

**Habitats Regulations Assessment of  
planning application DC/17/1435/OUT  
Adastral Park**

for

Suffolk Coastal District Council

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Quality standards
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1. Summary of relevant legislation and policy

## Non-technical summary

The Landscape Partnership was commissioned by Suffolk Coastal District Council to carry out an assessment of the ecological implications of planning application reference DC/17/1435/OUT Adastral Park. The scale of the proposed development was such that ecological matters would inform Council's determination of the application and so specialist advice was sought. The outline planning application is for up to 2000 dwellings, an employment area of c0.6ha (use Class B1), primary local centre (comprising use Classes A1, A2, A3, A4, A5, B1, C3, D1 and D2), secondary centre (comprising possible use Classes A1, A3 and A4), a school, green infrastructure (including Suitable Accessible Natural Greenspace (SANGs), outdoor play areas, sports ground and allotments/community orchards), public footpaths and cycleways, vehicle accesses and associated infrastructure.

A Habitats Regulations Assessment ascertained that the development would have no adverse affect upon the integrity of any European site, subject to measures to minimise recreational impact upon Deben Estuary Ramsar / SPA. The estuary is designated for a number of ecological features, including birds which are vulnerable to disturbance from walkers with or without dogs, and such disturbance could have potential for long-term harm to the bird populations. Measures to minimise disturbance include a financial contribution to a Recreation Avoidance and Mitigation Strategy to be secured through a S106 agreement, creation of a Suitable Alternative Natural Greenspace, promotion of walking routes away from the estuary, and provision of interpretative material. Conditions are proposed to secure all measures except the financial contribution secured through a S106.

Other impacts not relating to European sites are assessed in a separate report.

## 1 Introduction

### 1.1 Commission

- 1.1.1 The Landscape Partnership was commissioned by Suffolk Coastal District Council to carry out an assessment of the ecological implications of planning application reference DC/17/1435/OUT Adastral Park. The scale of the proposed development was such that ecological matters would inform Council's determination of the application and so specialist advice was sought.

### 1.2 Legislation and policy background

- 1.2.1 There is a range of protection given to sites and species. Sites may be designated for local, national, European or global importance for nature conservation. Species may be protected by European-scale legislation or varying levels of national regulation.
- 1.2.2 The Local Planning Authority has policies to protect features of nature conservation value within its Local Plan. Other regulators have policies relating to the consents issued by them.
- 1.2.3 Further information is given in Appendix 1.

### 1.3 Reporting standards

- 1.3.1 This report was written in compliance with British Standard 42020:2013 'Biodiversity — Code of practice for planning and development' and the Chartered Institute of Ecology and Environmental Management's (CIEEM) Code of Professional Conduct.
- 1.3.2 This report was prepared in accordance with the CIEEM 'Guidelines for Ecological Report Writing' as updated December 2015.
- 1.3.3 The report was prepared by Nick Sibbett. The report was reviewed by Dr Jo Parmenter, Director of The Landscape Partnership.
- 1.3.4 Assessment was undertaken against current legislation and planning policy, and in accordance with standard guidance.

### 1.4 Site location and context

- 1.4.1 Suffolk Coastal District Council received an application on 3<sup>rd</sup> April 2017 for outline planning permission for the development of land to the south and east of Adastral Park, Martlesham, near Woodbridge, Suffolk. The application was referenced DC/17/1435/OUT. The outline planning application is for up to 2000 dwellings, an employment area of c0.6ha (use Class B1), primary local centre (comprising use Classes A1, A2, A3, A4, A5, B1, C3, D1 and D2), secondary centre (comprising possible use Classes A1, A3 and A4), a school, green infrastructure (including Suitable Accessible Natural Greenspace (SANG), outdoor play areas, sports ground and allotments/community orchards), public footpaths and cycleways, vehicle accesses and associated infrastructure.
- 1.4.2 The applicants are Carlyle Land Ltd and CEG.
- 1.4.3 Planning application documents can be viewed at the Council's office or on the internet at <http://www.eastsuffolk.gov.uk/planning/adastralpark/>
- 1.4.4 Due to the proximity of the Site to the Deben Estuary, a Special Protection Area (SPA) also known as a European Site, the Applicant through the Planning Application and the accompanying Shadow HRA, is seeking to mitigate recreational disturbance impacts which are described in detail in the Suffolk Coastal Core Strategy Appropriate Assessment undertaken by the Landscape Partnership in 2011 and 2013. This recognises the need for recreational disturbance mitigation and avoidance measures.
- 1.4.5 As part of its deliberations when considering and determining the Planning Application, the Council requires a Habitats Regulations Assessment to be provided by a suitably qualified consultant. This enables this material consideration to be taken into account by the Council when considering the Planning Application and making its decision.

- 1.4.6 The Planning Application was accompanied by a detailed 'Shadow' Habitats Regulations Assessment ("Shadow HRA") to aid the Council in discharging its requirement as the Competent Authority to undertake an Appropriate Assessment of the impacts and mitigation measures in relation to designated European Sites. The Planning Application also includes an Ecology chapter and relevant appendix within the Environmental Statement along with some detail relating to the Suitable Alternative Natural Greenspace ("SANG") provision within the Design and Access Statement and Planning Statement.

## 1.5 Acknowledgements

- 1.5.1 The applicant, working with the current occupier Brett Aggregates, facilitated access to the proposed development site.
- 1.5.2 The client representative at Suffolk Coastal District Council is Ben Woolnough, Major Projects Advisor.

## 1.6 Objectives of this appraisal

- 1.6.1 The aim of this appraisal is to inform a planning application for the proposed development, as described above.
- 1.6.2 The detailed objective is to review the planning application and carry out Suffolk Coastal District Council's Habitats Regulations Assessment of the planning application.

## 1.7 Duration of assessment validity

- 1.7.1 The assessment, conclusions and recommendations in this appraisal are based on the studies undertaken, as set out in this report, and the stated limitations. This appraisal is based on the project as described and any changes to the project would need the appraisal to be reviewed. Unless otherwise stated, the assessment, conclusions and recommendations given assume that the site habitats will continue to be used for their current purpose without significant changes until development takes place. However, changes in use or management may occur between the time of the survey and proposals being implemented. Ecological features may change naturally at any time; for example, species may be lost from existing sites or colonise new areas.
- 1.7.2 The European Site qualifying features may vary slightly in abundance and location from year to year (e.g. the exact areas of mudflat where wintering birds might choose to feed). However, despite small-scale variations the European sites remain generally stable, and this Habitats Regulations Assessment remains valid to inform the planning application for a period of five years after which a review may be needed.
- 1.7.3 The financial contribution to a Recreational Avoidance or Mitigation Strategy, as discussed in the Habitats Regulations Assessment, will be reviewed if the Council's Strategy comes into force prior to the determination of the planning application.

## 2 Methodology for the assessment

### 2.1 Site visit

2.1.1 The site was visited on 26<sup>th</sup> April 2017, by Nick Sibbett MCIEEM CEnv CMLI CEcol, Associate at The Landscape Partnership together with Nick Aldus MCIEEM, Ecologist at The Landscape Partnership. The aim of the visit was to view the site and become familiar with its habitats, and to look for indications of inconsistencies between the site conditions and the planning application documents. The duration of the visit was 6 hours during which time the weather was warm and dry with one rain shower.

2.1.2 The visit was to all parts of the site except the active operational quarry. There was no attempt to carry out detailed ecological surveys to duplicate those described in the Environmental Statement.

