

**Felsted Parish  
Council**

**Uttlesford District  
Council**

## Felsted Neighbourhood Plan

**Strategic Environmental Assessment  
(SEA) Screening Determination  
Statement** (under Regulation 9 and 11 of the  
Environmental Assessment of Plans and  
Programmes 2004)

**May 2019**

## Executive Summary

This statement provides the determination (under Regulation 9 of the Environmental Assessment of Plans and Programmes Regulations 2004 (SEA Regulations)) that the draft Felsted Neighbourhood Plan is unlikely to result in significant environmental effects and therefore does not require a Strategic Environmental Assessment. This statement also includes the reasons for this determination (in line with Regulation 11 of the SEA Regulations).

This determination statement is also intended to demonstrate that the Felsted Neighbourhood Plan is compatible with certain European Union obligations as required by the basic conditions, namely:

- Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment; and

This determination has been made on 30 May 2019. Within 28 days of this determination, Uttlesford District Council will publish this determination statement in accordance with its regulatory requirements (as per Regulation 11 of the SEA Regulations). The statutory consultees will be sent a copy of this statement and copy of the statement will be available for inspection at the Council's website at <https://www.uttlesford.gov.uk/Felstednp>. It will also be available on request at: Uttlesford District Council, Council Offices, London Road, Saffron Walden, Essex, CB11 4ER.

If you require any further information, then please contact Demetria Macdonald by email at [dmacdonald@uttlesford.gov.uk](mailto:dmacdonald@uttlesford.gov.uk).

## Contents

SEA Screening Determination Statement	Page
1. Introduction	3
2. Statement of Reasons	3
3. Consultee responses to the April 2019 Screening Report	4
3.3 UDC response to issues raised by Natural England May 2019 relating to Hatfield Forest	6
4. A background to the SEA work undertaken for the Felsted Neighbourhood Plan	6
<b>Appendix 1</b> - Responses from the statutory consultees to the SEA Screening Report Update April 2019	10
<b>Appendix 2</b> – SEA Screening Report Update April 2019  Notes: This appendix includes its own appendix at the end which contains the responses from the statutory consultees to an earlier screening consultation.	16

## **Determination Statement (including reasons for the determination)**

### **1 Introduction**

- 1.1 A neighbourhood plan is required to meet a number of basic conditions (which are set out in the Town and Country Planning Act 1990), one of which being it must not breach and must be otherwise compatible with EU and Human Rights obligations. This requires neighbourhood plans to fully consider the requirements of the SEA regulations<sup>1</sup> which transpose the EU's SEA Directive<sup>2</sup> into law and which requires those making plans that could impact on the environment to consider whether they are likely to have a significant effect or not.
- 1.2 Regulation 15 of the Neighbourhood Planning (General) Regulations 2012 (as amended) requires that a Neighbourhood Plan being submitted to the Local Planning Authority must include either an environmental report (complying with the SEA Regulations) or, in the case where it has been deemed an environmental assessment under the SEA Regulations is not required, a statement of reasons for this determination.
- 1.3 Importantly, this determination report relates only to the requirement of the draft plan to be subject to SEA and not HRA.

### **2 Statement of Reasons**

- 2.1 In light of HRA being addressed separately as part of HRA work (which finds that the Felsted Neighbourhood Plan is unlikely to have any likely significant effects on any European site alone and which finds that any possible effects which may occur in combination with other plans or projects are addressed through the inclusion in the NP of the HRA policies requiring compliance with the Habitats Directive and accordingly implementing the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy), UDC assert the pre - submission policies in the Felsted NP are unlikely to have significant environmental effects. The reasons for this are:
  - the maximum extent of development outside the existing development limits that could come forward as part of the two site allocations in the Neighbourhood Plan is an area of 4 hectares (according to the site assessment report) on the edge of Felsted village (NB: this site is also allocated in the Local Plan currently at examination) and an 1.3 hectare area of land (site area taken from site assessment report) adjacent to the Felsted primary school (for which 0.9 hectares is allocated for residential development and the remaining for a kiss and drop facility); at Watch House Green;
  - the limit of development alongside strong policy criteria regarding the impacts of the built form on the landscape and existing heritage assets means that the impact is not considered significant; and
  - the neighbourhood plan delivers a modest level of development up to 63 units which is in line with Felsted's settlement status established both as part of the adopted 2005 Local Plan and the emerging Local Plan currently at examination.

- 2.2 There is one key environmental consideration within the Neighbourhood Plan area that has come to light during the summer of 2018 and that is that the Zone of Influence for the Blackwater Estuary has now been extended to 22km; a considerably larger extent than the previous 8km Zone of Influence. The Watch House Green site falls within this Zone of Influence. The Neighbourhood Plan has therefore been subject to a separate appropriate assessment process to ensure that the Neighbourhood Plan does not breach the requirements of the Conservation of Habitats and Species Regulations 2017. This change in the characteristics of the plan area has also been assessed in terms of its implications under the SEA regulations as set out in the May 2019 SEA screening report. No likely significant environmental effects have been identified as a result of this change.
- 2.3 In reaching this conclusion, it should be noted that the meaning of 'likely' has a different implication under the SEA Directive as it does under HRA Directive.<sup>1</sup> In the SEA Directive 'likely' is applied more consistent with the meaning of the word in the English language; i.e. more likely than not. In the HRA Directive a 'likely significant effect' means a 'possible significant effect'. The reason for this derives from the different purposes of the two different pieces of legislation. The SEA Directive seeks to ensure that any likely significant effects on the environment are identified and properly taken into account in the decision-making process. Whereas, under the Habitats Directive an 'appropriate assessment' must be carried out unless the risk of significant effects on the site can be excluded based on objective information.
- 2.4 Consistent with the above, it should also be noted that the SEA directive does not require or intend for plans to be assessed in combination with other plans at the screening stage; this is only required at environmental assessment stage if likely significant effects are identified at the screening stage.
- 2.5 Further details are set out in **Appendix 2** to this report which is the SEA screening opinion report sent to the statutory consultees in April 2019.
- 2.6 Based on the screening opinion and having considered the consultation responses from the statutory environmental bodies, Uttlesford District Council determines that the Felsted Neighbourhood Plan is unlikely to result in significant environmental effects and therefore does not require a strategic environmental assessment.

### **3 Consultee responses to the SEA Screening Opinion Report April 2019**

- 3.1 A Strategic Environmental Assessment (SEA) preliminary Screening Opinion was prepared by Uttlesford District Council for the Felsted Neighbourhood Plan. This opinion (see Appendix 2 to this report), was made available to the statutory environmental bodies (Natural England, Historic England and Environment Agency) for comment starting on 10 April 2019.
- 3.2 Consultation responses were received from the three statutory consultees. Their conclusions from the April SEA are summarised below, and their detailed comments are included in **Appendix 1**.

---

<sup>1</sup> . The different interpretation of 'likely significant effect' in the EIA and Habitat Directive is explored in the Habitats Regulations Assessment Handbook published by DTA Publications 2019. This refers to case law for example by the Court of Appeal in *An Tasice* (1 August 2014)

- Natural England: We note the exception to such an approach where plans determine the use of *small areas at a local level* (Article 3.3) provided the plan is not likely to have a significant effect. Natural England cannot offer advice on how the relevant legislation should be followed or interpreted and recommend you seek your own legal advice on whether a SEA is required, if you wish to apply this exception. In this case the HRA has established through an Appropriate Assessment that mitigation is necessary in line with the emerging Essex Coast RAMS to ensure no adverse effect on site integrity.

The conclusions of the updated SEA screening identifies there are no likely significant effects when considering the Felsted Neighbourhood Plan in terms of the language of the SEA Directive. Whilst Natural England has no comment on this conclusion, the report also states that no likely significant effects have been identified through the HRA process (see para 4.3), which Natural England disagrees with. It should be noted that the definition of “likely significant effects” as used by the Habitats Regulations has been tested through European case law, however the use of the same terms under different legislation may have a broader meaning. In the case of the Habitats Regulations, “significant” sets a low threshold bar, which may not necessarily transpose across into the SEA Regulations, which may offer greater latitude. The requirement of an Appropriate Assessment in the case of the Felsted Neighbourhood Plan is due to the identified in-combination recreational pressure impacts on the Essex Coast designated sites. Likely significant effects in the case of the Felsted NP therefore cannot be ruled out by definition, however through the inclusion of appropriate mitigation and policy obligations it is agreed that the Plan will not have an adverse effect on European site integrity.

We would also advise the SEA screening should consider, as per Natural England’s letter dated 5th April 2019, the Hatfield Forest recreational pressure issues and the findings of the Footprint Ecology report commissioned by the National Trust. This report has identified a Zone of Influence of 14.6km which incorporates part of Felsted Parish. Noting distance and the level of allocated development, it is advised that reference be made to these issues in your assessment.

- Historic England: The extension of the Zol for the Blackwater Estuary SPA and RAMSAR site will not have a bearing the conclusions of our previous consultation response on the Felsted Neighbourhood Plan SEA screening, so we would refer you to that original response in relation to this updated consultation. (*Historic England response 10 April 2019*)

I can confirm that Historic England remain of the position that significant effects on the historic environment are unlikely to result from the neighbourhood plan, and that on the basis of the information supplied, and in the context of the criteria set out in Schedule 1 of the Environmental Assessment Regulations [Annex II of ‘SEA’ Directive], Historic England concurs with the Council that the preparation of a Strategic Environmental Assessment is not required. (*Historic England response 07 September 2018*)

- Environment Agency: Thank you for re-consulting us on the above Strategic Environmental Assessment (SEA). We have reviewed the SEA as submitted and can confirm we have no further comments to make as the amendments made do not affect elements that fall under our statutory remit.

### **UDC response to issues raised by Natural England May 2019 relating to Hatfield Forest:**

- 3.3 It is noted that the National Trust report now proposes a 14.6 km Zone of Influence from the Hatfield Forest SSSI in terms of recreational pressure. It is therefore important to consider any additional recreational impacts arising from the Felted NP on Hatfield Forest. The spatial strategy expressed in the Felsted Neighbourhood Plan (in focusing development within the Development Limits of the Village) is consistent with the existing strategic planning policy context that exists via the adopted 2005 Uttlesford Local Plan. From this respect, the Felsted Neighbourhood Plan does not trigger a different approach in terms of quantity of housing coming forward in the plan area. In terms of specific locations for new development the Felsted Neighbourhood Plan includes two site allocations; the Land at Station Road (Bury Farm) and Land at Braintree Road (Sunnybrook Farm). The proposed Station Road site allocation falls within 12km (using measuring tool available via [www.magic.defra.gov.uk](http://www.magic.defra.gov.uk)) of SSSI site Hatfield Forest and is therefore within the zone of influence recently defined in the National Trust report. The draft Watch House Green site allocation falls approximately 14.5 km (again using measuring tool available via [www.magic.defra.gov.uk](http://www.magic.defra.gov.uk)) away from Hatfield Forest so is therefore on the edge of the Hatfield Forest zone of influence (as defined in the National Trust report).
- 3.4 It is possible that future residents of the proposed new housing at the two site allocations will visit Hatfield Forest SSSI. However, the impact from this is not considered to be significant. This is due to:
- the modest levels of housing being proposed (compared to the size of the existing settlement at Felsted and Watch House Green);
  - high levels of existing outdoor recreational resources in and around Felsted Parish providing a wide choice of options for cycling, horse riding, walking and dog walking. This includes an extensive network of public footpaths and bridleways (including the Flitch Way) – see the proposals maps accompanying the Neighbourhood Plan; the existence of open spaces within the settlements of Felsted Village and Watch House Green including Felsted Fen (Policy CW2 in the draft Neighbourhood Plan designates this site on the edge of the Felsted Village as a Nature Area important to the local community);
  - site allocation for Land at Station Road (Bury Farm) itself includes a requirement for the provision of on-site natural open space to the north western end of the site as a continuation of the Felsted Fen Nature Area and access to the adjacent public right of way.

