



## **North Essex Authorities Local Plan (Part 1) Examination**

### **Matter 1 Habitats Regulations Assessment (HRA)**

Whilst Natural England notes the representations made by Dr Gibson on behalf of Wivenhoe Town Council, we are of the view that the HRA has reached the correct conclusion and we are confident that the measures that are being put in place are sufficient and deliverable to ensure the plan is compliant with the Habitats Regulations. Dr Gibson also points out that the HRA has been undertaken in line with standard practice, with which we would agree. Natural England submitted a response to issues and questions raised previously by Dr Gibson in a letter dated 12<sup>th</sup> January 2018. Some of the issues raised in Dr Gibson's most recently submitted submission were covered in NE's previous response. Natural England's response should therefore be read in conjunction with our previous advice.

#### **1. Should the HRA have taken account of the implications for European sites of development beyond 2033 proposed in the Section 1 Plan?**

- 1.1 The Section 1 Plan covers the period 2013 to 2033. The HRA has assessed the impacts of growth associated with this local plan period. It has considered 'alone' and 'in combination' impacts.
- 1.2 It is Natural England's understanding that the North Essex Part 1 Local Plan only includes housing figures for the Garden Communities which will be delivered during the local plan period i.e. up to the end of 2033. With respect to recreational impacts it doesn't attempt to capture housing numbers which will be delivered in the Garden Communities beyond this period. The HRA can therefore only be expected to assess the impacts of the planned growth outlined within the period covered by the Local Plan. Any additional housing requirements which go beyond the housing numbers set out in this plan or as part of the Garden Communities would need to be covered by a further and updated HRA which would need to consider 'alone' and 'in-combination' effects.
- 1.3 In relation to recreational disturbance impacts the HRA should be considered alongside the Essex Recreational disturbance Avoidance and Mitigation Strategy (Essex RAMS). This covers the period 2018 to 2038 and identifies the mitigation measures necessary to avoid adverse effects from 'in-combination' impacts of residential development that is anticipated across the Essex Local Planning Authorities which are within the evidenced Zone of Influence (Zol). All new residential developments within the Zol where there is a net increase in dwelling numbers are included in the Essex Coast Recreational disturbance and Avoidance Mitigation Strategy (RAMS).
- 1.4 As it is recognised that the recreational impacts associated with residential developments will be permanent and will have effects beyond the life of the plan, the Essex Coast RAMS document EXD050 (paragraph 7.6 pg. 51) has identified the need for a proportion of contributions received from the residential mitigation tariff to be invested to cover the cost of delivering some of the strategic visitor access management measures 'in perpetuity'. The term 'in perpetuity' has a legal definition of 125 years (The Perpetuities and Accumulations Act 2009) and it has been accepted in other strategic mitigation schemes

for European sites such as those in place for the Thames Basin Heaths and Dorset heathlands.

## **2.0 Does the HRA properly identify the sensitive areas of the Colne Estuary in terms of nesting, roosting and feeding for qualifying bird species?**

- 2.1 Natural England has considered the HRA in relation to how it has identified and assessed the sensitive areas of the Colne Estuary SPA in terms of nesting, roosting and feeding birds. We would advise the following, particularly in relation to paragraphs 6.22 to 6.38 which specifically cover the Colne Estuary SPA:
- 2.2 Whilst we would advise that the whole of the Colne Estuary SPA is potentially sensitive to bird disturbance, it is worth noting that there are differences between different parts of the Colne Estuary in terms of their relative importance for interest features and their relative sensitivity to disturbance. Accessibility of the site also varies, which will also have a bearing on the amount or type of disturbance which may occur.
- 2.3 Figure 6.1 of the HRA is entitled "*Colne Estuary sensitive bird sites identified by RSPB*". We would suggest that this should not be seen as an exhaustive list of all the areas used by birds. We would be content for Figure 6.1 to be described as "*Most sensitive areas*" or "*particularly sensitive areas*".
- 2.4 To gain a better understanding of the complexities around sensitivity and disturbance Local Authority partners and Natural England gathered supplementary information to that contained in the HRA via stakeholder workshops and further desk based research. This additional information informed the Essex Coast RAMS document which identifies the most sensitive roosting and breeding areas which were readily accessible by key access points for each European protected site and provided a more detailed analysis of the likely impacts and mitigation measures required (see Essex Coast RAMS document EXD050 Maps 4.1 pg. 23 Key SPA bird roosts/breeding areas and access points for North Essex (specifically for the Colne Estuary). Table 6.3 (pg. 42) of the Essex Coast RAMS also identifies the potential for disturbance to birds and lists the mitigation options in the Colne Estuary SPA (including Essex Estuaries SAC).
- 2.5 Natural England is therefore satisfied that the information provided in the HRA along with the additional information contained in the Essex Coast RAMS document ensures that the most sensitive areas of the Colne Estuary SPA for bird disturbance have been identified, along with the most appropriate mitigation and avoidance measures to ensure there won't be any adverse effect on integrity.

## **3.0 How would funding of the mitigation measures proposed in the *Essex Coast Recreational disturbance & Mitigation Strategy HRA Strategy Document* [the RAMS document] (July 2019) [EXD/050] be affected if only two or one of the proposed garden communities were to be found sound?**

- 3.1 The Essex Coast RAMS was completed in January 2019 and has been adopted by each of the North Essex Authorities (NEAs). Natural England provided advice throughout the preparation of the Essex Coast RAMS and agreed with the approach taken and mitigation measures identified in the Essex Coast RAMS document before it was finalised and adopted by LPAs.
- 3.2 The mitigation measures identified are based on the quantum and location of housing proposed within identified and evidenced ZoI in Local Plans covering 11 LPA areas. If only one or two of the proposed Garden Communities were to be found sound and it was decided that the scale of housing proposed in the rejected Garden Communities wasn't required, then the scale of impact from recreational pressure would be reduced. The scale of mitigation would therefore be reduced accordingly and the costs of delivering the required mitigation would be spread across the remaining housing allocations. Should it

be decided that the same quantum of housing was still required, but was better suited elsewhere, then the mitigation proposals would still stand if the housing was located in the identified Zol. It is worth noting that the Districts of Colchester and Tendring are completely covered by the Zol and so would be required to contribute towards the mitigation as detailed in the Essex Coast RAMS document.

3.3 In the interim period, contributions have been used to fund the launch of the Bird Aware brand. Please see answers under question 5 for further details.

#### **4.0 Does the HRA take adequate account of the implications for European sites of the Section 1 Plan in respect of?**

##### **a) Water use and waste water?**

Natural England advises that the HRA has adequately taken account of the implications for European protected sites in relation to water use and we agree with the conclusion of the HRA. We are also of the view that this is also the case for waste water treatment, provided policy SP7 is strengthened as detailed in the updated and additional draft SoCG. To ensure that new development does not have an adverse effect on any European Protected site, the required waste water treatment capacity must be available in advance of planning consent being given or prior to houses being occupied. We advise that Policy SP7 therefore requires strengthening as follows:

*“To ensure new development does not have an adverse effect on any European Protected or nationally important sites and complies with environmental legislation (notably the Water Framework Directive and the Habitats Directive), the required waste water treatment capacity must be available ahead of the occupation of dwellings-in-advance of planning consent”*

##### **b) Powered paragliding?**

The HRA specifies (Paragraph 5.2) that ‘Increased recreation from land and water-based activities, as a result of increased housing within the NEAs has the potential to cause Likely Significant Effects to European sites’. Whilst powered paragliding hasn’t been discussed explicitly, the nature of such an affect should be considered as falling within the assessment described above. As a result of evidence gathering to inform the Essex Coast RAMS document more detailed information was captured to better identify the types of recreational uses for each additional site. This additional information identified the impacts of other forms of vehicular disturbance, in particular paramotors. This activity can be a particular problem when flown at low-levels across or near a sensitive bird site. Mersea Island at the mouth of the Colne Estuary supports paramotoring and it is therefore possible that any increases in population within the ZOI could lead to more users and therefore more disturbance. However, the Essex RAMS proposes a number of mitigation measures to address the impacts of para motoring (as well as other activities such as water sports, bait digging, para motors/power hang gliders & kayakers) which includes the development of codes of conduct for clubs associated with disturbing activities and the deployment of Rangers to educate and communicate with those individuals who may not be adhering to established codes of conduct.

