along a 'corridor' between two security fences restricting access into Bentwaters.

The route takes walkers past an area of aggregate storage and processing:



The route was devised alongside a major planning application (submitted in 2010 and approved in 2014) and masterplan for the reuse of the former airbase (Bentwaters Parks). It was a specific requirement of the Parish Council that the short dog walking route on the preceding page was provided as an alternative to this longer 5-6km route into the forest which was also provided as part of that masterplan exercise.



The route indicated above does not yet exist.

This is the proposed bridleway route which the County Council is pursuing. The Appellant's s106 provides for the following:

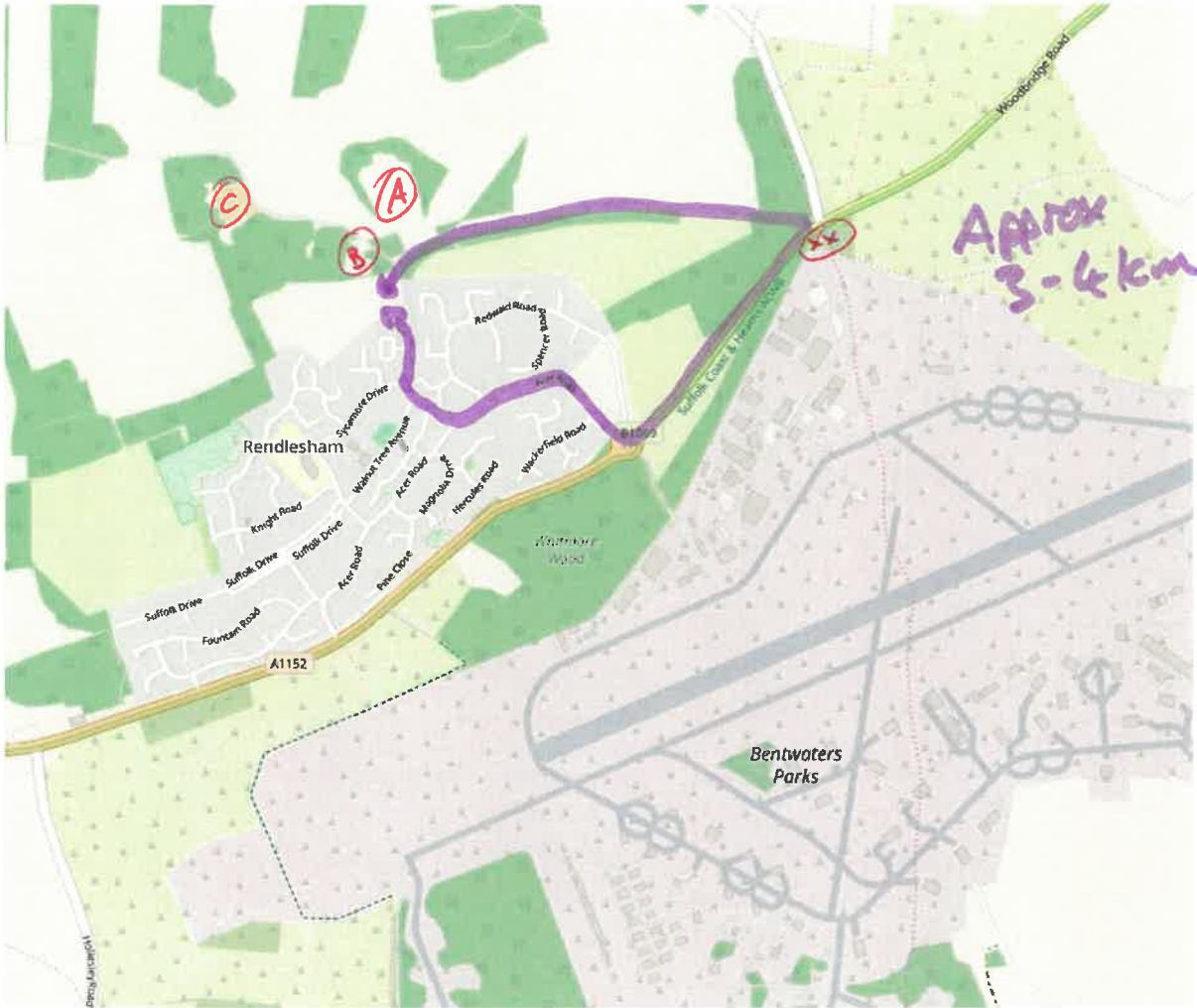
- £8800 towards costs associated with the bridleway creation order
- Provision of land within the appeal site for the bridleway
- £4734 towards administrative and design costs in respect of the bridleway creation.