## **4 A background to the SEA work undertaken for the Felsted NP**

- 4.1 The SEA screening for the draft Felsted NP has evolved as the content and nature of the Felsted NP has been refined since its initial drafting in late 2017. In order to explain the different SEA screening opinions that have been prepared and published, an overview of this work is provided below.

*Initial SEA/HRA screening report December 2017*

- 4.2 A Strategic Environmental Assessment (SEA) and Habitat Regulations Assessment (HRA) Screening Opinion was initially prepared by Uttlesford District Council for the Felsted Neighbourhood Plan in 2017. An assessment was made available to the statutory environmental bodies (Natural England, Historic England and Environment Agency) for comment starting on 15th December 2017.
- 4.3 This SEA/HRA screening report dated December 2017 made clear that the intention of the plan was to allocate sites to deliver a community hub

*One of the policies will allocate land for such a site of approximately 0.7 hectares which will include*

- *a doctor's surgery and pharmacy*
- *shop and post office*
- *potential new village hall*
- *provision for 100 car parking spaces*

*The community hub is likely to involve the development of residential dwellings to help make the project viable (number of dwellings is anticipated to be in the region of 30 dwellings).*

*Source: 2017 UDC SEA/HRA screening report for the draft Felsted NP. Available in the June 2018 SEA/HRA screening determination*

- 4.4 The December 2017 SEA/HRA screening report also clarified

*The NP group are currently undertaking a site assessment process to identify the preferred site for the delivery of the community hub. The site assessment process is taking account of key constraints in the identification and assessment of sites. These include:*

- *Heritage and conservation*
- *Open space*
- *Trees and Hedgerows*
- *Highways*
- *Accessibility and Sustainable Transport*

*Five sites are currently being considered as part of an overall site assessment. Four of them are located on the edge of the existing settlement boundary around Felsted village, outside the conservation area. One, the Memorial Site is located within the settlement boundary but outside the conservation area. To facilitate the delivery of all the planned amenities this site would also require a relatively small area of additional land on the edge of the settlement boundary. None of the sites will impact upon identified important open space (identified in the conservation area character appraisal) or important trees and hedgerows (also identified in the conservation area character appraisal).*

*Source: 2017 UDC SEA/HRA screening report for the draft Felsted NP. Available in the June 2018 SEA/HRA screening determination*

- 4.5 Initial comments from Natural England, the Environment Agency and Historic England were received in January 2018 confirming their agreement that the plan did not trigger the need for an SEA.
- 4.6 On 29 May 2018 the three statutory environmental bodies were consulted again by UDC officers on the requirement of a new SEA/HRA Screening Opinion due to the emergence of more detail regarding two specific sites coming forward in the Felsted

Neighbourhood Plan. Comments were received from Natural England in June 2018, from Historic England in May 2018 and from Environment Agency. Again, the three statutory consultees confirmed that they agreed the plan was unlikely to trigger any significant environmental effects.

*June 2018 SEA/HRA Determination Statement*

4.7 Subsequently, in June 2018, UDC published the SEA/HRA determination statement that confirmed draft Felsted NP had been screened out for both SEA and HRA. The detailed comments made by the three statutory bodies are appended to the UDCs June 2018 SEA/HRA screening determination report available to view at <https://www.uttlesford.gov.uk/felstednp>

*August 2018 – A new SEA/HRA Screening Report based on the pre-submission draft of the plan*

4.8 In July, August and September 2018, the draft Felsted NP was published for a formal consultation period under Regulation 14 of the Neighbourhood Planning Regulations (as amended). In August 2018, UDC repeated the SEA/HRA screening work and reconsulted Natural England, the Environment Agency and Historic England. The reason for this was that the pre submission version of the Felsted Neighbourhood Plan included a number of changes that necessitated a review of the work. These changes can be summarised as:

- Removal of community hub chapter. The plan had initially attempted to find a site that would allow the co-location of village amenities in a new Community Hub to include a relocated shop, a new surgery and a substantial community meeting space. Unfortunately for the neighbourhood plan steering group, it was not possible for a deliverable site to be identified that would meet the needs of all stakeholders involved. The community hub chapter is no longer in the plan.
- The inclusion of a village amenities chapter incorporating four policies relating to the Doctor's Surgery, the Memorial Hall, infrastructure priorities and burial ground provision.
- The inclusion of a residential site allocation adjacent to the settlement boundary in Watch House Green.
- The inclusion of a residential site allocation for market housing and a doctor's surgery adjacent to the settlement boundary to the west of Felsted Village.
- The streamlining of policies including removal of policies which were considered to be adequately dealt with in the emerging Local Plan (for examples the countryside and wildlife chapter now has three policies compared to the previous seven policies).

- 4.9 This time, on 13 September 2018, Natural England wrote directly to Uttlesford District Council with regards to their concerns regarding the impact of the Felsted NP on the Blackwater Estuary. The letter notified Uttlesford District Council that the Zone of Influence for the Blackwater Estuary had recently been considerably increased to 22km which meant that the Felsted Neighbourhood Plan area partially fell within it. The letter asserted that the HRA screening for the Felsted NP therefore needed to be updated to reflect this new position. Uttlesford District Council also received responses from the Environment Agency and Historic England which concurred with the screening report's findings of no likely significant effects based on the information provided in the August 2018 screening report.
- 4.10 Following this communication from Natural England, the draft Felsted NP has been subject to appropriate assessment under the Habitats Regulations and the Felsted NP has been subsequently updated to include a standalone planning policy relating to developments that come forward within the area which falls within the Blackwater Estuary Zone of Influence.

**Appendix 1 – Responses from the statutory consultees  
to the Update April 2019 SEA screening  
report.**

Date: 13 May 2019  
Our ref: 279555  
Your ref: N/A



[Demetria.macdonald@uttlesford.gov.uk](mailto:Demetria.macdonald@uttlesford.gov.uk)  
cc. [planning.policy@uttlesford.gov.uk](mailto:planning.policy@uttlesford.gov.uk)

**BY EMAIL ONLY**

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

T 0300 060 3900

Dear Demetria Macdonald

### **Felsted Neighbourhood Plan – Updated SEA Screening**

Thank you for your consultation on the above dated 10 April 2019.

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.

Natural England is a statutory consultee in neighbourhood planning and must be consulted on draft neighbourhood development plans by the Parish/Town Councils or Neighbourhood Forums where they consider our interests would be affected by the proposals made.

### **Felsted Neighbourhood Plan**

The following comments are subsequent to Natural England's previous responses on the Felsted Neighbourhood plan. Please see the letters reference 274064 (dated 18 March 2019) and 255490 (13 September 2018) for Natural England's comments to date.

The Felsted Neighbourhood plan area falls within the Zone of Influence (Zoi) for the Essex Coast Recreational Disturbance and Avoidance and Mitigation Strategy (RAMS) On this basis Natural England advised that an Appropriate Assessment should be undertaken and advised that a Sustainable Environment Appraisal (SEA) as a requirement of the legislation where:

*5 (3) The description is a plan or programme which, in view of the likely effect on sites, has been determined to require an assessment pursuant to Article 6 or 7 of the Habitats Directive.'*

*... 'The requirement for environmental assessment applies.....to any plan or programme which, in view of the likely effect on sites, has been determined to require an assessment pursuant to Article 6 or 7 of Council Directive 92/43/EEC on the conservation of natural habitats and of wild flora and fauna, as last amended by Council Directive 97/62/EC (regulation 5(1) to (3); Article 3.2 of the Directive)'*

Natural England understands that the current consultation responds to this advice with the prepared SEA Screening.

### Felsted Neighbourhood Plan – SEA Screening

We note the exception to such an approach where plans determine the use of *small areas at a local level* (Article 3.3) provided the plan is not likely to have a significant effect. Natural England cannot offer advice on how the relevant legislation should be followed or interpreted and recommend you seek your own legal advice on whether a SEA is required, if you wish to apply this exception. In this case the HRA has established through an Appropriate Assessment that mitigation is necessary in line with the emerging Essex Coast RAMS to ensure no adverse effect on site integrity.

The conclusions of the updated SEA screening identifies there are no likely significant effects when considering the Felsted Neighbourhood Plan in terms of the language of the SEA Directive. Whilst Natural England has no comment on this conclusion, the report also states that no likely significant effects have been identified through the HRA process (see para 4.3) which Natural England disagrees with. It should be noted that the definition of “likely significant effects” as used by the Habitats Regulations has been tested through European case law, however the use of the same terms under different legislation may have a broader meaning. In the case of the Habitats Regulations, “significant” sets a low threshold bar, which may not necessarily transpose across into the SEA Regulations, which may offer greater latitude. The requirement of an Appropriate Assessment in the case of the Felsted Neighbourhood Plan is due to the identified in-combination recreational pressure impacts on the Essex Coast designated sites. Likely significant effects in the case of the Felsted NP therefore cannot be ruled out by definition, however through the inclusion of appropriate mitigation and policy obligations it is agreed that the Plan will not have an adverse effect on European site integrity.

We would also advise the SEA screening should consider, as per Natural England’s letter dated 5<sup>th</sup> April 2019, the Hatfield Forest recreational pressure issues and the findings of the Footprint Ecology report commissioned by the National Trust. This report has identified a Zone of Influence of 14.6km which incorporates part of Felsted Parish. Noting distance and the level of allocated development, it is advised that reference be made to these issues in your assessment.

For clarification of any points in this letter, please contact Heather Read on [heather.read@naturalengland.org.uk](mailto:heather.read@naturalengland.org.uk). For any further consultations on your plan, please contact: [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk).

Yours sincerely

Heather Read  
Essex Area Delivery Team



Miss Demetria Macdonald  
Uttlesford District Council  
Council Offices London Road  
Saffron Walden  
Essex  
CB11 4ER

**Our ref:** AE/2018/123158/02-L01  
**Your ref:** SEA Screening  
**Date:** 15 May 2019

Dear Miss Macdonald

**FELSTED NP UPDATED SEA HRA SCREENING REPORT**

Thank you for re-consulting us on the above Strategic Environmental Assessment (SEA). We have reviewed the SEA as submitted and can confirm we have no further comments to make as the amendments made do not affect elements that fall under our statutory remit.

Yours sincerely

**Miss Natalie Kermath**  
**Planning Advisor**

Dear Demetria,

Thank you for your email. The extension of the ZoI for the Blackwater Estuary SPA and RAMSAR site will not have a bearing the conclusions of our previous consultation response on the Felsted Neighbourhood Plan SEA screening, so we would refer you to that original response in relation to this updated consultation.

I trust that this is helpful.

Kind regards,

Edward



**Appendix 2 – Strategic Environmental Assessment SEA  
Screening Update April 2019**

# Neighbourhood Plan for Felsted Parish

## Strategic Environmental Assessment (SEA) Screening Report

Update April 2019

---

## Table of Contents

1. Introduction .....	3
2. Legislative Background to SEA.....	8
3. Criteria for determining likely significance of effects on the environment .....	13
4. SEA Conclusions .....	28

Appendix 1 – Responses from the statutory consultees to the August 2018 SEA/HRA screening report.

