FOOTPRINT ECOLOGY

# Habitats Regulations Assessment of the Waveney Local Plan

Rachel Hoskin & Durwyn Liley

FOOTPRINT ECOLOGY, FOREST OFFICE, BERE ROAD, WAREHAM, DORSET BH20 7PA
WWW.FOOTPRINT-ECOLOGY.CO.UK
01929 552444

Footprint Contract Reference: 451
Date: 19th June 2018
Version: HRA at Final Draft Plan stage
Recommended Citation: Hoskin, R. & Liley, D. (2018) Habitats Regulations Assessment of the Waveney Local Plan. Unpublished report for Waveney District Council

## Summary

This report is the Habitats Regulations Assessment (HRA) of the Waveney Local Plan at Final Draft Plan stage. A plan level HRA considers the implications of a plan or project for European wildlife sites, in terms of any possible harm to the habitats and species that form an interest feature of the European sites in close proximity to the proposed plan. This HRA report draws on the previous HRA undertaken for First Draft Local Plan, and advice received from Natural England. It also draws on a mitigation strategy currently being developed for the Suffolk coastal and heathland European sites.

All aspects of the emerging plan that influence sustainable development for the Waveney District are checked through this assessment for risks to European sites. Risks need to be identified in order to inform the screening for likely significant effects, which is an initial stage of assessment to establish whether there is any possibility of the implementation of the plan causing significant effects on any European site. Where the potential for significant effects is identified, or there are uncertainties, a more detailed appropriate assessment is made. This report has been further updated in June 2018 following a European Court of Justice Judgment that highlights the need for appropriate use of avoidance and mitigation measures at the correct stage of HRA. As a consequence, explanatory text relating to recommendations made at the screening stage has been added to the screening table where appropriate. The recommendations and conclusions drawn remain the same as they are compliant with the new Judgment.

This HRA recommends a number of wording amendments to the Waveney Local Plan. It also recommends that a mitigation approach for Minsmere – Walberswick SPA/SAC/Ramsar site and Benacre to Easton Bavents SPA/SAC is developed at a strategic level, to mitigate for potential increased recreation pressure and disturbance of site interest features at these sites. It is advised that the most appropriate means of implementing this approach would be to expand the strategy currently being developed elsewhere in Suffolk to incorporate the mitigation requirements for these sites arising from increased residential growth in the Waveney District.

Policy wording to commit to a join up with the Suffolk strategy is recommended, and further work will now be undertaken to develop the mitigation needs in light of housing proposed within the Waveney Local Plan. This will inform an expansion of the Suffolk strategy. Natural England's consultation response of May 2018 has confirmed its support for the recommendations made within the HRA report, and their advice relating to additional recommendations to steer project level HRA and strengthen the Biodiversity and Geodiversity policy have been incorporated into this version of the HRA report in June 2018.

# Contents

Contents ..... 4
Acknowledgements ..... 5
1. Introduction and Background Information ..... 6
Context ..... 6
Habitats Regulations Assessment process ..... 7
The Waveney Local Plan and previous HRA work ..... 8
European sites ..... 10
2. Establishing Impact Pathways ..... 16
Natural England's advice on impact pathways ..... 19
*Recreation impact concerns ..... 19*
*Air quality impact concerns ..... 20*
Re-checking other impact pathways ..... 20
*Water issues ..... 21*
*Urban effects ..... 21*
European sites without impact pathways ..... 22
3. Screening for likely significant effects ..... 24
What constitutes a likely significant effect? ..... 24
4. Appropriate assessment ..... 39
Recreation ..... 40
*Sensitivity and recommended approach for Minsmere/Walberswick 40*
*Sensitivity and recommended approach for Benacre ..... 41*
*The zone of influence for recreation pressure ..... 43*
*The role of green infrastructure ..... 43*
Air Quality ..... 43
Biodiversity net gain ..... 46
5. Recommendations ..... 48
Policy wording recommendations from screening ..... 48

Strategic mitigation recommendations from appropriate assessment....48
Air quality recommendations....50
Biodiversity net gain amendments....50
Conclusions....50
6. References....51
7. Appendix 1 - The Habitats Regulations Assessment Process....52
8. Appendix 2 –Conservation Objectives....57
9. Appendix 3 – The Nature Conservation Interest of the European Sites....59

# Acknowledgements

Cover image of Little Tern with chicks © Andy Morffew, licenced through creative commons.

