



*Suffolk Minerals & Waste Local Plan
Strategic Habitats Regulation Assessment*

**OCTOBER
2018**



The Conservation of Habitats and Species Regulations 2017

Regulation 63 Assessment

Re: The Suffolk Minerals & Waste Local Plan

August 2018

Revised Strategic Habitats Regulations Assessment

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HRA Status	Revised Version I
Date of Issue	August 2018

INTRODUCTION:

This document is a **Revised Strategic Habitat Regulations Assessment** of the various policies set out in the Suffolk County Council *Suffolk Minerals & Waste Local Plan* (Preferred Options) dated October 2017, pursuant to Regulation 63 of **Conservation of Habitats and Species Regulations 2017**.

The initial Habitats Regulations Assessment was dated October 2017 and was commented upon by Natural England and various interested parties (including Norfolk County Council, Suffolk Wildlife Trust and the RSPB). A meeting with Natural England and others took place in July 2018 when various concerns with the approach that had been taken were expressed.

As the Habitats Regulations Assessment process is an iterative process, this Revision endeavours to take into account those various comments and to allay expressed concerns.

Habitat Regulations Assessment (HRA) is the assessment of the impacts of a land use proposal (such as the Minerals and Waste Sites discussed herein) against the Conservation Objectives of a **Natura 2000** site.

In this Habitat Regulations Assessment, the several **Natura 2000** Sites that could conceivably suffer impacts (i.e. the proposed sites are within, adjacent or in the 10 Kilometre Zone of Influence) are mentioned where appropriate and fuller details of the same (including extracts from Citations, Conservation Objectives and so on) are set out in **Appendix One**.

They are:

The Benacre to Easton Bavents Lagoons Special Area of Conservation
The Benacre to Easton Bavents Special Protection Area
The Breckland Special Area of Conservation
The Breckland Special Protection Area
The Minsmere to Walberswick Heaths and Marshes Special Area of Conservation
The Minsmere - Walberswick Special Protection Area
The Minsmere – Walberswick Ramsar Site
The Stour and Orwell Estuaries Special Protection Area
The Stour and Orwell Estuaries Ramsar Site
The Outer Thames Estuary Special Protection Area

This Habitat Regulations Assessment has been carried out by the Senior Ecologist at Suffolk County Council on behalf of the **Suffolk County Council** Planning & Development Section who are “*responsible for the determination of planning applications for minerals and waste development, enforcing planning control, and for producing minerals and waste planning policy documents*” (SMWLP Oct. 2017 (**2. Introduction**) Page 6).

A copy of the Suffolk Minerals & Waste Local Plan, Preferred Options Draft, October 2017 accompanies this Revised Habitat Regulations Assessment.

THE LEGISLATION:

The Conservation of Habitats and Species Regulations 2017 have consolidated the earlier Conservation of Habitats and Species Regulations of 2010 together with its various and subsequent amendments.

The Conservation of Habitats and Species Regulations 2017 transpose the European Council Directive 92/43/EEC (the Habitats Directive) which deals with the conservation of habitats and species into law for England and Wales together with elements of the EU Wild Birds Directive.

The Regulations came into force on the 30th November 2017 and provide for the designation and protection of “European Sites” and “European Protected Species”.

Under the Regulations, competent authorities (which may include Government Ministers and Departments, Public Bodies and persons holding Public Office) have a general duty, when exercising their functions, to have regard to the Habitats Directive and to the Wild Birds Directive.

The Conservation of Habitats and Species Regulations 2017 require the Secretary of State to propose lists of sites which are important for habitats or species which must then be designated as Special Areas of Conservation (SACs) or Special Protection Areas (SPAs), forming a network known as “Natura 2000”. These sites are also known as European Sites.

The Regulations provide for the control of Potentially Damaging Operations and allow the country agency (in the case of England, that is Natural England) to withhold consent if an Appropriate Assessment shows that a plan or proposal may adversely affect the Natura 2000 site’s integrity.

The Regulations further provide for competent authorities to consider planning applications affecting Natura 2000 sites and restrict or revoke permissions where the integrity of that site might be adversely affected.

