

From: Haynes, Jack (NE [REDACTED])
Sent: 18 October 2017 14:29
To: Alex Davidson
Cc: Gary Guiver; Derek Walker
Subject: FW: Tendring District Council Publication Draft Consultation

Hi Alex,

Further to the below email, please find attached Natural England's formal response to your Publication Draft Local Plan which we hope you will find helpful. It took me a little longer than expected so thanks for your patience. I also attach a customer feedback request form which I'd appreciate you completing if at all possible.

The Part 1 comments are essentially the same as those which we sent to Braintree and Colchester on their recent Local Plan consultations so these may already have been processed and considered. However, I've included them here for clarity and consistency.

The Part 2 comments are therefore effectively our only 'new' comments. There are still a few outstanding issues from our point-of-view, although we consider that most of these can be overcome through amendments to policy wording, some of which were requirements of your Local Plan (Part 2) Habitats Regulations Assessment (HRA). The areas which need more detailed consideration are the omission of a soils policy (or assessment of the allocations with regards soils) and the apparent addition of the allocations at Mistley Port and Mistley Marine since the HRA was undertaken i.e. they haven't yet been assessed through the HRA process.

Once you've gone through all of the comments, I'd be happy to discuss over the phone or meet in person to go over them if that would be helpful.

Kind regards,

Jack

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Our ref: 226077



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Dear Sir/Madam

Planning consultation: Tendring District Local Plan 2017 – Publication Draft Consultation and Sustainability Appraisal

Thank you for your consultation on the above dated 22 September 2017 which was received by Natural England the same day.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

DRAFT LOCAL PLAN – Part 1

Please find below our comments on the Publication Draft version of the Local Plan: Part 1, set out in line with the category types given on your consultation representation form. This advice takes into account our previous advice to your authority on the Preferred Options version of the Local Plan: Part 1 (our ref: 191784, dated 8th September 2016) and the Habitats Regulations Assessment (HRA) Report of the Local Plan: Part 1¹ (our response refs: 206491, 207424 and 215973, dated 2nd February 2017, 8th February 2017 and 28th June 2017 respectively).

- 1. Strategic Objectives** – We reiterate that this section should include a high level strategic objective which addresses the need to protect and enhance the natural environment, including landscape, and the challenges surrounding climate change adaptation and mitigation, to comply with paragraph 156 of the [National Planning Policy Framework](#) (NPPF).

We advise that the Section 1 plan needs to have a specific overarching policy to protect and enhance existing assets, which would include biodiversity, geodiversity, water, landscape, green infrastructure and open space etc. We refer you to the [North Northamptonshire Joint Core Strategy](#) (adopted July 2016) as a good example.

- 2. Policy SP5 Infrastructure and Connectivity – Unsound** – We advise that transport infrastructure provides an opportunity to achieve net gain in nature as detailed in paragraph 9 of the NPPF through biodiversity enhancement and through the creation and linkage of habitat corridors. See our advice on the dualling of the A120 and Marks Tey Brickpit Site of Special Scientific Interest (SSSI) in Policy SP9.

¹ HRA Report for North Essex Authorities Shared Strategic Part 1 for Local Plans: Pre-submission (Regulation 19), v3.1, Land Use Consultants, dated May 2017

3. **SP6 Place Shaping Principles – Unsound** – We still advise that *“the policy should be strengthened to ensure that new development also incorporates biodiversity creation and enhancement into its design”*. The aspiration of net gain in biodiversity is clearly presented in paragraph 109 of the NPPF, yet is only described in Policy SP 7.

It is our view that the policies for open space in Policy SP 6 needs to be strengthened, to mirror the safeguards in the Section 2 plans. This is recommended at paragraph 6.98 of the Appropriate Assessment Section 1 Report (*HRA Report for North Essex Authorities Shared Strategic Part 1 for Local Plans Pre-submission (Regulation 19)* by Land Use Consultants, v3.1 dated 11 May 2017). Section 1 policy safeguards are needed to ensure that well designed and managed spaces are able to meet local requirements and divert additional recreational pressure from designated sites. On 28 June 2017 (our ref: 215973) we advised on the AA Section 1 Report *“that open space can play an important role in helping mitigate effects from recreational disturbance”* several components of this were required. These included high-quality natural and semi-natural informal open space of suitable quality to provide attractive alternatives to designated sites, particularly but not exclusively with respect of dog walking. The open space policies should work in tandem with the emerging Essex Recreational disturbance Avoidance and Mitigation Strategy (RAMS).