Natural England has met with paramotor users on the Colne and Blackwater Estuaries to explain the impacts their sport can have if not undertaken responsibly. Guidance was also provided on how they can avoid disturbing birds whilst flying. As a result of this meeting the users are more aware of their responsibilities and are self-policing the sport locally where possible. Natural England is looking to undertake a similar approach with Jet skiers. The Essex Coast RAMS can build on this approach already taken forward by Natural England staff.

##### **c) Loss of feeding grounds at Tendring Colchester Borders GC for lapwings and golden plovers?**

Natural England supports the conclusion of the HRA in relation to the loss of feeding grounds at Tendring Borders Garden Community for lapwings and golden plovers. We note the policy additions as outlined within the HRA relating to mitigation requirements for the Tendring/Colchester border. We support this inclusion within policy, notably the requirement for wintering bird surveys, but note that the need for the commitment to the phasing of development and mitigation, as outlined within the recommendations of the HRA, has not been taken forward in the proposed modifications. We would advise that this should be further updated to reflect this requirement also, as detailed in the updated SOCG. Policy SP1B therefore requires strengthening by the inclusion of the following text:

Add the following new paragraph after the sentence: “To mitigate for the loss of off-site habitat, the AA identified the need for wintering bird surveys for the Tendring/Colchester Borders Garden Community as part of any project level development proposals and master planning.”

*“Depending on the findings of the wintering bird surveys, development may need to be phased to take into account the cumulative numbers of SPA birds. 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, 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”*

**5. Would implementation of the mitigation measures proposed in the RAMS document [EXD/050] ensure that the Section 1 Plan (either alone or in combination with other plans or projects) would not adversely affect the integrity of any European site?**

**5.1 Rationale for Taking a Strategic Approach** - Strategic solutions are usually driven by challenges and opportunities arising from planning issues. They generally apply more broadly than at a single designated site and also often include aims such as, providing strategic scale mitigation or developing a generic approach to evidence collection and use. The development plan process provides an effective mechanism for embedding mitigation requirements in policy that are robustly evidenced and justified and which can then be applied in confidence to decision making at the project level stage. This strategic approach has the following advantages:

- It meets the requirements of planning legislation: necessary to make a development acceptable in planning and environmental terms and is directly related to the scale and type of development;
- It is an accepted approach that has been used to protect other European protected sites across England. The approach is now widely promoted and relied upon as the primary measure in avoiding recreational impacts on European protected sites. This approach has successfully passed scrutiny as part of examinations of numerous Local Plans nationwide;
- It allows for detailed evidence to be gathered to understand the recreational disturbance patterns and provide an effective mitigation package which is compliant with the Habitats Regulations;
- It provides an evidence base and a transparent mechanism to fund the mitigation measures required as a result of the planned residential growth; and
- It provides developers and planning authorities with a comprehensive, consistent and efficient way to ensure that appropriate mitigation for residential schemes within the Zol is provided in an effective and timely manner.

As a result, Natural England has confidence in the appropriateness and effectiveness of such a measure. The production and implementation of the Essex Coast RAMS (now re branded as Essex Coast Bird Aware) includes a commitment to regular monitoring, has the flexibility to adapt to findings and pre-empt impacts before they affect integrity, and is considered likely to provide an effective form of mitigation and avoidance for recreational pressures arising from the NEA Part 1 Local Plan.

**5.2 Adoption of the Essex Coast RAMS Strategy Document:** The Essex Coast RAMS was completed in January 2019 and has been adopted by each of the NEAs. The NEA Local Plan therefore has the advantage of having the Essex RAMS in place before the end of the Examination. This gives added confidence and certainty that the NEA's are committed to delivering the mitigation required and are clear what mitigation measures are needed. The NEAs are already collecting RAMS contributions for development within the Zol, which will be spent on the mitigation measures package detailed in the RAMS Strategy Document. Mitigation measures are listed as according to time frames as follows:

- immediate – years 1-2,
- Short to medium term – up to 5 years, &
- Longer term projects for delivery in years 10, 15 & 20.

The priority measure is the employment of a Delivery Officer followed by two rangers. The contributions that the NEAs have collected will be combined with contributions from other LPA partners to fund the project staff, appointments are expected to take place in 2020. Governance structures have been identified by the Local Planning Authorities in the Zol to administer the scheme.

During the interim period contributions collected from development have been used to fund the launch of the Bird Aware brand. The public friendly name of Bird Aware Essex Coast is considered to be more effective and recognisable than referring to a technical document or mitigation strategy. It has a dedicated website and leaflets, which raises awareness of the birds, which are a key feature of the European protected sites. This is the first step towards influencing behaviour change and advising people who use the coast of the importance of the coast and how their actions can adversely affect the birds.

In addition to the Bird Aware brand the draft Essex Coast RAMS Supplementary Planning Document (SPD) has been prepared. This is expected to be published for consultation in January 2020. The SPD is intended to help applicants and Development Management Officers by providing an explanation of the Essex Coast RAMS (Note: the Essex Coast RAMS is being implemented in the absence of the SPD and so adoption of the SPD is not essential for the success of the strategy).

**5.3 Monitoring and Review:** The Essex Coast RAMS will be monitored and reviewed on a regular basis. The Delivery Officer and Officer steering group Chairperson will present an annual report to the Project Board, which is made up of Chief Planners across Essex, detailing what has been achieved in the past year and the plans for the upcoming year based on a forecast of developer contributions. Elected members will review the Essex Coast RAMS through an annual report to the Essex Coastal Forum.

Natural England will be able to advise if monitoring indicates that recreational disturbance isn't being mitigated as expected at particular European protected sites. Any such issues can be reviewed and the mitigation refined or targeted as required. Updated visitor surveys (included in the mitigation package), will enable the Zol to be reviewed and amended (expanded or decreased) if it is shown that visitors are travelling different distances to that previously found. There is scope to adjust the tariff too if it is shown that contributions are not covering the identified measures or if the Zol is made smaller.

**5.4: Examples from elsewhere** Natural England recognises that whilst this approach has been rolled out across the country, the approach is still considered to be relatively new and

novel. It will take time before results from any monitoring will be formally available. However, the approach is based on expert knowledge and experience and includes methods employed on other important nature conservation sites across the UK.

A good example of an early and successful approach is provided by Policy NRM6 of the South East Plan [The Thames Basin Heath Delivery Framework (TBHDF)] which has been and remains crucial in facilitating population growth in the authorities located within the Thames Basin Heaths SPA zone of influence. The Framework is also reflected by individual avoidance strategies produced by each of the authorities. The avoidance and mitigation focuses on the provision of (i) strategic access management and monitoring (SAMM), and (ii) provision of suitable alternative natural greenspace (SANGs). The approach also requires measures to be funded in perpetuity.

A similar approach was taken for the North Northamptonshire Joint Core Strategy (adopted July 2016) to address recreational disturbance impacts on the Nene Valley Gravel Pits SPA. The work undertaken was recognised by the RTPI and the Mitigation Strategy was a finalist in the Planning Excellence Awards 2017 - Planning for the Natural Environment.

Also the recent Chelmsford Local Plan has undergone an Examination, which is part of the Essex Coast RAMS. The Inspector hasn't raised any concerns in relation to the Essex Coast RAMS approach in her initial advice.

## 5.6 Green infrastructure and SANGS

Natural England has advised that given that the coast will always draw visitors and the experience of visiting the coast cannot be replicated inland, Suitable Accessible Natural Greenspace (SANG) would not be effective and so does not form part of the Essex Coast RAMS, the mitigation has been addressed through managing how sites are used by visitors. However, it is recognised that if people are only visiting the coast because it is their nearest greenspace, then they can be drawn away from the coast by providing an attractive site nearer to their home, particularly for day to day uses such as dog walking. Natural England have therefore advised the following for residential development located within the Zol:

- ***For larger scale residential developments within the Essex Coast RAMS Zol (100 units or more, or equivalent, as a guide):*** Developments of this scale would be required to make a financial contribution to the Essex Coast RAMS tariff and should also include provision of well-designed open space/green infrastructure, proportionate to its scale. Such provisions can help minimise any predicted increase in recreational pressure to the European sites by containing the majority of recreation within and around the development site boundary away from European sites. As a minimum, we advise that such provisions should include:
  - High-quality, informal, semi-natural areas
  - Circular dog walking routes of 2.7 km<sup>1</sup> within the site and/or with links to surrounding public rights of way (PRoW)
  - Dedicated 'dogs-off-lead' areas
  - Signage/information leaflets to householders to promote these areas for recreation
  - Dog waste bins

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<sup>1</sup> Taken from *Jenkinson, S., (2013), Planning for dog ownership in new developments: reducing conflict – adding value. Access and greenspace design guidance for planners and developers*

- A commitment to the long term maintenance and management of these provisions
- ***For small scale residential development within the Essex Coast RAMS Zol (0-99 houses, or equivalent, as a guide):*** Whilst the provision of well-designed open space/green infrastructure on site or contributions towards strategic green infrastructure would be welcomed for developments of this scale, a financial contribution to strategic 'off site' measures should be secured as a minimum. Further consideration of on-site mitigation may be needed where developments of this scale are directly adjacent to the European sites.