Footprint Ecology is grateful to Ian Johns, Sam Hubbard and Ben Wright at Waveney District council for their assistance and helpful discussion during the preparation of this HRA report. Additionally, John Jackson, Alison Collins and Jack Haynes of Natural England have assisted with discussion in relation to mitigation options. Laura Mundy from Suffolk Coastal District Council has also assisted with consideration of how the Waveney District could be added into the wider mitigation strategy for Suffolk European sites.

# 1. Introduction and Background Information

## Context

1.1 This report is the Habitats Regulations Assessment (HRA) of the Waveney Local Plan at Final Draft Plan stage. This HRA report has been prepared by Footprint Ecology, on behalf of Waveney District Council. It has been written with the benefit of working with planning officers within the District Council, and forms part of the evidence base for the new Local Plan. Waveney is a coastal district, located in the north east of the County of Suffolk. It adjoins Norfolk to the north of the Waveney District boundary, where the coastline continues around East Anglia. Part of the Waveney District lies within the Broads, and within this area spatial planning and development management is the responsibility of the Broads Authority. Lowestoft is the main town within the District, accommodating half of the Waveney population. Tourism is focused at Southwold and Reydon on the coast, which are located within the Suffolk Coast and Heaths Area of Outstanding Natural Beauty (AONB).

1.2 A HRA considers the implications of a plan or project for European wildlife sites, in terms of any possible harm to the habitats and species that form an interest feature of the European sites in close proximity to the proposed plan or project, which could occur as a result of the plan or project being put in place. In this instance, the HRA is undertaken at plan level. HRA will also be required for development projects coming forward in the future in accordance with the Local Plan. An explanation of the HRA assessment process is summarised below and also described in greater detail in Appendix 1.

1.3 It is Government policy that local planning documents are continually reviewed in order to remain up to date and informed by current evidence on local economic, social and environmental needs, as well as national legislation and planning policy. The new Waveney Local Plan takes account of up to date evidence, current local circumstances and needs, and current planning legislation and national policy, guidance and good practice.

1.4 The Waveney Final Draft Plan has been prepared following earlier plan making stages. The First Draft of the Local Plan was published in summer 2017 for public consultation. The consultation responses and underpinning evidence gathering for the Local Plan has informed the Final Draft Plan. This Final Draft will now also be the subject of a further round of consultation.

1.5 The Waveney Local Plan sets out strategic policies for bringing forward sustainable development across the District between 2014 and 2036. The plan is

divided into spatial policies, development management policies and site allocations. This HRA assesses all parts of the emerging plan.

1.6 This HRA report draws on the previous HRA undertaken for First Draft Local Plan and considers any changes in circumstances since the previous HRA was written. When embarking on new HRA work, it is important to take stock and consider how well the measures recommended or put in place to protect European site interest in previous plan iterations have progressed, and what evidence there is available to support the continuation of such measures, or to indicate that they may need modification. This HRA therefore looks at the measures that were recommended by the previous HRA in order to protect European sites, and any changes in circumstances, evidence, statutory advice or local understanding of the issues.

## Habitats Regulations Assessment process

1.7 A 'Habitats Regulations Assessment,' normally abbreviated to HRA, is the step by step process of ensuring that a plan or project being undertaken by, or permitted by a public body, will not adversely affect the ecological integrity of a European wildlife site. Where it is deemed that adverse effects cannot be ruled out, a plan or project must not proceed, unless exception tests are met. This is because European legislation, which is transposed into domestic legislation and policy, affords European sites the highest levels of protection in the hierarchy of sites designated to protect important features of the natural environment.