4. **Paragraph 8.5 Cross Boundary Garden Communities – Unsound** – We support the decision of Colchester, Tendring and Braintree and the other Essex Councils in working together to implement a RAMS. We draw your attention to our advice on the Appropriate Assessment of 28 June 2017 (our ref 215973) regarding the development of a single cross-authority RAMS and a Policy commitment to the production of a RAMS. Natural England has also provided advice on three Section 2 Appropriate Assessments².

It is our view that a RAMS is a delivery mechanism to mitigate recreational impacts identified through the HRA process from Local Plans as a whole, and not only those arising from the Garden Communities elements of the Plans. Therefore a policy commitment to a RAMS should be made. This might usefully be included under Policy SP 6 and would be in accordance with NPPF paragraphs 114 and 118. This would demonstrate the application of the avoid-mitigate-compensate hierarchy, and ensure that there is sufficient certainty of delivery of mitigation. This is essential if the Plan is to be considered sound in terms of the Habitats Regulations. Without the policy commitment to a RAMS, it is our view that the Plan would fail legal and procedural compliance. This is because identified impacts have no mechanism for mitigation and the Plan would not comply with the requirements of the Habitats Regulations.

NB: For clarity we recommend that at paragraph 8.5 those European sites in scope are described correctly, thus “Blackwater Estuary, Colne Estuary, Stour and Orwell Estuaries Special Protection Areas (SPA’s) and Ramsar sites, and the Essex Estuaries Special Area of Conservation (SAC)”.

5. **Policy SP7 Development and Delivery of New Garden Communities in Essex – Unsound** – Whilst we welcome the principles within this policy regarding the natural environment, we advise that green infrastructure should be delivered according to a set of defined standards, and we previously advised the use of our Accessible Natural Greenspace Standards (ANGSt). Whilst “net gain in local biodiversity” is mentioned, it is not identified how this might be achieved. We re-state our advice that the Local Plan policies should seek to achieve net-gain and deliver some of the priorities / targets in the Essex Biodiversity Action Plan, consistent with the NPPF paragraph 109. This could be achieved through enhancement and incorporation of biodiversity into the masterplan and detailed design of the Garden Communities, whilst avoiding any adverse impacts to nearby designates sites. Please also see our comments in *Other Advice* below on the Strategic Growth Development Plan Document (DPD), and our advice on

² Tendring Local Plan Appropriate Assessment (our ref: 215796, dated 28 June 2017), Braintree Local Plan Appropriate Assessment (our ref: 216876, dated 29 June 2017) and Colchester Local Plan Appropriate Assessment (our ref: 217607, dated 19 July 2017).

paragraph 8.5 regarding policy commitment to a RAMS.

6. **Policy SP 8 Tendring/Colchester Borders Garden Community – Unsound** – We acknowledge the aspiration of a country park and the green infrastructure network. We also expect the detailed design of the Garden Community to avoid indirect impacts to nearby SSSIs³ and SPAs⁴. At paragraph 8.4 the loss of off-site habitat (commonly referred to as functionally-linked land) is acknowledged. **The requirements for bird survey and assessment, phasing of development and provision of suitable migratory habitats should be translated into policy.** These requirements were identified in the Appropriate Assessment Section 1 Report and we advised on these in our letter of 28 June 2017 (our ref: 215973). Point F.20 in Policy SP 8 could be a suitable place to include these requirements. Please also see our comments in *Other Advice* below on the Strategic Growth DPD, and our advice on paragraph 8.5 regarding policy commitment to a RAMS.
7. **Policy SP 9 Colchester/Braintree Borders Garden Community – Unsound** – We acknowledge that protection and enhancement of Marks Tey Brickpit SSSI is now included in Policy SP 9 Colchester/Braintree Borders Garden Community at point F.21, as per our previous advice on Policy SP4 (now SP5) Infrastructure and Connectivity. Regarding the dualling of the A120, we note at paragraph 6.10 of Section 1 that a preferred route option will be supplied in Autumn 2017. Please also see our comments in *Other Advice* below on the Strategic Growth DPD, and our advice on paragraph 8.5 regarding policy commitment to a RAMS.
8. **Paragraph 8.6 – Unsound** – The recommendations of the Appropriate Assessment Section 1 Report regarding adequate water treatment infrastructure capacity to avoid impacts on the Stour and Orwell Estuaries and Colne Estuary SPAs and Ramsar sites, and the Essex Estuaries SAC, is recognised. However we advise that **adequate water treatment infrastructure should be included in a Policy as a safeguard** to ensure that the phasing of development does not exceed capacity, consistent with our previous advice of 28 June 2017.
9. **Other Advice: Strategic Growth DPD – Unsound** – We note in policies SP 8, SP 9 and SP 10 that a Strategic Growth DPD will be developed between the three North Essex Authorities. It is not clear to us what the status of this forthcoming DPD is, nor a timescale for completion. Given our concerns on the strength of Policy SP 6 with regards the protection and enhancement of the natural environment, it is unclear whether the DPD would be sound with regards to the NPPF.

