

Borough Council of King's Lynn & West Norfolk screening report of the requirements for a Strategic Environmental Assessment (SEA) and Habitats Regulation Assessment (HRA) for the emerging Brancaster Neighbourhood Plan Review

March 2020

Borough Council of
**King's Lynn &
West Norfolk**



Borough Council of King's Lynn & West Norfolk preliminary screening report for a Strategic Environmental Assessment (SEA) and Habitats Regulation Assessment (HRA) for the emerging Brancaster Neighbourhood Plan

1. Introduction

- 1.1 This screening report is designed to determine whether or not the content of the emerging Brancaster Neighbourhood Plan Review requires a Strategic Environmental Assessment (SEA) in accordance with the European Directive 2001/42/EC and associated Environmental Assessment of Plans and Programmes Regulations 2004. A SEA would be required if the implementation of the contents of the Neighbourhood Plan are likely to cause significant environmental effects.
- 1.2 This report will also determine whether or not the contents of the Neighbourhood Plan require a Habitats Regulations Assessment (HRA) in accordance with Article 6 (3) of the EU Habitats Directive and with Regulation 61 of the Conservation of Habitats and Species Regulations 2010 (as amended). A HRA would be required when the implementation of the contents of the Neighbourhood Plan are likely to cause significant negative effects on a designated protected European Site (Natura 2000 sites).
- 1.3 This report is based upon the screening opinion request and information provided on the emerging content of the Plan as provided by the Parish Council and the screening opinion consultation responses subsequently received from the Environment Agency, Historic England and Natural England.
- 1.4 To avoid any doubt, this does not affect the Borough Council's obligation to provide further advice on later stages of the emerging Neighbourhood Plan/SEA process which may subsequently arise if there are changes to the plan's content that could have an adverse effect upon the environment.

2. Legislative Background

- 2.1 **Strategic Environmental Assessment (SEA)** - The European Directive 2001/42/EC is the basis for Strategic Environmental Assessments and Sustainability Appraisal legislation, which was transposed into English law by the Environmental Assessment of Plans and Programmes Regulations 2004, or SEA Regulations.
- 2.2 If a neighbourhood plan is likely to cause significant negative environmental effects, it is necessary to undertake a SEA assessment in line with the SEA regulations. To fulfil the legal requirements to identify if a neighbourhood plan requires a SEA; a screening for a SEA has to be undertaken.
- 2.3 **Habitat Regulation Assessment (HRA)** - It is required by Article 6 (3) of the EU Habitats Directive and by regulation 61 of the Conservation of Habitats and Species Regulations 2010 (as amended) that an appropriate assessment is carried out with regard to the Conservation Objectives of the European Sites and with reference to other plans and projects to identify if any significant effect is likely for any European Site.
- 2.4 To fulfil the legal requirements to identify if likely significant effects will occur with the implementation of a neighbourhood plan upon the European Sites (Natura 2000 sites) a screening assessment has been undertaken.

