

Chelmsford Local Plan Habitats Regulations Assessment (HRA) Adoption Note

1. The Chelmsford Local Plan

- 1.1.1 Chelmsford City Council (the Council) has been developing its new Local Plan since 2015. The Council submitted the *Chelmsford Draft Local Plan Pre-Submission Document* (January 2018) (the draft Local Plan)¹ including proposed Additional Changes (arising from consultation on the draft Local Plan)² to the Secretary of State for Housing, Communities and Local Government on 29th June 2018 for independent examination (known as an Examination in Public or EiP) by a Planning Inspector, in accordance with Regulation 22 of the *Town and Country Planning (Local Planning) (England) Regulations 2012*³.
- 1.1.2 Hearing sessions took place as part of the EiP in November and December 2018. The Inspector's Post Hearing Advice⁴ was published on 8th February 2019 stating that the Local Plan "is a plan which could be found sound subject to main modifications". The Post Hearing Advice contained a number of actions for the Council in respect of the following elements of the draft Local Plan: Gypsy, Travellers and Travelling Showpeople sites; Green Belt; and Green Wedge, Green Corridors and Valued Landscapes. The Council issued its response⁵ to the Inspector's Post Hearing Advice on 21st February 2019 which confirmed its intention to prepare, and consult on, modifications to the draft Local Plan in light of the previously identified Additional Changes, modifications considered during the hearing sessions and the Inspector's Post Hearing Advice.
- 1.1.3 The Council consulted on the Main Modifications to the draft Local Plan between 1st August and 19th September 2019 with the representations subsequently passed to the Inspector for consideration. A number of further additional modifications to the draft Local Plan were also identified but were not subject to public consultation as they did not alter the soundness of any Local Plan policies or allocations. The Planning Inspectorate subsequently issued the Inspector's Report⁶ to the Council on 25th February 2020; this concluded that the Local Plan, with the Main Modifications, is sound, legally compliant and complies with national planning policy.

¹ Chelmsford City Council (2018). *Chelmsford Draft Local Plan Pre-Submission Document* [online]. Available from <https://www.chelmsford.gov.uk/resources/assets/inline/full/0/1150502.pdf> [Accessed March 2020].

² The Additional Changes schedules are available to view via <https://www.chelmsford.gov.uk/planning-and-building-control/planning-policy-and-new-local-plan/new-local-plan/local-plan-examination/> [Accessed March 2020].

³ Statutory Instrument 2012 No. 767 *The Town and Country Planning (Local Planning) (England) Regulations 2012*. Available from http://www.legislation.gov.uk/ukSI/2012/767/pdfs/ukSI_20120767_en.pdf [Accessed March 2020].

⁴ Letter from Yvonne Wright, Planning Inspector dated 08.02.19. Available from <https://www.chelmsford.gov.uk/planning-and-building-control/planning-policy-and-new-local-plan/new-local-plan/local-plan-examination/> [Accessed March 2020].

⁵ Letter from David Green, Director of Sustainable Communities dated 21.02.19. Available from <https://www.chelmsford.gov.uk/planning-and-building-control/planning-policy-and-new-local-plan/new-local-plan/local-plan-examination/> [Accessed March 2020].

⁶ Wright, Y. (2020) *Report to Chelmsford City Council: Report on the Examination of the Chelmsford Draft Local Plan* [online]. Ref. PINS/W1525/429/8. Available from <https://www.chelmsford.gov.uk/resources/assets/inline/full/0/3951296.pdf> [Accessed March 2020].

- 1.1.4 The Chelmsford Local Plan⁷ (hereafter referred to as the 'Local Plan') was subsequently adopted by the Council on 27th May 2020.
- 1.1.5 The Chelmsford Local Plan sets out the vision, spatial principles, planning policies and site allocations that will guide development in the local authority area (for brevity, the term 'the City Area' is used throughout this document to describe the Council's administrative area) in the period up to 2036. It has been developed taking into account national planning policy and guidance, the objectives of other plans and programmes, environmental assessment, the findings of evidence base studies and the outcomes of engagement.
- 1.1.6 The Local Plan includes the following key parts:
- Local Plan Strategic Priorities, reflected in the Vision and Spatial Principles;
 - the overarching Local Plan strategy in terms of the amount of new development to be accommodated in the City Area (development requirements) and where growth will be accommodated (the Spatial Strategy);
 - site allocations to deliver the development requirements across three Growth Areas; and
 - plan policies including development requirements for the site allocations.
- 1.1.7 Overall, the Local Plan makes provision for 21,843 dwellings, nine permanent pitches for Gypsies and Travellers, 24 permanent plots for Travelling Showpeople, 55,000 square metres (sqm) of employment floorspace and 13,400 sqm of retail floorspace over the plan period. The Spatial Strategy seeks to focus this growth on the higher order settlements of Chelmsford and South Woodham Ferrers, and the Key Service Settlements outside of the Green Belt.
- 1.1.8 Further information relating to the adopted Local Plan is available via the Council's website: www.chelmsford.gov.uk/new-local-plan.