1.8 The relevant European legislation is the Habitats Directive 1992[1] and the Wild Birds Directive 2009[2], which are transposed into domestic legislation through the Conservation of Habitats and Species Regulations 2017. These Regulations are normally referred to as the 'Habitats Regulations' and the most recent update consolidates previous versions and corrects some minor errors in transposition. The 2017 Regulations have not changed any of the requirements in relation to European sites.

1.9 The legislation sets out a clear step by step approach for decision makers considering any plan or project. In England, those duties are also supplemented by national planning policy through the National Planning Policy Framework (NPPF). This national planning policy also refers to Ramsar sites, which are listed in accordance with the international Ramsar Convention. The NPPF requires decision makers to apply the same protection and process to Ramsar sites as that set out in legislation for European sites. Formally proposed

[1] Council Directive 92/43/EEC
[2] Council Directive 2009/147/EC

site, i.e. sites proposed for European designation and going through the designation process, and those providing formal compensation for losses to European sites, are also given the same protection. This report refers to all the above sites as 'European sites' for assessment purposes, as the legislation is applied to all such sites, either directly or as a result of policy.

1.10 It should be noted that the European Directives operate on the basis that sites are in place to serve as an ecologically functioning network, and ultimately it is the preservation of that network as a whole that is the overall aim of the European Directives. The network is often referred to as the Natura 2000 Network or 'N2K.'

1.11 The duties set out within the Habitats Regulations apply to any public body or individual holding public office with a statutory remit and function, referred to as 'competent authorities.' The requirements are applicable in situations where the competent authority is undertaking or implementing a plan or project, or authorising others to do so. A more detailed guide to the step by step process of HRA is provided in this report at Appendix 1.

1.12 In assessing the implications of any plan or project, in this case a local plan, for European sites in close proximity, it is essential to fully understand the sites in question, their interest features, current condition, sensitivities and any other on-going matters that are influencing each of the sites. Every European site has a set of 'interest features,' which are the ecological features for which the site is designated or classified, and the features for which Member States should ensure the site is maintained or, where necessary restored. Each European site has a set of 'conservation objectives' that set out the objectives for the site interest, i.e. what the site should be achieving in terms of restoring or maintaining the special ecological interest of European importance.

1.13 The site conservation objectives are relevant to any HRA, because they identify what should be achieved for the site, and a HRA may therefore consider whether any plan or project may compromise the achievement of those objectives. Further information on European site interest and links to the conservation objectives can be found at Appendix 2 of this report. The European sites of relevance to this HRA are discussed below and Appendix 3.

## The Waveney Local Plan and previous HRA work

1.14 A Local Plan is produced by a local planning authority to set the quantum and direction of growth for the forthcoming plan period. For Waveney District Council's emerging Local Plan this is 2014 to 2036. The Waveney Local Plan has already proceeded through a First Draft Plan stage, which is sometimes referred to as the 'Preferred Options' stage of plan making, or the 'Regulation 18' stage as

it is a formal consultation stage in accordance with Regulation 18 of the Town and Country Planning (Local Planning) Regulations 2012, as amended. The First Draft Plan was published in the summer of 2017. In accordance with this legislation, the emerging plan contains policies to inform the management of development in the Waveney District, including development management and site allocations.

1.15 At the First Draft Plan stage, the Waveney Local Plan was supported by a HRA report. This was prepared by officers within Waveney District Council and screened all of the first draft content of the Waveney Local Plan for likely significant effects on European sites. It considered the following impact pathways:

- Transport and air quality
- Water quality
- Flood risk and coastal erosion
- Tourism, retail and employment development
- Recreation (described as visitation in the HRA)

1.16 It also looked at the provision of green infrastructure and any risks that could become significant when combined with the effects of other plans and strategies. The HRA of the First Draft Plan concluded that likely significant effects for the emerging Waveney Local Plan could be ruled out.

1.17 Natural England is the statutory nature conservation body for England and is a statutory consultee in the local plan making process. Natural England provided a consultation response for the Regulation 18 consultation. In their response letter, dated 9th October 2017, Natural England advised that there were a number of issues for which it could not be concluded that likely significant effects had been ruled out, and further analysis was required. Natural England therefore did not concur with the view of the HRA on these particular matters. These issues are:

- The potential for traffic increases in close proximity to European sites as a result of increased development, potentially leading to air quality impacts
- The potential for recreation impacts as a result of the quantum of housing proposed. This could specifically lead to disturbance of birds, and damage to sensitive habitats.