3. SEA Preliminary Screening

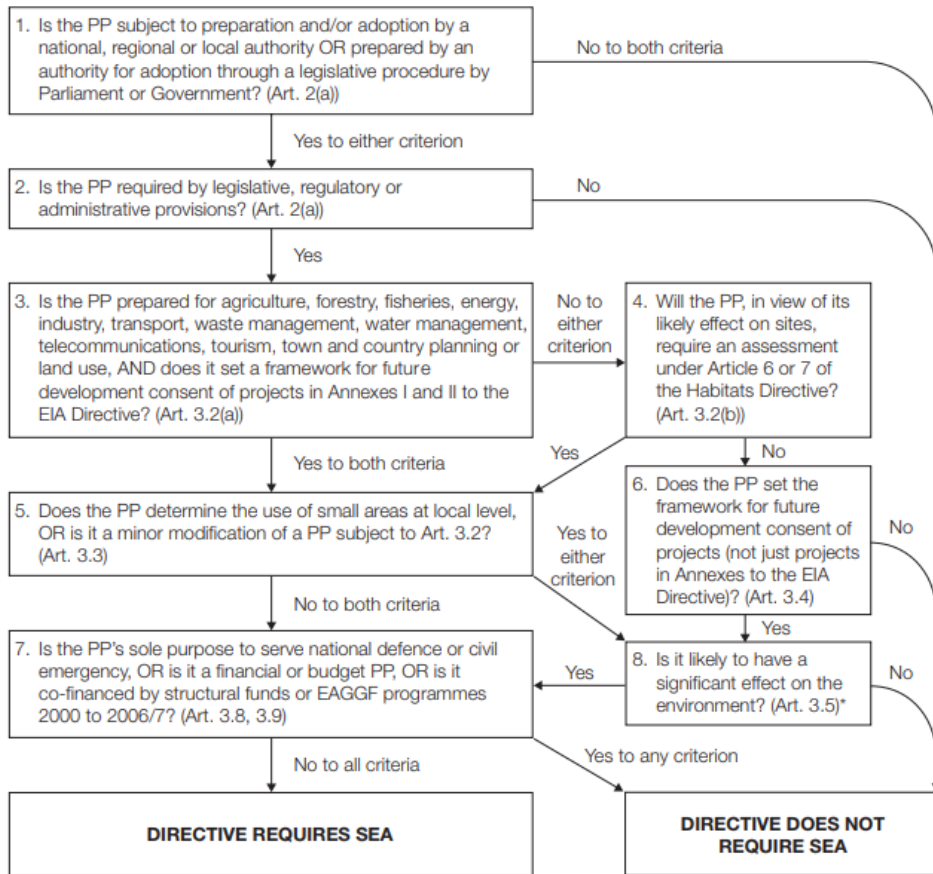
3.1 The process for determining whether or not a SEA is required is called screening. The SEA screening is a two stage interrelated process. The first part considers the Neighbourhood Plan against the SEA assessment flow chart set out in the national guidance “A Practical Guide to the Strategic Environmental Assessment Directive”, (Paragraph 2.18, Figure 2, ODPM, 2005). The second part of the assessment is required in order to answer specific questions contained in the above, specifically question 8 and considers whether the Neighbourhood Plan is likely to have a significant effect on the environment, using criteria drawn from the EU SEA Directive and Schedule 1 of the UK Environmental Assessment of Plans and Programmes Regulations 2004.

3.2 The regulations state that before making a determination the three statutory consultation bodies must be consulted. Accordingly they have been consulted upon the Borough Council’s preliminary opinion and their comments have been taken into consideration within this screening report.

3.3 The process taken follows the application of the SEA Directive as set out in Figure 2 of ‘A practical guide to the Strategic Environmental Assessment Directive’ followed by application of the criteria determining the likely significance of effects referred to in Article 3(5) of Directive 2001/42/EC (Annex 11) and Schedule 1 of the UK Environmental Assessment of Plans and Programmes Regulations 2004 (see the next page):

Figure 2 – Application of the SEA Directive to plans and programmes

This diagram is intended as a guide to the criteria for application of the Directive to plans and programmes (PPs). It has no legal status.



*The Directive requires Member States to determine whether plans or programmes in this category are likely to have significant environmental effects. These determinations may be made on a case by case basis and/or by specifying types of plan or programme.

Table 1: Criteria for determining the likely significance of effects

<p>1. The characteristics of plans and programmes, having regard, in particular, to</p> <ul style="list-style-type: none">• the degree to which the plan or programme sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources• the degree to which the plan or programme influences other plans and programmes including those in a hierarchy• the relevance of the plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development, - environmental problems relevant to the plan or programme• the relevance of the plan or programme for the implementation of Community legislation on the environment (e.g. plans and programmes linked to waste management or water protection) <p>2. Characteristics of the effects and of the area likely to be affected, having regard, in particular, to</p> <ul style="list-style-type: none">• the probability, duration, frequency and reversibility of the effects,• the cumulative nature of the effects• the trans-boundary nature of the effects• the risks to human health or the environment (e.g. due to accidents)• the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected)• the value and vulnerability of the area likely to be affected due to:• special natural characteristics or cultural heritage• exceeded environmental quality standards or limit values• intensive land-use• the effects on areas or landscapes which have a recognised national, Community or international protection status

Source: Annex 11 of SEA Directive 2001/42/EC and Schedule 1 of the UK Environmental Assessment of Plans and Programmes Regulations 2004