2. Habitats Regulations Assessment Summary

Overview

- 2.1.1 Regulation 105 of *The Conservation of Habitats and Species Regulations 2017* (the 'Habitats Regulations') states that if a land-use plan is "(a) is likely to have a significant effect on a European site⁸ or a European offshore marine site⁹ (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" then the plan-

⁷ Chelmsford City Council (2020) *Chelmsford Local Plan – Adopted May 2020*. Available from [Accessed May 2020] www.chelmsford.gov.uk/new-local-plan [Accessed March 2020]

⁸ Strictly, 'European sites' are: any Special Area of Conservation (SAC) from the point at which the European Commission and the UK Government agree the site as a 'Site of Community Importance' (SCI); any classified Special Protection Area (SPA); any candidate SAC (cSAC); and (exceptionally) any other site or area that the Commission believes should be considered as an SAC but which has not been identified by the Government. Note that these terms are subject to any amendments by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019. The term European Site is also commonly used when referring to potential SPAs (pSPAs), to which the provisions of Article 4(4) of Directive 2009/147/EC (the 'new wild birds directive') apply; and to possible SACs (pSACs) and listed Ramsar Sites, to which the provisions of the Habitats Regulations are applied a matter of Government policy (NPPF para. 176) when considering development proposals that may affect them. "European site" is therefore used in this report in its broadest sense, as an umbrella term for all of the above designated sites.

⁹ 'European offshore marine sites' are defined by Regulation 15 of *The Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007* (as amended); these regulations cover waters (and hence sites) over 12 nautical miles from the coast.

making authority must "...make an appropriate assessment of the implications for the site in view of that site's conservation objectives" before the plan is given effect.

- 2.1.2 The process by which Regulation 105 is met is known as Habitats Regulations Assessment (HRA)¹⁰. An HRA determines whether there will be any 'likely significant effects' (LSE) on any European site as a result of a plan's implementation (either on its own or 'in combination' with other plans or projects) and, if so, whether these effects will result in any 'adverse effects on site integrity'. The Council has a statutory duty to prepare the Local Plan and is therefore the Competent Authority for an HRA.
- 2.1.3 Regulation 105 essentially provides a test that the final plan must pass; there is no statutory requirement for HRA to be undertaken on draft plans or similar developmental stages (e.g. issues and options; preferred options). However, as with Sustainability Appraisal (SA), it is accepted best-practice for the HRA of strategic planning documents to be run as an iterative process alongside plan development, with the emerging policies or options reviewed during development to ensure that potentially significant effects on European sites can be identified at an early stage, so providing time for the effects (and any mitigation) to be appropriately assessed. This is undertaken in consultation with Natural England (NE) and other appropriate consultees.
- 2.1.4 Wood Environment and Infrastructure Solutions UK Limited (Wood)¹¹ has been assisting the Council with its assessment of the Local Plan against the Regulation 105; this support has included the following published documents:
- Amec Foster Wheeler (2015). *Chelmsford Local Plan Habitats Regulations Assessment: Initial Scoping*. Report for Chelmsford City Council. AFW Ref. B37180rpbri006ir. CCC Ref: EB009. Available at: <https://www.chelmsford.gov.uk/planning-and-building-control/planning-policy-and-new-local-plan/new-local-plan/evidence-base/>
 - Amec Foster Wheeler (2017). *Chelmsford Draft Local Plan Preferred Options Habitats Regulations Assessment: Information to support an assessment under Regulation 102 of The Conservation of Habitats and Species Regulations 2010 (as amended)*. Report for Chelmsford City Council. AFW Ref. S37180rr008i2. CCC Ref: EB010. Available at: <https://www.chelmsford.gov.uk/planning-and-building-control/planning-policy-and-new-local-plan/new-local-plan/evidence-base/>
 - Amec Foster Wheeler (2018a). *Chelmsford Pre-Submission Local Plan Habitats Regulations Assessment: Information to support an assessment under Regulation 105 of The Conservation of Habitats and Species Regulations 2017*. Report for Chelmsford City Council. AFW Ref. S37180rr012i2. CCC Ref: SD006. Available at: <https://www.chelmsford.gov.uk/planning-and-building-control/planning-policy-and-new-local-plan/new-local-plan/evidence-base/>
 - Amec Foster Wheeler (2018b). *Chelmsford Pre-Submission Local Plan Habitats Regulations Assessment (Update). Information to support an assessment under Regulation 105 of The Conservation of Habitats and Species Regulations 2017*. Report for Chelmsford City Council. AFW Ref. S37180rr012i3. CCC Ref: SD007. Available at: <https://www.chelmsford.gov.uk/planning-and-building-control/planning-policy-and-new-local-plan/new-local-plan/evidence-base/>