### 2.2 Review of applicant's planning application documents

2.2.1 The planning application documents which were reviewed in most detail were

- Environmental Statement, especially the Non-Technical Summary and volume 1
- Environmental Statement appendix E1 Ecological Assessment
- Environmental Statement appendix E2 Shadow Habitats Regulations Assessment
- Environmental Statement parameter plans
- Planning Statement
- Design and Access Statement including clarifications received after the initial submission
- Illustrative Masterplan Framework
- Main Green Infrastructure Area drawing
- Strategic Landscape Scheme drawing
- Geodiversity Statement
- Environmental Action Plan part 1

2.2.2 Other planning application documents were also reviewed.

### 2.3 Discussions with applicant and key consultees

2.3.1 Useful discussions were held with consultants for the applicant (Helen Adcock of Code DP (development planning), Andrew Baker of Baker Consultants (Habitats Regulations Assessment), and Sean Crossland of Southern Ecological Solutions (ecology other than HRA).

2.3.2 John Jackson of Natural England provided assistance in particular with Habitats Regulations Assessment advice.

### 2.4 Information from other consultees

2.4.1 Letters (including emails) from nature conservation organisations, members of the public, and others, responding to consultations were received and reviewed.

### 2.5 Assessment methodology

2.5.1 The assessment of the planning application was undertaken consistent with the Chartered Institute of Ecology and Environmental Management's Professional Guidance Series<sup>1</sup>.

2.5.2 The hierarchical process of avoiding, mitigating and compensating for ecological impacts is explained further below.

2.5.3 It is only essential to assess and report significant *residual* effects (i.e. those that remain after mitigation measures have been taken into account). However, it is considered good practice for the assessment to make clear both the potential significant effects without mitigation and the residual significant effects following mitigation. Alternatively, it should demonstrate the importance of securing the measures proposed through planning conditions or obligations.

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<sup>1</sup> CIEEM (2016) *Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater and Coastal*, Second Edition.

2.5.4 Assessment of the potential impacts of the proposed development takes into account both on-site impacts and those that may occur to adjacent and more distant ecological features. Impacts can be positive or negative. Negative impacts can include:

- direct loss of wildlife habitats;
- fragmentation and isolation of habitats through loss of connectivity;
- disturbance to species from noise, light or other visual stimuli;
- changes to key habitat features; and
- changes to the local hydrology, water quality, nutrient status and/or air quality.

2.5.5 Negative and positive impacts on ecological features are characterised based on predicted changes as a result of the proposed activities. In order to characterise the impacts on each feature, the following parameters are considered:

- the magnitude of the impact;
- the spatial extent over which the impact would occur;
- the temporal duration of the impact and whether it relates to the construction or operational phase of the development;
- the timing and frequency of the impact; and
- whether the impact is reversible and over what time frame.

2.5.6 Both short-term (i.e. impacts occurring during the site clearance and construction phases) and long-term impacts are considered.

#### ***Conservation status***

2.5.7 The extent to which the proposed development may have an effect upon ecological features was reviewed in the light of its expected influence on the integrity of the site or ecosystem. The integrity of protected sites is considered specifically in the light of the site's conservation objectives.

#### ***Confidence in predictions***

2.5.8 It is important to consider the likelihood that a change or activity will occur as predicted and also the degree of confidence in the assessment of the impact on ecological structure and function.

- **Certain** probability estimated at above 95%
- **Probable** probability estimated above 50% but below 95%
- **Possible** probability estimated above 5% but below 50%
- **Unlikely** probability estimated as less than 5%

#### ***Cumulative impacts***

2.5.9 Consideration is also given to the potential for the development proposal to give rise to significant negative impact in combination with other proposed developments in the local area.

## **2.6 Mitigation hierarchy**

2.6.1 The following principles underpin EclA and have considered, where applicable, in this assessment.

- **Avoidance** Seek options that avoid harm to ecological features (for example, by locating the proposed development on an alternative site or safeguarding on-site features within the site layout design).
- **Mitigation** Adverse effects should be avoided or minimised through mitigation measures, either through the design of the project or subsequent measures that can be guaranteed – for example, through a condition or planning obligation.
- **Compensation** Where there are significant residual adverse ecological effects despite the mitigation proposed, these should be offset by appropriate compensatory measures.
- **Enhancement** Seek to provide net benefits for biodiversity over and above requirements for avoidance, mitigation or compensation.



## 3 Review of ecological impacts and mitigation described in the planning application - Habitat Regulations Assessment

### 3.1 Purpose of this report chapter

3.1.1 This report chapter is Suffolk Coastal District Council's Habitat Regulations Assessment of the planning application under consideration. The sources of information described in Sections 2.2, 2.3 and 2.4 above were used to inform this assessment.

### 3.2 The Habitats Regulations

3.2.1 The Conservation of Habitats and Species Regulations 2010 are often abbreviated to the 'Habitats Regulations'. The Habitats Regulations interpret the European Birds Directive and Habitats Directive into English and Welsh law. For clarity, the following paragraphs consider the case in England only, with Natural England given as the appropriate nature conservation body. In Wales, the Countryside Council for Wales is the appropriate nature conservation body.

3.2.2 Special Protection Areas and Special Areas of Conservation are defined in the Regulations as a 'European site'. The Regulations regulate the management of land within European sites, requiring land managers to have the consent of Natural England before carrying out management. Byelaws may also be made to prevent damaging activities and if necessary land can be compulsorily purchased to achieve satisfactory management.

3.2.3 The Regulations define competent authorities as public bodies or statutory undertakers. Competent authorities are required to make an appropriate assessment of any plan or project they intend to permit or carry out, if the plan or project is likely to have a significant effect upon a European site. The permission may only be given if the plan or project is ascertained to have no adverse effect upon the integrity of the European site. If the competent authority wishes to permit a plan or project despite a negative assessment, imperative reasons of over-riding public interest must be demonstrated, and there should be no alternatives to the scheme. The permissions process would involve the Secretary of State and the option of consulting the European Commission. In practice, there will be very few cases where a plan or project is permitted despite a negative assessment. This means that a planning application has to be assessed by the Local Planning Authority, based on information provided by the applicant, and the assessment must either decide that it is likely to have no significant effect on a European site or ascertain that there is no adverse effect upon the integrity of the European site.

### 3.3 The Habitats Regulations Assessment process

3.3.1 A Habitats Regulations Assessment is a step-by-step process which is undertaken in order to determine whether a project or plan will have a likely significant effect (LSE) upon a European site. Before a competent authority can authorise a proposal, they must carry out an Appropriate Assessment of a plan or project in line with procedure detailed in the Habitats Regulations. The whole procedure is called a Habitats Regulations Assessment, with the Appropriate Assessment being part of only one of four stages necessary to complete an HRA. The results of the HRA are intended to influence the decision of the competent authority when considering whether or not to authorise a proposal.

3.3.2 *Stage One of the HRA is 'Screening'*. Plans or projects will be investigated for their potential to have a likely significant effect upon a European site. Proposals that are found not likely to have a significant effect upon a European site will be 'screened out' at this stage and no further investigation will be required.

3.3.3 *Stage Two of the HRA is the 'Appropriate Assessment and the Integrity Test'*. The Competent Authority must undertake an Appropriate Assessment which seeks to provide an objective and scientific assessment of how the proposed project may affect the qualifying features and conservation strategies of a European site. The Competent Authority may undertake their own Appropriate Assessment using information provided by the project proposer. However, the Competent Authority must also consult the Statutory Nature Conservation Body in order to obtain their views on how the proposed activity may affect the integrity of the European sites' qualifying

features and conservation objectives, and it is possible that they may adopt this Appropriate Assessment for their own purposes.