1.18 Natural England offered support for the measures proposed within the HRA, which focus on adequate greenspace provision being secured at the development project level. However, Natural England advised that a more co-ordinated and strategic approach to mitigation was required. Natural England recommended consideration of the strategic mitigation strategy being taken

forward by neighbouring local planning authorities to the south, which covers coastal and heathland European sites within Ipswich Borough, Babergh District and Suffolk Coastal District. This strategy is now in its final stages of completion ready for implementation and is commonly referred to as the 'Suffolk HRA RAM Strategy.'

1.19 This HRA at Final Draft Plan stage therefore has regard for these issues and recommendations from Natural England. A review of the previous HRA work is provided in the consideration of impact pathways in Section 2. A further consultation response from Natural England was provided in May 2018 on the earlier version of this HRA report. The current version has now been updated in June 2018 to have regard for Natural England's comments, which offered support for the HRA recommendations and suggested further clarity in terms of project level HRA requirements for some allocations and some strengthening of the Biodiversity and Geodiversity policy.

## European sites

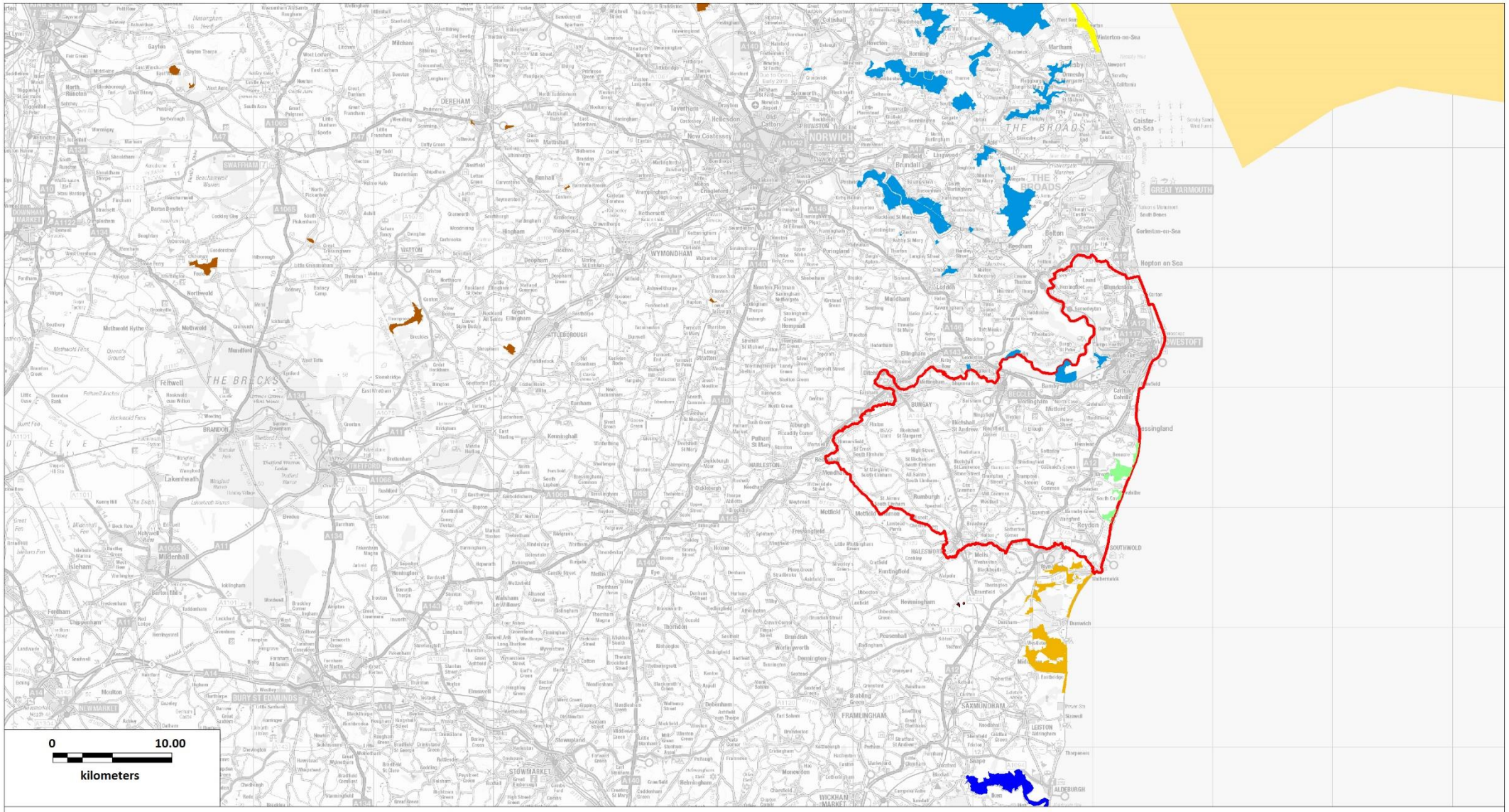
1.20 In undertaking a HRA it is necessary to gather information on the European sites that could be potentially affected by the plan or project. A 20km buffer from the edge of the District was used to initially identify sites that may be potentially affected. This buffer is used by Footprint Ecology for local plan HRAs as it is deemed precautionary enough to capture most potential impact pathways (i.e. the means by which a European site may be affected) between plan implementation within a local planning authority's administrative area. The list of European sites within 20km was then evaluated in terms of relevant threats, vulnerabilities and current issues.

