

NOTE ON BEHALF OF WIVENHOE TOWN COUNCIL
CONCERNING PROPOSED MODIFICATIONS BY THE NEAs
TO POLICY SP6 AND SUPPORTING TEXT

INTRODUCTION

1. This Note responds to the Joint NEA/NE Response¹ (“the Response”) presented to the Day 5 Hearing on 24th January 2018. In the absence of Dr Gibson (WTC’s ecological expert) at Day 6 (25th January) the following comments are made in respect of the proposed modifications to Policy SP6 and supporting text.
2. By way of general comment, it is noted that in order to provide an appropriate place in the existing Draft Plan for policy to be provided concerning the application of the Habitats Regulations (in their latest 2017 form) (“HR”) to the proposed Garden Communities (“GCs”)) Policy SP6 has been chosen. However, this is titled and concerns “Place Shaping Principles”. However, HR mitigation sits uncomfortably within this section of the Plan. Accordingly, the Inspector may well wish to recommend that the Plan is modified to provide a discrete section and policy number.
3. The Proposed Explanatory Wording would also benefit from an extra paragraph explaining the recreational context and effects requiring the mitigation approach agreed with Natural England.

THE NEAs CURRENT PROPOSED MODIFICATIONS

4. The Response (verbatim) proposes the following additions:

Policy SP6 additional text:

Prior to RAMS completion, the NEAs will seek contributions from proposed residential development to deliver all measures identified (including strategic measures) through project level HRAs, or otherwise, to mitigate any recreational disturbance implications in compliance with the Habitat Regulations and Habitats Directive

¹ No Hearing Reference as not uploaded at the time of preparation of this Note

Additional Explanatory Text:

7.4 Proposals for North Essex must be fully compliant with the requirements of the Habitats Regulation. The Appropriate Assessment for the Shared Strategic Plan for North Essex identified a number of avoidance and mitigation measures to be implemented including the preparation of an Essex Coast Recreational disturbance Avoidance and Mitigation Strategy. These measures are required to be delivered to ensure that development proposals in the plan do not result in adverse effects on the integrity of European Sites and are HRA compliant.

7.5 Until the Essex Coast RAMS is completed, the NEAs will require financial payments, set out in S106 agreements, to fund the necessary recreational disturbance avoidance and measures including the strategic measures identified, through HRAs or otherwise. Any measures must be implemented from the first occupation of dwellings, thereby ensuring that the level of recreational disturbance is not increased para. 7.5by future residential development. It must also be demonstrated that such measures would be effective, deliverable and proportionate to the level of housing being proposed.

WTC'S PROPOSED AMENDED MODIFICATIONS

5. Dr Gibson explained (Day 5) as to why the Response was still inadequate in meeting his concerns about due compliance with the HR. He is also concerned that the current proposed Modifications do not adequately meet the outworkings of the HR.
6. The current wording of proposed Para. 7.4 still does not appreciate the point, made by Dr Gibson, that it is the first stage of the RAMS (visitor surveys etc) which will identify the magnitude and nature of the mitigational requirement. So, the words "these measures" have to be interpreted at face value (i.e. the measures identified broadly in the Appropriate Assessment) but also need to take account of the detailed measures arising out of the RAMS, both at the outset and such additional measures which may become necessary from monitoring and feedback.
7. In respect of proposed Para. 7.5, it is inappropriate to require demonstration of effectiveness and deliverability in relation to the "interim measures" but not in respect of the long-term measures, in perpetuity.
8. The NEAs Proposed Modifications also require further elaboration for the reasons set out in Paragraph 2 of this Note.
9. For now, the following key amendments are provided by WTC to the NEAs' proposed wording help the Inspector in the formulation of his recommendations on this issue upon the wording currently put forward in the following order:

Additional Explanatory Text:

7.4 Proposals for North Essex must be fully compliant with the requirements of the Habitats Regulations **(HRs)**. The Appropriate Assessment for the Shared Strategic Plan for North Essex **broadly** identified a number of avoidance and mitigation measures to be implemented including the preparation of an Essex Coast Recreational disturbance Avoidance and Mitigation Strategy **(RAMS)**. These **broad** measures **together with those detailed measures arising out of the RAMS, both at the outset and such additional measures which may become necessary from monitoring and feedback,** are required to be delivered to ensure that development proposals in the plan do not result in adverse effects on the integrity of European Sites and are **Habitats Regulations Assessment (HRA) compliant and guaranteed in perpetuity.** **These measures will then ensure that the level of recreational disturbance, at all times, is not increased by future residential development.**

7.5 Until the Essex Coast RAMS is completed, the NEAs will require financial payments, set out in S106 agreements, to fund the necessary recreational disturbance avoidance and measures including the strategic measures identified, through HRAs or otherwise. **Such** Any measures must be implemented from the first occupation of dwellings, thereby ensuring that the level of recreational disturbance is not increased by future residential development. It must also be demonstrated that such measures would be effective, deliverable and proportionate to the level of housing being proposed.

Policy SP6 additional text:

Through a RAMS the NEAs will mitigate recreational disturbance implications to the Essex coastlands from the occupation of new residential development in compliance with the Habitat Regulations and Habitats Directive. They will seek contributions from the proposed residential development to deliver all the measures identified (including strategic measures) in the RAMS .

Prior to **the** RAMS' completion, the NEAs will seek contributions from proposed residential development to deliver all measures identified (including strategic measures) through project level HRAs, or otherwise, to mitigate any recreational disturbance implications in compliance with the Habitat Regulations and Habitats Directive.

10. In addition, given that the proposed dwellings within the proposed Tendring/Colchester Borders Garden Community specifically requires on-site mitigation provision too, additional wording should be added to Policy SP8 along the following lines as either a new requirement 20A or 25:

Provision of Habitats Regulation mitigation measures on-site through the creation of the new country park and off-site through financial contributions to the RAMS requirement under Policy SP6

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