- 3.3.4 The UK Government accepts the definition for the 'integrity' of a site as 'the coherence of its ecological structure and function, across its whole area, that enables it to sustain the habitat, complex of habitats and/or the levels of populations of the species for which the site is (or will be) designated.'. Other factors may also be used to describe the 'integrity' of a site. The Competent Authority must conclude, using scientific evidence and a precautionary approach, that there will be no harm to the integrity of a European site, prior to authorising the proposed activity. Information provided in the Appropriate Assessment will be used when considering the Integrity test.
- 3.3.5 Stage Three of the HRA is '*Alternative solutions*'. If the Competent Authority is unable to determine that the proposed activity would not have an adverse impact upon the integrity of a European site, it may refuse to authorise the proposed activity or consider 'alternative solutions' if there are imperative reasons of overriding public interest (IROPI). If the proposed activity cannot ensure that the integrity of a site is maintained, it is likely that the proposal will be refused or withdrawn, but if changes to the proposal can be made which would rectify this a fresh application could be submitted.
- 3.3.6 *Stage Four of the HRA is 'Imperative reasons of overriding public interest and compensatory measures'*. If the Competent Authority determines that there are imperative reasons of overriding public interest that outweigh the potential adverse impacts upon the integrity of the site, they may decide to consent the proposed activity. In this case, the Competent Authority must notify the Secretary of State (or equivalent if not in England) at least 21 days before authorisation so that the Government can notify them with their agreement to consent, or otherwise.

### 3.4 Why is Appropriate Assessment required?

- 3.4.1 The appropriate assessment process is required under the Conservation of Habitats and Species Regulations 2010. Regulation 61(1) says that:

*A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which -*

*(a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and*

*(b) is not directly connected with or necessary to the management of the site, must make an appropriate assessment of the implications for that site in view of that site's conservation objectives.*

*(2) A person applying for any such consent, permission or other authorisation shall provide such information as the competent authority may reasonably require for the purposes of the assessment or to enable them to determine whether an appropriate assessment is required.*

*(3) The competent authority shall for the purposes of the assessment consult the appropriate nature conservation body and have regard to any representations made by that body within such reasonable time as the authority may specify.*

*(4) They must also, if they consider it appropriate, take the opinion of the general public, and if they do so, they must take such steps for that purpose as they consider appropriate.*

*(5) In the light of the conclusions of the assessment, and subject to regulation 62 (considerations of overriding public interest), the competent authority shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be).*

*(6) In considering whether a plan or project will adversely affect the integrity of the site, the authority must 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 consent, permission or other authorisation should be given.*

3.4.2 The Regulations also are applicable to Land Use Plans and Development Plan Documents. If the plan is likely to have a significant effect upon a European site, the permission may only be given if the plan is ascertained to have no adverse effect upon the integrity of the European site. This approach gives rise to a hierarchy of plans each with related appropriate assessments. For example, the appropriate assessment of a Core Strategy will affect policies within a Site Allocations Plan, which will then need its own appropriate assessment, and so on.

3.4.3 The competent authority is Suffolk Coastal District Council. The Appropriate Assessment of the Suffolk Coastal District Council Core Strategy and Development Management Policies (July 2013) identified a number of designated European sites within the District and concluded that the proposed scale and location of housing development planned for the District would not have any likely significant effects if the policies were modified as recommended. The recommendations were carried forward into the Core Strategy which was adopted in 2013.

### 3.5 European sites

3.5.1 European sites (also known as Natura 2000/N2K sites) are sites that have been classified or designated by Defra/Welsh Ministers or Natural England/Natural Resources Wales, as Special Protection Areas (SPA) for those sites where birds are the special interest feature, and Special Areas of Conservation (SAC) where the habitats or species (other than birds) are the reason for designation.

3.5.2 Wetlands of International Importance, designated under the Ramsar Convention, Ramsar sites, are not European sites. There may often be considerable overlap between the special interest features and physical boundaries of Ramsar sites, with European sites. However, for the purposes of planning and development, Government policy, through the NPPF, states that Ramsar sites should be treated equally/in the same way as European sites. The same applies for sites under consideration for designation including potential Special Protection Area (pSPA), Site of Community Importance (SCI), Candidate Special Area of Conservation (cSAC) and proposed Ramsar sites. In summary, although Appropriate Assessment only legally applies to European sites, National Planning Policy provides further obligations to ensure that all those sites previously mentioned are subject to assessment. Therefore, for the purposes of this report, the term 'European site(s)' refers to all sites under assessment.

3.5.3 As the interest features of the Ramsar sites are usually very similar to the interest features of the SPA and / or SAC designations, both geographically and ecologically, the assessment below, for clarity does not always repeat Ramsar site names. The assessment does however consider Ramsar sites fully, and if an assessment for a Ramsar site was found to differ from that for the respective SPA / SAC, this would be clearly identified.

3.5.4 European Marine Site (EMS) is a term that is often used for a SPA or SAC that includes marine components (i.e. land/habitats up to 12 nautical miles out to sea and below the Mean High Water Mark). A European Marine Site does not have a statutory designation of its own but is designated for the same reasons as the relevant SPA or SAC, and because of this EMS are not always listed as a site in their own right, to avoid duplication. For the purpose of this document, an EMS is referred to as an Inshore SPA (or SAC) with Marine Components and it will be made clear if an SPA/SAC has marine components.

### 3.6 Impacts in-combination with other Land-use Plans or Projects

3.6.1 It is important to consider other land-use plans, projects, etc. in-combination with the proposed development project, in order to assess potential cumulative impact upon the European sites that have been identified within the zone of influence. For example, it is possible that the Project being assessed may not have any impact upon a European site when considered alone, but when considered in-combination with another source, impacts may become likely. Alternatively, as an example, the Project being assessed may give rise to potential impact upon a European site when considered alone, and when considered in-combination with another source, the cumulative impact may be greater.

- 3.6.2 Suffolk Coastal District Council has a Local Plan that provide policies and supporting information that will shape the way the land in the District is used over the coming years e.g. housing provision, employment land and recreational facilities. Such land uses could have detrimental impacts on nearby European sites and so the Council has satisfied Natural England, and a Planning Inspector, through Plan-level HRA that the policies will have no likely significant effects upon European sites, before they were adopted.

### 3.7 The study area

- 3.7.1 For the purpose of the applicant's Shadow HRA assessment, a 10km zone of influence (study area) around the location of the proposed development was used. The zone of influence is based upon actual (approximate) driving distance rather than 'as the crow flies'. Recreational pressure is a key concern when assessing the impact of new homes and increased population upon European sites. Findings from the South Sandlings Visitor Study (2010)<sup>2</sup> indicated the visitors travelled a median distance of 8km by car to visit the European site for recreational purposes. Whilst this study was not specific to the proposed development, it is a useful study that assists in determining the zone of influence of a development in the local area, and a 10km zone of influence for recreational impacts is considered reasonable in the context of this study.
- 3.7.2 A search using Natural England's Interactive 'Magic Map'<sup>3</sup> revealed that a number of European sites lie within 10km of the proposed development. Each European site is listed below with a brief site description and details of its qualifying features, the component SSSI/s that are within the study area and Natural England's Conservation Objectives.

### 3.8 European sites

- 3.8.1 The following European sites are located within the study area. They are listed in ascending order of proximity to the proposed development site<sup>4</sup>, i.e. the nearest is first and the furthest is last, in the list.

#### ***Deben Estuary SPA/Ramsar/Inshore SPA with Marine Components***

- 3.8.2 The Deben Estuary is designated as SPA and as a Ramsar site. The SPA designation has marine components. The estuary supports a highly complex mosaic of habitat types including mudflats, lower and upper saltmarsh, swamp and scrub. The composition of the mosaic varies with substrate, frequency and duration of tidal inundation, exposure, location and management.
- 3.8.3 The SPA designation is based on large numbers of wintering Avocet and Dark-bellied Brent geese, whereas the Ramsar designation also includes a wider range of migrating and wintering birds, flora, and fauna including the rare snail *Vertigo angustior*.
- 3.8.4 The Deben Estuary is approximately 1.4km from the proposed development site.

#### ***Stour and Orwell Estuaries SPA/Ramsar/Inshore SPA with Marine Components***

- 3.8.5 The Stour and Orwell Estuaries is a wetland of international importance, comprising extensive mudflats, low cliffs, saltmarsh and small areas of vegetated shingle on the lower reaches. It provides habitats for an important assemblage of wetland birds in the non-breeding season and supports internationally important numbers of wintering and passage wildfowl and waders. In addition to the internationally important bird interest, the Ramsar site also supports several nationally scarce plant species and British Red Data Book invertebrates.
- 3.8.6 The Stour and Orwell Estuaries is around 5.6km from the proposed development site.

