

NEA response to Mr Pugh Smith's note on proposed amendments to Policy SP6 and Explanatory text 08/02/18

This note sets out the North Essex Authorities (NEA) position to the comments and further amendments proposed by Mr Pugh Smith on behalf of Wivenhoe Town Council (WTC) to proposed text changes to Policy SP6 and the explanatory text proposed in the joint NEA/NE note presented to the Inspector on 24 January 2018.

In the 2nd paragraph of Mr Pugh Smith's note, dated 26.01.18, concerns were raised about the inclusion of text about Habitat Regulation Assessments (HRA) mitigation in Policy SP6 (Place Shaping Principles). As an alternative, Mr Pugh Smith proposed including a discrete section about HRA into the Shared Strategic Plan.

As currently drafted, information on HRA, Appropriate Assessment and HRA mitigation, including Recreational disturbance Avoidance and Mitigation Strategy (RAMS), is currently included on page 5, in policy SP6 under Section 7 Creating Quality Places and in Section 8 Cross Boundary Garden Communities paragraphs 8.3 - 8.7 of the Shared Strategic Plan.

The NEA would support the inclusion of a consolidated HRA section in the Shared Strategic Plan for North Essex for clarity and would suggest that a logical place for such a section, if the Inspector is mindful to agree this, would be immediately following Section 2 and Policy SP1 - Presumption in Favour of Sustainable Development. Natural England are supportive of this recommendation.

In the 3rd paragraph of Mr Pugh Smith's note, a request was made for the inclusion of additional text to identify and explain the recreational context and effects requiring mitigation.

Information on the effects requiring mitigation are currently set out in paragraphs 8.3 - 8.7 of Section 8 (Cross Boundary Garden Communities) in the Shared Strategic Plan for North Essex. The recreational context has been discussed in the Appropriate Assessment but has not been repeated in the Plan.

The NEA would support the inclusion of additional text about the recreational context for inclusion in the new HRA section. The NEA would also like to propose the inclusion of additional text to clarify what a RAMS is and its role in the HRA and development process for inclusion in the new consolidated section.

WTC's Proposed Amendments to Explanatory Text paragraphs 7.4 & 7.5

Mr Pugh Smith on behalf of WTC proposed further amendments to the new explanatory text in paragraphs 7.4 and 7.5 of SP6 proposed in the NEA/NE response.

The WTC proposed text changes are set out in the paragraph below in bold

7.4 Proposals for North Essex must be fully compliant with the requirements of the Habitats Regulations **(HR)**. The Appropriate Assessment for the Shared Strategic Plan for North Essex **broadly** identified a number of avoidance and mitigation 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, to be implemented, including the preparation of an Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (**RAMS**). These **broad** 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 **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 further 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 mitigation measures, including strategic measures identified, through HRAs or otherwise. **Such** 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.

The NEA is of the opinion that the changes proposed to paragraph 7.4 on behalf of WTC, is overly prescriptive, confusing and wordy and does not improve on the wording agreed by the NEA/ Natural England (NE), the Government's Statutory Advisor's in the joint response. As such, the NEA therefore do not think that this change is necessary. The NEA have no objection to the minor text change proposed to paragraph 7.5.

Policy SP6 additional text

In the final NEA/NE response to the Inspector, the NEA/NE proposed the inclusion of the additional text below to SP6, to clarify HRA interim arrangements to be implemented in the event that development proposals come forward prior to completion of the RAMS.

'Prior to RAMS completion, the NEAs will seek contributions to deliver all measures identified through project level HRAs, or otherwise, to ensure that recreational disturbance is not increased by future residential development in compliance with the Habitat Regulations and Directives.'

The NEAs and Natural England have also already proposed the following amendment to Policy SP6 as a modification through the signed Statement of Common Ground between the NEA and NE.

"Contributions will be secured towards mitigation measures identified in the Essex wide Recreational Disturbance Avoidance and Mitigation Strategy (RAMS), which will be completed by the time the Local Plan is adopted."

Mr Pugh Smith proposed the addition of further policy wording to SP6 as set out below.

'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 Habitats 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.'

The NEA does not consider that WTC has fully understood the purpose of the proposed policy change to SP6 with regards HRA interim arrangements. Their suggested further wording does not add clarity to SP6 policy and is considered an unnecessary change.

Under point 10 Mr Pugh- Smith proposed the addition of the following text to policy SP8 (either under 20A or 25) to ensure that on site mitigation is provided as well as off site mitigation as part of the future development of the Tendring/ Colchester Border Garden Community.

'Provision of Habitats Regulation mitigation measures on – site through the creation of the new country park and off-site through financial contributions to RAMS requirements under Policy SP8.'

The NEAs and Natural England have already proposed the following amendment to policy SP8 after criteria 20.

“Contributions will be secured towards mitigation measures identified in the Essex wide Recreational Disturbance Avoidance and Mitigation Strategy (RAMS), which will be completed by the time the Local Plan is adopted.”

Section E15 of policy SP8 also identifies the provision of 'A network of multi-functional green infrastructure will be provided within the garden community incorporating key elements of the existing green assets within the site. It will include community parks, allotments, a new country Park provided along the Salary Brook corridor and incorporating Churn Wood play facilities.

The NEA therefore do not consider that any further changes are necessary to policy SP8 beyond those included in the Statement of Common Ground with Natural England and included in the Modifications table.

The NEAs have prepared a new HRA/RAMS section including draft policy SP1B amended, explanatory text and a new Appendix 4 for further consideration by the Inspector.

This new section incorporates all the amendments discussed and agreed with Natural England in the Statement of Common Ground to policy SP6 and in the Joint NEA/NE response submitted to the Inspector on 24 January 2018.

If the new HRA/RAMS section is accepted, all previously agreed amendments to Policy SP6 regarding RAMS and HRA and paragraphs 8.3 - 8.7 would no longer be required to be included in the Shared Strategic Plan as these issues would be fully covered in the new HRA/RAMS section in the Plan.

The changes agreed with Natural England through the Statement of Common Ground for the individual Garden Community policies SP8, SP9 AND SP10 in relation to RAMS and HRA mitigation should be retained.