Natural England has attached a copy of our interim advice (Annex 1) which sets out our advice in relation to the provision of onsite green infrastructure which was sent to all Local Planning Authorities involved in the Essex Coast RAMS in 2018.

Natural England understands that the delivery of new green infrastructure will form part of the proposals/principles in the Shared Strategic Plan for all Garden Communities and establishes the principle of delivering a network of multi-functional green infrastructure and open space to address recreational needs and requirements. Natural England also understands that a more detailed Development Plan Document will be prepared for each of the Garden Communities that will provide greater details on the amount, functionality and location of new green infrastructure within the wider garden community. Provided this is the case the provision of a network of connected high quality green infrastructure should provide an effective contribution in delivering a mitigatory role in reducing recreational pressure at the European Sites.

**6.0 Would the policies of the Section 1 Plan (including if necessary the relevant amendments suggested by the NEAs) provide sufficient certainty that the necessary mitigation measures will be implemented in order to ensure that the Section 1 Plan (either alone or in combination with other plans or projects) would not adversely affect the integrity of any European site?**

Natural England advised when consulted most recently on the HRA that *“As per our previous comments on the HRA (see letter reference 215973) and subsequent Statement of Common Ground (dated November 2017) Natural England broadly agrees with the conclusions of the HRA in that an adverse effect on the integrity of European sites, either alone or in-combination, can be avoided, based on the described mitigation measures provided that the recommendation of updated policy wording is taken into consideration”.*

Natural England’s advice is therefore that provided the policies of the Section 1 Plan are supplemented with the suggested changes, including those outlined in the original SoCG (Reference SCG/001 – dated November 2017) and the updated draft SoCG with the NEAs there is sufficient certainty that the necessary mitigation measures will be implemented in order to ensure that the Section 1 Plan (either alone or in- combination with other plans or projects) would not adversely affect the integrity of any European sites.

**Sarah Fraser  
Senior Adviser – Planning  
West Anglia Team  
Natural England**

## Annex 1: Natural England Interim Advice – Essex Coast RAMS

Date: 16 August 2018  
Our ref: 244199



Basildon Borough Council  
Braintree District Council  
Brentwood Borough Council  
Castle Point Borough Council  
Chelmsford Borough Council  
Colchester Borough Council  
Maldon District Council  
Rochford District Council  
Southend-on-Sea Borough Council  
Tendring District Council  
Thurrock Borough Council  
Uttlesford District Council  
Essex Place Services

Customer Services  
Hornbeam House  
Crewe Business Park  
Electra Way  
Crewe  
Cheshire  
CW1 6GJ

T 0300 060 3900

### BY EMAIL ONLY

Dear All

### **Emerging strategic approach relating to the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) – Revised interim advice to ensure new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitats Regulations<sup>2</sup>**

This letter provides Natural England's revised interim advice further to that issued on 16<sup>th</sup> November 2017. This advice is provided to ensure that any residential planning applications coming forward ahead of the Essex Coast RAMS which have the potential to impact on coastal European designated sites are compliant with the Habitats Regulations. It specifically relates to additional recreational impacts that may occur on the interest features of the following European designated sites:

- Essex Estuaries Special Area of Conservation (SAC)
- Hamford Water Special Protection Area (SPA) and Ramsar site<sup>3</sup>
- Stour and Orwell Estuaries SPA and Ramsar site (Stour on the Essex side only)
- Colne Estuary SPA and Ramsar site
- Blackwater Estuary SPA and Ramsar site
- Dengie SPA and Ramsar site
- Crouch and Roach Estuaries SPA and Ramsar site
- Foulness Estuary SPA and Ramsar site
- Benfleet and Southend Marshes SPA and Ramsar site
- Thames Estuary and Marshes SPA and Ramsar site (Essex side only)

For further information on these sites, please see the [Conservation Objectives](#) and [Information Sheets on Ramsar Wetlands](#) which explain how each site should be restored

<sup>2</sup> Conservation of Habitats and Species Regulations 2017, as amended (commonly known as the 'Habitats Regulations')

<sup>3</sup> Listed or proposed Wetlands of International Importance under the Ramsar Convention (Ramsar) sites are protected as a matter of Government policy. Paragraph 176 of the National Planning Policy Framework applies the same protection measures as those in place for European sites



and/or maintained.

### **Recreational ‘Zones of Influence’ (Zols)**

As part of the work required to inform the Essex Coast RAMS evidence base, visitor surveys have been undertaken to determine the distances that visitors will travel from their residences to visit the European designated sites to undertake recreation. Following collation and analysis of the survey data, the Zols currently agreed by the Essex Coast RAMS Steering Group are as follows:

*Table 1:*

<b>European designated site</b>	<b>Underpinning SSSIs<sup>4</sup></b>	<b>Zols (km)</b>
Stour and Orwell Estuaries SPA and Ramsar	Orwell Estuary SSSI Stour Estuary SSSI Cattawade Marshes SSSI	13
Hamford Water SPA and Ramsar	Hamford Water SSSI	8
Colne Estuary SPA and Ramsar	Colne Estuary SSSI	9.7
Blackwater Estuary SPA and Ramsar	Blackwater Estuary SSSI	22
Dengie SPA and Ramsar	Dengie SSSI	20.8
Crouch and Roach Estuaries Ramsar and SPA	Crouch and Roach Estuaries SSSI	4.5
Foulness Estuary SPA and Ramsar	Foulness SSSI	13
Essex Estuaries SAC	Blackwater Estuary SSSI Colne Estuary SSSI Crouch and Roach Estuaries SSSI Dengie SSSI Foulness SSSI	-*
Benfleet and Southend Marshes SPA and Ramsar	Benfleet and Southend Marshes SSSI	4.1 <sup>†</sup>
Thames Estuary and Marshes SPA and Ramsar	Mucking Flats and Marshes SSSI	8.1

**\* Note 1:** The Essex Estuaries comprise the Colne Estuary, Blackwater Estuary, Dengie, Crouch and Roach Estuaries and Foulness Estuary and so follow the respective Zols throughout.

**† Note 2:** The Benfleet and Southend Marshes Zol is to be confirmed following summer visitor surveys.

In the context of your duty as competent authority under the provisions of the Habitats Regulations<sup>5</sup>, it is anticipated that new residential development within these Zols constitutes a likely significant effect (LSE) on the sensitive interest features of the above designated sites through increased recreational pressure, either when considered ‘alone’ or ‘in combination’. As you will be aware, the Essex Coast RAMS is a large-scale strategic project which involves all of the Essex authorities listed above working together to help mitigate these effects. Once adopted, the RAMS will comprise a package of strategic mitigation measures to address such effects, which will be costed and funded through developer contributions. However, it is recognised that a considerable proportion of the residential allocations in your local plans will already be coming forward as planning applications, prior to the adoption of the Essex Coast RAMS. In the interim period until the RAMS is in place and the necessary developer contributions are known, it is therefore important that any recreational impacts from residential schemes such as these are considered in terms of the

<sup>4</sup> Underpinning SSSIs are listed here as these are what the IRZs are aligned to

<sup>5</sup> Conservation of Habitats and Species Regulations 2017, as amended (commonly known as the ‘Habitats Regulations’). Requirements are set out within Regulations 63 and 64 of the Habitats Regulations, where a series of steps and tests are followed for plans or projects that could potentially affect a European site. The steps and tests set out within Regulations 63 and 64 are commonly referred to as the ‘Habitats Regulations Assessment’ process. The Government has produced core guidance for competent authorities and developers to assist with the Habitats Regulations Assessment process. This can be found on the Defra website. <http://www.defra.gov.uk/habitats-review/implementation/process-guidance/guidance/sites/>

Habitats Regulations through a project-level Habitats Regulations Assessment (HRA). We offer the following advice to guide you on this:

### **Consultation arrangements**

Natural England has already developed a set of [Impact Risk Zones \(IRZs\)](#) which helps guide planning authorities on the types and scale of development that we should be consulted on. **We advise that we should continue to be consulted in line with these arrangements (i.e. where there are other IRZs are triggered in addition to the Essex Coast RAMS)**

We will shortly be refining the residential IRZs for the above designated sites to align with Essex Coast RAMS project and capture new residential development which falls within the Zols shown in Table 1 above; these updates are currently scheduled for September 2018 and relate to the following development types:

- New dwellings of 1+ units (excludes replacement dwellings and extensions)
- Houses in Multiple Occupancy (HMOs)
- Student Accommodation
- Residential care homes and residential institutions (excludes nursing homes)
- Residential caravan sites (excludes holiday caravans and campsites)
- Gypsies, travellers and travelling show people plots

We advise that the applications in scope for consideration should include all new applications as well as those with outline planning permission where this issue has not previously been assessed through the HRA process.