DRAFT LOCAL PLAN – Part 2

Please find below our comments on the Publication Draft version of the Local Plan: Part 2, set out in line with the category types given on your consultation representation form. This advice takes into account our previous advice to your authority on the Preferred Options version of the Local Plan: Part 2 (our response ref: 191784, dated 8th September 2016) and the Habitats Regulations Assessment (HRA) of Tendring District Draft Local Plan Part 2⁵, hereafter referred to as the Local Plan (Part 2) HRA (our response refs: 209019 and 215796, dated 3rd March 2017 and 28th June 2017 respectively).

10. **Paragraph 2.1 Vision for Tendring District – Sound** – as previously advised, we welcome that the protection and enhancement of the natural environment is a key part of the vision for the district. We also welcome that our previous advice has been integrated and outcome 7 has been amended in line with paragraph 118 of the [National Planning Policy Framework](#) (NPPF).
11. **Objective 8 – Sound** – following our previous advice, we welcome that this objective now includes reference to geodiversity as well as biodiversity, in line with paragraph 117 of the NPPF.

³ Bullock Wood, Ardleigh Gravel Pit, Wivenhoe Gravel Pit and Upper Colne Marshes SSSIs

⁴ Stour and Orwell Estuaries SPA

⁵HRA of Tendring District Draft Local Plan Part 2 , Land Use Consultants, v4.1, dated May 2017

12. Section 3.1.4 Ecological Characteristics – Unsound – as per our previous advice with regards ecological designations within the district, we welcome that these have been identified but advise that the paragraphs should be re-ordered to clearly reflect the requirements of paragraphs 113 and 117 of the NPPF with regards the protected sites hierarchy of:

- ***Internationally designated sites*** – Special Protection Areas (SPAs), Special Areas of Conservation (SACs) and Ramsar sites. SPAs are areas of the most important habitat for rare and migratory birds within the European Union, SACs are areas which have been identified as best representing the range and variety within the European Union of habitats and (non-bird) species and Ramsar sites are designated as wetlands of international importance. To clarify paragraph 3.1.4.2, internationally and European designated sites within the district include:
 - Stour and Orwell Estuaries SPA and Ramsar site
 - Hamford Water SPA, SAC and Ramsar site
 - Colne Estuary (Mid-Essex Coast Phase 2) SPA and Ramsar site
 - Essex Estuaries SAC

To clarify with regards Hamford Water, the Fisher's Estuarine Moth is the sole feature of the SAC designation but there are many other features for which the SPA, Ramsar and Site of Special Scientific Interest (SSSI) are notified.

- ***Nationally designated sites*** – SSSIs. As previously advised, whilst paragraph 3.1.4.4 is correct that many of the SSSIs in the district are notified specifically for their geological value, it should be noted that the national suite of SSSIs are designated as the best examples of the UK's flora, fauna and/or geological or physiographical features. As such, the SSSIs within the district can be designated for their biological (i.e. floral and/or faunal) value, geological value or a combination of the two.
- ***Locally designated sites*** – e.g. Local Wildlife Sites (LWS)

We recognise that the protected sites hierarchy is more accurately reflected later on in the Plan in section 7.4 and Policy PPL 4 but advise that, if reference to the designations is to be made in Section 3.1.4, it should be amended as above to avoid confusion.

We welcome that reference has now been made in this section (paragraph 3.1.4.6) to the Essex and South Suffolk Shoreline Management Plan (SMP), of which one of the objectives is to maintain the quality of the natural environment (including the designated sites) and to allow natural shoreline evolution to take place where possible.

13. Policy SPL 3 SUSTAINABLE DESIGN – Sound – Following our previous advice we welcome that, in line with paragraph 118 of the NPPF, this policy now sets out criteria for all new development to firstly avoid, then mitigate and, as a last resort compensate for adverse environmental impacts.

14. Policy HP 3 GREEN INFRASTRUCTURE – Sound – in line with our previous advice and paragraph 114 of the NPPF, we welcome that this policy now requires that new development in the district includes/creates *new* green infrastructure (as appropriate), as well as protects and enhances existing green infrastructure. We also welcome that the policy requires that new green infrastructure should incorporate semi-natural habitats and provide net gains in biodiversity wherever possible, in line with paragraphs 9, 109, 114, 117 and 152 of the NPPF.

15. Policy HP 4 SAFEGUARDED LOCAL GREENSPACE – Sound – We welcome that this policy seeks to prevent the loss of green space, including natural and semi-natural greenspace, and makes reference to your Council's *Open Spaces Strategy*.