4. Assessment

4.1 Application of the SEA Directive to plans and programmes:

Stage	Yes/No	Reason
1. Is the Neighbourhood Plan subject to preparation and/or adoption by national, regional or local authority OR prepared by an authority for adoption through a legislative procedure by Parliament or Government? (Art. 2(a))	Yes	<p>The preparation and adoption of the Neighbourhood Plan is allowed under the Town and Country Planning Act 1990 as amended by the Localism Act 2011. The Neighbourhood Plan is being prepared by the Parish Council (as the “relevant body”) and will be “made” by the Borough Council of King’s Lynn and West Norfolk as the Local Authority subject to passing an independent examination and community referendum. The preparation of Neighbourhood Plans are subject to the following regulations (not intended to be a complete list):</p> <ul style="list-style-type: none"> • The Neighbourhood Planning (General) Regulations 2012 • The Neighbourhood Planning (referendums) Regulations 2012 • the Neighbourhood Planning (General)(Amendment) Regulations 2015 • the Neighbourhood Planning (General)and Development Management Procedure (Amendment) Regulations 2016 • The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2017
2. Is the Neighbourhood Plan required by legislative, regulatory or administrative provisions? (Art. 2(a))	Yes	<p>Whilst the Neighbourhood Plan is not a requirement of the Town and Country Planning Act as amended by the Localism Act 2011, it will be “made” and eventually form part of the Development Plan for the Borough. These are directed by legislative processes and it is important that the screening process considers whether it is likely to have significant environmental effects and hence whether SEA is required under the Directive.</p>
3. Is the Neighbourhood Plan prepared for agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use, AND does it set a framework for future development consent of projects	Yes	<p>A Neighbourhood Plan can include these policy areas and could provide, at a Neighbourhood Area level, the framework for development that would fall within Annex II of the EIA Directive. Developments that fall within Annex I are ‘excluded’ development for Neighbourhood Plans (as set out in the Localism Act 2011 and Section 61(k) of the Town and Country Planning Act 1990 (as subsequently amended).</p> <p>The Neighbourhood Plan is being prepared to set out a framework for town and country planning and land use within the Parish of Brancaster. Its intention is to</p>

Stage	Yes/No	Reason
in Annexes I and II to the EIA Directive? (Art 3.2(a))		<p>complement the higher order strategic framework that already exists for land use planning across the Borough.</p> <p>The strategic framework for development is set by the adopted Core Strategy (2011) and the Site Allocations and Development Management Policies Plan (2016) of the Borough Council of King's Lynn and West Norfolk. The Neighbourhood Plan seeks to align and be in general conformity with these. The Neighbourhood Plan does not anticipate being the tool to manage development of the scale and nature envisaged by Annex I and Annex II of the EIA Directive.</p>
4. Will the Neighbourhood Plan, in view of its likely effect on sites, require an assessment for future development under Article 6 or 7 of the Habitats Directive? (Art. 3.2(b))	No	A Neighbourhood Plan could potentially have impacts on sites covered by the Habitats Directive. The Neighbourhood Plan is not proposing to make site allocations for residential housing or business purposes. Please see Section 4 of this report for further detail.
5. Does the Neighbourhood Plan determine the use of small areas at local level, OR is it a minor modification of a plan or project subject to Art. 3.2? (Art. 3.3)	No	Whilst a Neighbourhood Plan can determine the use of small areas at a local level. The Neighbourhood Plan for Brancaster appears to be in conformity with the Borough's Local Plan and proposals could be described as minor.
6. Does the Neighbourhood Plan set the framework for future development consent of projects (not just projects in annexes to the EIA Directive)? (Art. 3.4)	Yes	Once "made" a Neighbourhood Plan forms part of the statutory Development Plan and will be used by the Borough Council of King's Lynn and West Norfolk in the determination of planning applications. The intention is that the Neighbourhood Plan will provide a land use policy framework for future development at a local level.
7. Is the plan or programme's sole purpose to serve the national defence or civil emergency, OR is it a financial or budget plan or programme, OR is it co-financed by structural funds or EAGGF programmes 2000 to 2006/07? (Art. 3.8, 3.9)	No	Does not apply to a Neighbourhood Plan.
8. Is it likely to have a significant effect on the environment? (Art. 3.5)	No	The Neighbourhood Plan seeks general conformity with the adopted Core Strategy (2011) and the Site Allocations and Development Management Policies Plan (2016) Development Plan Documents and has regard to the emerging Local Plan review. From the application of criteria for determining the likely significant effects

Stage	Yes/No	Reason
		below it is considered it is unlikely that there will be significant effect.