To help you screen applications prior to our IRZs being updated, we have included some maps in **ANNEX A** to this letter to show the current Essex Coast RAMS Zol.

### **Approach to avoidance and mitigation measures for recreational disturbance**

We have included within **ANNEX B** to this letter a suggested HRA record template which can be used to record the conclusions of both the Screening and Appropriate Assessment stages of HRAs **for planning applications within scope of the Essex Coast RAMS for which recreational disturbance to the above sites is the only HRA issue**. The use of this template is not mandatory but we have provided it in an attempt to streamline the process and make it as straightforward and consistent as possible for the authorities involved in the RAMS.

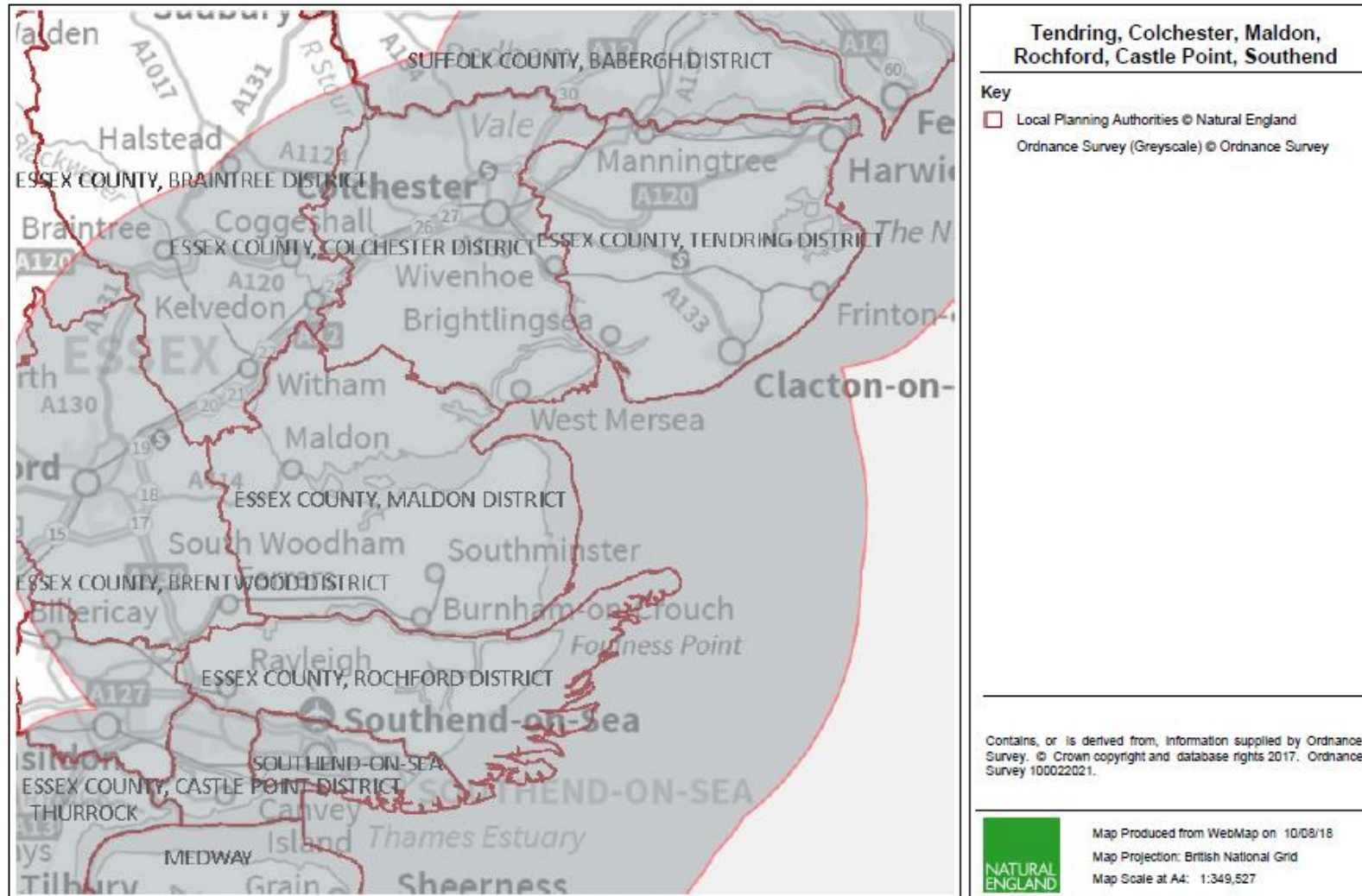
For any queries relating to the specific advice in this letter only, please contact Jack Haynes on 0208 02 64857 or at [jack.haynes@naturalengland.org.uk](mailto:jack.haynes@naturalengland.org.uk). In the context of the above advice, we would be happy to provide you with some training on the use of our IRZs, the HRA process, the use of the HRA record template etc. through our charged Discretionary Advice Service (DAS), further details on which are available [here](#). The way to progress your request is to complete a [DAS Request Form](#), including the training request, and send it to our consultations hub ([consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk)).

Yours sincerely

**Jack Haynes, Lead Adviser, Natural England**

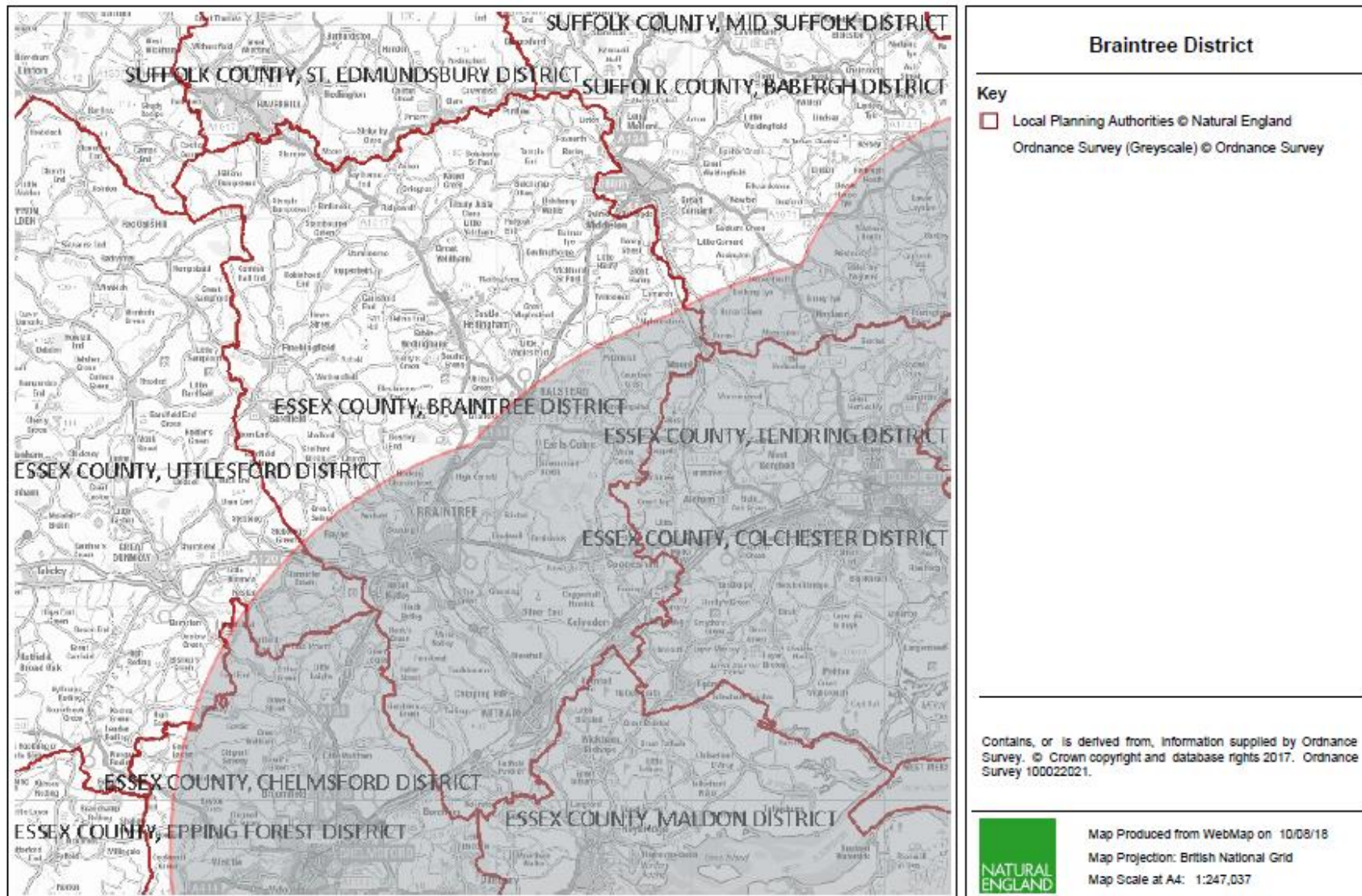
## ANNEX A – Essex Coast RAMS ‘zone of influence’ (Zol) maps