## Introduction

---

- 1.1 On 14 June 2018 and following consultation with the statutory consultation bodies (the Environment Agency, Natural England and English Heritage), Uttlesford District Council reached a determination that version 7.6.1 of the Felsted Neighbourhood Plan is unlikely to result in significant environmental effects (and therefore does not require a Strategic Environmental Assessment) and is unlikely to result in significant effects on any European sites (and therefore no Habitats Regulation Assessment is required).
- 1.2 In August 2018, Uttlesford District Council (UDC) contacted the three statutory consultees for the purpose of undertaking an updated SEA and HRA screening exercise to reflect the updated pre-submission (Regulation 14 under the Neighbourhood Planning (general) Regulations as amended) version of the Neighbourhood Plan. Pre-submission consultation on the plan ended on 21 September 2018.
- 1.3 The responses from the statutory consultees following the August 2018 consultation are appended to this report.
- 1.4 The pre-submission draft included a number of changes which had necessitated a review of the SEA/HRA screening work back in August 2018. Key changes included:
  - Removal of community hub chapter. The plan had initially attempted to find a site that would allow the co-location of village amenities in a new Community Hub to include a relocated shop, a new surgery and a substantial community meeting space. Unfortunately for the neighbourhood plan steering group, it was not possible for a deliverable site to be identified that would meet the needs of all stakeholders involved. The community hub chapter is no longer in the plan.
  - The inclusion of a village amenities chapter incorporating four policies relating to the Doctor's Surgery, the Memorial Hall, infrastructure priorities and burial ground provision.
  - The inclusion of a residential site allocation adjacent to the settlement boundary in Watch House Green.
  - The inclusion of a residential site allocation for market

housing and a doctor's surgery adjacent to the settlement boundary to the west of Felsted Village.

- The streamlining of policies including removal of policies which were considered to be adequately dealt with in the emerging Local Plan (for example the countryside and wildlife chapter now has three policies compared to the previous seven policies).

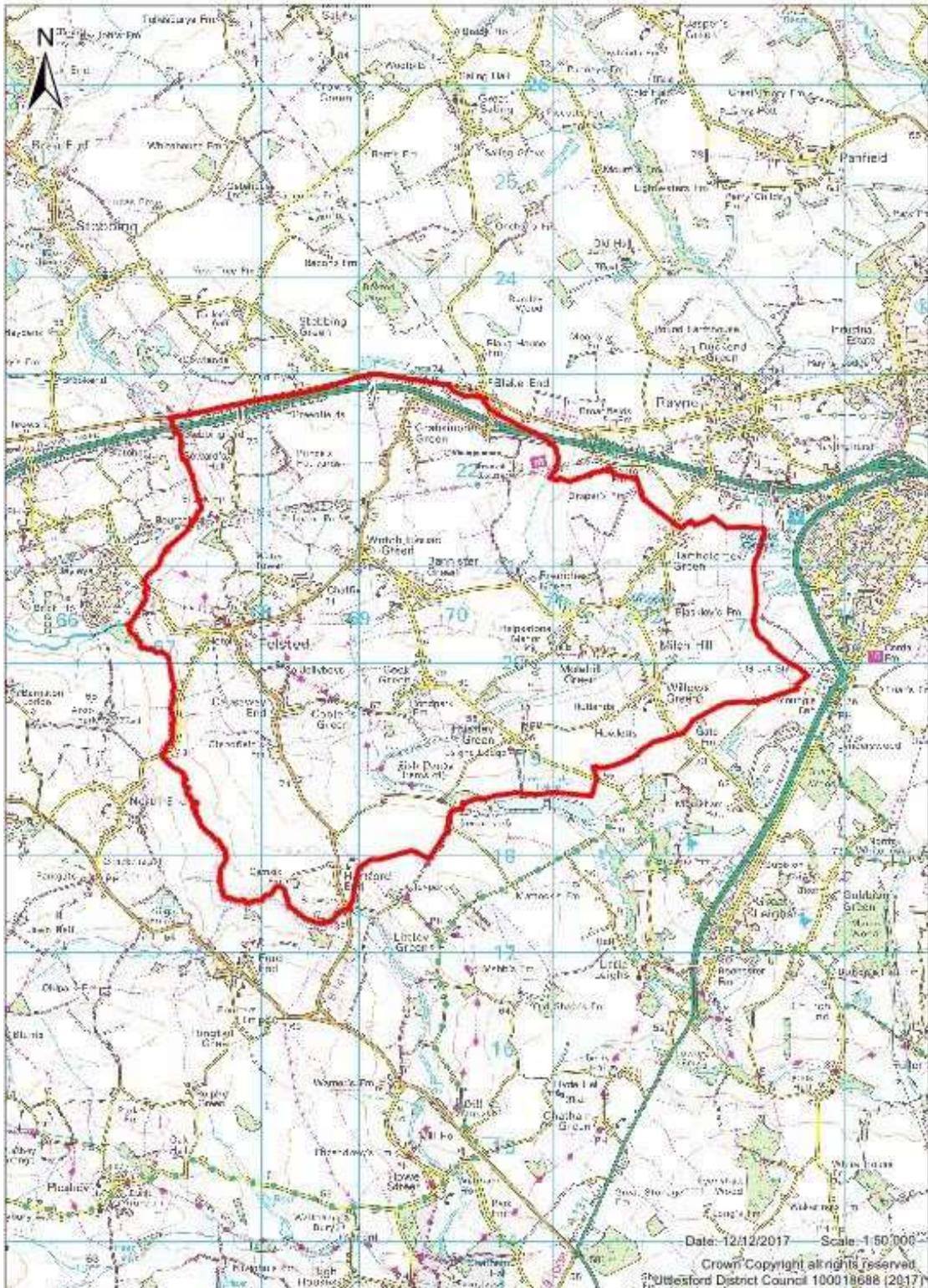
- 1.5 On 13 September 2018, UDC received a letter from Natural England whereby Natural England informed UDC that the zone of influence for the Blackwater Estuary SPA and Ramsar site had been increased following updated information collected as part of visitor surveys. The zone of influence increased from 8km to 22km. This had direct implications for the neighbourhood plan since a sizable part of the plan area now fell within the zone of influence including one site allocation for 24 additional homes at Watch House Green. Natural England advised UDC that the neighbourhood plan needed to be subject to an appropriate assessment due to this change in circumstance.
- 1.6 The appropriate assessment under the Habitats Directive and Conservation of Habitats and Species Regulations 2017 has subsequently been undertaken.
- 1.7 The purpose of this document is to help determine whether or not this change in circumstance also required the draft Felsted Neighbourhood Plan to be subject to a an environmental assessment (Strategic Environmental Assessment (SEA)) in accordance with the European Directive 2001/42/EC and associated Environmental Assessment of Plans and Programmes Regulations 2004.**
- 1.8 Uttlesford District Council (UDC) is required to consult the statutory bodies, the Environment Agency, Natural England and English Heritage prior to reaching a screening determination and will use this report as a basis for this consultation.

### **Introduction to Felsted**

- 1.9 Felsted Parish lies in the south-east corner of Uttlesford District, some 14.5 kilometres directly north of the City of Chelmsford. Felsted Parish adjoins the parishes of Stebbing, Flitch Green and Little Dunmow, Great Waltham, Little Leighs, Great Leighs, Great Notley, Braintree, Rayne and Great Saling. The parish comprises Felsted village at its heart and 15 individual Greens and Hamlets.

- 1.10 The Felsted Neighbourhood Plan Area (See Figure 1) was designated on 5 December 2015. The total population of the area is approximately 3,000 and is characterised by an ageing population. Most of the residents commute to London and surrounding towns to work. The largest employer in the Parish is the Felsted School.

**Figure 1: Felsted Neighbourhood Plan Area**



1.11 Felsted Parish is located in a beautiful rural setting with many attractive features including an 'ancient monument' the Fishponds that stretch from Leez Priory to Leez Lodge and important woodland in Stebbing Road to the southwest of the Flitch Way. The village of Felsted is the heart of the Parish and the village centre is a place of great historical importance with 150 listed buildings. Most of the village centre is within the designated Conservation Area with approximately 50 listed buildings.

1.12 The pre-submission draft of the Felsted NP includes the following vision:

*Over the Plan period Felsted will continue to be a special place to live in a rural setting.*

*Our village amenities will have been expanded and enhanced, particularly our primary health care and village shopping. We will have a new larger community hall providing a focus for Parish public and private events.*

*Congestion at peak times will have been eased and pedestrians will be able to move around the village centre and our schools in safety and comfort.*

*The setting of listed buildings in the village centre along with Holy Cross Church will have been protected in an enhanced public space, which will have created a clearly defined historic centre, articulating to residents and visitors the value and importance of this ancient settlement dating back to the Domesday Book.*

*The dispersed nature of the Parish of Felsted with its 15 individual Greens and hamlets will remain. This Plan will have ensured the character and identity of this place and its ecology are protected from housing and infrastructure changes in the surrounding area.*

*Felsted will have met housing needs and supported additional market housing development where it supports provision of parish amenities and facilitates continuity of residence in the Parish.*

*Local employment will have been encouraged through supporting small business development.*

*Our schools will continue to be emblematic of educational excellence, meet emerging demands and will play an active role in the community.*

*The natural environment will have been protected and enhanced.*

*New technology will have been used to provide information to users of footpaths and bridleways about the historical setting of the countryside, its wildlife and what might be expected to be seen at any given location.*