4.2 SEA Screening Stage 2: SEA Directive Article 3(5) Annex II – Application of Criteria for determining the likely significance of effects of a Neighbourhood Plan:

Criteria in Annex 11 of the SEA Directive	Response	Is there a significant effect
(1) Characteristics of the plan and programmes, having regard in particular, to:		
The degree to which the plan or programme sets a framework for projects and other activities, either with regard to the location, nature, size, and operating conditions or by allocating resources;	<p>The strategic framework for development is set by the adopted Local Plan of King’s Lynn and West Norfolk Borough Council which currently comprises the Core Strategy (2011) and the Site Allocations and Development management Policies Plan (2016). The Borough Council are currently in the process of reviewing the Local Plan.</p> <p>The Neighbourhood Plan seeks to align and be in general conformity with this.</p>	No
The degree to which the plan or programme influences other plans or programmes including those in a hierarchy;	The Neighbourhood Plan will be adopted alongside the higher order Local Plan and form part of the Borough’s Development Plan. The Neighbourhood Plan will expand upon some of the Local Plan and emerging Local Plan policies, providing supplementary information on a local scale.	No
The relevance of the plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development;	<p>The basic conditions which a Neighbourhood Plan must meet (summarised):</p> <ul style="list-style-type: none"> • having regard to national policies and advice / guidance • having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses • having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area • contributes to the achievement of sustainable development. • is in general conformity with the strategic policies contained in the development plan for the area 	No anticipated negative effects

Criteria in Annex 11 of the SEA Directive	Response	Is there a significant effect
	<ul style="list-style-type: none"> • does not breach, and is otherwise compatible with, EU obligations. • prescribed conditions are met in relation to the plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan • the plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species regulations 2017 <p>The emerging plan is very much seeking to meet these and be in conformity with higher level plans and the NPPF.</p>	
Environmental problems relevant to the plan or programme;	There are not considered to be any significant environmental problems which are specific to the area, above and beyond those considered and addressed in the Local Plan.	No anticipated negative effects.
The relevance of the plan or programme for the implementation of community legislation on the environment (e.g. plans and programmes linked to waste management or water protection).	The implementation of community legislation is unlikely to be significantly compromised by the Neighbourhood Plan	No
(2) Characteristics of the effects and of the area likely to be affected, having regard, in particular, to:		
The probability, duration, frequency, and reversibility of the effects;	Whilst the Neighbourhood Plan envisages further small-scale windfall and infill housing development taking place. These are of a modest scale considered to be proportionate and reasonably related to the existing village.	No
The cumulative nature of the effects;	It is considered unlikely that the degree of development which may occur would be similar to that if the Plan wasn't in place. Whilst both the Neighbourhood Plan and Local Plan review are being prepared, the Local Plan review will be subject to full SEA including SA and Habitats Regulations.	No
The trans-boundary nature of the effects;	The emerging Neighbourhood Plan policy areas provide supplementary policy areas on a local	No

Criteria in Annex 11 of the SEA Directive	Response	Is there a significant effect
	scale. The impacts beyond the parish are unlikely to be significant.	
The risks to human health or the environment (e.g. due to accidents);	The Neighbourhood Plan is unlikely to produce any significant effects in relation to this criterion.	No
The magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected);	The Neighbourhood Plan covers the Parish of Brancaster. The 2011 census recorded the population at 797 and the Parish covers an area of 2,143 ha. In comparison the Borough of King's Lynn and West Norfolk is 152,760 ha and has population of 147,451 (2011 census).	No
<p>The value and vulnerability of the area likely to be affected due to:</p> <ul style="list-style-type: none"> i) Special natural characteristics or cultural heritage; ii) Exceeded environmental quality standards or limit values iii) Intensive land use 	<ul style="list-style-type: none"> i) The Plan Area does contain the Brancaster Conservation Area and a number of listed buildings. Including the nationally important Grade 1 Listed The Church of St. Mary the Virgin. There is also the Roman fort (Branodunum) which is Scheduled Monument. There are a number of further listed buildings. However, through listing, National Policy, the Local Plan and the emerging Neighbourhood Plan the appropriate level of protection to these historic assets and their settings is afforded. The Neighbourhood Plan by virtue of the "basic conditions" will conform to the existing Development Plan, which provides protection to environmental characteristics across the Borough to ensure that they are not vulnerable to significant impacts from development. ii) The Neighbourhood Plan is unlikely to result in exceedance of environmental quality standards, such as those relating to air, water, and soil quality. iii) The Neighbourhood Plan is unlikely to bring forward development of an extent that would result in a significant intensification of Local land use 	No