**Tendring, Colchester, Maldon, Rochford, Castle Point, Southend** – The whole of the LPA area is within the Zol so all relevant development is in scope of the RAMS

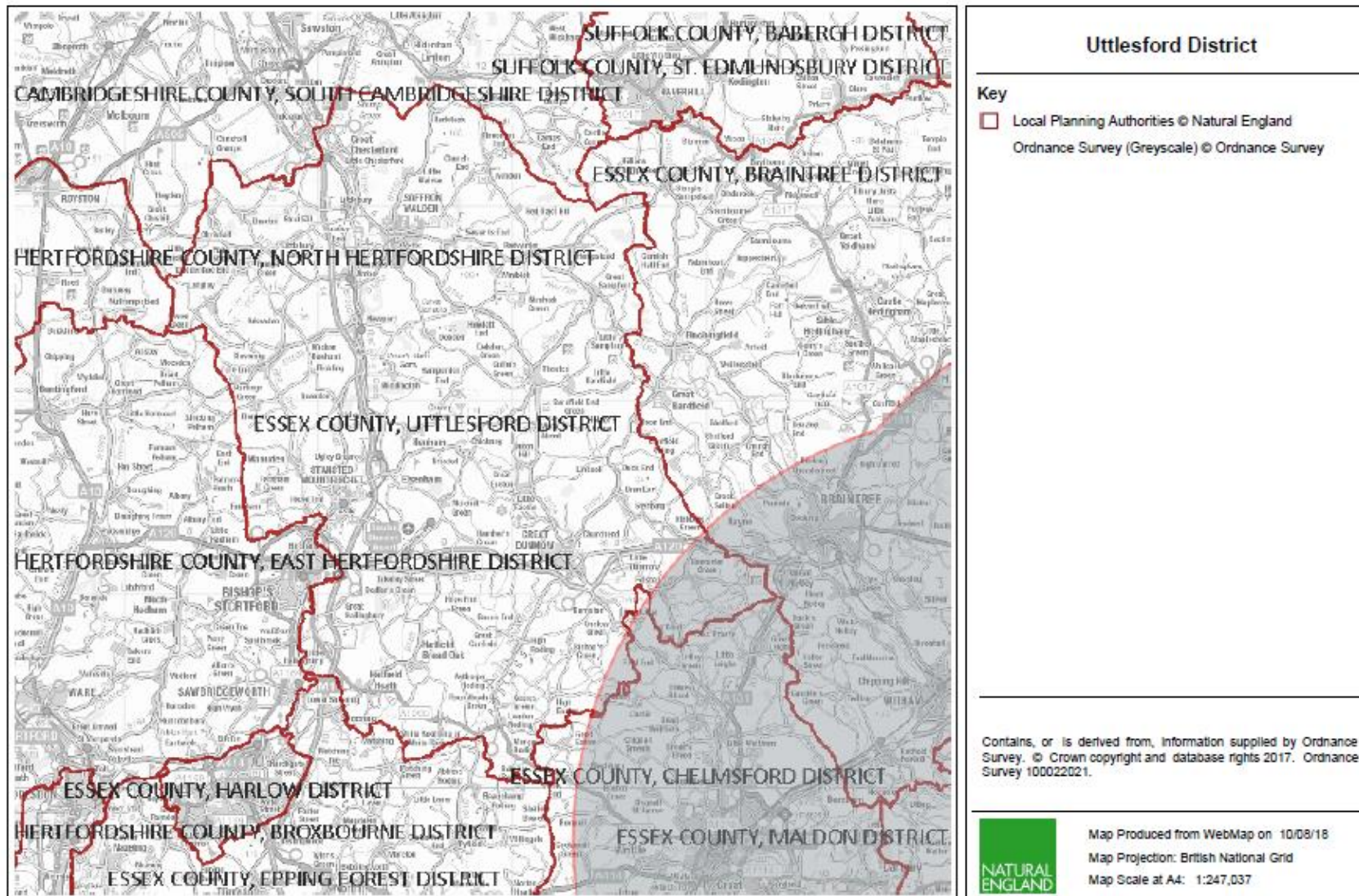




**Braintree** – Relevant development within the shaded area is in scope of the RAMS

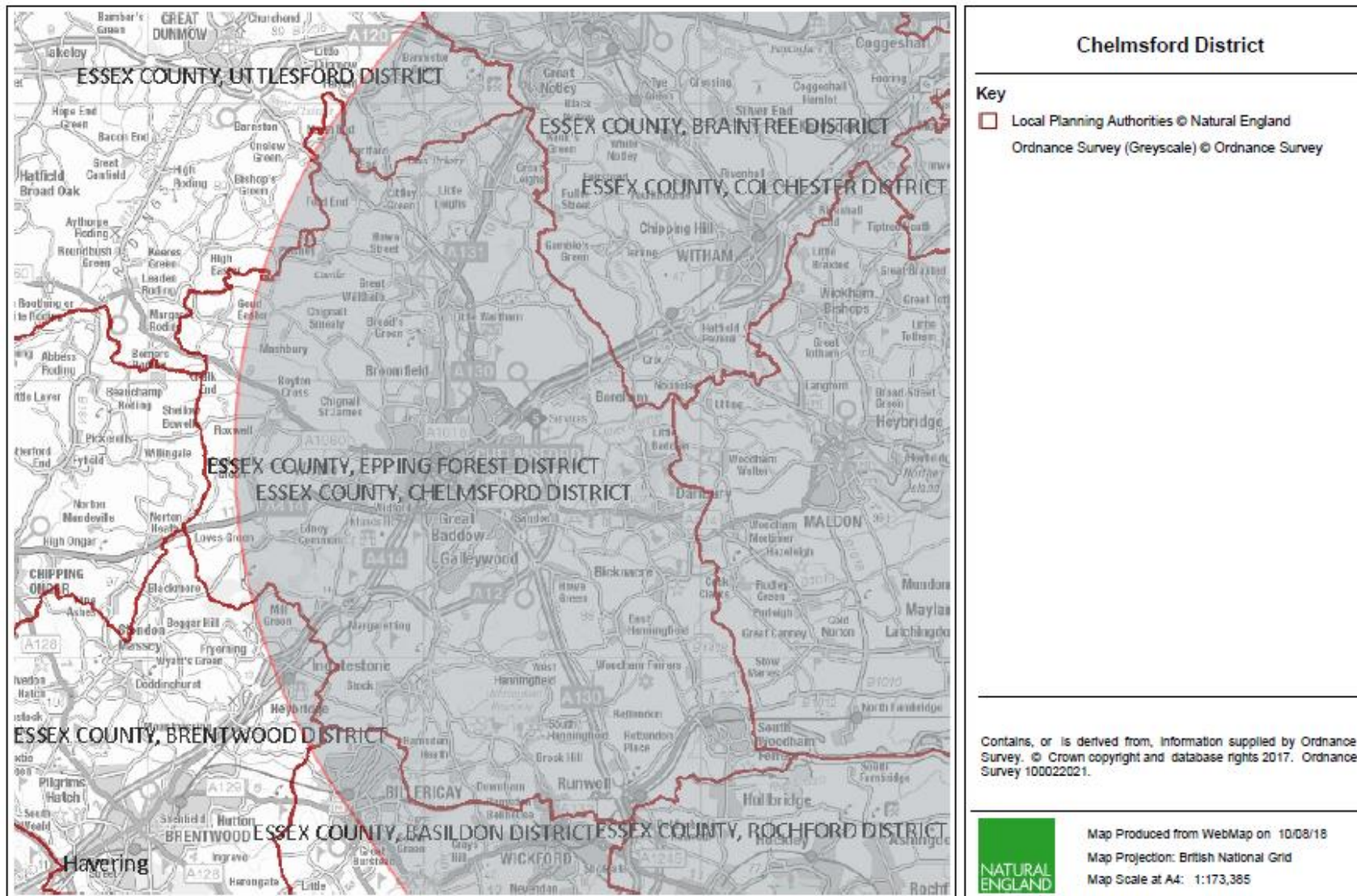


**Uttlesford** – Relevant development within the shaded area is in scope of the RAMS

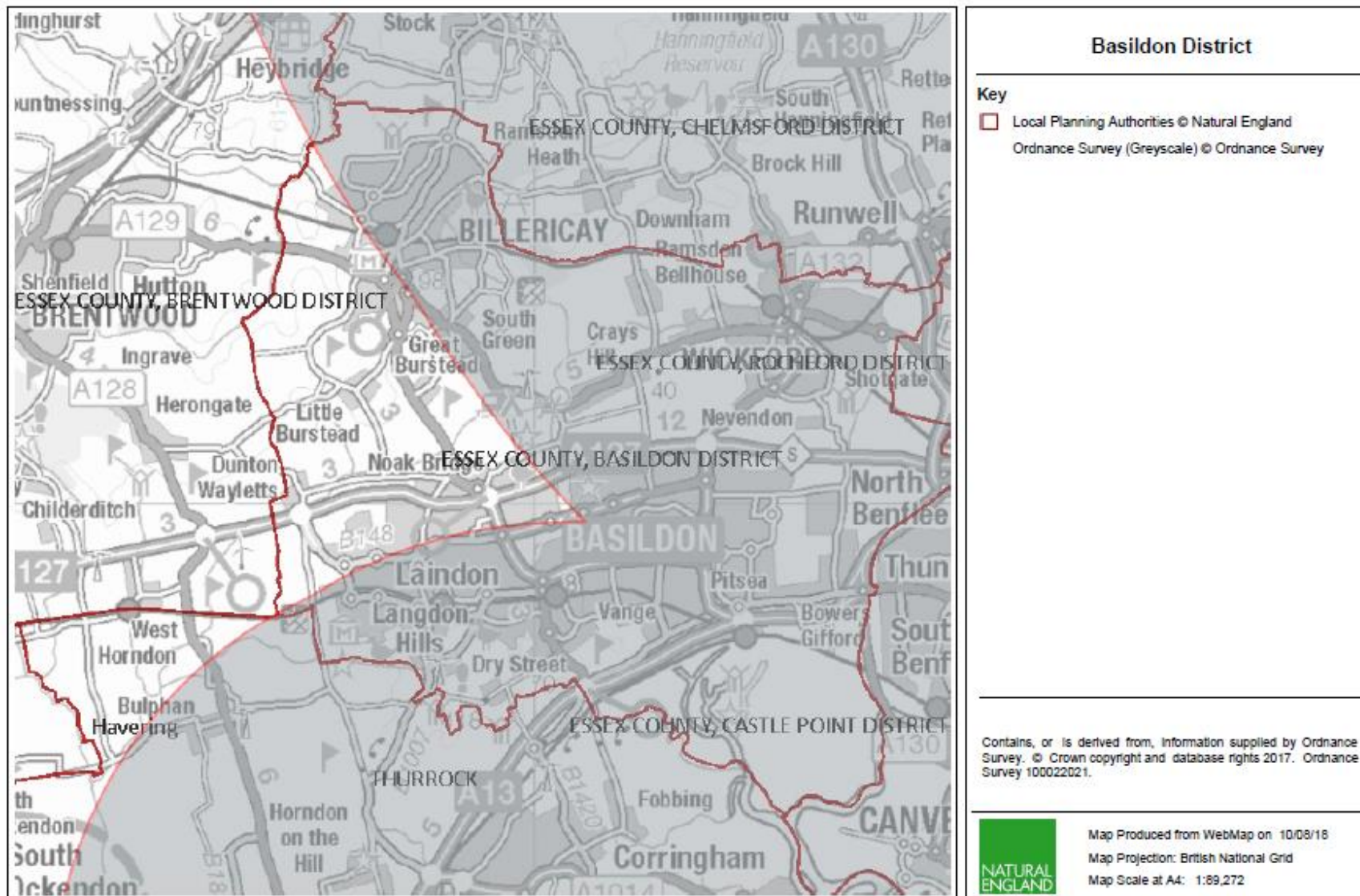




**Chelmsford** – Relevant development within the shaded area is in scope of the RAMS

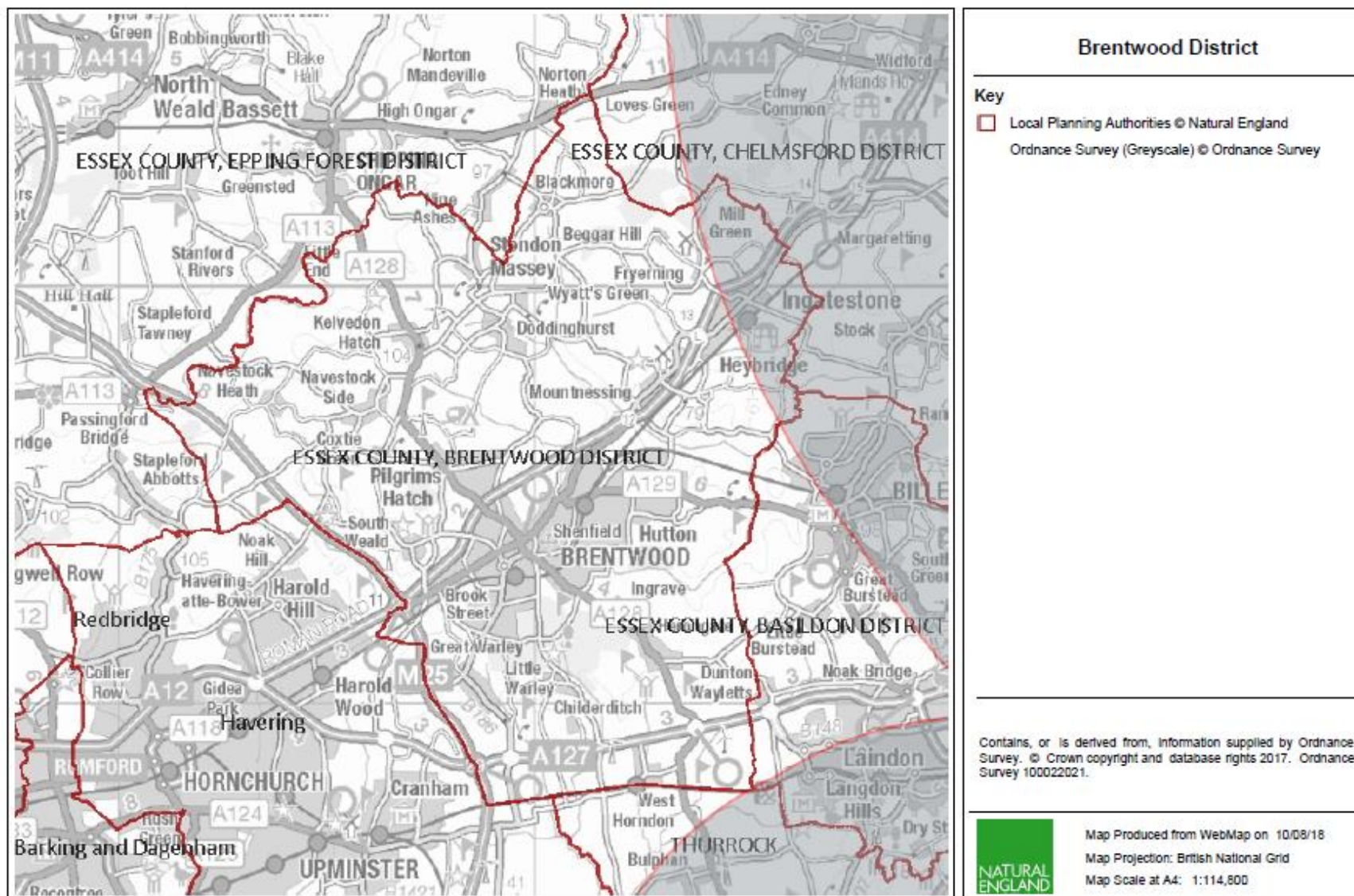


**Basildon** – Relevant development within the shaded area is in scope of the RAMS



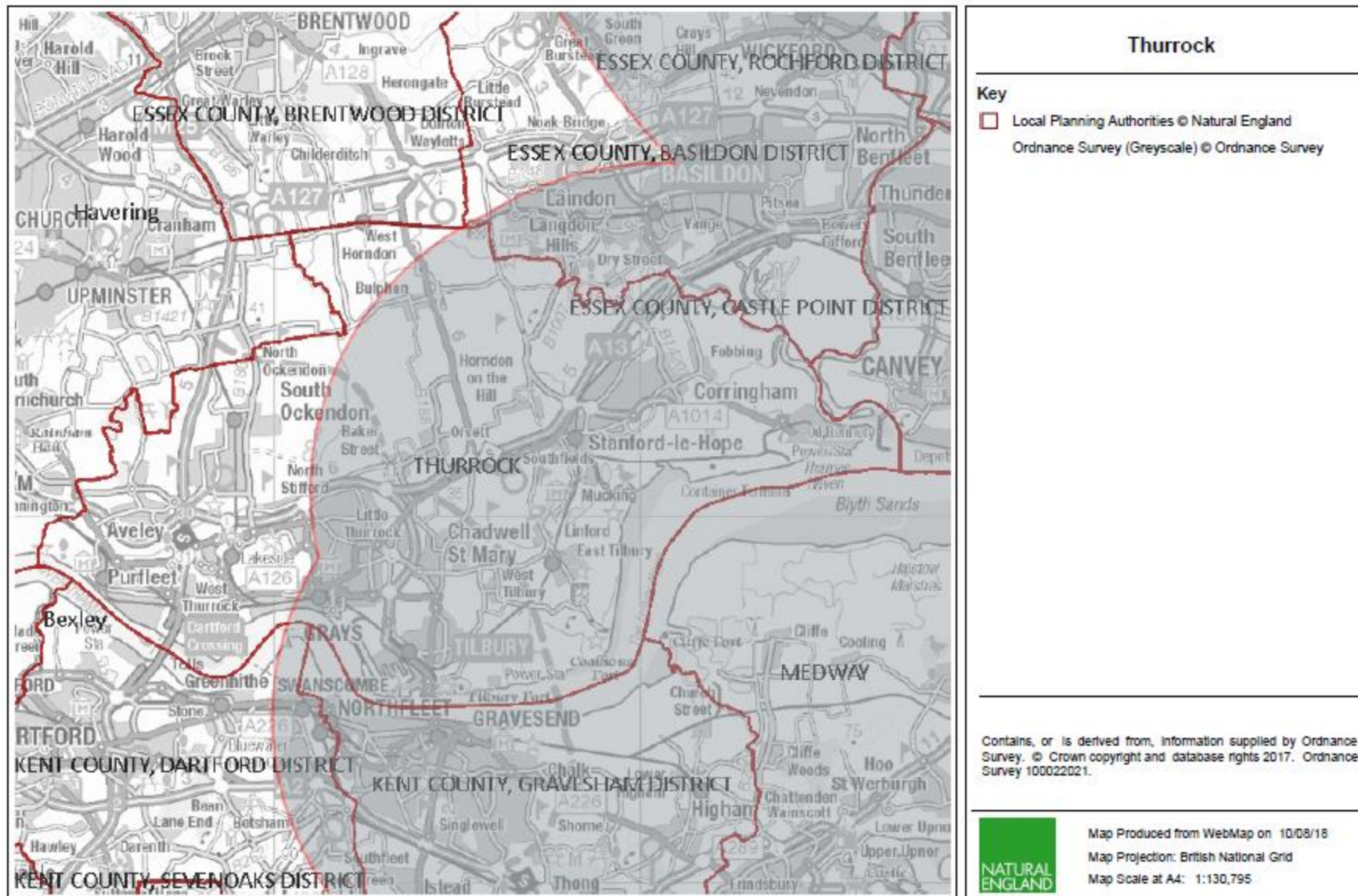


**Brentwood** – Relevant development within the shaded area is in scope of the RAMS (Note: the Zol clips the southeast corner of the district)





**Thurrock** – Relevant development within the shaded area is in scope of the RAMS



## Application details

Local Planning Authority:	
Case officer	
Application reference:	
Application description:	
Application address:	