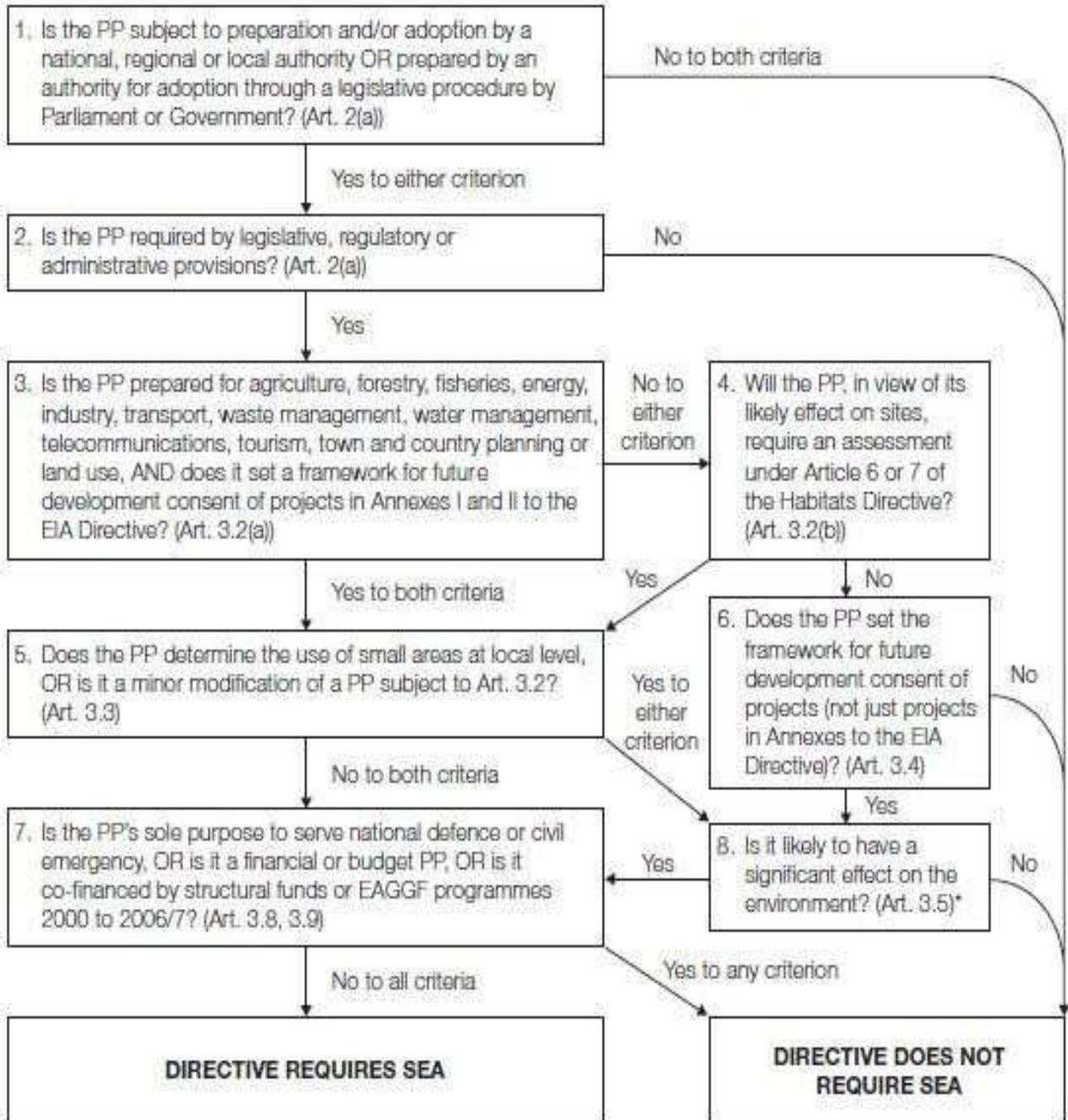
## 2. Legislative Background to SEA

---

- 2.1 The basis for Strategic Environmental Assessments legislation is European Directive 2001/42/EC which was transposed into English law by the Environmental Assessment of Plans and Programmes Regulations 2004, often referred to as the “*SEA Regulations*”. Detailed guidance of these regulations can be found in the Government publication “A Practical Guide to the Strategic Environmental Assessment Directive” (ODPM 2005) available to view at <https://www.gov.uk/government/publications/strategic-environmental-assessment-directive-guidance>
- 2.2 The Government publication “A Practical Guide to the Strategic Environmental Assessment Directive” (ODPM 2005) includes a useful table intended as a guide to the circumstances where the SEA directive applies to plans and programmes. This is reproduced below:

**Figure 2 – Application of the SEA Directive to plans and programmes**

This diagram is intended as a guide to the criteria for application of the Directive to plans and programmes (PPs). It has no legal status.



\*The Directive requires Member States to determine whether plans or programmes in this category are likely to have significant environmental effects. These determinations may be made on a case by case basis and/or by specifying types of plan or programme.

2.3 The table below uses the diagram above to help determine whether or not the SEA directive applies to the Felsted Neighbourhood Plan.

Stage	Response	Outcome	Comment
1. Is the NP subject to preparation and/or adoption by a national, regional or local authority OR prepared by an authority for adoption through a legislative procedure by Parliament or Government? (Art. 2(a))	Yes	Go to question 2	The preparation and adoption of the NP is allowed under The Town and Country Planning Act 1990 as amended by the Localism Act 2011. The NP is being prepared by Felsted Parish Councils (as the "relevant body") and will be "made" by Uttlesford District as the local authority. The preparation of NPs is subject to the following regulations: The Neighbourhood Planning (General) Regulations 2012 and The Neighbourhood Planning (referendums) Regulations 2012
2 Is the NP required by legislative, regulatory or administrative provisions? (Art. 2(a))	Yes	Go to question 3	Whilst the Neighbourhood Plan is not a requirement and is optional under the provisions of The Town and Country Planning Act 1990 as amended by the Localism Act 2011, it will, if "made", form part of the statutory Development Plan for the District.
	No	NO SEA required	
3. Is the NP prepared for agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use, AND does it set a framework for future development consent of projects in Annexes I and II (see Appendix 2) to the EIA Directive? (Art 3.2(a))	Yes to both	Go to question 5	The Neighbourhood Plan does not set the framework for future development consent of projects in Annexes I and II to the EIA Directive (see Appendix 2 for list).
	No to either	Go to question 4	
4. Will the NP, in view of its likely effect on sites, require an	Yes	Go to question 5	Appropriate Assessment under the Habitats Directive undertaken separately.

Stage	Response	Outcome	Comment
assessment for future development under Article 6 or 7 of the Habitats Directive? (Art. 3.2 (b))		Go to question6.	
5. Does the NP determine the use of small areas at local level, OR is it a minor modification of a PP subject to Art. 3.2? (Art. 3.3)	Yes to either	Go to question 8	Yes, the NP determines the use of a small area at a local level
	No to both	Go to question7.	
6. Does the NP set the framework for future development consent of projects (not just projects in annexes to the EIA Directive)? (Art 3.4)	Yes	Go to question8	The Neighbourhood Plan is to be used for determining future planning applications.
	No	Does not require SEA	
7. Is the NP's sole purpose to serve the national defence or civil emergency, OR is it a financial or budget PP, OR is it co-financed by structural funds or EAGGF programmes 2000 to 2006/7? (Art 3.8, 3.9)	Yes to any criteria	Does not require SEA	Not applicable
	No to all criteria	Requires SEA	
8. Is it likely to have a significant effect on the environment? (Art 3.5)	Yes	Requires SEA	Section 3 finds no Likely significant effects.
	No	Does not require SEA	

- 2.4 The table above indicates that an environmental assessment of the Felsted Neighbourhood Plan is only required if it is likely to have a significant effect on the environment.
- 2.5 UDC has considered the comment made by Natural England regarding its concern for further SEA work. The fact that the NP has triggered the need for HRA under the Habitats Regulations (now that the Blackwater Estuary zone of influence has been increased to 22km) raises the questions as to whether this automatically triggers the need for a strategic environmental assessment (SEA).
- 2.6 Article 2 of the SEA directive states (in paragraph 2) that an environmental assessment shall be carried out for all plans and programmes which have been determined to require an assessment pursuant to Article 6 or 7 of the Directive 92/43/EEC (i.e. identified as requiring an appropriate assessment under the Habitats Directive). Paragraph 3 of Article 2 however then states

that plans and programmes referred to in paragraph 2 which determine the use of small areas at local level shall require an environmental assessment only where the Member States determine that they are likely to have significant environmental effects. So the question as to whether the need for SEA is triggered comes back to the assessment of likely significant effects.

- 2.7 The approach taken in the EU Directive 2001/42/EC is repeated in the UK's Environmental Assessment of Plans and Programmes Regulations 2004 which states in Regulation 5 paragraph 6 that an environmental assessment need not be carried out for a plan or programme which determines the use of a small area at local level unless it has been determined that the plan or programme is likely to have significant environmental effects. As with the EU Directive, the Regulations also require the assessment to focus on the assessment of likely significant effects.

### 3. Criteria for determining likely significance of effects on the environment

---

- 3.1 When determining whether an NP requires SEA, the SEA Regulations require that the criteria set out in Schedule 1 of the SEA Regulations be considered. These are the criteria “for determining the likely significance of effects on the environment”. These criteria are split into two categories: those relating to the characteristics of the plan and those relating to the characteristics of the effects and area likely to be affected.

#### **Plan characteristics**

- the degree to which the plan or programme sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources
- the degree to which the plan or programme influences other plans and programmes including those in a hierarchy
- the relevance of the plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development
- environmental problems relevant to the plan or programme
- the relevance of the plan or programme for the implementation of [European] Community legislation on the environment (for example, plans and programmes linked to waste management or water protection).

#### **Characteristics of the effects and of the plan area likely to be affected**

- the probability, duration, frequency and reversibility of the effects
- the cumulative nature of the effects
- the transboundary nature of the effects
- the risks to human health or the environment (for example, due to accidents)
- the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected)
- the value and vulnerability of the area likely to be affected due to
  - special natural characteristics or cultural heritage
  - exceeded environmental quality standards or limit values
  - intensive land-use
- the effects on areas or landscapes which have a recognised national, Community or international protection status

- 3.2 In order to identify any likely significant environmental effects, Table 1 (below) considers the characteristics of the Felsted Neighbourhood Plan and Table 2 considers the characteristics of the effects and the area likely to be affected. Importantly, the information set out in the plan characteristics has been updated to

take into account changes to the plan that has occurred since pre-submission consultation in response to consultation feedback. This includes:

- deletion of policy RE5 which had identified an area of land. Policy RE5 identifies an area of land between the A120 and the B1256 between the bridge at Straits Farm and junction with the B1417 as an area where new business premises will be supported.
- addition of Policy CW4 relating to green infrastructure.
- addition of a new policy in the housing chapter relating to the Blackwater Estuary SPA and Ramsar site zone of influence clarifying requirements for any proposals coming forward within this part of the plan area.

**Table 1: Assessment against the criteria for determining the likely significance of environmental effects – Describing the Plan Characteristics**

- **the degree to which the plan or programme sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources**

Alongside the Local Plan, the Felsted NDP provides the statutory development plan for the parish of Felsted. This means planning applications will be determined against its policies. The draft Felsted NDP includes the following policies:

**Protecting the Historic Village Centre:**

Policies HVC1 to HVC5 seek to preserve and improve access to the Historic Village Centre by allowing for the relocation of key causes of congestion – like the village shop and Post office to a better, more accessible location, ensure that additional off-road parking is provided to enhance visual amenity. An extended and enhanced open space adjacent to Holy Cross

**Village Amenities**

Policies VA1 – VA4 are focused on retaining or enhancing village amenities. Policy VA2 supports the redevelopment of the Memorial Hall to accommodate expanded capacity and safeguards its community use in the event that an expanded Memorial Hall can be re-provided elsewhere in the parish. Policy VA3 provides clarification regarding community infrastructure priorities and Policy VA4 supports additional burial ground provision.

**Supporting our Schools:**

Policies SC1 to SC7 seek to support the growth and development of schools and secure the future of a primary school in the Parish but also ensure they reduce congestion, mitigate impact of school traffic, control parking and improve road safety and where appropriate, encourage wider community use of school facilities. Policy SC7 states that in the event that the existing Felsted Primary School is successfully relocated to an alternative location in the plan area, the principle of market housing on the site will be supported in principle subject to housing mix requirements.

**Housing Need:**

Draft policies HN1 to HN8 are intended to maintain the rural character and heritage of the Parish as characterised in the AECOM Heritage and Character Assessment and to:

- meet any identified need for affordable housing;
- help younger people remain in the Parish;
- ensure development is controlled and sustainable;
- extract maximum community benefit from major development;
- encourage the development of small high –quality homes suitable for downsizers with local connection to the Parish;

**Table 1: Assessment against the criteria for determining the likely significance of environmental effects – Describing the Plan Characteristics**

- protect the Parish and its constituent hamlets from coalescence and
- protect the character and heritage of the Parish.