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<sup>2</sup> Research from the South Sandlings Visitor Survey in 2010 by Footprint Ecology on behalf of a consortium led by Suffolk Wildlife Trust and Forestry Commission, and funded by the Haven Gateway Partnership. Reported on 10<sup>th</sup> February 2011 by Cruickshanks K, Liley D and Hoskin R.

<sup>3</sup> <http://magic.defra.gov.uk/home.htm>

<sup>4</sup> Driving distance has been calculated using the 'How Far Can I Travel Map' on [www.freemaptools.com](http://www.freemaptools.com) and used in conjunction with Magic Map to find which European Sites lie within 8km driving distance of the proposed development site.

### ***Sandlings SPA***

- 3.8.7 The Sandlings is a series of SSSI heathlands with habitats including acid grassland and heather-dominated plant communities. Lack of management in past years, along with the conversion to commercial conifer plantations and arable cultivation has resulted in remnants of heath that have been threatened with successional changes and bracken invasion. Recent initiatives are working towards restoration of the heathland habitats.
- 3.8.8 The Sandlings qualifies as an SPA under Article 4.1 of the Birds Directive due to the presence of Woodlark *Lullula arborea* and Nightjar *Caprimulgus europaeus* during the breeding season; both are species of European importance and listed in Annex 1 of the Directive. The Sandlings supports at least 3.2% of the GB breeding population of Nightjar and at least 10.3% of the GB breeding population of Woodlark.
- 3.8.9 Sandlings is around 4km in a straight line for the proposed development site but considerably further by road.

### **3.9 Other relevant Plans or Projects affecting these European sites**

- 3.9.1 In addition to the potential impact that the proposed development may have upon the nearby European sites described above, other plans/documents/guidance as well as other projects, may also impact upon these sites. The most relevant of which are listed below
- Suffolk Coastal District Local Plan – Core Strategy and Development Management Policies July 2013 *Suffolk Coastal District Council*
  - Suffolk Coastal District Local Plan – Site Allocations and Area Specific Policies Proposed Submission Document April 2016 *Suffolk Coastal District Council*
  - A project to implement mitigation for recreational impacts of the Suffolk Coastal District and Ipswich Borough Local Plans
  - Suffolk Coastal District Council Leisure Strategy 2014 – 2024 *Suffolk Coastal District Council*
- 3.9.2 In addition, the planning search facility has been used to search for planning applications for large scale residential developments that have been made or granted within the last two years. Information on dwellings permitted for Woodbridge and Melton has also be taken from the Housing Land Supply Assessment (SCDC, June 2016). Those found are listed below:
- DC/14/1363/VOC Whisstocks Boatyard Tide, Mill Way, Woodbridge: Permitted application to allow full time occupation of 14 residential properties (currently under construction)
  - C13-0767 Quayside Mill, Quayside, Woodbridge: Permitted development for demolition of existing buildings and construction of 11 dwellings (currently under construction)
  - DC/17/0237 Land at Notcutts Garden Centre, Ipswich Road, Woodbridge. Demolition of existing Buildings associated with a Landscape Yard and Erection of 24 Flats with associated Parking and Amenity Space)
  - DC/17/2840/FUL. Demolish all of the existing offices and surrounding buildings on the site and replace with a high quality housing development providing 100 residential units (33 affordable) (C3) together with a community building (D1) and a retail unit that may be a coffee shop (A1/2/3) or retail unit. A landscape environment free from cars as they are located in an underground car park. Means of access and other associated works. Planning application made in June 2017 and not determined at the time of writing.
  - DC/14/0991/OUT. 180 dwellings at Woods Lane, Melton. Various Reserved Matters applications in 2017. Includes some areas of greenspace.
  - Melton Neighbourhood Plan, policy MEL21 Land at Wilford Bridge Road, mixed use development including 55 homes and community greenspace.

### ***Other influences***

- 3.9.3 Other actions may also cause impact to European sites, such as management practices by landowners (with consent from Natural England), use by the general public (recreational pressure), existing developments, future (planned) developments and unplanned events, whether accidental, intentional or natural e.g. fires, storms, surges/flooding.

### **3.10 Likely Significant Effect**

- 3.10.1 The applicant's shadow HRA considers that there would be no likely significant effect during constructional or operational phases from noise, cat predation of birds or eggs, or air quality changes due to the distance between the proposed development and European sites.
- 3.10.2 It states that the special interest features of the European sites under consideration are not ground-water dependent and would not be affected by increased water abstraction, and states that in any case that the water company has sufficient capacity to supply the proposed development within existing consents [the consents were assessed under the Habitats Regulations]. Foul water will be treated at Woodbridge Creek Water Recycling Centre which has sufficient capacity to accommodate the proposed development within existing consents [the consents were assessed under the Habitats Regulations]. Impacts to surface water quality were also assessed and found to have no impact.
- 3.10.3 Surveys showed that the proposed development site was not functionally linked to any European site; for example estuary birds forming all or part of SPA interests did not use the proposed development site at high tides or during harsh weather during periods when the estuary did not provide for their needs.
- 3.10.4 The shadow HRA describes the reasoning behind the above statements and concludes that the potential effects of noise, cat predation, air quality, water abstraction, foul water treatment, surface water changes, and functional links to European sites were all unlikely to have a significant effect on European sites. It also concludes that recreational pressure on mudflat plants and narrow mouthed whorl snail *Vertigo angustior* would not have a likely significant effect as these areas are unlikely to experience trampling effects.
- 3.10.5 The shadow HRA describes that there is likely to be a significant effect upon Deben Estuary Ramsar/ SPA from increased walking with or without dogs, and bicycle riding, from residents of the proposed development in the absence of mitigation. The increase in recreational visits to other European sites was considered to have no likely significant effect due to distance to car parks and the alternative available to residents.
- 3.10.6 The assessment of likely significant effect within the shadow HRA is considered to be correct and Suffolk Coastal District Council concludes similarly.

### **3.11 Impacts of increased recreational pressure upon Deben Estuary Ramsar / SPA site**

#### ***Quantification of visitor increase***

- 3.11.1 A total of 2000 units are proposed for the site with a mixture of dwelling sizes. Using the latest figures from the Office for National Statistics November 2016 release<sup>5</sup>, there is an average of 2.4 people per household in the UK. Using this figure as a multiplier, the proposed development would accommodate 4800 people. The shadow HRA suggests that there would be an average of 1.57 people per household. The occupancy rate of 1.57 people per dwelling is described as being the additional population generated by the development in Suffolk Coastal District, to allow for some of the occupants of the new dwellings moving from multi-occupancy dwellings elsewhere in the District.