The route is currently proposed by the County Council to run alongside an existing vehicular track which runs from the B1069 (point xx above) to Rendlesham Hall, the sewage treatment plant and the Stokes Sauces industrial site (marked a, b and c respectively).



One circular route option could utilise the rights of way to the north across the field and return via Campsea Ashe Road and the Stokes Sauces road way.

B2



The route indicated above **does not yet exist**.

This is the proposed bridleway route which the County Council is pursuing. The Appellant's s106 provides for the following:

- £8800 towards costs associated with the bridleway creation order
- Provision of land within the appeal site for the bridleway
- £4734 towards administrative and design costs in respect of the bridleway creation.

The route is currently proposed by the County Council to run alongside an existing vehicular track which runs from the B1069 (point xx above) to Rendlesham Hall, the sewage treatment plant and the Stokes Sauces industrial site (marked a, b and c respectively).

Another circular route could exit onto the B1069 and walk along the verge back to Rendlesham:



Appendix 7

Nick Sibbett

From: Ben Woolnough <Ben.Woolnough@eastssuffolk.gov.uk>
Sent: 16 March 2020 00:03
To: Nick Sibbett; Shapland, Francesca
Cc: Palmer, Leanne; Paul Shadarevian; Anthony Hardy; Jeanie; Nicola Doole; Steven Bainbridge; Jackson, John (NE); James Meyer; Neil McManus
Subject: RE: Appeal at Rendlesham, NE's ref 311432. Appeal ref APP/X3540/19/3242636

Steven,

As per your request I attach a number of emails which followed the email I sent to Francesca (after the appeal conference call) including you and Leanne to initiate Natural England's contribution. I've previously made you aware that we have been attempting to clarify our position with NE. I introduce each email with an email number and short description. Please note the only part I have deleted is an original internal email from Dec 2018 which covered matters not relevant to this appeal. I trust that you will find that these were all fair in our approach and equal in terms of your own communication with Natural England prior to the submission of the appeal. You will note how we express to NE that we are attempting to reach common ground with you and overcome the reason for refusal – as we've also always made clear to you.

Of primary importance to us has been the need to ensure that advice given on this appeal by Natural England remains consistent with that used in all relevant decision making since December 2018, following the joint formulation of the HRA record template. This has been an effective tool and has enabled more efficient consideration by Natural England and the Council. A key driver in the production of this was the People over wind judgement, which caused us to move from taking a light touch HRA screening of major applications (and none of minor applications), to the need to undertake full appropriate assessment and RAMS collection for the majority of minor and major applications. Without this we faced considerably greater work for both the LPA and NE, particularly as we had progressed RAMS to instead make that consideration easier.

I shall not comment further on the extensive email from Nick. In terms of the point on the walking routes shared, they have only ever comprised of the route you shared prior to the appeal and the route which was previously being referred to in the SoCG, but then did not appear in your proof (the 2.6km route now mentioned below). I've never seen the documents and routes as presented attached to Nick's email.

As I've expressed before, this is a simple matter of a shadow HRA which was deficient in information, a village with extremely limited dog walking route options plus SPA proximity (with recent increased access) and the need to consider whether future occupants will be appropriately catered for in terms of quantity and quality of route(s). Both of us have provided comprehensive proofs of evidence, including our interpretations of routes, and both without formal input from Natural England. Any further points you make should be for a rebuttal proof – though I don't believe this is necessary.

The letter from Francesca covers what needs to be said at this point for the Inspector. Of course if the Inspector is minded to allow the appeal then she will need to undertake a formal consultation as competent authority after the inquiry (and having heard evidence from both ecologists in the inquiry).