Policy HN1 establishes a housing target of 63 new dwellings to be delivered on sites allocated in the Neighbourhood Plan.

Policy HN2 allocates the Sunnybrook Farm site for up to 24 market homes. This site is adjacent to the settlement boundary and next to the existing Felsted Primary School. The site assessment report accompanying the NP indicates the area of the site is 1.3 hectares. The site allocation requires provision of a new access road, a kiss and drop facility and off-road landscaped car parking provision, including contingency provision pending future expansion of the primary school. The policy includes the requirement that the development is to be well-screened to the western and northern boundaries to mitigate the visual impact of the development on the landscape.

The suitability, deliverability and availability of the sites have been assessed as part of a site assessment process. This site has been selected in the plan due to the benefits it can deliver with regard to alleviating existing traffic congestion issues around Felsted Primary School.

Policy HN3 allocates the Bury Farm site for up to 39 market homes and for the development of a doctor's surgery. The Site assessment report accompanying the plan indicates the developable area of this site is 4hectares. The site is adjacent to the existing settlement boundary to the west of Felsted village. The site allocation requires that development does not extend beyond the end of the built form on the southern side of Station Road in order to avoid coalescence with Flitch Green and to retain a positive visual transition into the village. The suitability, deliverability and availability of the sites have been assessed as part of a site assessment process. This site is also included in the Regulation 19 draft of the Local Plan. This site has been selected in the plan due to the benefits it can deliver with regard to securing the delivery of a doctor's surgery which in turn will ensure the continued existence of doctors serving Felsted parish (the existing premises are insufficiently small and inadequate to meet the needs of the existing surgery staff).

It is noted that as part of the previous consultation on the December 2017 SEA/HRA screening report for the previous version of the neighbourhood plan Historic England officers commented on the potential of the Bury Farm site to impact upon important views of Felsted and its striking church tower and it was suggested that the neighbourhood plan includes some wording regarding the scale, form, layout, landscaping and materials of development in this area. The NP now allocates this site itself (see HN3) and includes the requirement that the elevated topography of the site and the effect of the development on the landscape and views that make a contribution to the character of Felsted are addressed.

Policy HN4 supports in principle housing developments within existing settlement boundary subject to criteria including

**Table 1: Assessment against the criteria for determining the likely significance of environmental effects – Describing the Plan Characteristics**

	<p>proposals contributing positively to the character and heritage of the parish, proposals not having an unacceptable impact on congestion in the historic village centre.</p> <p>Policy HN5 resists residential development proposals outside the settlement boundary other than those identified in the site allocations, development associated with rural exception sites and development allowed in exceptional circumstances by other policies in the plan.</p> <p>Policy HN6 allows the development of single supplemental dwellings within the curtilage of existing dwellings where the supplementary dwelling is essential to maintaining a familial or community link to an older person.</p> <p>Policy HN7 is a housing mix policy applicable to all residential development proposals.</p> <p>Policy HN8 is a policy incorporated into the plan following notification from Natural England that the zone of influence for the Blackwater Estuary SPA and Ramsar site had been increased to 22km and therefore included part of the parish. The policy reads:</p> <p><i>Any residential proposals that fall within the Blackwater Estuary SPA and Ramsar site Zone of Influence (see Figure 2) shall either:</i></p> <ul style="list-style-type: none"> <li>• <i>be accompanied by the project level Habitats Regulation Assessment which will demonstrate that the development proposal will have no adverse effects on the integrity of the European site; or,</i></li> <li>• <i>in the case of the Essex RAMS SPD being adopted, be subject to a financial contribution towards avoidance and mitigation measures as specified in the Recreational disturbance and Avoidance and Mitigation Strategy (RAMS) for the Essex Coast.</i></li> </ul> <p><b>Integrity, Character and Heritage:</b></p> <p>Policies ICH1 to ICH5 seek to maintain the visual integrity of the Parish and address issues of design, preservation of heritage and impact of any necessary infrastructure.</p> <p>Policy ICH1 requires high quality design for all development proposals and includes criteria for different scenarios. This includes for countryside settings:</p> <ul style="list-style-type: none"> <li>• <i>Sensitive treatment of the rural edge particularly around Felsted village with regard to impact on heritage assets and their setting including the surrounding landscape</i></li> <li>• <i>All new build proposals outside the development limits shall be accompanied by a landscape visual impact assessment</i></li> </ul>
--	--

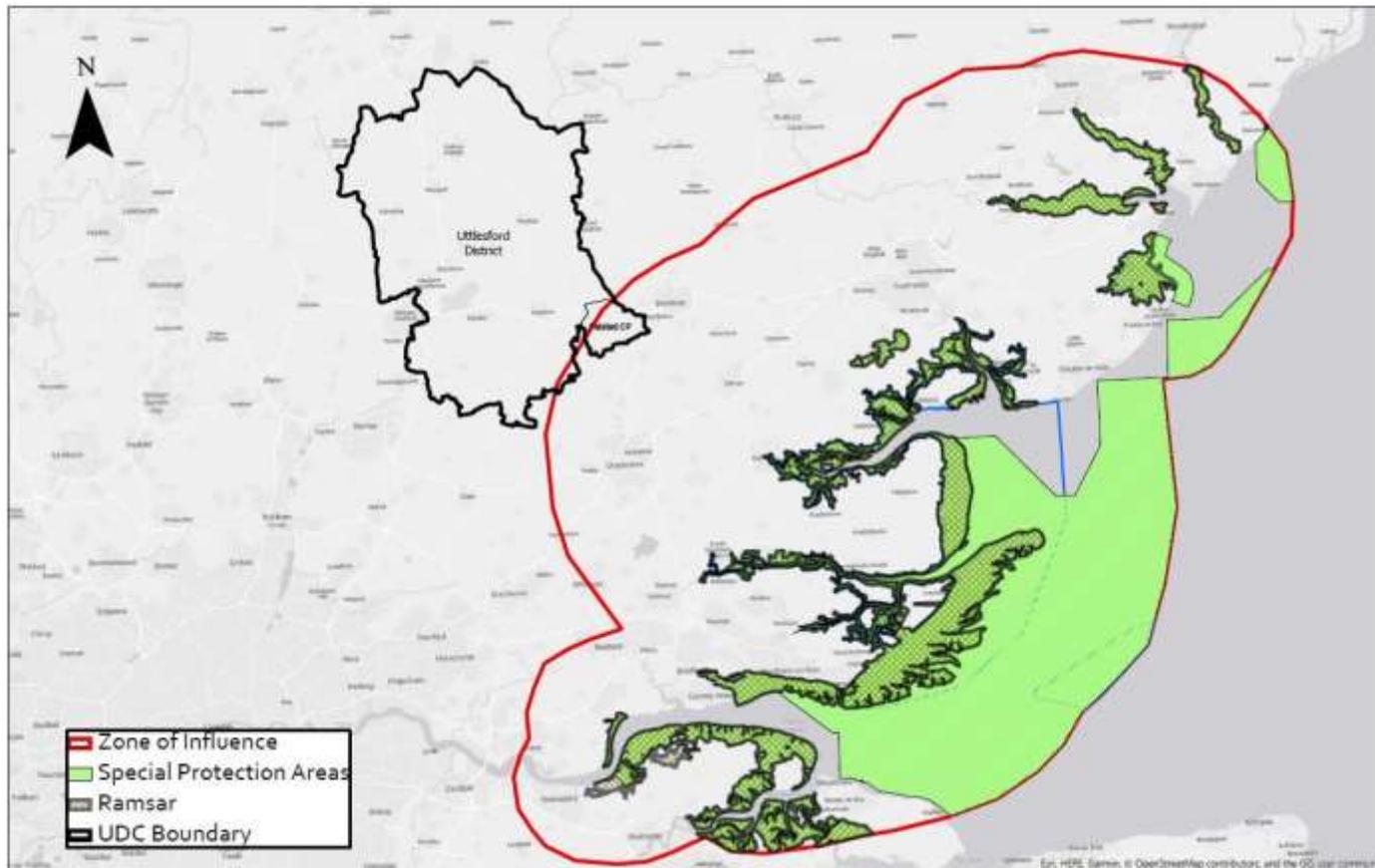
**Table 1: Assessment against the criteria for determining the likely significance of environmental effects – Describing the Plan Characteristics**

	<p>Policy ICH2 applies to all proposals affecting designated and non-designated heritage assets. Policy ICH3 relates to proposals involving additional signage and Policy ICH 4 seeks to limit the impact of cable and light pollution.</p> <p>Policy ICH5 resists all development proposals that would lead to coalescence of Felsted village with any other settlement or hamlets within the parish.</p> <p><b>Supporting the Rural Economy:</b> Policies RE1 to RE4 seek to support the development of the rural economy through small business development and homeworking as well as ensure that they do not damage the rural environment or cause nuisance to others.</p> <p><b>Protecting the Countryside and Wildlife:</b> Policies CW1 to CW4 are focused on protecting the countryside, open spaces and habitats. Policy CW1 protects the countryside for its own sake and resists development that would interrupt or result in severance to landscape character, important views, traditional open spaces, individual greens or hamlets. Policy CW2 designates a specific area in the parish as a nature reserve. Policy CW3 requires development which is on or adjacent to existing public rights of way network to contribute to enhancements/extensions. The policy also supports the development of a circular bridleway route for horse riders. Policy CW4 seeks the protection and enhancement of green infrastructure in the parish.</p>
<ul style="list-style-type: none"> <li>▪ <b>the degree to which the plan or programme influences other plans and programmes including those in a hierarchy</b></li> </ul>	
	There is no statutory plan that will sit underneath the Felsted NDP
<ul style="list-style-type: none"> <li>▪ <b>the relevance of the plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development</b></li> </ul>	
	Before the NDP can be made it will need to be tested against the basic conditions. This includes a requirement to contribute towards the achievement of sustainable development.
<ul style="list-style-type: none"> <li>▪ <b>environmental problems relevant to the plan or programme</b></li> </ul>	
	<p>Environmental problems which the plan seek to tackle are:</p> <ul style="list-style-type: none"> <li>- congestion in the village centre</li> <li>- risk of losing the GP surgery unless alternative premises are secured</li> <li>- development pressure and perceived threat to an existing high quality rural environment as well as built environment.</li> </ul>

**Table 1: Assessment against the criteria for determining the likely significance of environmental effects – Describing the Plan Characteristics**

- the relevance of the plan or programme for the implementation of [European] Community legislation on the environment (for example, plans and programmes linked to waste management or water protection).

There are no conflicts between the Felsted NDP and statutory plans linked to waste, water etc.



**Figure 3:** Blackwater Estuary and Ramsar Zone of Influence. It covers a small area in the south eastern part of Uttlesford District Council and part of Felsted Parish

**Table 2: Assessment against Criteria for determining the likely significance of environmental effects – Characteristics of the effects and the plan area**

▪ **the probability, duration, frequency and reversibility of the effects**

The following likely impacts of the draft plan have been identified theme by theme:

**Biodiversity**

Part of the NP area falls within the Impact Risk Zone of the Garnetts Wood / Barnston Lays SSSI. For planning proposals falling within the SSSI impact zones, there is a requirement to assess the impact on SSSI/SPAs/SACs and Ramsar sites. For this SSSI, however Natural England only require to be consulted on planning proposals involving;

- airports, helipads and other aviation proposals;
- pig and poultry units, slurry lagoons larger than 750 sq. metres and manure stores greater than 3500 t; and
- any discharge of water or liquid water of more than 20m<sup>3</sup>/day to ground (i.e. to seep away) or to surface water, such as a beck or stream (NB this does not include discharges to main sewer which are unlikely to pose a risk at this location).