Criteria in Annex 11 of the SEA Directive	Response	Is there a significant effect
The effects on areas or landscapes which have a recognised national, Community or international protection status	Whilst the Neighbourhood Plan area includes areas of significant historic and environmental interest. The Neighbourhood Plan is seeking to protect these and be in conformity with higher level plans and national policy.	No

5. Habitat Regulations

5.1 The Habitats Regulations Assessment (HRA) refers to the assessment required for any plan or project to assess the potential impacts against the conservation objectives of Natura 2000 wildlife sites. The assessment must determine whether the plans would adversely affect, or are likely to affect, the integrity of a site(s) in terms of its nature conservation objectives. Where negative effects are identified other options should be examined to avoid any potential damaging effects.

5.2 The HRA process is generally divided into three stages. The initial stage of the HRA process is called the screening stage and determines if there are any likely significant effects or risk of significant effects possible as a result of the implementation of the plan. If there are significant effects the plan will need to undertake an Appropriate Assessment. The screening process should provide a description of the plan and an identification of the Natura 2000 sites which may be affected by the plan and assess the significance of any possible effects on the identified sites.

5.3 Designated Sites (Natura 2000 sites) within the Neighbourhood Plan Area:

- Special Area of Conservation (SAC): The Wash & North Norfolk Coast
- Special Protection Area (SPA): The Wash
- Ramsar Site (RAMS): The Wash

Other important designations within the Neighbourhood Plan Area:

- Site of Special Scientific Interest (SSSI): North Norfolk Coast
- Area of Outstanding Natural Beauty (AONB): North Norfolk Coast
- North Norfolk Heritage Coast

5.4 The Neighbourhood Plan must take this into account and ensure that policies are consistent with the designation objectives.

- 5.5 The emerging Brancaster Neighbourhood Plan review appears very much seeks to be in conformity with the Local Plan and National Policy. It does not seek to make any site allocations for further housing. The policies within the emerging Neighbourhood Plan review are unlikely to have an impact upon the designated sites.
- 5.6 A 'Habitats Regulations Assessment of Detailed Policies and Sites Plan: Site Allocations and Development Management Policies – Proposed Submission Document' was carried out and published in September 2015 by Wild Frontier Ecology to support the Local Plan (Site Allocations and Development Management Policies 2016). This considered the impacts of the housing growth arising from the Local Plan and the likely significant impacts upon the Natura 2000 sites.
- 5.7 After careful consideration and on balance based upon information provided, and given that the Neighbourhood Plan will be in general conformity with the Local Plan and no further housing allocations are proposed it is considered unlikely that a HRA will need to be undertaken. In general, it is noteworthy, that if a HRA is necessary automatically also a SEA has to be undertaken.

6. Screening Outcome

- 6.1 The Borough Council prepared a preliminary screening opinion. The statutory bodies, the Environment Agency, Historic England and Natural England, as required within the SEA and HRA screening process, were consulted upon this (04/02/2020 – 04/03/2020). The consultation responses of the statutory bodies have underpinned the Local Planning Authority's evaluation and conclusions. The statutory bodies' consultation responses are appended in full to this report.
- 6.2 The assessments contained within this report are based upon the Borough Council's preliminary screening opinion and the consultation responses received from the statutory bodies. They clearly identify that, based upon the information available; there is not the potential for significant environmental effects to arise from the implementation of the proposals in the emerging Neighbourhood Plan review for Brancaster.
- 6.3 After careful consideration and on balance the Borough Council agrees with the opinions of the statutory bodies and therefore:

The Brancaster Neighbourhood Plan review does not require a Strategic Environmental Assessment (SEA).

The Brancaster Neighbourhood Plan review does not require a Habitats Regulation Assessments (HRA).

- 6.4 This report is based on the screening request made by the Parish Council. The Neighbourhood Plan at this stage is emerging. The outcome of this screening report will be subject to review by Natural England, Historic England and the Environment Agency. The screening opinion and report may also need to be reviewed if changes are made to the Neighbourhood Plan.
- 6.5 This report will be issued to the Parish Council, and in line with the requirements, Historic England, Natural England and the Environment Agency. A copy of the report must also be submitted with the Neighbourhood Plan proposal and made available to the independent examiner.