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<sup>5</sup> <http://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/families/bulletins/familiesandhouseholds/2016>

- 3.11.2 Department for Transport's latest National Travel Survey for 2014/2015<sup>6</sup> indicates an average of 1.13 cars/vans per household within the East of England and a figure of 1.39 cars/vans per household in Rural Town and Fringe locations. Using the higher of the two figures as a cautious approach, the proposed development would accommodate 2780 cars. The Pet Food Manufacturer's Association (PFMA) estimates that in 2016, in the East of England<sup>7</sup>, 14% of the population had dogs, which would indicate that 280 houses within the proposed development would accommodate one or more dogs. The PFMA also estimates that in 2016 there were 1.2 dogs per household in the East of England. Therefore, using these figures, the proposed development would accommodate 336 dogs.
- 3.11.3 Increases in population invariably mean that there is also likely to be an increase in the number of people visiting European sites for informal recreation activities such as walking, dog walking, bird watching, fishing etc. European sites are more often than not, vulnerable to recreational pressures which can cause adverse impacts and detriment to the integrity of the qualifying features of such designated sites. Impacts usually associated with visitor pressure include noise and visual disturbance to species that are integral features of a European sites' designation, trampling/compaction/erosion issues associated with pathways, nutrient enrichment associated with dog fouling (and illegal fires), and pollution from litter, spillages etc.
- 3.11.4 The nearest point of access to Deben Estuary Ramsar/SPA accessible by foot is at Waldringfield which is accessible by a public footpath. The shadow HRA uses data on dog walking frequency to show that 20% of dogs are walked for over one hour, during which time it would be possible to reach the Deben Estuary and return. This gives an average of around 67 dogs walked for that amount of time, and if there were an absence of other places to walk locally, or such places were considered less attractive as dog walking destinations, it is likely that the walks would be to the Deben Estuary, with for example the estuary at Waldringfield approximately 2km distant by footpath (and rural road walk where necessary). The shadow HRA does not present these figures (67 dogs walked for over an hour per day), but it does estimate that there would be '30 new dog-walks per day ... to the Deben Estuary ... more than once a day'.
- 3.11.5 The shadow HRA estimates that, based visitor studies and on 3140 residents (occupancy rate 1.57 per dwelling) it would be feasible that 1,695 recreational walks by residents would be of a length equal to or greater than the distance to the Deben Estuary, every month.
- Quantification of impact***
- 3.11.6 This number of new walkers, with or without dogs, could give rise to a major increase in disturbance to birds using Deben Estuary Ramsar / SPA site if all walks were directed to the estuary. The amount of disturbance, and impact on birds is harder to quantify. For example, if the first person to walk alongside the estuary disturbs the birds so much that they fly away, subsequent walkers would not encounter birds that could be disturbed (although they might deter the birds from returning).
- 3.11.7 The harm to the Ramsar / SPA site from disturbance is also hard to quantify, as it is unclear how many disturbance events are necessary to reduce bird numbers locally in the short term, or bird populations over the long term. Whether or not a simple threshold for unacceptable disturbance exists, or if there is a linear relationship between visitor numbers, disturbance and harm is hard to assess. However, there have been several studies, including those quoted in the shadow HRA, which demonstrate that recreational walking with or without dogs causes disturbance, with impact pathways towards causing harm.
- 3.11.8 Although harm cannot be quantified, it is considered that a large number of new recreational walks with or without dogs would be harmful to the Deben Estuary Ramsar / SPA.
- 3.11.9 There are car parks within 8km of the proposed development site at Woodbridge, Martlesham Church, and Waldringfield. The shadow HRA says, reasonably, that the car parks in Woodbridge are heavily used and the addition of further visitors from the proposed development would add

<sup>6</sup> <https://www.gov.uk/government/statistical-data-sets/nts99-travel-by-region-and-area-type-of-residence> Table no. NTS9902  
Household car ownership by region and Rural-Urban Classification: England

<sup>7</sup> <http://www.pfma.org.uk/dog-population-2016>

little significant impact. The car park at Martlesham Church is open to the public and the shadow HRA quotes the Suffolk Coastal District Council Core Strategy AA that a survey found two visitors per 100 dwellings during the survey period, and predicted that if the proposed development had been present there would have been 40 visitors. The shadow HRA gives reasons, not perhaps thoroughly convincing, why the actual level of visitor use would be less than that predicted. A pay and display car park at Waldringfield would be available for visitors to use, as would a pub car park (for pub users only). The use of the car park is limited by its size, with no parking capacity once it is full and no nearby on-street parking.

3.11.10 Mountain biking is reported in the shadow HRA to have no likely significant effect on European sites, which is considered a reasonable conclusion.

#### ***Moderation of recreational visits to Deben Estuary***

3.11.11 The quantity of walks with or without dogs that could be directed towards the Deben Estuary would, in practice, be moderated by the number of alternative walks available and the attractiveness of these walks to new residents. It is considered that walkers would choose from the range of alternatives and so the number of walks to the Deben Estuary would be fewer than the total number of walks taken.

3.11.12 Other walks in the vicinity of the proposed development include

- public footpaths southwards to Newbourne, Brightwell and Bucklesham, creating a series of circular walking routes;
- land to the south and east of Adastral Park
- a bridleway connection west to Kesgrave, which will be enhanced with a new pedestrian/cycle crossing as part of the new A12 road junction proposed as part of the Development; and
- footpath and bridleway links from the Site to Martlesham and Martlesham Heath, including a connection to the Sandlings Walk recreational walking route and Walk Farm Wood.

3.11.13 There is also a circular route using public footpaths around the whole proposed development.

3.11.14 Circular walks from Waldringfield using the estuary-side path are inhibited by breaches to the estuary wall both north and south of Waldringfield so that long estuary-side walks are not possible.

3.11.15 The shadow HRA states that walking activity is carried out less frequently in winter, although dog walkers generally walk their dog all year round.

3.11.16 Despite the moderating influences put forward, without further mitigation the shadow HRA states that there may be 25 –30 new visits per week to the Deben Estuary and this could potentially harm the Deben Estuary Ramsar / SPA through bird disturbance.

### **3.12 Impacts of increased recreational pressure upon Stour and Orwell Estuaries Ramsar / SPA site and Sandlings SPA**

3.12.1 The shadow HRA considers that there would be no significant increase in visitor pressure on Stour and Orwell Estuaries Ramsar/SPA and on Sandlings SPA due to the road travel distances to reach access points to those sites. This is considered to be a reasonable conclusion.

### **3.13 Mitigation measures built in to the proposed development**

3.13.1 A 'Suitable Alternative Natural Greenspace' (SANG) has been designed into the proposed development, to provide an alternative recreational opportunity for walkers with or without dogs, thus reducing visitor pressure to European sites. The SANG has been designed based on parameters derived from the Thames Basin Heaths SPA delivery framework, as described in the shadow HRA. In particular, the SANG is designed to provide 8ha of land per 1000 people, with an occupancy rate of 1.57 people per dwelling, and with 2000 dwellings. This calculates to a SANG of 25.12ha. The occupancy rate of 1.57 people per dwelling is described as being the additional population generated by the development in Suffolk Coastal District, to allow for some



of the occupants of the new dwellings moving from multi-occupancy dwellings elsewhere in the District. The calculation therefore implies that the impact of people elsewhere in the District is similar to those in the proposed development regardless of distance.

- 3.13.2 The 25.12ha of high quality SANG will be created within the proposed development, comprising a core block of 18.1ha with 7ha of linking paths that will include existing public rights of way. These rights of way will be enhanced, where appropriate, by planting and landscaping in order to create a more attractive walking, cycling and horse riding experience. The figure of 25.12ha will also include 3.3ha of informal outdoor play space designed to complement the semi-natural environment.
- 3.13.3 The SANG for the Site has been designed to be both attractive and convenient according to the shadow HRA. The focal point of the proposed publicly accessible greenspace area will be the existing lake, surrounded by a landscaped area of open meadow and amenity grassland for informal/passive recreation. There will be some mown grass and semi-surfaced paths and it will form a safe, attractive and accessible suite of publicly accessible habitats, including meadow, heath, woodland, water and scrub. It is designed to provide a high quality recreation offer that will encourage residents from the new development to walk on the area rather than visit European sites elsewhere.
- 3.13.4 The 3.3ha of informal outdoor play space within the newly-created greenspace will be of a design and nature that is suitable within the character of a SANG, such as timber trim trail equipment and landscaped areas for play. This will be complemented by formal recreation play areas and sports pitches elsewhere in the development.
- 3.13.5 There will also be a low disturbance zone within the SANG, which would be managed for wildlife, focused on the semi-aquatic wetland edge of the lake and surrounding vegetation where new tree planting will take place. Habitats in this zone will be specifically developed for species such as sand martin and nightingale and will add to the quality of the SANG.
- 3.13.6 The SANG provides natural habitats and water views, with a circular walk of 2.5km within the core block, plus an increase in the attractiveness of the existing circular walk around the proposed development which is around 6km long. Car parking is not provided for the SANG because it is intended for local use rather than attracting people from outside the development.
- 3.13.7 Public rights of way leading from the SANG circular route will be upgraded, by adding a new crossing point for the A12 so that the public bridleway to the west, towards Kesgrave, can be used for walks away from the Deben Estuary. Site information boards will promote the SANG and walks away from the estuary.