1.21 European sites within 20km are shown in Map 1 (SACs), Map 2 (SPAs) and Map 3 (Ramsar sites). Sites are listed in Table 1. Full details of the interest features and current pressures/threat for each site are summarised in Appendix 3.

**Table 1: European Sites within a 10km radius**

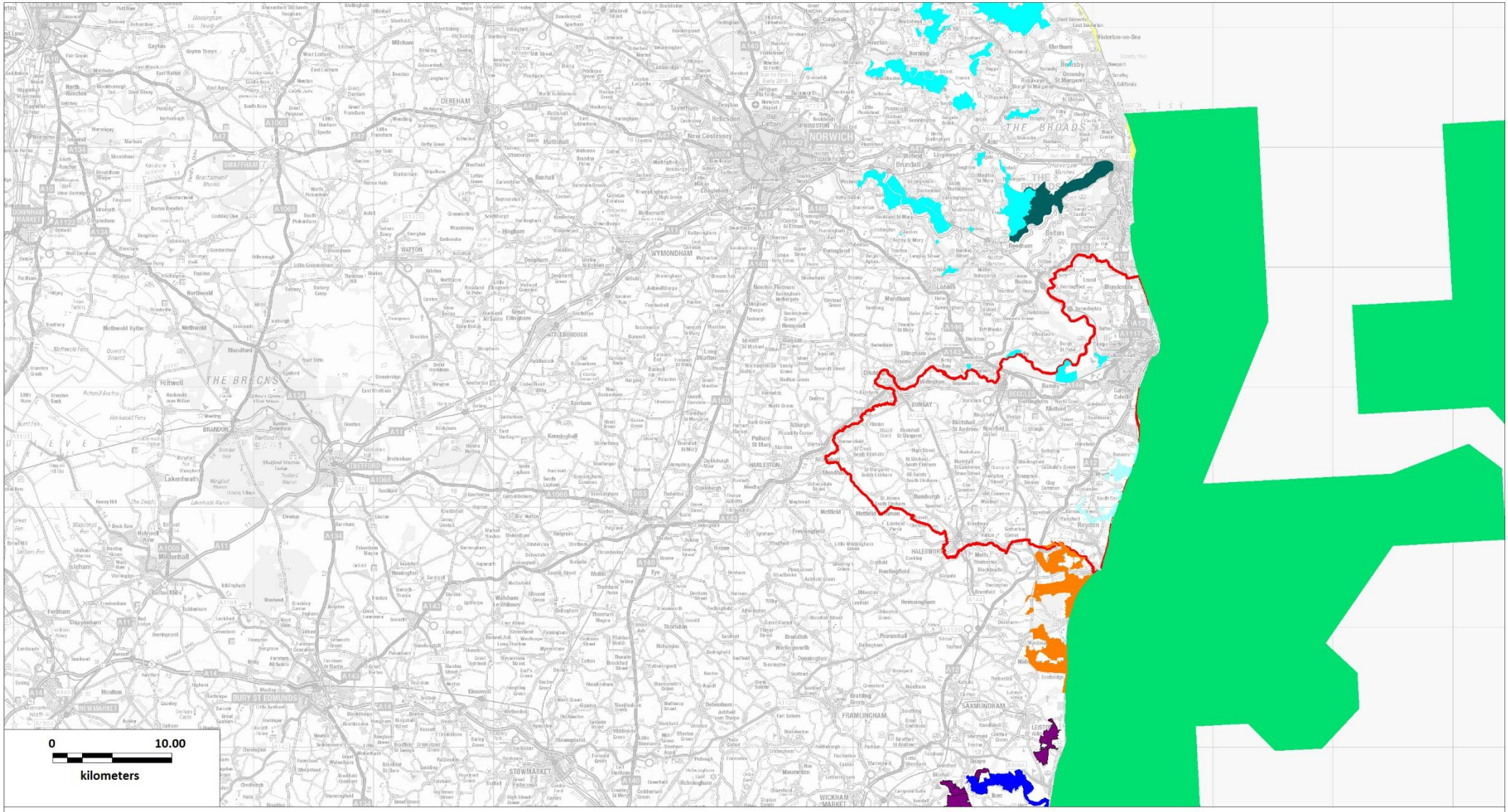
| SAC | SPA | Ramsar |
|---|---|---|
| Alde-Ore & Butley Estuaries | Alde-Ore Estuary | Alde-Ore Estuary |
| Benacre to Easton Bavents Lagoons | Benacre to Easton Bavents | Breydon Water |
| Dew's Ponds | Breydon Water | Broadland |
| Haisborough, Hammond and Winterton | Broadland | Minsmere-Walberswick |
| Minsmere to Walberswick Heaths & Marshes | Great Yarmouth North Denes | |
| Norfolk Valley Fens | Minsmere-Walberswick | |
| The Broads | Outer Thames Estuary | |
| Winterton-Horsey Dunes | Sandlings | |