16. Policy HP 5 OPEN SPACE, SPORTS AND RECREATION FACILITIES – Unsound – We welcome that this policy also makes reference to your Council's *Open Spaces Strategy* as well

as Natural England's *Accessible Natural Greenspace Standards*. As we have previously advised, among its many functions, high quality natural and semi-natural informal open space within residential development sites can help absorb day-to-day recreational activities such as routine dog walking, thereby reducing the frequency of visits made to nearby designated sites which are sensitive to such disturbance. In order to serve this function, such open space must be of a suitable size and include circular walks of sufficient length for daily dog walking (i.e. 2.7 km), dogs-off-lead areas and waste bins etc. As recommended through your Local Plan (Part 2) HRA findings, we therefore advise that this policy should be modified to "*include specific reference to the role of open space...in providing alternatives to European sites, and that such sites should be designed and managed appropriately to maximise their potential effectiveness in this role*".

Furthermore, the policy wording recognises that your *Open Spaces Strategy* standards will be open to review in line with emerging local evidence and we would welcome the opportunity to discuss with you how the above requirements may be factored into the 'Natural and semi-natural greenspaces' standards section

NB: It should be noted that the unique draw of the designated sites within reach of your district, particularly coastal sites, means that 'on-site' open space, even if well designed, is unlikely to fully mitigate impacts in the majority of cases. Further advice on this is provided under Policy PPL 4.

- 17. Policy LP 4 HOUSING LAYOUT – Sound** – We welcome that the policy seeks to ensure a positive contribution is made to the district's local distinctiveness and 'sense of place' within the layout and design of development and that it seeks to ensure that green infrastructure is incorporated as per Policies HP 3, HP 4 and HP 5.
- 18. Policy LP 6 RURAL EXCEPTION SITES – Unsound** – as previously advised, we welcome that the policy stipulates that such proposals must still have regard to environmental considerations. However, in line with paragraphs 109, 113, 115, 116 and 117 of the NPPF, we advise that the final paragraph should be amended to read "*The proposal shall have no significant material adverse impact on biodiversity and geodiversity (including designated sites), landscape (including designated landscapes), residential amenity, highway safety, or the form and character of the settlement to which it adjoins*".
- 19. Policy LP 9 TRAVELLER SITES – Unsound** – We welcome that the policy requires that proposals must "*avoid any adverse impacts on any internationally, nationally or locally designated protected areas*". We also welcome that the policy requires that sites will not impact on "*high grade utilised agricultural land*". However, in line with paragraphs 109 and 112 of the NPPF, we advise that the system for grading agricultural land should be outlined here or reference made to this Plan's soils policy which has not yet been included (see comment 27 below for further advice).
- 20. Policy PP 10 CAMPING AND TOURING CARAVAN SITES – Sound** – As per our previous advice on this policy, Natural England is concerned that, in some locations, new sites and the extension of the occupancy season of existing sites can present increased levels of associated recreational disturbance impacts to over-wintering birds associated with coastal sites designated for their nature conservation interest. We therefore welcome that our suggested wording has now been incorporated into this policy to safeguard those designated sites.
- 21. Policy PP 11 HOLIDAY PARKS – Unsound** – We welcome that the policy stipulates that such development must be subject to consideration against other relevant Local Plan policies. However, we advise that similar wording to that used in Policy PP 10 should be included requiring that proposals in the vicinity of designated sites should be subject to consultation with Natural England, and assessed on a site-by-site basis against the tests of the Habitats Regulations.

- 22. Policy PPL 2 COASTAL PROTECTION BELT – Sound** – As per our previous advice, we welcome that, in line with paragraphs 106 and 168 of the NPPF, additional wording has been included with regards the adaptive approach to coastal protection, working with coastal processes, in line with the relevant SMP.
- 23. Policy PPL 3 THE RURAL LANDSCAPE – Sound** – We welcome that, in line with paragraphs 17, 109, 113, 115, 116 and 156 of the NPPF, our previous recommendations have now been implemented within the policy, which includes reference to conserving and enhancing the two Areas of Outstanding Beauty (AONBs) in and around the district.
- 24. Paragraphs 7.4.1, 7.4.2 and 7.4.3 – Unsound** – Please refer to our comment 12 above for clarity on the designated sites in and around the district, and the interests for which they are notified. With regards paragraph 7.4.3, it should be made clear that the ‘Appropriate Assessment’ (AA) forms Stage 2 of the HRA process. An AA is only required where ‘likely significant effects’ (LSE) to designated sites from a project/plan cannot be ruled out, either alone or in combination with other plans/projects, at the screening stage (i.e. Stage 1 of the HRA process).
- 25. Policy PPL 4 BIODIVERSITY AND GEODIVERSITY – Unsound** – As per our previous advice, we welcome that ‘aged or veteran trees’ have now been included in the list of locally important nature conservation interests to be protected from damaging development.