There is a local nature reserve Felsted Fen within the NP area designated by Natural England as a 'priority habitat'.

The plan area has a variety of flora and fauna as set out below.

**Biodiversity – Blackwater Estuary**

Part of the plan area falls within the recently extended zone of influence for a collection of ten designated European designated sites along the Essex Coast. This includes the Blackwater Estuary SPA and RAMSAR site which is approximately 17km away from the edge of Felsted parish. The settlement of Watch House Green falls within the 22km zone of influence but other parts of the parish do not. The adopted Local Plan (Uttlesford Local Plan 2005) identifies development limits which contains the settlement of Watch House Green and, within this, new infill development proposals may come forward subject to meeting other policies in the Local Plan. The Neighbourhood Plan does not alter this policy approach. However, the NP does include a draft site allocation immediately adjacent to the development limits on the western boundary of the village. The policy allocates the site for 24 new homes alongside a kiss and drop facility to serve the primary school. The area of the site outside the development limits is 1.3 hectares comprising 0.9 hectares for the residential area and the remaining area for primary school kiss and drop facility.

Because this site falls within the 22km zone of influence for the Blackwater Estuary SPA and Ramsar site, the NP has been subjected to a separate appropriate assessment under the Habitats Directive in order to assess in more detail any adverse

**Table 2: Assessment against Criteria for determining the likely significance of environmental effects – Characteristics of the effects and the plan area**

impact on the European site. The HRA screening work finds that the Felsted NP does not have any likely significant effects on the Blackwater Estuary alone, but may have likely significant effects on the Blackwater Estuary in combination with other plans and programmes. The Felsted NP was therefore subjected to appropriate assessment. The findings of the appropriate assessment was that, following the consideration of mitigation measures including the incorporation of HRA policies in the NP the Felsted neighbourhood plan will not result in any likely significant effects on the integrity of European sites alone or in-combination

From the perspective of the SEA it is of key relevance that this particular site is on the far outer edge of the 22 km zone of influence from the Blackwater Estuary. Whilst it cannot be ruled that some of the new occupants of the 24 dwelling scheme will visit the Blackwater Estuary for the purpose of recreational activity such as bird watching it is unlikely, due to the distance away, the scheme itself will be the source generating many or frequent new visits to the Blackwater Estuary. It is relevant here to take into account the number of other sites closer to Felsted where people may visit for similar outdoor recreation activity. Felsted itself has an extensive network of public rights of way and bridleways and residents will have easy access to the countryside.

It is very reasonable to conclude that the extent of the effects of these potential visits on biodiversity will not be significant.

The planning policies in the NP will apply statutory planning policy force to a requirement for all proposals falling within the zone of influence to be accompanied by the project level Habitats Regulation Assessment which will demonstrate that the development proposal will have no adverse effects on the integrity of the European site; or, in the case of the Essex RAMS SPD being adopted, be subject to a financial contribution towards avoidance and mitigation measures as specified in the Recreational disturbance and Avoidance and Mitigation Strategy (RAMS) for the Essex Coast.

In differentiating between the process of SEA screening and HRA screening, it should be noted that the meaning of 'likely' has a different implication under the SEA Directive as it does under HRA Directive.<sup>1</sup> In the SEA Directive 'likely' is applied more consistent with the meaning of the word in the English language; more likely than not. In the HRA Directive a 'likely significant effect' means a 'possible significant effect'. The reason for this derives from the different purposes of the two different pieces of legislation. The SEA Directive seeks to ensure that any likely significant effects on the environment are identified and properly taken into account in the decision making. Whereas under the Habitats Directive an 'appropriate assessment' must be carried out unless the risk of significant effects on the site can be excluded based on objective information.

Notwithstanding the above, the policies included in the NP regarding the Essex Estuaries SAC ensure that there are no likely

<sup>1</sup>. The different interpretation of 'likely significant effect' in the EIA and Habitat Directive is explored in the Habitats Regulations Assessment Handbook published by DTA Publications 2019. This refers to case law for example by the Court of Appeal in *An Tasice* (1 August 2014)

**Table 2: Assessment against Criteria for determining the likely significance of environmental effects – Characteristics of the effects and the plan area**

<p>significant effects (in SEA or HRA terms) on the European sites resulting from the Felsted NP.</p> <p>As far as the legislation on SEA is concerned, any likely significant effects arising from the allocation in Watch House Green on the Blackwater Estuary SPA and Ramsar are ruled out.</p> <p><b>Population</b> The plan area has an ageing population. Felsted's population in relation to the national profile and the Uttlesford profile is comparatively much older.</p> <p>The plan works within the context of the Local Plan in that development will be focused within the existing settlement boundaries designated as development limits in the adopted and emerging Local Plan. In addition, it allocates two sites, both adjacent to existing settlement boundaries to deliver an additional 63 homes during the plan period. The extent of development proposed in the NP is in line with the settlement's status in the settlement hierarchy contained within the adopted and emerging Local Plan. Due to the modest scale of proposals it is considered there would be no significant effect on population resulting from the NP.</p> <p><b>Human Health</b> The parish has an ageing population and an older age profile than at district or county level. This has implications regarding demand on local health services. There is a GP practice currently in the village, but the Practice states their existing facilities are too small and inadequate. In order to continue practicing, they need bigger and more modern facilities. Without the NP in place, there is a real danger the GP practice will close down in the local area and this will have negative impact on the community. The NP seeks to address existing health issues by allocating a site for the provision of new health facilities.</p> <p><b>Fauna</b> The impacts of the NP on fauna are not considered significant at plan level. It is possible that individual development proposals could come forward in line with NP policies which will have adverse impacts on some species. These are not likely to be significant enough to trigger strategic environmental assessment. Furthermore, the Local Plan include policies which would require any impacts on biodiversity to be assessed and where needed mitigated.</p> <p><b>Flora</b> No notable problems but a variety are recorded on <a href="http://www.magic.gov.uk">www.magic.gov.uk</a> including : areas of woodland, traditional orchards, wood pasture and parkland (identified as England Biodiversity Action Plan priority habitat), good quality semi improved grassland and young woodland is distributed throughout the plan area. There is also an area of floodplain grazing land; also a priority</p>
--

**Table 2: Assessment against Criteria for determining the likely significance of environmental effects – Characteristics of the effects and the plan area**

	<p>habitat, in the south of the parish (part of the Leez fish pond).</p> <p>The impacts of the NP on flora are not considered significant at plan level. The development proposed in the NP is unlikely to harm sites in the plan area with existing notable features of flora (areas of woodland, traditional orchards, wood pasture and parkland (identified as England Biodiversity Action Plan priority habitat), good quality semi improved grassland or young woodland or area of floodplain grazing land). It is possible that individual development proposals could come forward in line with NP policies which will have adverse impacts on flora. These are not likely to be significant enough to trigger strategic environmental assessment. Furthermore, the Local Plan include policies which would require any impacts on biodiversity to be assessed and where needed mitigated.</p> <p><b>Soil</b></p> <p>The NP area contains Grade 2 (Very Good) and Grade 3 (moderate to good) agricultural land/soil quality. The proposals in the NP could lead to loss of land outside the existing settlement boundary around Felsted village and Watch House green. This loss however is not considered significant.</p> <p><b>Water</b></p> <p>The majority of the rivers and tributaries, Chelmer and Ter catchments, are defined as ‘moderate’ for overall risk for Water Framework Directive purposes. The legislation states that i) there should be no deterioration in classification and that all watercourses must achieve an overall good classification by 2027.</p> <p>As recorded on <a href="http://www.magic.gov.uk">www.magic.gov.uk</a>, the whole of the NP plan area falls within a Nitrate Vulnerable Zone for surface water as reviewed in 2017. Nitrate Vulnerable Zones (NVZs) are areas designated as being at risk from agricultural nitrate pollution. The designations are made in accordance with the Nitrate Pollution Prevention Regulations 2015. Surface Waters are defined within the Nitrates Directive as polluted if they contain or could contain, if preventative action is not taken, nitrate concentrations greater than 50mg/l.</p> <p>Alongside a large part of Essex, the NP area falls within a drinking water safeguard zone for surface water. Drinking Water Safeguard Zones (Surface Water) are catchment areas that influence the water quality for their respective Drinking Water Protected Area (Surface Water), which are at risk of failing the drinking water protection objectives. These non-statutory Safeguard Zones are where action to address water contamination will be targeted, so that extra treatment by water companies can be avoided. Safeguard Zones are a joint initiative between the Environment Agency and water companies. Safeguard Zones are one of the main tools for delivering the drinking water protection objectives of the Water Framework Directive.</p>
--	---

**Table 2: Assessment against Criteria for determining the likely significance of environmental effects – Characteristics of the effects and the plan area**

	<p>The whole of the NP plan area falls within a Nitrate Vulnerable Zone for ground water and surface water as reviewed in 2017. Nitrate Vulnerable Zones (NVZs) are areas designated as being at risk from agricultural nitrate pollution. The NP proposes an element of housing development in addition to that set out in the Local Plan. Housing development will not expose the area to further agricultural nitrate pollution.</p> <p>Neither is the residential development likely to impact upon the drinking water safeguard zone for surface water which the parish falls within.</p> <p>The proposals in the NP are not considered likely to impact significantly on water.</p> <p><b>Air</b></p> <p>There will be limited impacts on air quality as a result of the residential development proposed in the NP. The plan does seek to address traffic congestion that exists in Felsted village and from this perspective there could be a positive impact.</p> <p><b>Climatic Factors</b></p> <p>The NP area is largely within fluvial Flood Zone 1. The River Chelmer, the River Ter and Stebbing Brook all mark corridors of Flood Zone 2 and 3. Flood risk from surface water flooding is more prevalent; covering areas in addition to the three river corridors.</p> <p>The areas where additional development could come forward within the plan area as a result of the NP are not areas exposed to high fluvial or surface water flooding. There will be no impact resulting from the NP in this regard.</p> <p><b>Cultural Heritage</b></p> <p>There are 189 listed buildings within the plan area including eight Grade 1, six Grade II* and 175 Grade II listed buildings</p> <p>There is a conservation area within Felsted village which contains a concentration of 50 listed buildings</p> <p>There is a scheduled monument; the Leez Augustinian Priory, fishponds and Tudor mansion, Leez</p> <p>The NP area has a rich cultural heritage. This is well documented in the Felsted Conservation Area character Appraisal as well as the Heritage and Character Assessment (HCA) that has been undertaken to inform the plan development. The Felsted</p>
--	--

**Table 2: Assessment against Criteria for determining the likely significance of environmental effects – Characteristics of the effects and the plan area**