Report agreed by:

.....
Geoff Hall, Executive Director Environment and Planning

.....
Date

Appendix: Statutory Body Consultation Responses

Natural England:

Dear Alex

Thank you for consulting Natural England.

Based on the documents provided, it is Natural England's understanding that there are no housing allocations included within Brancaster Neighbourhood Plan and that it is in general conformity with King's Lynn and West Norfolk Borough Council's emerging Local Plan. On this basis we agree with the conclusions of the HRA and SEA.

Many thanks
Victoria

Sustainable Development Lead Adviser
Natural England
2 Gilders Way, Norwich
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Tel: 02082257617
<https://www.gov.uk/natural-england>

Environment Agency:

Alex,

Thank you for your request for a screening opinion.

Due to resource pressures we are no longer able to provide you with bespoke advice on screening opinions. If there is a specific issue that you require our expert advice on before issuing the screening opinion then please contact us with details and we will endeavour to assist you. We remain a statutory consultee for scoping opinions so please continue to submit these for our review and comments.

If you have any queries please do not hesitate to contact us.

Kind regards,

Alison Craggs

Sustainable Places Advisor

East Anglia Area (West)

Environment Agency, Bromholme Lane, Brampton, Huntingdon, Cambs. PE28 4NE

Tel: **02084745242**

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Historic England:

Dear Mr Fradley,

I am writing in relation to the following:

EIA: Environmental Impact Assessment
Brancaster Neighbourhood Plan, Brancaster, Norfolk [Case Ref. PL00680374; HE File Ref. HD/P; Your Reference.]

Thank you for consulting Historic England about this SEA. Please find our response attached.

Yours Sincerely

Edward James
Historic Places Advisor, East of England
E-mail: Edward.James@HistoricEngland.org.uk
Direct Dial: 01223 582746

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Norfolk
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Direct Dial: 01223 582746

Our ref: PL00680374

28 February 2020

Dear Mr Fradley

RE: Brancaster Neighbourhood Plan SEA Screening

Thank you for inviting Historic England to comment on the above consultation. As the Government's adviser on the historic environment Historic England is keen to ensure that the protection of the historic environment is fully taken into account at all stages and levels of the local planning process. Therefore we welcome this opportunity to review the Screening Report for this plan. For the purposes of this consultation, Historic England will confine its advice to the question, "Is it (the Brancaster Neighbourhood Plan) likely to have a significant effect on the historic environment?". Our comments are based on the information supplied with the Screening Opinion.

The Screening Report indicates that the Council considers that the plan will not have any significant effects on the historic environment. We note that the plan does not propose to allocate any sites for development.

On the basis of the information supplied, and in the context of the criteria set out in Schedule 1 of the Environmental Assessment Regulations [Annex II of 'SEA' Directive], Historic England concurs with the Council that the preparation of a Strategic Environmental Assessment is not required.

The views of the other two statutory consultation bodies should be taken into account before the overall decision on the need for an SEA is made.

I should be pleased if you can send a copy of the determination as required by REG 11 of the Environmental Assessment of Plans and Programmes Regulations 2004.

We should like to stress that this opinion is based on the information provided by you with your correspondence dated 4 February 2020. To avoid any doubt, this does not reflect our obligation to provide further advice on later stages of the SEA process and, potentially, object to specific proposals which may subsequently arise (either as a result of this consultation or in later versions of the plan) where we consider that, despite the SEA, these would have an adverse effect upon the environment.



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Historic England strongly advises that the conservation and archaeological staff of the relevant local authorities are closely involved throughout the preparation of the plan and its assessment. They are best placed to advise on; local historic environment issues and priorities, including access to data held in the Historic Environment Record (HER), how the allocation, policy or proposal can be tailored to minimise potential adverse impacts on the historic environment; the nature and design of any required mitigation measures; and opportunities for securing wider benefits for the future conservation and management of heritage assets.

Please do contact me, either via email or the number above, if you have any queries.

Yours sincerely,

A handwritten signature in black ink that reads "E. James". The signature is written over a faint, repeating watermark of the words "electronic" and "signature".

Edward James
Historic Places Advisor, East of England
Edward.James@HistoricEngland.org.uk

cc:



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