We also welcome that wording has now been included requiring that all development proposals are supported by an appropriate ecological assessment. However, we advise that it should be made clear within the policy that, where international and European designated sites may be affected, this should include sufficient information to allow your authority to assess the proposals against the tests of the Habitats Regulations (i.e. to carry out an HRA); we advise that inserting the amended wording from paragraph 7.4.3 (see comment 24 above) would be sufficient for this purpose.

With regards recreational disturbance impacts from new housing in the district, we consider that well-designed informal open space within new residential development (i.e. ‘on site’) can play an important role in helping reduce the frequency of visits to sensitive designated sites for daily recreational activities, some of which can be damaging to the site interests (see comment 16 above on Policy HP 5). However, the unique draw of the designated sites within reach of your district, particularly the coastal sites, means that such ‘on site’ measures are unlikely to fully mitigate impacts. In line with our recent advice on the Local Plan (Part 2) HRA, a strategic solution to mitigating recreational disturbance impacts to the European designated sites throughout Essex is therefore being developed, targeted at delivering a suite of ‘off site’ measures (i.e. in and around the designated sites). This strategic solution, to which we understand a commitment has been made by Tendring District Council, is currently known as the Essex Recreational disturbance Avoidance and Mitigation Strategy (RAMS). It will be developed to more effectively mitigate the ‘in combination’ effects of all proposed new housing falling within a ‘zone of influence’ around designated sites (i.e. from within which new residents are likely to visit them). Once approved, it will specify requirements for per house developer contributions to an agreed and costed scheme of ‘off-site’ measures covering the Local Plan periods. In other similar strategies, such measures have included visitor engagement (e.g. wardening, dog projects etc.), visitor access management (e.g. screening of sensitive areas using tree planting, fencing, hides etc.) and visitor education/ information (e.g. footpath way markers, information boards, SPA discs etc.). We consider that such an approach is the most effective and efficient means for planning authorities, developers and Natural England to ensure that housing growth is sustainably integrated alongside nature conservation in the long term.

We welcome that the policy now makes reference to priority habitats and species in accordance with paragraph 117 of the NPPF. However, we advise that in the first paragraph, ‘*protected species populations*’ should be changed to ‘*priority species populations*’ (i.e. those as defined [here](#)).

We also note and welcome that the policy has been strengthened through reference to protected species (including European Protected Species (EPS)) in accordance with paragraphs 114 and 117 of the NPPF.

26. Policy PPL 5 WATER CONSERVATION, DRAINAGE AND SEWERAGE – Unsound – With regards potential water quality impacts to designated sites, your Local Plan (Part 2) HRA concluded that the Plan should include various policy wording as mitigation for identified effects (see pages 81-83). Whilst the requirement that *“Wording should be incorporated into the Local Plan Part 2, which ensures that adequate wastewater infrastructure exists or can be provided in time to serve proposed development”* seems to have been incorporated, it appears that the others have not.

The conclusion of no AEOI of European designated sites was reached on the condition that these requirements were fully incorporated into the Plan and these changes must therefore be made to the policy wording.

27. Other comments on policy omissions – Unsound – As per our previous advice, aside from a brief mention in Policy LP 9, the plan contains little information on the protection and enhancement of soils, as required by paragraph 119 of the NPPF.

The Plan should give appropriate weight to the roles performed by the area’s soils and these should be valued as a finite multi-functional resource which underpin our wellbeing and prosperity. Decisions about development should take full account of the impact on soils, their intrinsic character and the sustainability of the many ecosystem services they deliver, for example:

- Soil is a finite resource that fulfils many important functions and services (ecosystem services) for society; for instance as a growing medium for food, timber and other crops, as a store for carbon and water, as a reservoir of biodiversity and as a buffer against pollution. It is therefore important that the soil resources are protected and used sustainably. The [Natural Environment White Paper \(NEWP\) 'The Natural Choice: securing the value of nature'](#) (Defra, June 2011), emphasises the importance of natural resource protection, including the conservation and sustainable management of soils, for example:
 - A Vision for Nature: *‘We must protect the essentials of life: our air, biodiversity, soils and water, so that they can continue to provide us with the services on which we rely’* (paragraph 2.5).
 - Safeguarding our Soils: *‘Soil is essential for achieving a range of important ecosystem services and functions, including food production, carbon storage and climate regulation, water filtration, flood management and support for biodiversity and wildlife’* (paragraph 2.60).
 - *‘Protect ‘best and most versatile’ agricultural land’* (paragraph 2.35).
- The conservation and sustainable management of soils also is reflected in the NPPF, particularly in paragraphs 109 and 112. When planning authorities are considering land use change, the permanency of the impact on soils is an important consideration. Particular care over planned changes to the most potentially productive soil is needed, for the ecosystem services it supports including its role in agriculture and food production. Plan policies should therefore take account of the impact on land and soil resources and the wide range of vital functions (ecosystem services) they provide in line with paragraph 17 of the NPPF, for example:
 - To safeguard the long term capability of ‘best and most versatile’ (BMV) agricultural land (Grades 1, 2 and 3a in the Agricultural Land Classification (ALC) system) as a resource for the future.