Kind regards

Ben



Ben Woolnough BSc MSc MRTPI
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www.eastsuffolkmeansbusiness.co.uk

East Suffolk Council is a new district authority which, from April 2019, delivers services for the residents, businesses and communities previously served by Suffolk Coastal and Waveney District Councils

From: Nick Sibbett <nick.sibbett@tlp.uk.com>

Sent: 13 March 2020 18:55

To: Shapland, Francesca <Francesca.Shapland@naturalengland.org.uk>

Cc: Palmer, Leanne <LEANNE.PALMER@planninginspectorate.gov.uk>; Paul Shadarevian <ps@cornerstonebarristers.com>; Anthony Hardy <ahardy@ccdevelopments.co.uk>; Jeanie <jeanielivesley@yahoo.com>; Ben Woolnough <Ben.Woolnough@eastsuffolk.gov.uk>; Nicola Doole <Nicola-Doole@birketts.co.uk>; Steven Bainbridge <steven@parkerplanningservices.co.uk>; Jackson, John (NE) <John.Jackson@naturalengland.org.uk>; James Meyer <james.meyer@eastsuffolk.gov.uk>

Subject: Appeal at Rendlesham, NE's ref 311432. Appeal ref APP/X3540/19/3242636

Francesca, I have now seen your letter to the Inspector on the appeal case at Rendlesham dated yesterday.

In your letter you say that the application site in question is very close to the Sandlings SPA and measures are needed to divert residents from using the SPA as their nearest greenspace. Please could you confirm how you define 'very close'? HRA by Footprint Ecology of the emerging Local Plan suggests that up to 400m distance between a development and a European site is the distance at which direct on-foot access effects would occur and I wonder if you have used that HRA to inform your understanding of 'very close'?

I'm a bit confused as to what the Council actually sent you in correspondence, as you say near the end of your letter that the information from the Council about a proposed dog walking route outlined by the applicant largely involves walking on roads and within town infrastructure. I don't recognise this description because there are areas of GI and village roadside pavements on the identified route with no town involved. In December you told me by email *'we'd advise that you should aim to create a dog walking route that joins up with strategic paths and green infrastructure in Rendlesham. This should direct people away from designated sites and make an attractive c.2km loop which leads back to your application site, ideally with access to an off lead area'* Your advice was followed, with a route identified in Rendlesham that joined up the 2ha greenspace in the appeal site with a 2.5ha greenspace at the other end of the village, with routes beside attractive village roads. A drawing of this was sent to you in January 2020 but I didn't hear back from you at that time. The greenspaces include dog bins, dogs off lead areas, will be managed long-term, signage can be supplied and is around 2km. I see this route as 'on-site' infrastructure including the existing greenspace in the village because no development sites of similar size are able to provide 2km+ walks in the development site itself due to size issues. This on-site route also provides new green infrastructure to existing residents of the village so improving their in-village dog walks and reducing recreation pressure elsewhere.

Could you let me see what the Council actually sent you please to inform your 12th March letter? I am worried that it might not have included all options for walking in and around Rendlesham and so you might not have been aware of these options.

There is an existing route, of 2.6km, which residents can use, by walking through the village, into the countryside along a PRow and then back to the village along an unclassified public road rarely used by traffic. This also seems to provide an alternative to visiting the SPA in addition to the route joining greenspaces in the village.

There are problems with the Council's preferred route which you might not be aware of; I am not sure what you have seen? Firstly, the land is not under the control of the appellant and so there is no ability for it to make a route. A

large part of the route is a track used by HGVs to access the factory at Rendlesham Hall and also passes the sewage works making it less attractive for walkers. Secondly, although SCC is working towards a statutory order for the route the exact line is uncertain and there is no landowner agreement as far as we know, so any new route may take some time if it actually occur. The timescale could well not match the timescale of the development and the new route is unlikely to be available as the houses are built. Thirdly, the route is 3 – 4km long depending on which variation is used, so that it is longer than required by most dog walkers and doesn't need the template requirements. The appellant is able and willing to contribute to SCC's work to make an order creating a route here but it can't be tied into a planning consent due to its lack of control and a disputed necessity.

The existing southern route with which the Council is concerned, leading to the SPA at Friday Street, is at least 2.2km one-way from the appeal site so at least 4.4km round trip even to the nearest corner of the Forest, well out of range of most dog walkers. As the Friday Street car park at that location has now closed, the number of dog walkers will be well down on previous numbers even after the new development is built.

These routes are shown on the attached as

Route A – using existing green infrastructure as well as new green infrastructure in the proposed development

Route B – the existing 2.6km walk using in part PRoW and an unclassified public road in the countryside

Route C – the long route to the corner of the SPA

Route D1 / D2 – the Council's preferred new PRoW alternatives on third party land we think, I haven't seen it documented anywhere.

To aid the Inspector, if she were to decide that walking route(s) were necessary, could you review all the routes together and provide Natural England's advice on all the options please?

I am looking forward to your swift response to assist the Inspector in her consideration of these matters before the Inquiry begins in the near future.

Best regards

Nick

Nick Sibbett

Associate

The Landscape Partnership

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