Within the Regulations, it is Regulations 63 which directs this Habitats Regulations Assessment:

Assessment of implications for European sites and European offshore marine sites

63.—(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 that site,

must make an appropriate assessment of the implications of the plan or project for that site in view of that site’s conservation objectives.

This Assessment is set out below.

1. The Proposal:

The Suffolk Minerals & Waste Local Plan (SMWLP) “...contains planning policies for determining planning applications for minerals and waste development, as well as safeguarding the same from other forms of competing development” (SMWLP Oct. 2017 (1. Executive Summary) Page 4).

In the main, the Plan deals with minerals extraction but a Nationally significant waste site is also considered.

Through the preliminary work undertaken by Suffolk County Council, a number of proposed sites for sand and gravel extraction have been selected and are located at:

- a) Barham
- b) Barnham
- c) Belstead
- d) Cavenham
- e) Layham
- f) Tattingstone
- g) Wangford
- h) Wetherden
- i) Wherstead
- j) Worlington

These various sites will be dealt with in more detail elsewhere.

It is appropriate to record at this point that the SMWLP contains the following vision (SMWLP Oct. 2017 (3. Vision, Aims and Objectives, Page 8) which has the abiding principle that any development will be sustainable, only in appropriate locations and do not cause significantly adverse impacts, inter alia, to the environment and will be restored to appropriate after-use:

Suffolk minerals and waste local plan vision 2036

“Suffolk will continue to meet its statutory obligation as required by national policy for the supply of aggregates and the management of waste in a sustainable manner.

Minerals and waste management sites will only be permitted in appropriate locations, and will be required to be operated to high standards, so that they do not cause a significantly adverse impact upon the environment or local amenity or endanger human health.

Temporary minerals and waste management sites will be restored to a quality and state conducive to an appropriate after-use such as flood alleviation, reservoirs, agriculture, forestry, ecology, geomorphological interest or recreation.”

The above-mentioned high-level, strategic overview of the SMWLP informs this strategic HRA and determines the approach taken to assessment.

2. Basis of the Assessment:

This document is a Strategic Habitats Regulations Assessment (HRA) recording an Appropriate Assessment pursuant to Regulation 63 of **Conservation of Habitats and Species Regulations 2017**. Appropriate Assessment (AA) is the assessment of the impacts of a land use proposal against the Conservation Objectives of a **Natura 2000 (or Ramsar) Site**.

Specifically, it is to ascertain whether or not a proposal (either alone or in combination with other proposals) would adversely affect that site's integrity.

This Strategic Habitats Regulations Assessment has followed the following methodological steps:

SCREENING:

- (a) Identification of all European (and Natura 2000) sites in and around the plan or project area.
- (b) Acquisition, examination and understanding of the Conservation Objectives of each feature of the European (and Natura 2000) site that may potentially be affected by this plan or project.
- (c) Consider the proposals and the potential changes that they might cause which could have relevance to a European (and Natura 2000) Site.
- (d) After taking the above steps, consider if the proposals may, either alone or in combination with any other plan or proposal, result in likely significant effects upon the Conservation Objectives of any European (and Natura 2000) Site.

SCOPING:

- (e) If, as a result of the above, significant effects are likely or if there is any uncertainty, it is Suffolk County Council's responsibility, as the competent authority, to consult with Natural England.
- (f) Should it be necessary, Suffolk County Council will proceed to agree the full scope and method of any full Appropriate Assessment requirement identified by this process with Natural England.