- To avoid development that would disturb or damage other soils of high environmental value (e.g. wetland and other specific soils contributing to ecological connectivity, carbon stores such as peatlands etc.).
- Where development is proposed, to ensure soil resources are conserved and managed in a sustainable way.

Firstly, in accordance with paragraph 112 of the NPPF, the site allocation process should then take account of potential impacts on BMV land, using site specific ALC survey data to inform decision making. Where an allocation is shown to be on BMV land, its inclusion should be justified in this respect (i.e. only permitted where the need for the development is demonstrated; it cannot reasonably be met using lower quality land; and all reasonable options (consistent with other planning or sustainability considerations) to safeguard the long term capability of the land have been considered). To assist in understanding agricultural land quality within the plan area and to safeguard BMV agricultural land, strategic scale ALC Maps are available. Natural England also has an archive of more detailed ALC surveys for selected locations. Both these types of data can be supplied digitally free of charge by contacting Natural England. Some of this data is also available on the www.magic.gov.uk website. The planning authority should ensure that sufficient site specific ALC survey data is available to inform decision making

Furthermore, we advise that the Plan must include a soils policy which incorporates the above requirements. The policy should require prospective developers to ensure that sufficient site specific ALC survey data is available to inform decision making. For example, where no reliable information is available, a new detailed ALC survey should be provided, together with proposals for mitigating any adverse impacts on soil resources or the irreversible loss of high quality land. Further guidance for protecting soils (irrespective of their ALC grading) both during and following development is available in Defra's [Construction Code of Practice for the Sustainable Use of Soils on Construction Sites](#), to assist the construction sector in the better protection of the soil resources with which they work, and in doing so minimise the risk of environmental harm such as excessive run-off and flooding. The aim is to achieve positive outcomes such as cost savings, successful landscaping and enhanced amenity whilst maintaining a healthy natural environment. Subsequently, we advise that the Code should also be referred to in the soils policy.

28. Policy SAMU1 DEVELOPMENT AT EDME MALTINGS, MISTLEY – Unsound – In line with the recommendations made in your Local Plan (Part 2) HRA with regards 'Non-physical disturbance', we welcome that this policy includes a requirement that development coming forward in this location must include an assessment of any impact on nature conservation, including on the Stour and Orwell Estuaries SPA and Ramsar site.

However, we note that your Local Plan (Part 2) HRA identified that this allocation could potentially lead to significant adverse effects on designated sites through water quality (page 80-83) and that mitigation was therefore required (see paragraph 6.162 on page 83).

The conclusion of no AEOI of European designated sites from this allocation was reached on the condition that these requirements were fully incorporated into the Plan. This must therefore be reflected in the wording of this policy or that of Policy PPL 5 (see comment 26 above).

29. Policy SAMU2 DEVELOPMENT AT HARTLEY GARDENS, CLACTON – Unsound – With regards to physical loss/damage of 'offsite' habitat for the SPA birds (i.e. land outside the boundaries of SPAs but with the potential to support the species), your Local Plan (Part 2) HRA considered this allocation to have moderate suitability for supporting golden plover and lapwing. As such it was considered that "*Wintering bird surveys will be required for the three allocations of Hartley Garden Village, Rouses Farm, and Tendring and Colchester Borders Garden Community as part of any project level development proposals to determine their individual and cumulative importance for golden plover and lapwing and inform mitigation proposals*". It also concluded that "*A commitment to mitigation and phasing of development is required within the*

Local Plan Part 2 dependent on the findings of bird surveys. This will need to take into account the cumulative numbers of SPA birds affected by the allocations as they come forward for development. In the unlikely but possible event that cumulative numbers of SPA birds affected are likely to exceed thresholds of significance (i.e. >1% of the associated European Site), appropriate mitigation in the form of habitat creation and management in perpetuity, either on-site or through provision of strategic sites for these species elsewhere within Tendring, will be required. If required, mitigation will need to create and manage suitably located habitat which maximises feeding productivity for these SPA species, and such mitigatory habitat would need to be provided and fully functional prior to development which would affect significant numbers of SPA birds”.