### 3.14 Recreational Avoidance and Monitoring Strategy

- 3.14.1 Suffolk Coastal District Council is preparing a Recreational Avoidance and Monitoring Strategy for European sites. It will consist of a programme to warden, manage and monitor visitors to European sites. The Strategy implementation will be funded by developer contributions, and the applicant has agreed to make the contribution based on a formula for the number of houses to be constructed.

### 3.15 Consultees' comments

- 3.15.1 Several consultees have commented on impacts upon Deben Estuary Ramsar / SPA. Some of these are summarised below:
- A local resident says that there is no meaningful benchmark established in the application against which a detectable change might be measured. That makes the application meaningless. There are some attempts, for example, to measure air quality but no monitoring receptors were put, or are scheduled to be put, in the Deben area for either construction or operation phases of the development. If, in the future, there is damage to the Deben: river walls fail under increased footfall, or there is noise or light pollution will SCDC be in any position to assess, the damage, and then restrict the growth of the development?

- A local resident – proximity of Deben
- A local resident - Green infrastructure and green spaces are not sufficient to provide an alternative to recreation at the Deben.
- A local resident - cumulative impact of light pollution affecting the River Deben Estuary
- A local resident – impacts on Deben Estuary
- NANT (campaign group) - insufficient certainty or clarity regarding the essential provision of off-site mitigation.
- Waldringfield Parish Council - Without more detail it is not safe to assume that the off-site mitigation provision is in conformance with the Core Strategy's SP20. We remain very sceptical about whether the amount of on-site green-space will provide sufficient mitigation to prevent harm to the Deben Estuary SPA. We do not accept that Natural England is correct to agree to the considerably reduced on-site green-space provision based on 1.57 people per household. We remain unconvinced that the mitigation proposed will be able to nullify the potentially catastrophic effect on the existing local communities and the Deben Estuary SPA.
- RSPB - consider that the proposed provision of 25.12ha is below the recommended amount given the scale of the development. We are pleased to note that the updated information includes the intention to secure an overall contribution of £150 per dwelling to the RAMS through the s106 agreement. An outline of measures for managing and funding SANG maintenance/management is given in the Community Cohesion note which may benefit from further detail.
- Suffolk Wildlife Trust - queries the use of 1.57 'new' residents per dwelling in the calculation of the required area of onsite greenspace. The additional information does include a proposed phasing plan for the delivery of the SANGs and other onsite green space. We also note that a per dwelling financial contribution towards the emerging Recreational Disturbance Avoidance Mitigation Strategy (RAMS) has been secured.
- Natural England – no objection subject to mitigation being secured.

### 3.16 Assessment of impact on European sites

- 3.16.1 Section 3.10 above describes consideration of likely significant effects. The one matter requiring further appropriate assessment is the potential for off-site impacts caused by an increase in recreation alongside the Deben Estuary from residents of the proposed development. The primary recreational impact would be walking, with or without dogs, alongside the estuary which could result in disturbance to birds, causing reduced probability of survival and reproduction and a reduction in population size.
- 3.16.2 As discussed above, the applicant proposes several measures to reduce increased recreational impact, including
- Creation of Suitable Alternative Natural Greenspace to attract residents for recreation
  - Improvements to rights of way leading out of the proposed development and away from the estuary
  - Contribution of £300,000 towards a Recreational Avoidance and Mitigation Strategy
  - Interpretation materials to direct residents to alternatives to the estuary
- 3.16.3 These measures are set out in more detail in the Environment Action Plan provided by the applicant. The applicant also points out that there have been breaches in the estuary walls which prevent certain circular walks using the estuary-side.
- 3.16.4 A number of consultees, including Waldringfield Parish Council, RSPB and Suffolk Wildlife Trust have queried the amount of Suitable Alternative Natural Greenspace to be provided. Policy SP20 of the Core Strategy requires what is now called SANG, based on its Appropriate Assessment, but does not quantify the amount required. The amount of SANG was calculated by the applicant

using parameters originally designed for SANG in Thames Basin Heaths (Surrey, Berkshire, Hampshire), with the amount being based on a ratio of 8ha SANG per 1000 residents, and the number of residents being based on the average number per dwelling. The applicant has used 1.57 people per dwelling to calculate the SANG requirement, but acknowledges that this is not the number of predicted residents per dwelling. The applicant's estimate of number of people per dwelling takes into account a reduction in the number of people per household elsewhere in Suffolk Coastal as a result of the development, for example if a household divides with some occupants remaining in the original house and some moving to Adastral Park. If the Thames Basin Heaths parameters were closely followed, 2.4 residents per dwelling might be a more realistic estimate, thus requiring a larger SANG.

- 3.16.5 The important question to resolve is not whether the SANG meets standards set for other parts of the country, but whether the SANG as proposed is large enough and of suitable quality to fulfil its intended function in the present context. It is clear that the larger a SANG is, the greater variety of recreational opportunities such as play features, choice of walking routes through varying habitats, and length of routes, can be provided. A larger SANG superficially might be more effective than a smaller SANG at reducing recreational effects upon the Deben Estuary, but larger SANG would not be more effective if the smaller SANG is of sufficient size and quality and in the right place.
- 3.16.6 Suffolk Coastal District Council's statutory advisor on all matters relating to European sites is Natural England. It is clear that Natural England has considered the SANG size. Prior to making the planning application, the applicant discussed SANG size, and Natural England agreed to the calculations proposed by the applicant. This can be seen in Natural England's letter to the applicant dated 5<sup>th</sup> January 2017, and presented in the Environmental Statement Appendix E2, Appendix 1. Natural England's consultation response dated 11<sup>th</sup> May 2017 to Suffolk Coastal District Council does not object to the planning application subject to the mitigation proposed in the applicants' shadow HRA; that mitigation includes the SANG as designed by the applicant; there is no further comment in respect of SANG size. No further correspondence from Natural England contradicts this stance.
- 3.16.7 In Natural England's email of 13<sup>th</sup> September 2017 to Suffolk District Council, after considering a revised Environmental Action Plan, Natural England was '*satisfied that this now provides sufficient detail to conclude that the development is not likely to have an adverse effect on any designated Natura 2000 Site, alone, or in combination with any other plan or project...*' Natural England advised that the green infrastructure ('SANG') was sufficient together with other measures to avoid any effects on European sites.
- 3.16.8 Provision of SANG should be in line with provision of housing, with the SANG largely available in area prior to the first occupation but the quality improvements to be completed in line with housing development.
- 3.16.9 This assessment considers the impact of the development alone, and also considers impacts of other developments especially those described in Suffolk Coastal's Local Plan, and in Ipswich Borough Council's Local Plan.

### 3.17 Conclusions of assessment

It is concluded that the SANG will form part of the measures to safeguard the Deben Estuary Ramsar / SPA and subject to all the proposed measures being provided it is ascertained that there would be no adverse affect upon the integrity of any European site. The measures would be secured by a S106 agreement and if necessary by condition.

## 4 Conclusions

- 4.1.1 The Habitats Regulations Assessment set out in this report ascertained that the development would have no adverse affect upon the integrity of any European site, subject to measures to minimise recreational impact upon Deben Estuary Ramsar / SPA. The estuary is designated for a number of ecological features, including bird species which are vulnerable to disturbance from walkers with or without dogs, and such disturbance could have potential for long-term harm to these bird populations. Measures to minimise disturbance include a financial contribution to a Recreation Avoidance and Mitigation Strategy to be secured through a S106 agreement, creation of a Suitable Alternative Natural Greenspace, promotion of walking routes away from the estuary, and provision of interpretative material. A Section 106 agreement plus conditions, if necessary, will secure all measures.