3. Natura 2000 Site(s) within or likely to be affected by the proposal:

The European Site(s) adjacent to or with the potential to be affected by the Suffolk Minerals & Waste Local Plan are:

The Benacre to Easton Bavents Special Area of Conservation

(<http://publications.naturalengland.org.uk/publication/6349053717643264>)

The Benacre Easton Bavents Special Protection Area

(<http://publications.naturalengland.org.uk/publication/2917879?category=3229185>)

The Breckland Special Area of Conservation

(<http://publications.naturalengland.org.uk/publication/6145904885104640>)

The Breckland Special Protection Area

(<http://publications.naturalengland.org.uk/publication/4572292419944448>)

The Minsmere to Walberswick Heaths and Marshes Special Area of Conservation

(<http://publications.naturalengland.org.uk/publication/5360166388105216?category=6581547796791296>)

The Minsmere - Walberswick Special Protection Area

(<http://publications.naturalengland.org.uk/publication/4528783260385280>)

The Minsmere – Walberswick Ramsar Site

(<http://jncc.defra.gov.uk/pdf/RIS/UK11044.pdf>)

The Sandlings Special Protection Area

(<http://publications.naturalengland.org.uk/publication/6690828793675776>)

The Southern North Sea (Candidate) Special Area of Conservation

(<http://jncc.defra.gov.uk/page-7243>)

The Stour and Orwell Estuaries Special Protection Area

(<http://publications.naturalengland.org.uk/publication/3185994>)

The Stour and Orwell Estuaries Ramsar Site

(<http://jncc.defra.gov.uk/pdf/RIS/UK11067.pdf>)

The Outer Thames Estuary SPA

(<http://publications.naturalengland.org.uk/publication/3233957>)

Please follow the links for further information or refer to **Appendix One** wherein extracts from the various Citations, Conservation Objectives and Ramsar information are set out.

4. The Conservation Objectives for the Natura 2000 Site(s):

The Conservation Objectives and other relevant information for the various Natura 2000 sites have been obtained from the Natural England or the Joint Nature Conservation Committee websites, as researched by a Suffolk County Council Ecologist in September 2017.

The relevant information, including appropriate hyper-links, is set out in **Appendix One**, attached to this document.

These Conservation Objectives and the various Criteria for designating an area as a Ramsar Site have been tested against the Policies in the SMWLP as set out below and in **Appendix Two** attached hereto.

5. Consideration of the Policies in the SMWLP:

REGULATION 63 ASSESSMENT:

This Revised **Regulation 63 Assessment** looks at the **Policies** set out in **Suffolk Minerals & Waste Local Plan** (“SMWLP”), Draft of October 2017, produced by the Planning and Development Section, Resource Management, Suffolk County Council.

The implications of those Policies - that will be tested against the **Conservation Objectives** of the various European Sites (and the Criteria for the site’s selection as a Ramsar Site) - are set out in the various Chapters and Appendices below.

Every operation being considered by a planning authority must undergo this process to ensure that no permission to carry out operations that may result in **Likely Significant Effects** upon a **European or Ramsar site** can be given without assessing the implications and, if appropriate, referring the matter to the Proper Officers at Natural England, the Government’s advisors on nature.

It is also implicit for all public authorities to meet their statutory duties including those set out in the **Natural Environment and Rural Communities (NERC) Act 2006**:

Section 40(1) imposes a duty on public bodies to conserve biodiversity:

“Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.”

Section 40(3) of the Act goes on to explain that:

“Conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat”.

The various operations envisaged by the implementation of the Suffolk Minerals and Waste Local Plan might, in certain circumstances, result in:

- Disturbance from construction and extraction processes, that is the physical movements, noise etcetera, together with the visual disturbance and potential interference with the movement of biodiversity caused by the various works.
- Disturbance from the infrastructure associated with construction and extraction processes, that is the building of new roads, paths and any other highway (either public or private) together with the increased disturbance and pollution from the traffic using them.
- Disturbance from new street lighting, lights on, in and around new buildings, vehicle headlamps and all other artificial illumination.
- Disturbance consequent upon the operation of any new facilities. This may include such factors as vehicle movements, lighting, corvid and gull activity.
- Increased risk of pollution to streams, dykes and ditches as well as the main water courses themselves from construction processes and industrial, domestic and recreational use of any new development.
- Potential damaging effects upon the hydrology including quality and quantity of water flow into SACs and/or SPAs. This includes increased water use.