We also note that your Local Plan (Part 2) HRA identified that this allocation could potentially lead to significant adverse effects on designated sites through water quality (page 80-83) and that mitigation was therefore required (see paragraphs 6.143 on page 81 and 6.151 on page 82).

The conclusion of no AEOI of European designated sites from this allocation was reached on the condition that these requirements were fully incorporated into the Plan. This must therefore be reflected in the wording of this policy (or the wording of Policy PPL 5 for the water quality aspect (see comment 26 above)).

- 30. Policy SAMU3 DEVELOPMENT AT OAKWOOD PARK, CLACTON – Unsound** – We note that your Local Plan (Part 2) HRA identified that this allocation could potentially lead to significant adverse effects on designated sites through water quality (page 80-83) and that mitigation was therefore required (see paragraphs 6.143 on page 81 and 6.151 on page 82).

The conclusion of no AEOI of European designated sites from this allocation was reached on the condition that these requirements were fully incorporated into the Plan. This must therefore be reflected in the wording of this policy or that of Policy PPL 5 (see comment 26 above).

- 31. Policy SAMU4 DEVELOPMENT AT ROUSES FARM, JAYWICK LANE, CLACTON – Unsound** – With regards physical loss/damage of ‘offsite’ habitat for the SPA birds (i.e. land outside the boundaries of SPAs but with the potential to support the species), the HRA considered this allocation to have moderate suitability for supporting golden plover and lapwing. As such it was considered that “*Wintering bird surveys will be required for the three allocations of Hartley Garden Village, Rouses Farm, and Tendring and Colchester Borders Garden Community as part of any project level development proposals to determine their individual and cumulative importance for golden plover and lapwing and inform mitigation proposals*” and that “*A commitment to mitigation and phasing of development is required within the Local Plan Part 2 dependent on the findings of bird surveys. This will need to take into account the cumulative numbers of SPA birds affected by the allocations as they come forward for development. In the unlikely but possible event that cumulative numbers of SPA birds affected are likely to exceed thresholds of significance (i.e. >1% of the associated European Site), appropriate mitigation in the form of habitat creation and management in perpetuity, either on-site or through provision of strategic sites for these species elsewhere within Tendring, will be required. If required, mitigation will need to create and manage suitably located habitat which maximises feeding productivity for these SPA species, and such mitigatory habitat would need to be provided and fully functional prior to development which would affect significant numbers of SPA birds*”. The conclusion of no adverse effects on the integrity (AEOI) of European designated sites from this allocation was reached on the condition that this was included and this must therefore be added to the policy wording.

We also note that your Local Plan (Part 2) HRA identified that this allocation could potentially lead to significant adverse effects on designated sites through water quality (page 80-83) and that mitigation was therefore required (see paragraphs 6.143 on page 81 and 6.151 on page 82).

The conclusion of no AEOI of European designated sites from this allocation was reached on the condition that these requirements were fully incorporated into the Plan. This must therefore be reflected in the wording of this policy (or the wording of Policy PPL 5 for the water quality aspect (see comment 26 above)).

- 32. Policy SAH2 DEVELOPMENT LOW ROAD, DOVERCOURT – Unsound** – With regards physical loss/damage of ‘offsite’ habitat for the Fisher’s estuarine moth (i.e. land outside the boundaries of Hamford Water SAC but with the potential to support the species), the HRA concluded for this site that *“Development applications...will require specific assessment to determine the importance of grassland habitats within the site for Fisher’s estuarine moth. This will include site survey which identifies whether the sites support suitable extent of Hog’s fennel and coarse grasses required to support this moth species. Where habitat of potential value for this species is identified, appropriate avoidance and mitigation will be required to ensure no net loss or degradation of suitable habitat. Given the small areas of potentially suitable habitat identified within each allocation, it is likely that suitable areas of mitigatory habitat can be retained within a given allocation if required”*.

We also note that your Local Plan (Part 2) HRA identified that this allocation could potentially lead to significant adverse effects on designated sites through water quality (page 80-83) and that mitigation was therefore required (see paragraph 6.162 on page 83).

The conclusion of no AEOI of European designated sites from this allocation was reached on the condition that these requirements were fully incorporated into the Plan. This must therefore be reflected in the wording of this policy (or the wording of Policy PPL 5 for the water quality aspect (see comment 26 above)).

- 33. Policy SAE1 CARLESS EXTENSION, HARWICH – Unsound** – In line with the recommendations made in your Local Plan (Part 2) HRA with regards ‘Non-physical disturbance’, we welcome that this policy includes a requirement that development coming forward in this location must include an assessment of any impact on nature conservation, including on the Stour and Orwell Estuaries SPA and Ramsar site.