¹⁰ The term 'Appropriate Assessment' has been historically used to describe the process of assessment; however, the process is now more accurately termed 'Habitats Regulations Assessment' (HRA), with the term 'Appropriate Assessment' limited to the specific stage within the process.

¹¹ Wood Environment and Infrastructure Solutions UK Limited came into effect on 16th April 2018 with work prior to this date undertaken under the company's former name Amec/Amec Foster Wheeler.

- Wood (2019). *Chelmsford Local Plan Habitats Regulations Assessment (HRA): Review of Pre-Submission Local Plan Modifications and HRA Conclusions*. Report for Chelmsford City Council. Wood Ref. S37180n029i1. CCC Ref: EX052. Available at: <https://www.chelmsford.gov.uk/planning-and-building-control/planning-policy-and-new-local-plan/new-local-plan/evidence-base/>

2.1.5 These reports provide the technical information and assessments underpinning the Council's HRA.

Assessment Summary

Pre-Submission Local Plan

- 2.1.6 The HRA of the Local Plan was undertaken iteratively alongside the plan's development, with emerging policies and proposals assessed and reviewed, and recommendations made to ensure that the final Local Plan does not result in any significant adverse effects on any European sites, alone or in combination with other plans or projects. Appropriate assessments, appropriate to the strategic nature of the Local Plan and the anticipated outcomes, were undertaken of those aspects where the possibility of 'significant' effects on European sites could not be clearly or self-evidently excluded during the Local Plan development and review process.
- 2.1.7 The HRA of the draft Local Plan (including Additional Changes) demonstrated that the vast majority of the Local Plan policies and proposed site allocations will have 'no effect' (either alone or in combination) on any European sites, typically because they are either policy types that do not make provision for changes, or (for allocation sites) they are a considerable distance from the European sites with no reasonable pathways for effects to occur.
- 2.1.8 The HRA screening process determined the following:
- All of the European sites associated with the Mid-Essex coast estuaries (i.e. Crouch and Roach Estuaries SPA / Ramsar; Blackwater Estuary SPA / Ramsar; Foulness SPA / Ramsar; Dengie SPA / Ramsar; and the associated areas of the Essex Estuaries SAC), plus the Thames Estuary and Marshes SPA / Ramsar and Benfleet and Southend Marshes SPA / Ramsar, are potentially vulnerable to regional 'in combination' effects due to visitor pressure, to which the Local Plan will contribute (although this contribution is likely to be relatively limited for most of these sites).
 - None of the proposed allocations are likely to result in significant effects alone, with the possible exception (in the absence of mitigation) of Strategic Growth Site (SGS) 10¹² (North of South Woodham Ferrers), which is within 500m of the Crouch estuary and so may affect the site by increasing recreational pressure and, potentially, through urbanisation effects.
 - The growth supported by the Local Plan has the potential to contribute to 'in combination' air quality effects on sensitive sites (principally Epping Forest SAC).
 - The growth supported by the Local Plan has the potential to affect water quality due to current limitations in wastewater treatment capacity at some treatment works.
 - Other potential mechanisms for sites to be affected, notably through changes in water resource permissions, will not occur due to the absence of reasonable impact pathways.
- 2.1.9 The potential effects from changes in air quality, water quality and visitor/recreational pressure were subject to more detailed 'appropriate assessments' in relation to each European site, taking into account policy-based measures incorporated into the draft Local Plan. In summary:

¹² Note that at the Pre-Submission Local Plan stage, SGS10 was numbered SGS7.