- Increased air pollution (from construction, extraction, use, commuting, recreational and occupation of the district) having a detrimental effect on sensitive species and habitats.
- Increased air pollution and pollutant deposition in the form of Nitrogen Oxide (NOx) from burning processes: these pollutants act as a fertiliser enabling competitive plant species such as some grass species to out-compete some of the more specialist, low-nutrient plant species on the areas of Heathland and Grassland (although these sorts of operations are not currently being considered within the SMWLP).
- Increased air pollution and pollutant deposition in the form of Acidification from burning processes: the acid soils of Heathland and Dry-Acid Grassland are unable to neutralise excess acids which can lead to plant damage through impaired photosynthesis and the leaching of essential nutrients. Lichens are particularly sensitive to pH changes (although these sorts of operations are not currently being considered within the SMWLP).
- The specific effects of pollutant deposition on the composition and integrity of Mudflats including Estuarine Invertebrates.
- Changes to air quality arising from fugitive dusts which may affect the functioning of plants.
- Changes to vegetation and soils arising from the deposition of fugitive dusts.

Such impacts may be largely mitigated by, for example, sensitive timings of operations and by suitable work methods, increased information to proposed developers about the Conservation Objectives of the European Site(s), and any other appropriate mitigation of proposals.

However, each of these mitigation strategies must be decided and agreed upon after assessing the individual risk of effects or impacts presented by each proposal or project and, where there is any case of doubt or difficulty, to submit such assessment to the Proper Officer at Natural England and to seek their advice and input to reach a mutually acceptable solution.

In effect, this means that **every operation that may result in Likely Significant Effects**, whether positive or negative, **must undergo a formal assessment**, recorded by the competent authority.

The result of this process will be implementation of The SMWLP in a manner sensitive to the Conservation Objectives of the various Special Areas of Conservation and Special Protection Areas and will acknowledge and support the designation of the Ramsar Sites.

For the SMWLP, the majority of the policies are not likely to result in Likely Significant Effects upon the features of European interest and can be “screened out” however some may.

Natural England have indicated that the following policies require “screening in”:

- Policy MP2 Proposed Sites for sand and gravel extraction.
- Policy WP2: Proposed site for waste management at (a) Site W1 Sizewell A Nuclear Power Station
- Policy WP16: Treatment and storage of radioactive waste at Sizewell nuclear power stations.

Please refer to Appendix Two where the various policies are set out, screened and assessed.

Within Appendix Two, Table Two sets out the sorts of factors which may result in Likely Significant Effects and, by reference to Table Three, sets out some of the mitigation strategies available to reduce or eliminate these potential factors causing harm or disturbance.

Each of the Policies noted by Natural England as having the potential to cause Likely Significant Effects have been assessed in turn.

In addition to the screening and assessment within Appendix Two, the Vision from the SMWLP (set out in (1) above) is supported by the comments within the SMWLP which are in support of General Policies including the following extracts:

1. Executive summary

1.2 The SWMLP takes a positive approach to minerals and waste development that reflects the presumption in favour of *sustainable development*.

Aims and Objectives:

Aim 2: To minimise and mitigate the impact of minerals and waste development on the environment by:

Objective 5: including *environmental protection policies* for the consideration of minerals proposals that make reference to the impact upon *nature conservation*, the historic environment or human health from noise, dust, visual intrusion, traffic, tip and quarry slope stability, differential settlement of quarry backfill, flood risk, water resources, contamination and cumulative impacts.

Objective 6: including a policy for the consideration of proposals for borrow pits, agricultural reservoirs, flood alleviation and/or public water supply.

Objective 7: including *environmental protection policies* for the consideration of waste proposals that make reference to the impact upon *water quality*, flood risk, land instability, landscape character, visual impact, *nature conservation*, historic environment, traffic and access, air quality, vermin and birds, *noise, light*, vibration, litter and land use conflict.

4. General Policies

Presumption in favour of Sustainable Development

4.1 At the heart of the NPPF is the “*presumption in favour of sustainable development*” which should be seen as “...a golden thread running through both the plan-making and decision-taking”. Sustainable development is also at the heart of the NPPW.