# *Appendix 1*

## **Legislative and policy context**

There is a number of pieces of legislation, regulations and policies specific to ecology which underpin this assessment. These may be applicable at a European, National or Local level. References to legislation are given as a summary for information and should not be construed as legal advice.

### ***Birds Directive***

The European Community Council Directive on the Conservation of Wild Birds (79/409/EEC), normally known as the Birds Directive, sets out general rules for the conservation of all naturally occurring wild birds, their nests, eggs and habitats. It was superseded by the 'new' Birds Directive (2009/147/EC) which generally updated the previous directive.

These requirements are interpreted into English law by the Wildlife and Countryside Act 1981 (as amended) with regard to protection of birds, and the Conservation of Habitats and Species Regulations 2010 with regard to the registration and regulation of Special Protection Areas.

### ***Habitats Directive***

The European Community Council Directive on the Conservation of Natural Habitats of Wild Fauna and Flora (92/43/EEC), normally known as the Habitats Directive, aims to protect the European Union's biodiversity. It requires member states to provide strict protection for specified flora and fauna (i.e. European Protected Species) and the registration and regulation of Special Areas of Conservation.

These requirements are interpreted into English law by the Conservation of Habitats and Species Regulations 2010 with regard to European Protected Species and the registration and regulation of Special Areas of Conservation.

### ***Conservation of Habitats and Species Regulations 2010***

The Conservation of Habitats and Species Regulations 2010 interpret the Birds Directive and Habitats Directive into English and Welsh law. For clarity, the following paragraphs consider the case in England only, with Natural England given as the appropriate nature conservation body. In Wales, the Countryside Council for Wales is the appropriate nature conservation body.

Special Protection Areas and Special Areas of Conservation are defined in the regulations as 'European sites'. The Regulations regulate the management of land within European sites, requiring land managers to have the consent of Natural England before carrying out management. Byelaws may also be made to prevent damaging activities and if necessary land can be compulsorily purchased to achieve satisfactory management.

The Regulations define competent authorities as public bodies or statutory undertakers. Competent authorities are required to make an appropriate assessment of any plan or project they intend to permit or carry out, if the plan or project is likely to have a significant effect upon a European site. The permission may only be given if the plan or project is ascertained to have no adverse effect upon the integrity of the European site. If the competent authority wishes to permit a plan or project despite a negative assessment, imperative reasons of over-riding public interest must be demonstrated, and there should be no alternative to the scheme. The permissions process would involve the Secretary of State and the option of consulting the European Commission. In practice, there will be very few cases where a plan or project is permitted despite a negative assessment. This means that a planning application has to be assessed by the Local Planning Authority, based on information provided by the applicant, and the assessment must either decide that it is likely to have no significant effect on a European site or ascertain that there is no adverse effect upon the integrity of the European site.

Government policy is for Ramsar sites (wetlands of global importance) to be treated as if they were European sites within the planning process.

### ***Appropriate Assessment***

Appropriate Assessment is required in certain instances under the Conservation of Habitats and Species Regulations 2010. Regulation 61 says that:

*61.—(1) A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which-*

*(a) is likely to have a significant effect on a European site or a European offshore marine site*

*(either alone or in combination with other plans or projects), and*

*(b) is not directly connected with or necessary to the management of the site,*

*must make an appropriate assessment of the implications for that site in view of that site's conservation objectives.*

*(2) A person applying for any such consent, permission or other authorisation shall provide such information as the competent authority may reasonably require for the purposes of the assessment or to enable them to determine whether an appropriate assessment is required.*

*(3) The competent authority shall for the purposes of the assessment consult the appropriate nature conservation body and have regard to any representations made by that body within such reasonable time as the authority may specify.*

*(4) They must also, if they consider it appropriate, take the opinion of the general public, and if they do so, they must take such steps for that purpose as they consider appropriate.*

*(5) In the light of the conclusions of the assessment, and subject to regulation 62 (considerations of overriding public interest), the competent authority shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be).*

*(6) In considering whether a plan or project will adversely affect the integrity of the site, the authority must 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 consent, permission or other authorisation should be given.*

The competent authority is typically the local planning authority. The appropriate assessment contains the information the council requires for the purposes of its assessment under the Habitat Regulations.

The Habitat Regulations also are applicable to local authority land use plans and policies. If a policy or plan is likely to have a significant effect upon a European site, the permission may only be given if the policy or plan is ascertained to have no adverse effect upon the integrity of the European site. This approach gives rise to a hierarchy of plans each with related appropriate assessments. For example, the appropriate assessment of a Regional Spatial Strategy will affect policies within a Core Strategy, which will then need its own appropriate assessment, and so on.

#### *European Protected Species*

European Protected Species of animals are given protection from deliberate capture, injury, killing, disturbance or egg taking/capture. Their breeding sites or resting places are also protected from damage or destruction, which does not have to be deliberate. A number of species are listed as European Protected Species, with those most likely to be considered in planning applications being bats, dormouse, great crested newt and otter. Natural England may give a licence for actions that are otherwise illegal, subject to them being satisfied on the three tests of no alternative, over-riding public interest, and maintenance of the species in favourable condition.

European Protected Species of plant are also listed and given protection. These species are generally very rare and unlikely to be present in proposed development sites.

#### ***Wildlife and Countryside Act 1981***

The Wildlife and Countryside Act 1981 has been amended many times, including by the Countryside and Rights of Way Act 2000. It contains provisions for the notification and regulation of Sites of Special Scientific Interest, and for protected species.

The Regulations regulate the management of land within Sites of Special Scientific Interest, requiring land managers to have the consent of Natural England before carrying out management.

All public bodies are defined as 'S28G' bodies, which have a duty to further the nature conservation of Sites of Special Scientific Interest in the undertaking of their functions. In practice, this prevents planning applications being permitted if they would harm Sites of Special Scientific Interest, as it would be a breach of that duty.

The Act makes it an offence intentionally to kill, injure, or take any wild bird, take, damage or destroy the nest of any wild bird, while that nest is in use or being built, or take or destroy an egg of any wild bird. Special penalties are available for offences related to birds listed on Schedule 1, for which there are additional offences of disturbing these birds at their nests, or their dependent young.

The Act makes it an offence intentionally to kill, injure or take any wild animal listed on Schedule 5, and prohibits interference with places used for shelter or protection, or intentionally disturbing animals occupying such places. Some species have lesser protection under this Act, for example white-clawed crayfish, common frog and toads are only protected from sale, and reptile species, other than smooth snake and sand lizard, are protected from intentional killing or injury, but they are not protected from disturbance and their habitat is not protected. It is also an offence intentionally to pick, uproot or destroy any wild plant listed in Schedule 8.

### ***National Planning Policy Framework***

The National Planning Policy Framework dated March 2012 (NPPF) replaces previous Government Policy in relation to nature conservation and planning, which was set out in Planning Policy Statement 9. Paragraph 109 of the NPPF says that the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible.

Paragraph 113 describes policy for designated sites, where Local Planning Authorities should set criteria-based policies, against which proposals for any development on or affecting protected wildlife or geodiversity sites or landscape areas will be judged. Further policy is within paragraph 118, where Local Planning Authorities should aim to conserve and enhance biodiversity when determining planning applications by applying the following principles.

- If significant harm resulting from a development cannot be avoided (through locating it on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused,
- Opportunities to incorporate biodiversity in and around developments should be encouraged.
- Planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss.
- Paragraph 115 adds protection to biodiversity within areas designated for their landscape value. It says that great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty. The conservation of wildlife and cultural heritage are important considerations in all these areas, and should be given great weight in National Parks and the Broads.