- **Recreational pressures:** The screening assessment concluded that the possibility of significant effects due to increased recreational pressure cannot be excluded based on either the available data for the European sites, or through the use of allocation-specific avoidance or mitigation measures (e.g. greenspace provision). Therefore:
 - ▶ The Council committed to the adoption of a Recreational Disturbance Avoidance and Mitigation Strategy (RAMS), which has been developed by Essex County Council in collaboration with other relevant local planning authorities and Natural England. The RAMS will be adopted as a Supplementary Planning Document¹³ (SPD) and development proposals will be required to account for this. The RAMS includes measures that have been successfully employed for other European sites, and this plan-level mitigation measure is therefore considered to be both achievable and likely to be effective; it can therefore be relied on to ensure that proposals coming forward under the Local Plan either avoid affecting the designated sites entirely (no significant effect) or will not adversely affect site integrity where potential effect pathways remain.
 - ▶ Additional provisions and masterplanning requirements are also included in the policy for allocation SGS10 (alongside other, more general policy provisions), with allocation-specific measures (e.g. the provision of greenspace and walking routes away from the estuary) that will be required to minimise effects on the Crouch and Roach Estuaries SPA / Ramsar.
- **Air quality:** The assessment considered potential effects on air quality sensitive sites that may arise due to future traffic growth associated with the Local Plan's implementation. This focused on sections of Epping Forest SAC and the mid-Essex estuaries sites that are within 200m of a road that might see a potentially significant increase in traffic (>1,000 Average Daily Traffic) and to which the Local Plan might reasonably contribute. This analysis has determined that:
 - ▶ The Local Plan's contribution to traffic growth and air quality changes around Epping Forest SAC will be inconsequential, and that air quality and associated traffic thresholds for the features of the SAC will be substantially exceeded over plan period irrespective of the Local Plan's contribution to traffic volumes near this site. The 'in combination' contribution of the Local Plan is therefore considered to be too small to be 'significant'.
 - ▶ There will be traffic growth associated with allocation SGS10 on roads within 200m of the Crouch estuary European sites, but these changes will not exceed the accepted thresholds for significance, alone or 'in combination'. Furthermore, the features of these estuarine sites are not highly sensitive to air quality changes due to the physiochemical characteristics of the sites. The same conclusion has been reached for roads near the Blackwater estuary around Maldon.
- **Water quality:** A detailed Water Cycle Study undertaken by AECOM (2018) concluded that the treatment capacity of one waste water treatment works (WwTW) in the City Area (Great Leighs WwTW, which discharges to the River Ter and hence the Blackwater Estuary approximately 22.5km downstream) could be exceeded due to the growth supported by the Local Plan. However, the improvements required to support the housing growth envisaged by the Local Plan are possible using wastewater treatment technologies currently available and are achievable before the capacity limitations expose the European sites of the Blackwater Estuary to potential effects. In this context, the Local Plan includes policies that require the provision of the infrastructure necessary to support new development (including utilities provision and sustainable drainage systems), which will (in conjunction with the existing waste water planning

¹³ Essex County Council (2020) *The Essex Coast RAMS Supplementary Planning Document (SPD)*, subject to consultation from 10th Jan 2020 to 21st Feb 2020. Available from: <https://consultations.essex.gov.uk/place-services/the-essex-coast-rams-spd/>

and consents regimes) ensure no significant effects on European sites alone or in combination due to changes in water quality.

- **Functional land:** A review of the allocation sites has concluded that it is unlikely that any of the sites coincide with functionally-significant non-designated areas of land that are likely to be critical to the integrity of any European sites (particularly with reference to Golden plover and Dark-bellied brent geese). Most are a substantial distance from the nearest European sites and do not appear particularly unique or otherwise notable in a regional context. It is considered that any risk can be accurately quantified and appropriately mitigated at a lower planning tier (e.g. site masterplanning) and that specific policy directives relating to this aspect are not considered essential to ensure that significant effects do not occur.