Status of Application:	
Grid Ref:	

## HRA Stage 1: screening assessment

**Test 1 – the significance test:** Based on the development type and proximity to European designated sites, a judgement should be made as to whether the development constitutes a ‘likely significant effect’ (LSE) to a European site in terms of increased recreational disturbance

**Is the development within the zone of influence (ZoI) for the Essex Coast RAMS with respect to the below sites?**

- Essex Estuaries Special Area of Conservation (SAC)
- Hamford Water Special Protection Area (SPA) and Ramsar site
- Stour and Orwell Estuaries SPA and Ramsar site (Stour on the Essex side only)
- Colne Estuary SPA and Ramsar site
- Blackwater Estuary SPA and Ramsar site
- Dengie SPA and Ramsar site
- Crouch and Roach Estuaries SPA and Ramsar site
- Foulness Estuary SPA and Ramsar site
- Benfleet and Southend Marshes SPA and Ramsar site
- Thames Estuary and Marshes SPA and Ramsar site (Essex side only)

YES

NO

**Does the planning application fall within the following development types?**

- New dwellings of 1+ units (excludes replacement dwellings and extensions)
- Houses in Multiple Occupancy (HMOs)
- Student Accommodation
- Residential care homes and residential institutions (excludes nursing homes)
- Residential caravan sites (excludes holiday caravans and campsites)
- Gypsies, travellers and travelling show people plots

YES

NO

Conclude LSE. This proposal is within scope of the Essex Coast RAMS as it falls within the ‘zone of influence’ for likely impacts and is a relevant residential development type as listed above. It is anticipated that such development in this area is ‘likely to have a significant effect’ upon the interest features of the aforementioned designated site(s) through increased recreational pressure, when considered either alone or in combination. Therefore:

- Proceed to HRA Stage 2: Appropriate Assessment to assess recreational disturbance impacts on the above designated sites
- Check [IRZs](#) to see whether recreational disturbance is an issue for non-coastal European sites or Sites of Special Scientific Interest (SSSIs). If so, this will also need assessing outside of this HRA form.

