

## **North Essex Authorities**

**Matter 1: Legal and procedural requirements; Key Issues, Vision and Strategic Objectives (Chapter 1); Monitoring (paragraph 9.3 & Table 1)**

***Main issue:*** *Have the relevant legal requirements been met in the preparation of the Section 1 Plan?*

*Do any amendments need to be made to Chapter 1 of the Section 1 Plan in order to ensure its soundness?*

*Does Table 1 provide an effective monitoring framework for the Section 1 Plan?*

### **Questions:**

- 1) **Is there clear evidence that, in the preparation of the Section 1 Plan, the North Essex Authorities have engaged constructively, actively and on an ongoing basis with neighbouring authorities and prescribed bodies on strategic matters and issues with cross-boundary impacts in accordance with section 33A of the *Planning and Compulsory Purchase Act 2004*, as amended [the 2004 Act]**

1.1.1 Yes. The collaborative and on-going work by the three authorities, alongside Essex County Council, to produce a joint Section 1 of the Local Plan to deal with strategic cross boundary issues is considered to be an exemplar of the Duty to Co-operate in action.

1.1.2 The North Essex authorities have submitted three Duty to Cooperate Statements (SDBDC005, SDCBC005 and SDTDC022) which clearly set out how the Duty to Co-operate has been met by each authority in production of the shared strategic Section 1 Local Plan. The Duty to Cooperate Statements also detail how the duty has been discharged in respect of each authority's Section 2 Plan. Each of the Duty to Co-operate Statements include:

- A list of the prescribed relevant bodies for the purposes of section 33A of the Act are detailed on page 1
- Details of the relevant strategic planning issues for the authority
- The activities which have been jointly undertaken, and the evidence base that has been jointly prepared in relation to the identified strategic planning issues
- The outcomes from strategic working,

1.1.3 Appended to the Duty to Co-operate Statements is a Memorandum of Co-operation signed by three North Essex Authorities, Essex County Council and Chelmsford City Council (the fourth partner in the Strategic Housing Market Area) which sets out how the authorities would work together on the upcoming production

of their Local Plans and sets out the key strategic issues that the authorities would need to address collaboratively and the governance arrangements for that collaboration. The Duty to Cooperate Statements then demonstrate how the North Essex Authorities have complied with the duty.

1.1.4 In addition Statements of Common Ground (SOCG) are in the process of agreement and submission between the North Essex Authorities and;

- SOCG with Natural England – SCG/001
- SOCG with Anglian Water -SCG/002
- SOCG with Environment Agency –SCG/003
- SOCG with Essex County Council – SCG/004
- SOCG with Historic England – SCG/005
- SOCG with North Essex and Colchester Hospital Trust– SCG/006 and with Mid Essex CCG
- SOCG with Essex County Council and Highways England
- SOCG with The intention is to settle SOCG with the majority of land owners within each of the three proposed garden communities.

**2) Have the North Essex Authorities complied with the requirements of section 19(5) of the 2004 Act with regard to Sustainability Appraisal?**

1.2.1 Yes. Section 19(5) of the Planning and Compulsory Purchase Act 2004 requires a local planning authority, in preparing local development documents, must: (a) carry out an appraisal of the sustainability of the proposals in each development plan document, and (b) prepare a report of the findings of the appraisal. A Sustainability Appraisal (SA) Environmental Report has been produced to accompany the Joint Strategic (Section 1) Plan at all relevant consultation stages of the plan-making process since its preparation began, specifically at the Preferred Options and Draft Publication stages.

1.2.2 Drafts of the SA have been shared with the relevant LPAs at an early opportunity in order to be fully considered prior to Plan finalisation and consultation periods. The draft SAs have informed the development of the plans and have been the subject of public consultation alongside the emerging development plan documents.

1.2.3 North Essex Authorities Strategic Section One for Local Plans: Draft Publication (Regulation 19) Draft Sustainability Appraisal (SA): Annex C - Alternatives and Consultation Comments - June 2017 (SD/001) sets out the history of the SA process regarding the Joint Strategic (Section 1) Plan. Section 2.4 'Quality Assurance Checklist' (page 11) of the Submitted SA Environmental Report (June 2017), demonstrates that the SA meets all of the SEA Directive Requirements.