2.1.10 Overall, the assessment of the draft Local Plan concluded it would have no adverse effects on the integrity of any European sites, alone or in combination. These conclusions have been accepted by the Planning Inspector, which has found that the Local Plan is sound, legally compliant and complies with national planning policy.

Modifications

2.1.11 The Main Modifications, Additional Modifications and Policies Map Changes were reviewed to ensure that the conclusions of the Pre-submission Local Plan HRA remained robust. This review concluded that the proposed modifications would not affect the conclusions set out in the HRA.

2.1.12 It should be noted that the Inspector has made minor changes to the Main Modifications following consultation and the Council has also made final Additional Modifications. These amendments are detailed in the 'Schedule of Additional Changes for Adoption of the Local Plan'¹⁴. The amendments have been reviewed to ensure that the proposed modifications would not affect the conclusions set out in the HRA. The Inspector stated in her report (paragraph 6) that "*None of the amendments significantly alters the content of the modifications as published for consultation or undermines the participatory processes and sustainability appraisal that has been undertaken*". This is true for the HRA also.

2.1.13 Consequently, the Council can conclude that its Local Plan will have no adverse effects on the integrity of any European sites, alone or in combination, and can therefore adopt the Local Plan on this basis.

3. Conclusion

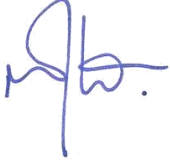
3.1.1 Chelmsford City Council, as the Competent Authority, has assessed the Chelmsford Local Plan against the provisions of Regulation 105 of the Conservation of Habitats and Species Regulations 2017 (the 'Habitats Regulations'). The supporting information for this assessment is provided in the document "Chelmsford Pre-Submission Local Plan Habitats Regulations Assessment (Update). Information to support an assessment under Regulation 105 of The Conservation of Habitats and Species Regulations 2017" which is available at <https://www.chelmsford.gov.uk/planning-and-building-control/planning-policy-and-new-local-plan/new-local-plan/evidence-base/> (Ref. SD007), and in the subsequent review of the Main Modifications which is available from the same location (Ref. EX052).

3.1.2 A 'screening assessment' determined that significant effects on 15 European sites or sites treated as such as a matter of Government policy could not be self-evidently excluded (the sites associated

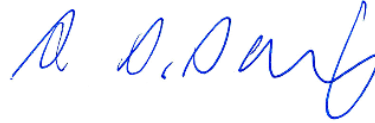
¹⁴ Available from <https://www.chelmsford.gov.uk/your-council/committees-and-meetings/calendar-of-meetings/?id=b074c67a-9dc1-4d6c-9996-c90a5d9a054b> [Accessed March 2020].

with the Essex estuaries, specifically Essex Estuaries SAC, Crouch and Roach Estuaries (Mid-Essex Coast Phase 3) SPA, Crouch and Roach Estuaries (Mid-Essex Coast Phase 3) Ramsar, Blackwater Estuary (Mid-Essex Coast Phase 4) SPA, Blackwater Estuary (Mid-Essex Coast Phase 4) Ramsar, Benfleet and Southend Marshes SPA, Benfleet and Southend Marshes Ramsar, Foulness (Mid-Essex Coast Phase 5) SPA, Foulness (Mid-Essex Coast Phase 5) Ramsar, Thames Estuary and Marshes SPA, Thames Estuary and Marshes Ramsar, Dengie (Mid-Essex Coast Phase 1) SPA, Dengie (Mid-Essex Coast Phase 1) Ramsar, and Outer Thames Estuary SPA; and in Epping Forest SAC).

- 3.1.3 Consequently, an 'appropriate assessment' was completed in accordance with the Regulations to determine the implications of the Local Plan for the qualifying features of those sites with reference to their Conservation Objectives. This assessment took into account mitigation measures included within the Local Plan and hence concluded that either the effects would not be significant, or that no adverse effects on European site integrity would occur.
- 3.1.4 The Council has therefore concluded that the Local Plan will have no adverse effects on the integrity of any European site, alone or in combination with other plans or projects. This conclusion has been accepted by Natural England following formal consultation and Examination in Public and the Council has adopted the Local Plan on this basis.

Issued by

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