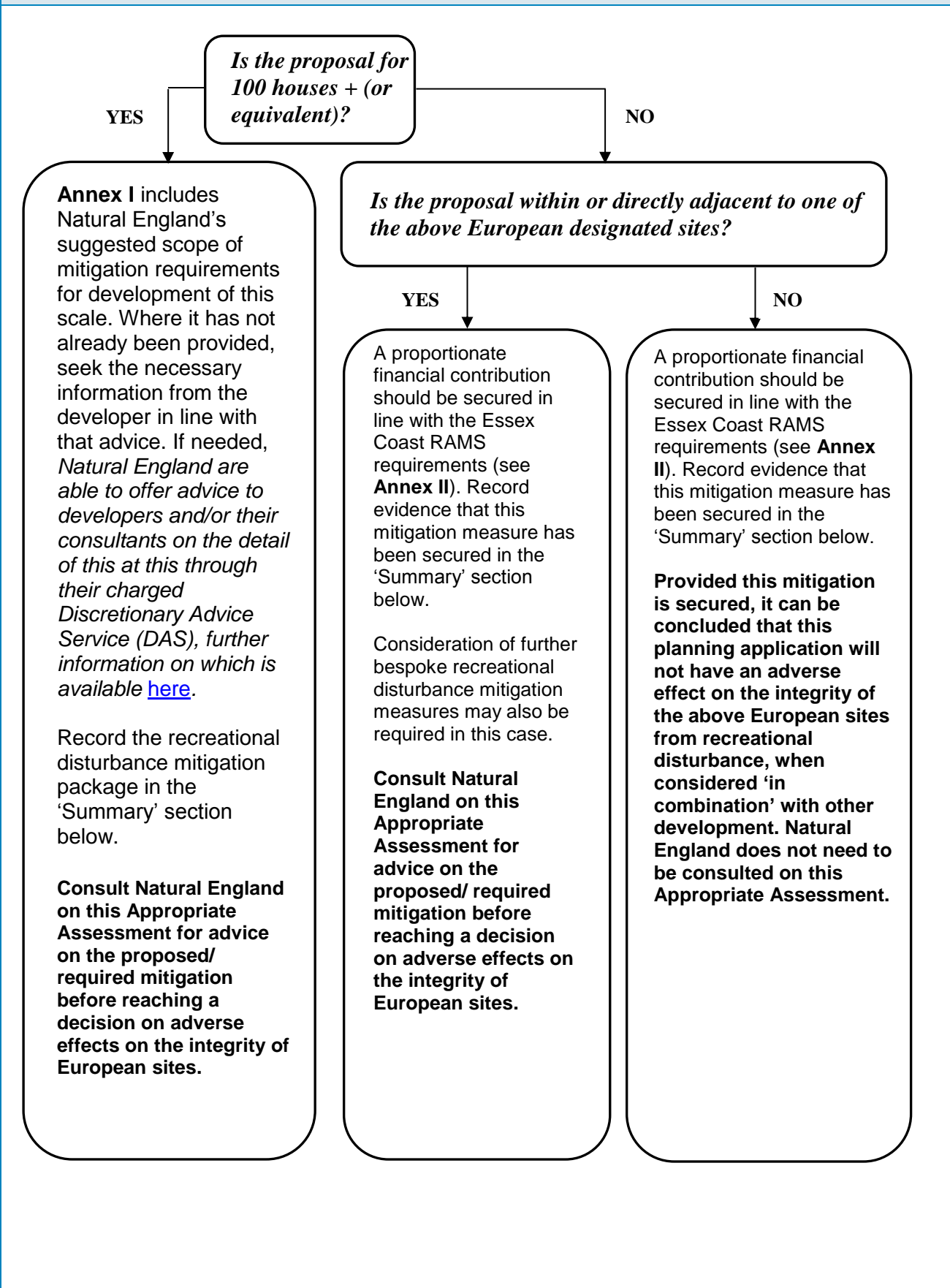
Conclude no LSE to the above designated sites in terms of recreational disturbance:

- An Appropriate Assessment (AA) is not required where recreational disturbance to these sites is the only issue or recreational disturbance to these sites can be scoped out of any HRA covering other issues.
- Check NE [IRZs](#) to see whether recreational disturbance is an issue for non-coastal European sites or Sites of Special Scientific Interest (SSSIs). If so, this will also need assessing outside of this HRA form.

The proposal is outside the scope of the Essex Coast RAMS. However, applications involving tourist accommodation (including holiday caravans and campsites), for example, could still potentially have recreational disturbance impacts (and other impacts) on designated sites, including those listed above. In cases such as these, consult Natural England for bespoke advice before concluding no LSE.

## HRA Stage 2: Appropriate Assessment

**Test 2 – the integrity test:** The applicant must provide sufficient evidence to allow the Appropriate Assessment to be made, which is the stage at which avoidance and/or mitigation measures can be considered



**Summary of the Appropriate Assessment** : To be carried out by the Competent Authority (the local planning authority) in liaison with Natural England (where necessary)

**Summary of recreational disturbance mitigation package**

[INSERT]

**Conclusion**

*Having considered the proposed avoidance and mitigation measures above, [INSERT LPA] conclude that with mitigation the project will not have an Adverse Effect on the Integrity of the European sites included within the Essex Coast RAMS.*

*Having made this appropriate assessment of the implications of the plan or project for the site(s) in view of that (those) site(s)'s conservation objectives, and having consulted Natural England and fully considered any representation received (where necessary), the authority may now agree to the plan or project under regulation 63 of the Conservation of Habitats and Species Regulations 2017.*

**Local Planning Authority Case Officer comments, signed and dated:**

## **Annex I – Natural England’s recommendations for larger scale residential developments within the Essex Coast RAMS zone of influence (100 units +, or equivalent, as a guide)**

Developments of this scale should include provision of well-designed open space/green infrastructure, proportionate to its scale. Such provisions can help minimise any predicted increase in recreational pressure to the European sites by containing the majority of recreation within and around the development site boundary away from European sites. We advise that the Suitable Accessible Natural Green Space (SANGS) guidance [here](#) can be helpful in designing this; it should be noted that this document is specific to the SANGS creation for the Thames Basin Heaths, although the broad principles are more widely applicable. As a minimum, we advise that such provisions should include:

- High-quality, informal, semi-natural areas
- Circular dog walking routes of 2.7 km<sup>6</sup> within the site and/or with links to surrounding public rights of way (PRoW)
- Dedicated ‘dogs-off-lead’ areas
- Signage/information leaflets to householders to promote these areas for recreation
- Dog waste bins
- A commitment to the long term maintenance and management of these provisions

Natural England would be happy to advise developers and/or their consultants on the detail of this at the pre-application stage through our charged Discretionary Advice Service (DAS), further information on which is available [here](#).

However, the unique draw of the above European sites means that, even when well-designed, ‘on-site’ provisions are unlikely to fully mitigate impacts when all residential development within reach of the coast is considered together ‘in combination’. We therefore advise that consideration of ‘off-site’ measures (i.e. in and around the relevant European designated site(s)) is also required as part of the mitigation package for predicted recreational disturbance impacts in these cases.

As such, in the interim period before the RAMS is adopted, a financial contribution should also be agreed with and collected from the developer, prior to commencement, on the basis that it can be used to fund strategic ‘off site’ measures (i.e. in and around the relevant European designated site(s)). These measures should be targeted towards increasing the relevant European site(s) resilience to recreational pressure and be in line with aspirations of the emerging RAMS. As an example in this interim period, this could include funding towards existing wardening schemes at the relevant European designated site(s). A suitable delivery mechanism for the measures must be agreed to secure them and ensure they are implemented from the first occupation of dwellings. Alternatively, we understand that it may be acceptable at the outline planning stage to include a suitably-worded planning condition which secures full adherence with the emerging Essex Coast RAMS at the Reserved Matters stage.

Once the RAMS has been adopted, a financial contribution should be secured from these developments prior to commencement.

## **Annex II – Natural England’s recommendations for smaller scale residential developments within the Essex Coast RAMS zone of influence (0-99 units, or equivalent, as a guide) which are not within/directly adjacent to a European designated site**

Whilst the provision of well-designed open space/green infrastructure on site or contributions

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<sup>6</sup> Taken from *Jenkinson, S., (2013), Planning for dog ownership in new developments: reducing conflict – adding value. Access and greenspace design guidance for planners and developers*

towards strategic green infrastructure in your district is to be welcomed for developments of this scale, a proportionate financial contribution in line with/to the Essex Coast RAMS should be secured as a minimum to help fund strategic 'off site' measures.

As such, in the interim period before the RAMS is adopted, a financial contribution should be agreed with and collected from the developer, prior to commencement, on the basis that it can be used to fund strategic 'off site' measures (i.e. in and around the relevant European designated site(s)). These measures should be targeted towards increasing the relevant European site(s) resilience to recreational pressure and be in line with aspirations of the emerging RAMS. As an example in this interim period, this could include funding towards existing wardening schemes at the relevant European designated site(s). A suitable delivery mechanism for the measures must be agreed to secure them and ensure they are implemented from the first occupation of dwellings. Alternatively, we understand that it may be acceptable at the outline planning stage to include a suitably-worded planning condition which secures full adherence with the emerging Essex Coast RAMS at the Reserved Matters stage.

Once the RAMS has been adopted, a financial contribution should be secured from these developments prior to commencement.