	<p>HCA breaks the NP area into 5 different character areas. This includes Felsted Village which will be the focus of development in the plan period including the proposed community hub. The HCA states the following of the Felsted village character area:</p> <p>Key Characteristics:</p> <ul style="list-style-type: none"> <li>• The village is located on a plateau of higher ground with land sloping down towards the River Chelmer to the west beyond the edge of the village;</li> <li>• A diverse but distinctive vernacular;</li> <li>• Intricate and interesting roof-scape of red tiles, red brick chimney stacks and chimneys;</li> <li>• An intimate scale within the historic core resulting from the fine grain and consistent building line;</li> <li>• Buildings and private curtilages are well managed, creating an overall perception of a well-maintained townscape;</li> <li>• Strong historical and cultural associations, particularly in relation to Felsted School;</li> <li>• Substantial areas of well-maintained green space within Felsted School, which provide the setting of the historic buildings of the school;</li> <li>• Views are typically channelled by buildings along road corridor, but are more open across Felsted School; and</li> <li>• The village is surrounded by recreation grounds, allotments and sportspitches associated with Felsted School.</li> </ul> <p>Positive aspects of character which should be sustained, reinforced or enhanced:</p> <ul style="list-style-type: none"> <li>• Intricate, distinctive yet diverse vernacular of the area;</li> <li>• Generally high level of management and maintenance of buildings and private green space;</li> <li>• Limited and palette of street furniture which is reflective of the historic character of the village;</li> <li>• High level of preservation of historic fabric in the core of the village;</li> <li>• A diversity of traditional construction materials, particularly within the Felsted conservation area, including various façade treatments of vernacular timber framed buildings to polite gothic revival style polychromatic brick which together contribute to local distinctiveness;</li> <li>• Church of Holy Cross and Felsted School is taller than other buildings in the village and forms a local landmark;</li> <li>• Open space both within the village and the rural fringes, contribute positively to the setting and significance of heritage assets in the LCA;</li> <li>• The generally narrow streets and tight building lines create a sense of enclosure in the historic core.</li> </ul> <p>Identified issues which could be addressed through new development or active management:</p> <ul style="list-style-type: none"> <li>• Shop fronts and signage is not always sensitive to the historic character of the building or setting of the village;</li> <li>• High volumes of traffic and parked cars are a particular issue at peak times during the school term; and</li> <li>• On-street parking along Station Road and Braintree Road detracts from the setting of the historic core.</li> </ul>
--	---

**Table 2: Assessment against Criteria for determining the likely significance of environmental effects – Characteristics of the effects and the plan area**

	<p>Elements which are particularly sensitive to change:</p> <ul style="list-style-type: none"> <li>• The extension of Felsted School has been sensitive in respect of the surrounding character of the landscape; however, the cumulative effect of expansion has potential to erode the historic character of the area;</li> <li>• The introduction of further utility poles with associated wires, along with TV aerials and satellite dishes threatens the intricate and interesting roof-scape, particularly within the historic core of the area.</li> <li>• The rural edges of the village are sensitive to urban expansion;</li> <li>• The gaps formed by open countryside between the village of Felsted and Causeway End.</li> </ul> <p>The policies in the NP are informed by the findings of the Felsted HCA. However the plan also proposes additional development on the edge of Felsted village which have been identified as sensitive to urban expansion. The HCA also identifies the gap between the village of Felsted and Causeway End being sensitive to change. Site allocation HN3 however includes a criterion that development does <i>“not extend beyond the end of the built form on the southern side of Station Road and provide landscaping and screening to the edge of the built up area of the development to avoid coalescence with Flitch Green and provide a positive visual transition into the village”</i>. Design policies in the NP (see Integrity, Character and Heritage section) also require that all development proposals contribute positively to the character and heritage of the Parish. Policy ICH5 also resists all development proposals that would lead to coalescence between Felsted and any other hamlets</p> <p>As a whole the policies in the NP provide useful added context so that more strategic policies set in the Local Plan regarding heritage can be implemented more rigorously at the local level within the NP area. The limit of new development alongside strong policy criteria regarding the impacts of the built form on existing heritage assets means that impact is not considered significant. The draft plan does not provide land areas for the allocated sites but the site assessment report accompanying the plan indicates the area of HN2 is 1.3 hectares and the developable area of HN3 is 4.0 hectares.</p> <p><b>Landscape</b></p> <p>The study area falls within National Character Area (NCA) 86 - Suffolk and North Essex Clayland as defined by Natural England. At a local level, Felsted is characterised in the Braintree, Brentwood, Chelmsford, Maldon and Uttlesford Landscape Character Assessments. In October 2005 these Councils jointly commissioned comprehensive Landscape Character Assessments of their respective areas. Felsted falls within Landscape Character Area (LCA) B16- Felsted Farmland Plateau, the key characteristics of which are:</p> <ul style="list-style-type: none"> <li>• “Gently undulating farmland”;</li> <li>• “Network of narrow, winding lanes”;</li> <li>• “Many small woods and copses provide structure and edges in the landscape”;</li> <li>• “The farmland is predominantly arable with field boundaries delineated by fragmented hedgerows”;</li> </ul>
--	--

**Table 2: Assessment against Criteria for determining the likely significance of environmental effects – Characteristics of the effects and the plan area**

	<ul style="list-style-type: none"> <li>• “The views are open to panoramic across the farmland. The variation in the nature of the view is dictated by the trees”.</li> </ul> <p>The following landscape planning guidelines are recommended for LCA B16:</p> <ul style="list-style-type: none"> <li>• “Ensure that new build is in keeping with landscape character”;</li> <li>• “Conserve and enhance the landscape setting of settlements”;</li> <li>• “Maintain cross-valley views and characteristic views across and along the valley</li> <li>• Ensure any new development on valley sides is small-scale, responding to historic settlement pattern, landscape setting and locally distinctive building style.</li> </ul> <p>The limit of new development alongside strong policy criteria regarding the impacts of the built form on landscape and edge of settlement character means that impact is not considered significant.</p>
<p>▪ <b>the cumulative nature of the effects</b></p>	
	<p>The NP will sit alongside the Local Plan to provide a development management framework for new proposals in the NP area. The parish itself is not identified as a focus for future growth.</p> <p>Having a primary school and some local services, the village is identified as a Type A village acting as a local service centre and only suitable for a scale of development that reinforces its role as a local centre. The Regulation 19 Local Plan includes the following Felsted allocations:</p> <ul style="list-style-type: none"> <li>▪ Draft Local Plan Policy FEL1 allocates land north of Station Road for 40 dwellings (this is the same site covered by Policy HN3 in the Neighbourhood Plan)</li> <li>▪ Draft Local Plan Policy FEL2 allocates land east of Braintree Road at Watch House Green for a 2.5 ha area of land for the delivery of 30 dwellings. This would be in addition to the Sunnybrook Farm site proposed for allocation by the Felsted parish. This site is also in the 22km Blackwater Estuary zone of influence. As part of the HRA assessment, the in combination impact of the Felsted NP on the draft UDC plan as well as other plans and programmes has been assessed. The HRA work finds that Felsted neighbourhood plan will not result in any likely significant effects on the integrity of European sites alone or in-combination</li> <li>▪ Draft Local Plan Policy FEL3 is a confirmation of an existing residential commitment for 21 units at the former Ridleys Brewery Site</li> </ul> <p>Within the Felsted plan area, there are therefore cumulative effects from the Neighbourhood Plan and the higher level emerging Local Plan. Two of the site allocations overlap each other, one Local Plan site allocation is confirmation of a scheme that is very nearly built. This leaves in total three site allocations through both plans. Impacts from these are not however considered to be</p>

<b>Table 2: Assessment against Criteria for determining the likely significance of environmental effects – Characteristics of the effects and the plan area</b>	
	significant or, are in keeping with the status of the settlement in the district's settlement hierarchy and are not likely to lead to significant environmental effects.
<b>▪ the risks to human health or the environment (for example, due to accidents)</b>	
	There are no potential risks to human health or the environment as a direct result of the development management framework proposed in the NDP area.
<b>▪ the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected)</b>	
	The population of the parish is currently 3,000. Whilst the NP shapes future development and includes two residential site allocations, the overall extent of development is broadly in line with the growth that would occur in the parish without the NDP being in place. There are no significant effects as a result of the NDP.
<b>▪ the value and vulnerability of the area likely to be affected due to:-</b>	
	<ul style="list-style-type: none"> <li>▪ <b>special natural characteristics or cultural heritage</b></li> <li>▪ <b>exceeded environmental quality standards or limit values</b></li> <li>▪ <b>intensive land-use</b></li> </ul>
	As set out above the NDP has been assessed as not having any significant effects on natural characteristics, cultural heritage, environmental quality standards or intensive land use.
<b>▪ the effects on areas or landscapes which have a recognised national, Community or international protection status</b>	
	The separate HRA work undertaken for the Felsted finds as part of HRA screening work that the Felsted NP does not have any likely significant effects on the Blackwater Estuary alone, but may have likely significant effects on the Blackwater Estuary in combination with other plans and programmes (given the 22km zone of influence in which part of the parish falls). The Felsted NP was therefore subjected to appropriate assessment. The findings of the appropriate assessment was that, following the consideration of mitigation measures including the incorporation of HRA policies in the NP the Felsted neighbourhood plan will not result in any likely significant effects on the integrity of European sites alone or in-combination.

## 4. SEA Conclusions

---

- 4.1 As a result of the assessment in Section 3, it is considered there are no likely significant environmental effects resulting from the Felsted NDP. This is a preliminary view reached prior to consulting the statutory consultees: Historic England, Natural England and the Environment Agency.
- 4.2 The Felsted Neighbourhood Plan (NP) has been prepared for town and country planning purposes and sets a framework for future development. The policies in the Plan determine the use of small areas at a plan level commensurate with their status in local planning application determination. The local environmental concerns within the Neighbourhood Plan area will be addressed through provision of expanded GP surgery as part of site allocation in the neighbourhood plan and through policies seeking to manage the impact of development on the congestion in the historic village core as well as around Felsted Primary School. The NP includes two allocations to deliver up to 63 dwellings in the plan area. One of the allocations overlaps with an emerging Local Plan allocation. The NP is informed by a recently completed Heritage and Character Assessment which has been undertaken to inform the policies in the plan. Design policies in the NP (see Integrity, Character and Heritage section) require that all development proposals contribute positively to the character and heritage of the parish. The NP will only allow for development that is appropriate and sensitive to Felsted's setting and Policy ICH 1 for instance includes a requirement for *sensitive treatment of the rural edge particularly around Felsted village with regard to impact on heritage assets and their setting including the surrounding landscape*".
- 4.3 There is one key environmental consideration within the Neighbourhood Plan area that came to light during the summer of 2018 and that is the Zone of Influence for the Blackwater Estuary SPA and Ramsar site. Prior to August 2018, this was recognised as being 8km (see previous SEA and HRA consultations undertaken on the Felsted NP). As part of the zone of influence for a collection of 10 designated European sites along the Essex Coast, this has now been extended to 22km. Part of the parish falls within this zone of influence including the hamlet of Watch House Green. The Neighbourhood Plan has therefore been subject to a separate appropriate assessment process to ensure that the Neighbourhood Plan does not breach the requirements of the Conservation of Habitats and Species Regulations 2017. No likely significant environmental effects have been identified as a result of this change.
- 4.4 In reaching this conclusion, it should be noted that the meaning of 'likely' has a different implication under the SEA Directive as it does under HRA Directive. <sup>2</sup> In the

---

<sup>2</sup> The different interpretation of 'likely significant effect' in the EIA and Habitat Directive is explored in the

SEA Directive 'likely' is applied more consistent with the meaning of the word in the English language; i.e. more likely than not. In the HRA Directive a 'likely significant effect' means a 'possible significant effect'. The reason for this derives from the different purposes of the two different pieces of legislation. The SEA Directive seeks to ensure that any likely significant effects on the environment are identified and properly taken into account in the decision making. Whereas under the Habitats Directive an 'appropriate assessment' must be carried out unless the risk of significant effects on the site can be excluded based on objective information.