**3) Have the North Essex Authorities complied with the requirements of the *Conservation of Habitats and Species Regulations 2017* with**

## **regard to Habitats Regulations Assessment [HRA]?**

1.3.1 Yes. The North Essex Authorities commissioned Land Use Consultants (LUC) to prepare a Habitats Regulations Assessment as part of the evidence base for the Section 1 of the Plan for North Essex. Work started on the first stage of the Habitats Regulations Assessment, Screening, in 2016 and a Screening Report was prepared in December 2016 (EB/002). During this stage all the proposals/policies in the Shared Strategic Plan were screened to determine likely significant effects to European sites. The HRA Screening Report (EB/002) concluded that a number of the policies in the Shared Strategic Plan had the potential to result in likely significant effects to a number of European Sites in Essex and Suffolk either alone or in combination with other plans or projects.

1.3.2 The Habitats Regulations Assessment was prepared following current best practice. LUC adopted a precautionary approach throughout the preparation of the Assessment. The HRA has been prepared with ongoing engagement with Natural England and the North Essex Authorities.

1.3.3 Natural England were consulted on and concurred with the conclusions of the HRA Screening Report (EB/002) for the Section 1 Shared Strategic Plan.

1.3.4 As likely significant effects could not be ruled out at the screening stage of the HRA process, LUC undertook an Appropriate Assessment (EB/003) for the Section 1 Shared Strategic Plan on behalf of the North Essex Local Planning Authorities. The Appropriate Assessment (EB/003) considered further the potential likely significant effects to the Essex and Suffolk European sites identified during screening. In response, the Appropriate Assessment (EB/003) proposed a number of mitigation measures for implementation to mitigate these effects and to help ensure that the integrity of Essex and Suffolk coastal European Sites would not be adversely affected as a result of proposals in the Section 1 Shared Strategic Plan for North Essex.

1.3.5 Natural England were consulted on the mitigation measures and the conclusions proposed in the Appropriate Assessment in May 2017. In a letter dated 28 June 2017 (EB/004), Natural England confirmed that based on the information provided in the Appropriate Assessment, and provided that each of the recommended safeguards were fully incorporated into the relevant policies, Natural England agreed that the Plan would be unlikely to have an adverse effect on the integrity of European Sites in Essex and Suffolk.

1.3.6 A Statement of Common Ground has been prepared (SCG/001) between Natural England and the North Essex Authorities. The Statement of Common Ground sets out the changes needed to policies in the Section 1 Shared Strategic Plan to incorporate recommendations in the Section 1 Habitats Regulations Assessment.

- 4) Does the Section 1 Plan incorporate all the measures necessary to avoid adverse impacts on any European site, as recommended in the Land Use Consultants *HRA Report for North Essex Authorities***

## ***Shared Strategic Part 1 for Local Plans, May 2017?***

1.4.1 A Statement of Common Ground has been prepared between Natural England and the North Essex authorities (SCG/001). This Statement of Common Ground sets out the changes needed to ensure that all of the recommendations from the LUC Section 1 Appropriate Assessment (EB/003) are fully incorporated, to the satisfaction of Natural England, in the Section 1 Shared Strategic Plan.

1.4.2 These changes will ensure that the Section 1 Shared Strategic Plan incorporates all the measures necessary to avoid adverse impacts on any European Sites in Essex and Suffolk and will ensure compliance with the Conservation of Habitats and Species Regulations 2010 (as amended) with regard to Habitats Regulations Assessment [HRA].

**5) Have the North Essex Authorities complied with the requirements of section 19(3) of the 2004 Act with regard to conducting consultation in accordance with their statement of community involvement?**

1.5.1 Yes, the North Essex Authorities have complied with the requirements of their individual Statements of Community Involvement. These Statements of Community Involvement can be found at Braintree SDBDC/007, Colchester SDCBC/007 and Tendring SDTDC/023. Each of the North Essex Planning Authorities has submitted a consultation statement which sets out in detail the consultation that has been undertaken within each local authority area. These consultation statements can be found for Braintree SDBDC/006, Colchester SDCBC/006, and Tendring SDTDC/006.