Government circular 'Biodiversity and Geological Conservation – Statutory Obligations and their Impact Within the Planning System' referenced ODPM 06/2005 and Defra 01/2005 has not been replaced and remains valid. It sets out the legislation regarding designated and undesignated sites and protected species, and describes how the planning system should take account of that legislation. It does however pre-date the NERC Act 2006 (see below), which includes a level of protection for a further list of habitats and species regardless of whether they are on designated sites or elsewhere.

### ***Natural Environment and Rural Communities (NERC) Act 2006***

This Act includes a list of habitats and species of principal importance in England. Local Authorities are required to consider the needs of these habitats and species when making decisions, such as on planning application.

### ***Suffolk Coastal District Council Local Plan planning policy***

The development plan is made up of the following individual plans:

- Suffolk Coastal District Local Plan: Core Strategy and Development Management Policies July 2013 (CS);
- Suffolk Coastal Local Plan saved policies;
- Suffolk Coastal Site Allocations and Area Specific Policies Local Plan 2017 (SALP);



- Minerals Core Strategy, September 2008 (MCS);
- Minerals Specific Site Allocations Plan 2009 (MSSAP).

The Suffolk Coastal District Local Plan Core Strategy and Development Management Policies July 2013 has a number of policies relating to ecology and nature conservation

#### **Policy SP1 Sustainable Development.**

*The strategy ... in this respect to: ... (j) conserve and enhance the areas natural historic and built environment...*

#### **Policy SP14 Biodiversity and geodiversity**

*Biodiversity and geodiversity will be protected and enhanced using a framework based on a network of:*

- *Designated sites;*
- *Wildlife corridors and links;*
- *The rivers, estuaries and coast;*
- *Identified habitats and geodiversity features;*
- *Landscape character areas; and*
- *Protected species.*

*Sites of European importance, which include Special Areas of Conservation and Special Protection Areas are statutorily protected under the Conservation of Habitats and Species Regulations 2012 (based on EU directives), and wetlands of global importance (Ramsar sites) are protected by Government policy to apply the same level of protection as to European sites.*

*More generally, the policy approach to development on sites designated for their biodiversity or geodiversity interest is set out in Policy DM27.*

*The Suffolk Biodiversity Action Plan and Suffolk Local Geodiversity Action Plan will be implemented. The Strategy will also be to contribute to county targets through the restoration, creation and on-going management of new priority habitats as identified in those documents.*

#### **Policy SP17 Green space**

*The Council will seek to ensure that communities have well-managed access to green space within settlements and in the countryside and coastal areas, in order to benefit health, community cohesion and greater understanding of the environment, without detriment to wildlife and landscape character. Where adequate green space is not provided as part of a development, developer contributions will be sought to fund the creation of appropriate green space and/ or management and improvement of access to green space. In particular, the Council will work on green infrastructure opportunities with partners in strategic housing growth areas in order to suitably complement development proposals. Developer contributions will be secured by means of conditions, legal agreements and/or through the Community Infrastructure Levy (CIL) (once a charging schedule has been adopted).*

Strategic Policy SP18 – Infrastructure. *"The infrastructure required in order to service and deliver new development must be in place or provided at the required phase of the development..."*

#### **Strategic Policy SP20 – Eastern Ipswich Plan Area**

*.....xii) the Council will require further proposals to be supported by an Appropriate Assessment to meet the requirements of the Habitats Regulations. If the results of the Appropriate Assessment show that part of the Strategy cannot be delivered without adverse impacts on designated European sites which cannot be mitigated, then the proposals will only make provision for the level and location of development for which it can be concluded that there will be no adverse effect on the integrity of a designated European nature conservation site..... The November 2011 Appropriate Assessment and the mitigation measures it contains (section 7.2 and Table 10) will provide the basis for more detailed project level assessments associated with the Area Action Plan and planning application proposals and associated cumulative impacts.*

*Those measures will be required to reflect the objectives set which include the creation of alternative opportunities for countryside recreation for existing and future residents as a preferred alternative to visiting European nature conservation sites; improved visitor infrastructure including wardening; and monitoring to quantify reductions in visitor harm achieved by mitigation projects.*

*Specifically, on land to the south and east of Adastral Park, strategic open space in the form of a country park or similar high quality provision will be required to mitigate the impact of development at this site and the wider cumulative impact of residential development on the relevant designated European nature conservation sites.*

*Infrastructure needs to be accorded priority include:*

*(a) Provision of and increased access to open space both on and off-site to meet the mitigation measures outlined in the November 2011 Appropriate Assessment. This includes enhanced wardening and monitoring of visitor impacts upon designated European nature conservation sites;*

*(b) .....*

### **Development Management Policy DM26 – Lighting**

*The District Council will seek to minimise light pollution. Applications for development requiring or likely to require external lighting should include details of lighting schemes. This should include position, height, aiming points, lighting levels and a polar luminance diagram. Applicants will need to satisfy the District Council that....*

*(b) It is designed so as to minimise pollution from glare and light spillage, particularly to residential and commercial areas, areas of nature conservation importance.....*

### **Development Management Policy DM27 – Biodiversity and Geodiversity**

*All development proposals should:*

*(a) protect the biodiversity and geodiversity value of land and buildings and minimise fragmentation of habitats;*

*(b) maximise opportunities for restoration, enhancement and connection of natural habitats; and*

*(c) incorporate beneficial biodiversity conservation features where appropriate.*

*Development proposals that would cause a direct or indirect adverse effect (alone or combined with other plans or projects) to the integrity of internationally and nationally designated environmental sites or other designated areas, priority habitats or protected/priority species will not be permitted unless:*

*(i) prevention, mitigation and, where appropriate, compensation measures are provided such that net impacts are reduced to a level below which the impacts no longer outweigh the benefits of the development\*; or*

*(ii) with regard to internationally designated sites that the exceptional requirements of Reg. 62 of the Conservation of Habitats and Species Regulations 2010 (as amended) relating to the absence of alternative solutions and Imperative Reasons of Overriding Public Interest have been met.*

*Improved site management and increased public access to sites will be encouraged where appropriate.*

*Footnote: \*If the result of the Appropriate Assessment is that part of the Core Strategy cannot be delivered without adverse impacts on a European site which cannot be appropriately mitigated then planning permission will only be granted for a level and location of development for which it can be concluded that there will be no adverse impact on the integrity of the site even if this level is below that indicated in the Core Strategy*

## Species Legislation

The following table provides an overview of legislation with regard to species.

Protected Species	Legislation			
	Wildlife & Countryside Act, 1981	The Conservation of Habitats and Species Regulations, 2010	Natural Environment & Rural Communities (NERC) Act, 2006	Protection of Badgers Act, 1992
Plants (certain 'rare' species)	✓	✓ <sup>8</sup>	✓	
Invertebrates (certain 'rare' species)	✓	✓ <sup>9</sup>	✓	
White-clawed crayfish	✓		✓	
Great crested newt, natterjack toad, pool frog	✓	✓	✓	
Other amphibians	✓ <sup>10</sup>		✓	
Sand lizard, smooth snake	✓	✓ <sup>11</sup>	✓	
Other reptiles	✓ <sup>12</sup>		✓	
Breeding birds	✓	✓	✓	
Wintering birds (certain 'rare' species)	✓	✓	✓	
Bats	✓	✓	✓	
Dormouse	✓	✓	✓	
Water vole	✓		✓	
Otter	✓	✓	✓	
Badger				✓

8 Nine species present in the UK, with very specialised habitat requirements, are European Protected Species.

9 Fisher's estuarine moth, large blue butterfly and lesser whirlpool ram's-horn snail are European Protected Species.

10 The four other native amphibian species (smooth and palmate newts, common frog and common toad) are only protected against trade under this act.

11 Smooth snake and sand lizard are European Protected Species.

12 The four other native reptile species (common lizard, slow worm, grass snake and adder) are protected against intentional killing, injury and trade under this act.