4.2 Sustainable development is defined in the NPPF and is seen as having three components: economic; social, and; *environmental*.

4.3 In the economic role, sustainable development means contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and co-ordinating development requirements, including the provision of infrastructure.

4.4 The social role means supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, accessible local services that reflect the community's needs and support its health, social and cultural well-being.

4.5 *The environmental role means contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.*

Environmental Criteria

4.10 Policy GP4 below provides an environmental checklist for all planning proposals. The County Council will where appropriate consult widely on proposed developments and in doing will seek and take into account the views of statutory bodies including Historic England, *Natural England*, the Highways Agency, the Marine Management Organisation and non-statutory bodies including the Royal Society for the Protection of Birds, as well as the local community.

Policy GP4: General Environmental Criteria

Minerals and waste development will be acceptable so long as the proposals, where appropriate, adequately address the potentially significant adverse impacts upon:

- a) pluvial and fluvial flood risk;
- b) vehicle movements, access and the wider highways network;
- c) landscape character, visual impact, and protected landscapes;
- d) *biodiversity*;
- e) *geodiversity*;
- f) historic environment and heritage assets;
- g) public rights of way;
- h) neighbouring land-use;
- i) soil resources including the best and most versatile agricultural land;
- j) noise and vibration;
- k) air quality including odour;
- l) *light pollution*;
- m) *the local water environment*;
- n) land instability;
- o) airfield safeguarding;
- p) the differential settlement of quarry backfills;
- q) mud and aggregates on the road;
- r) litter, vermin and birds.
- s) (or the use of) alternative forms of transport including the use of rail freight shipping;

Proposals should where applicable meet or exceed the appropriate national or local guidelines for each criterion, including reference to any hierarchy of importance, and also comply with other policies of the development plan.

The County Council recommends that applicants engage in pre-application discussions with itself and the relevant external organisations as a way of establishing the scope and the level of detail of the supporting information to be provided.

(N.B. the italics have been added by SCC's Ecologist to emphasise the various points)

It can be seen that a commitment to sustainability and having regard to biodiversity runs throughout the SMWLP.

Despite the proximity of some of the proposed developments to very sensitive sites, the County Council is of the view that developments can be operated with sympathy to features of European Conservation Interest as long as the various developers undertake the necessary research (including, where appropriate, ecological survey work) and provide the fullest details of their various ways of avoiding harm to biodiversity, where not avoidable - by mitigating it, where habitats are lost - by compensation and, when the projects are complete - by enhancing the remaining features.

The SCC Ecologists are aware that many sites can operate in sensitive areas by following the mitigation hierarchy and have been involved in assisting in resolving the concerns of Natural England with such developments and are of the opinion that this can be achieved for each of the short-listed sites detailed in the SMWLP.

It is with these principles in mind that SCC's Ecologists believe that the Suffolk Minerals & Waste Local Plan can be delivered without long-term negative impacts upon biodiversity and, indeed, that sensitive site management in the post-restoration period can actually result in long-term improvements for wildlife.

6. Effect on the Integrity of the European Designated Site:

Despite the potential for short-term impacts which may result in Likely Significant Effects, this Habitats Regulations Assessment has shown that, where such effects have been identified, a comprehensive mitigation strategy can mitigate long-term harm for the features of European Interest.

Further, because of the requirement to carry out project-specific Appropriate Assessments under the Habitats Regulations of the potential impacts of development upon the features of European Conservation Interest, the Conservation Objectives of the various Special Areas of Conservation and Special Protection Areas and the various Criteria for designating an area as a Ramsar Site, it is the opinion of Suffolk County Council Ecologists that, although there will be some Likely Significant Negative Effects upon the integrity of the various Natura 2000 Sites in the short-term, the long-term picture may result in an improvement of understanding, awareness and, potentially, habitat for those features.

In these circumstances, it is possible to conclude that the Suffolk Minerals and Waste Local Plan either from on its own or in combination with any other plan, project or proposal of which Suffolk County Council's Ecologists are aware, will not result in long-term harm for biodiversity.

Dated this 20th day of September 2018.

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