- 4.5 Consistent with the above, it should also be noted that the SEA Directive does not require or intend for plans to be assessed in combination with other plans at the screening stage; although this could be considered at environmental assessment stage if likely significant effects (from the plan alone) are identified at the screening stage.
- 4.6 As a result of the SEA assessment set out in this report, it is considered there are no likely significant environment effects resulting from the Felsted Neighbourhood Plan. This is a preliminary view reached prior to consulting the statutory consultees: Historic England, Natural England and the Environment Agency.

## Appendix 2 – Responses from the statutory consultees to the August 2018 SEA/HRA screening report.



Historic England

EAST OF ENGLAND OFFICE

Ms Demetria Macdonald  
Uttlesford District Council  
Council Offices  
London Road  
Saffron Walden  
Essex  
CB11 4ER

[REDACTED]  
Our ref: PL00475009

7 September 2018

Dear Ms Macdonald

**Re: Revised SEA Screening Report for Felsted Neighbourhood Plan**

Thank you for consulting us with regard to the revised SEA Screening Report for Felsted Neighbourhood Plan. I have now had the opportunity to review the changes to the plan, as well as considering the two sites allocated for development. I can confirm that Historic England remain of the position that significant effects on the historic environment are unlikely to result from the neighbourhood plan, and that on the basis of the information supplied, and in the context of the criteria set out in Schedule 1 of the Environmental Assessment Regulations [Annex II of 'SEA' Directive], Historic England concurs with the Council that the preparation of a Strategic Environmental Assessment is not required.

The views of the other two statutory consultation bodies should be taken into account before the overall decision on the need for an SEA is made.

We should like to stress that this opinion is based on the information provided by you with your correspondence dated 14 August 2018. To avoid any doubt, this does not reflect our obligation to provide further advice on later stages of the SEA process and, potentially, object to specific proposals which may subsequently arise (either as a result of this consultation or in later versions of the plan/guidance) where we consider that, despite the SEA, these would have an adverse effect upon the environment.

Yours sincerely,

[REDACTED]

Edward James  
Historic Places Advisor, East of England

[REDACTED]

Date: 13 September 2018  
Our ref: 255490  
Your ref:



[dmacdonald@uttlesford.gov.uk](mailto:dmacdonald@uttlesford.gov.uk)

**BY EMAIL ONLY**

Hombeam House  
Crewe Business Park  
Electra Way  
Crewe  
Cheshire  
CW1 8GJ

T 0300 060 3900

Dear Ms. Macdonald

**Felsted Neighbourhood Plan Strategic Environmental Assessment & Habitats Regulations Assessment Screening Report**

Thank you for your consultation on the above dated 14 August 2018, which was received by Natural England on the same date.

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.

In addition to this consultation response, it is understood that an updated version of the Felsted Neighbourhood Plan is also open to current consultation. Please note that this response relates to the Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) screening only. Comments will be made separately on the specific plan policies where appropriate.

The Felsted Neighbourhood Plan area includes new development, with up to 63 residential dwellings. Reference should be made to the Uttlesford Local Plan, in particular Natural England's recent consultation response dated 13 August 2018 (reference 250808/250917/250921) which provides context for the issues of this Parish area under SEA and HRA.

Natural England raised no comment on the Felsted neighbourhood plan under the previous consultations (reference 233962, dated 21 December 2017) and whilst it is understood that only a minor amendment has occurred, the following response is made on the currently available information, particularly with the inclusion of defined residential allocations. Our current advice is therefore as follows.

**Habitats Regulations Assessment (HRA) Screening**

The assessment in relation to the Epping Forest SAC is also welcomed and we would concur with the conclusion that the Felsted Neighbourhood Plan falls outside of the Zol for potential recreational impacts.

As identified within the Uttlesford Local Plan SEA and HRA screening, in addition to the potential impacts on Recreation, we would advise you that the Epping Forest SAC (and Site of Special Scientific Interest (SSSI)) are currently under threat from the effects of poor air quality; the critical levels and loads of Nitrogen Oxides (NOx) and Nitrogen (N) deposition for this SSSI and SAC are current being exceeded and it is recognised that additional road traffic associated with proposed growth and development may exacerbate this situation. Works to further understand this issue are being undertaken and it is advised that at present a Zone of Influence has not yet been agreed.

---

### **Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS)**

We support that an assessment on European designated sites has been undertaken, particularly with reference to the emerging strategic solution for recreational impacts upon the Essex Coast Designated sites. The HRA screening highlights that the nearest designated site is that of the Blackwater Estuary Special Protection Area (SPA) and Ramsar site (reference is also made to a Special Area of Conservation (SAC) however the Blackwater is not designated as such). It is advised that this should refer to the Essex Estuaries SAC).

The Essex RAMS seeks to mitigate the recreational impacts as a result of new development within the identified Zones of Influence (Zol). Whilst the recognition of this is welcomed, it should be noted that the current defined Zol for the Blackwater Estuary is 22km and the Felsted Neighbourhood Plan area partially falls within this. The HRA screening therefore needs to be updated in accordance with the current position.

The housing allocations as per 'Map 6' of the Felsted Neighbourhood Plan consultation document therefore should be assessed against this Zol; the development at Sunnybrook Farm falling within the scope of the RAMS. It would therefore be appropriate that a policy obligation, requiring commitment to contributions towards the Essex RAMS, would form part of the Felsted Neighbourhood Plan for this housing allocation and any other potential 'windfall' applications which may come forward within this Zol. Please note that any Windfall sites would be required to be subject to a project level HRA at application stage if necessary.

The HRA screening should therefore be updated as per the current Zol and a further assessment on the recreational impacts upon the Blackwater Estuary designated sites should be undertaken for impacts both alone and 'in-combination'. However, please see our comments below in relation to the recent judgment from the Court of Justice of the European Union ([Case C-323/17 People Over Wind v Coillte Teoranta](#)) which will have implications for this neighbourhood plan. Without wishing to prejudge the findings of the HRA screening assessment, it is our view that it will be unlikely that a conclusion of no likely significant effect would be able to be reached without the neighbourhood plan identifying mitigation measures (e.g. the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS)) at the screening stage of the HRA. The judgement concluded that it is not appropriate, at the screening stage, to take account of measures intended to avoid or reduce the harmful effects of a plan or project of a European site.

### **Screening Request: Strategic Environmental Assessment / Sustainability Appraisal**

The key issues in relation to the Felsted Neighbourhood plan, as outlined within the SEA screening for the Uttlesford Local Plan (reference 250808) indicated the potential impacts for air and/or water quality impacts on Garnetts Wood and Barnston Lays SSSI's. In particular, in relation to waste water and sewerage, there is considered to be high risk for water quality impacts and as such as part of the Uttlesford Local Plan. This has been screened out of the SEA and concluded as having no likely significant effect.

We would also bring your attention to the works relating to the Hatfield Forest SSSI and National Nature Reserve (NNR). The National Trust who own and manage Hatfield Forest have noted in recent years that there has been significant increases in visitor numbers, linked to nearby residential development and both Natural England and the National Trust are growing increasingly concerned about the increased visitor pressure on the designated site. The current visitor numbers are exceeding the carrying capacity of some important SSSI habitats.

Visitor surveys have therefore been undertaken by the National Trust to establish a Zone of Influence regarding the recreational pressure for Hatfield Forest. To date, winter surveys have been conducted which indicate a zone of 10.4 km radius from the site and on this basis the Felsted Neighbourhood Plan falls outside of this zone. However please note that this may be subject to change following the

completion and assessment of summer surveys and may be extended further.

It is our advice, on the basis of the material supplied with the consultation, that, in so far as our strategic environmental interests are concerned (including but not limited to statutory designated sites, landscapes and protected species, geology and soils) that there is concern that a conclusion of no likely significance cannot be reached, for the reasons as outlined within our previous comments in relation to the HRA.

#### **Neighbourhood Plan**

Guidance on the assessment of Neighbourhood Plans in light of the SEA Directive is contained within the [National Planning Practice Guidance](#). The guidance highlights three triggers that may require the production of an SEA, for instance where:

- a neighbourhood plan allocates sites for development
- the neighbourhood area contains sensitive natural or heritage assets that may be affected by the proposals in the plan
- the neighbourhood plan may have significant environmental effects that have not already been considered and dealt with through a sustainability appraisal of the Local Plan.

We have not assessed this Neighbourhood Plan/policies for the potential impacts to populations of protected species. It remains the case, that the responsible authority should provide information supporting this screening decision, sufficient to assess whether protected species are likely to be affected.

Notwithstanding this advice, Natural England does not routinely maintain locally specific data on all potential environmental assets. As a result the responsible authority should raise environmental issues that we have not identified on local or national biodiversity action plan species and/or habitats, local wildlife sites or local landscape character, with its own ecological and/or landscape advisers, local record centre, recording society or wildlife body on the local landscape and biodiversity receptors that may be affected by this plan, before determining whether an SA/SEA is necessary.

Please note that Natural England reserves the right to provide further comments on the environmental assessment of the plan beyond this SEA/SA screening stage, should the responsible authority seek our views on the scoping or environmental report stages. This includes any third party appeal against any screening decision you may make.

#### **Other matters**

A recent judgment from the Court of Justice of the European Union ([Case C-323/17 People Over Wind v Coillte Teoranta](#)) has provided authoritative interpretation relating to the use of mitigation measures at the screening stage of a Habitats Regulations Assessment. The judgment concluded that it is not appropriate, at the screening stage, to take account of measures intended to avoid or reduce the harmful effects of the plan or project on a European site. However, when determining whether the plan or project will have an adverse effect on the integrity of the European site at appropriate assessment, a competent authority may take account of those avoidance and mitigation measures.

Natural England is currently considering the particular implications of the judgment for neighbourhood planning and the basic condition that the making of the neighbourhood plan is not likely to have a significant effect on a European site (paragraph 1, Schedule 2 of the Neighbourhood Planning (General) Regulations 2012).

The Local Planning Authority, as competent authority for neighbourhood plans, should consider this judgment when screening out neighbourhood plans under the Conservation of Habitats and Species Regulations 2017 and may wish to take its own legal advice on the implications of the judgment, particularly with respect to the Essex RAMS strategic solution.

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 Heather Read on [REDACTED] For any new consultations, or to provide further information on this consultation please send your correspondences to [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk).

Yours faithfully

Heather Read  
Essex Area Delivery Team



Miss Demetria Macdonald  
Uttlesford District Council  
Council Offices London Road  
Saffron Walden  
Essex  
CB11 4ER

**Our ref:** AE/2018/123158/01-L01  
**Your ref:** SEA Screening  
**Date:** 10 September 2018

Dear Miss Macdonald

**FELSTED NP UPDATED SEA HRA SCREENING REPORT**

Thank you for consulting us on the SEA screening report. Which we received on 14 August 2018. We have reviewed the updated document and can confirm that we do not disagree with the conclusions reached.

**Flooding**

The Neighbourhood area includes areas of land that fall within flood zones 2 and 3 from the river Ter and Chelmer. The SEA screening report has investigated how the Neighbourhood plans future proposed development will be impacted and will impact the environmental issue. We do not disagree with the findings and therefore are in agreement with the conclusion overall.

We trust this information is useful.

Yours sincerely

[Redacted signature block]

Miss Natalie Kermath  
Planning Advisor

[Redacted contact information]