**6) Does the Section 1 Plan identify any policies in the adopted development plan which its policies are intended to supersede, in accordance with Regulation 8(5)?**

1.6.1 The section 1 Local Plan is the first joint document produced by the North Essex Authorities. As such the policies within it will replace policies within individual Local Plan and Core Strategy documents for each local authority. This process will not occur however until the three plans are adopted in their entirety following adoption of both Sections 1 and 2.

**7) Have the North Essex Authorities complied with all other relevant legislative requirements in the preparation and submission of the Section 1 Plan?**

1.7.1 Yes, as required by Section 19(1A) of the Planning and Compulsory Purchase Act 2004, the Section 1 Plan (taken as a whole) includes policies designed to secure that the development and use of land in the local planning authority's area contribute to the mitigation of, and adaptation to, climate change.

1.7.2 This is reflected in the Vision for North Essex and the Strategic

Objectives and the strategic policies in the Section 1 Plan, and accords with requirement under section 39(2) Planning and Compulsory Purchase Act 2004 to exercise functions in relation to development plan documents with the objective of contributing to sustainable development.

1.7.3 All documents required to be submitted under Sections 20 and 22 Compulsory Purchase Act 2004 have been provided.

**8) Do paragraphs 1.25 to 1.29 appropriately identify the key issues and strategic priorities for the Section 1 Plan?**

1.8.1 Yes. The section identifies the broad range of opportunities and challenges at the strategic level of the combined three Districts area. It cannot identify every single issue, but has to pick out those that are the most significant in the context of the demographic and economic changes that will affect this locality over the next fifteen years. It identifies the predicted needs of the growing population in the locality and as a result the priorities that the Plan needs to address.

**9) Do the Vision for North Essex and the Strategic Objectives provide an appropriate framework for the policies of the Section 1 Plan?**

1.9.1 Yes, subject to the modifications proposed under 10 below

**10) Should they include reference to:**

**(a) the protection and enhancement of the natural environment?**

1.10a.1 The protection and enhancement of the natural environment is implicit in the second paragraph of the Vision for North Essex. In the Statement of Common Ground between the North Essex Authorities and Natural England (SCG/001) the addition of the words 'natural environment' has been agreed. This addresses Natural England's representation S1.079a/ 6888.

**(b) the protection of the distinctive character of North Essex, heritage assets and the character of existing settlements?**

1.10b.1 The Vision at the end of paragraph 2 includes a requirement that "*Heritage assets will be protected and enhanced*". This would include the historic settlements and landscapes whether or not subject to designations. This reflects Historic England's representation S1.082/6935.

1.10b.2 In terms of the Strategic Objectives (SO), the North Essex authorities have accepted that the SO could be expanded to capture the matters raised by HE and have proposed to include this wording in a Statement of Common Ground with HE. The suggested addition to the final

paragraph (Ensuring High Quality Outcomes) could be expanded: “New Development needs to be informed by an understanding of the historic environment resource and to conserve and better reveal the significance of Heritage Assets. The detailed form and extent of new development to be based on the site selection methodology set put within Historic England’s Advice Notes 3 (2015 The Historic Environment and Site Selections in Local Plans) (EB/038).

**(c) creating healthier and active communities?**

1.10c.1 A Statement of Common Ground is being prepared with the relevant health organisations and it is intended to arrive at appropriate modifications to the Plan. It is accepted that the Vision and Strategic Objectives should be widened to make reference not only to the provision of health facilities, but to the need to create healthier and active communities.

**11) Does Table 1 set out an effective means of monitoring the implementation of the Section 1 Plan’s policies?**

1.11.1 The North Essex Authorities consider that Table 1, if modified as recommended in the reply to the Inspector’s Initial Questions (NEA/001), would provide an effective means of monitoring the implementation of the Section 1 Plan policies. It is noted that the monitoring and implementation of the Plan as a whole would also be informed by the monitoring targets and indicators included at the end of each authority’s Section 2 plan.