However, with regards physical loss/damage of ‘offsite’ habitat for the Fisher’s estuarine moth (i.e. land outside the boundaries of Hamford Water SAC but with the potential to support the species), the HRA concluded for this site that *“Development applications...will require specific assessment to determine the importance of grassland habitats within the site for Fisher’s estuarine moth. This will include site survey which identifies whether the sites support suitable extent of Hog’s fennel and coarse grasses required to support this moth species. Where habitat of potential value for this species is identified, appropriate avoidance and mitigation will be required to ensure no net loss or degradation of suitable habitat. Given the small areas of potentially suitable habitat identified within each allocation, it is likely that suitable areas of mitigatory habitat can be retained within a given allocation if required”*.

The conclusion of no AEOI of European designated sites from this allocation was reached on the condition that these requirements were fully incorporated into the Plan. This must therefore be reflected in the wording of this policy

- 34. Policy SAE2 LAND SOUTH OF LONG ROAD, MISTLEY – Unsound** – We note that your Local Plan (Part 2) HRA identified that this allocation could potentially lead to significant adverse effects on designated sites through water quality (page 80-83) and that mitigation was therefore required (see paragraph 6.162 on page 83).

The conclusion of no AEOI of European designated sites from this allocation was reached on the condition that these requirements were fully incorporated into the Plan. This must therefore be reflected in the wording of this policy or that of Policy PPL 5 (see comment 26 above).

- 35. Policy SAE4 MERCEDES SITE, BATHSIDE BAY – Sound** – In line with the recommendations made in your Local Plan (Part 2) HRA with regards ‘Non-physical disturbance’, we welcome that

this policy includes a requirement that development coming forward in this location must include an assessment of any impact on nature conservation, including on the Stour and Orwell Estuaries SPA and Ramsar site.

36. Policy SAE5 DEVELOPMENT AT MISTLEY PORT and Policy SAE6 DEVELOPMENT AT MISTLEY MARINE – Unsound – It appears that these allocations were added into the Local Plan after the latest iteration of your Local Plan (Part 2) HRA had been carried out. Consequently, potential impacts to designated sites from these allocations have not yet been assessed. These sites must therefore be taken through the HRA process as have the other allocations.

37. Policy SAE7 STANTON EUROPARK – Unsound – We note that your Local Plan (Part 2) HRA identified that this allocation could potentially lead to significant adverse effects on designated sites through water quality (page 80-83) and that mitigation was therefore required (see paragraph 6.162 on page 83).

The conclusion of no AEOI of European designated sites from this allocation was reached on the condition that these requirements were fully incorporated into the Plan. This must therefore be reflected in the wording of this policy or that of Policy PPL 5 (see comment 26 above).

SUSTAINABILITY APPRAISAL – Part 1

We note the additions to the Sustainability Appraisal following our previous advice and have no further comments.

SUSTAINABILITY APPRAISAL – Part 2

Natural England broadly supports the methodology used in the Sustainability Appraisal for Part 2 of the Tendring Local Plan and is generally supportive of the proposed indicators for monitoring purposes. From the information provided, the allocations for development appear to be broadly located in areas which are likely to have the least impact on internationally and nationally designated sites and landscapes.

Whilst it is not Natural England's role to prescribe what indicators should be adopted, modification of your current indicators (pages 224-226) in light of the indicators suggested below is recommended:

Biodiversity and geodiversity:

- Number of planning approvals generating adverse impacts on sites of acknowledged biological and geological importance.
- Percentage of major developments generating overall biodiversity/geodiversity enhancement/net gain.
- Hectares of biodiversity habitat delivered through strategic site allocations.

Landscape:

- Number of planning approvals within/in the setting of AONBs, with commentary on likely impact.

Access to nature/open space/green infrastructure networks:

- Number of planning approvals leading to a loss of nature/open space/green infrastructure network access (quality and/or extent), including formal or informal footpaths.
- Number of planning approvals leading to a gain in nature/open space/green infrastructure network access (quality and/or extent), including formal or informal footpaths.

- Percentage of the local population having access to a natural greenspace within 400 metres of their home.
- Hectares of accessible open space per 1000 population.

Soils:

- Number of planning approvals leading to loss of 'best and most versatile' (BMV) agricultural land (i.e. that classified as Grades 1, 2 and 3a land within the Agricultural Land Classification (ALC) system).

This concludes Natural England's advice at this stage which we hope you will find helpful.

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

For any queries relating to the specific advice in this letter only please contact Jack Haynes using the details given below . For any new consultations, or to provide further information on this consultation, please send your correspondences to consultations@naturalengland.org.uk.

We really value your feedback to help us improve the service we offer. We have attached a feedback form to this letter and welcome any comments you might have about our service.

Yours sincerely

Jack Haynes

Land Use Operations Norfolk & Suffolk Team