# Map 1: SACs



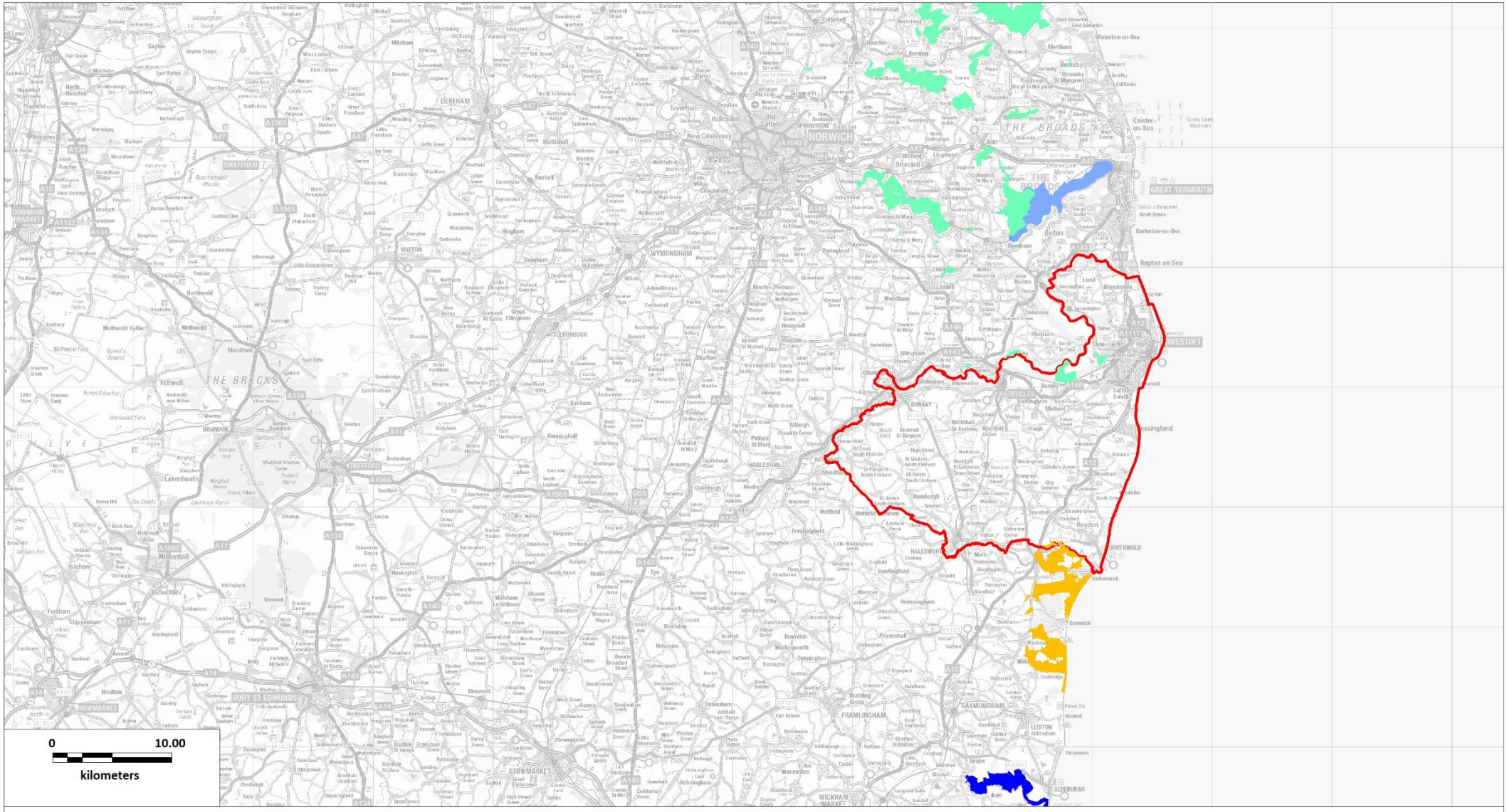

Contains Ordnance Survey Data. © Crown copyright and database right 2016.
Designated site boundary files downloaded from Natural England website. ©Natural England.

# Map 2: SPAs




Contains Ordnance Survey Data. © Crown copyright and database right 2016.
Designated site boundary files downloaded from Natural England website. ©Natural England.

# Map 3: Ramsar Sites




Contains Ordnance Survey Data. © Crown copyright and database right 2016.
Designated site boundary files downloaded from Natural England website. ©Natural England.

1.22 In assessing the implications of any plan or project for European sites, it is essential to fully understand the ecology and sensitivity of the sites, in order to identify how they may be affected. This section and the accompanying detailed site information within Appendices 2 and 3 those sites that could potentially be affected by the policies and proposals within the Waveney Local Plan. Every European site has a set of 'interest features' which are the ecological features for which the site is designated or classified, and the features for which Member States should ensure the site is maintained or, where necessary restored.

1.23 Each European site also has a set of 'conservation objectives' for the site interest, i.e. what the site should be achieving in terms of restoring or maintaining the special ecological interest of European importance. Also relevant to the HRA is the consideration of how a plan or project may affect the achievement of conservation objectives for each European site. The site conservation objectives are relevant to any HRA, because they identify what should be achieved for the site, and a HRA may therefore consider whether any plan or project may compromise the achievement of those objectives. The background to conservation objectives and key considerations are explained in Appendix 2. Appendix 3 sets out the site interest features for each European site.

1.24 The Habitats Directive requires competent authorities to 'maintain and restore' European sites. Where sites are meeting their conservation objectives, the requirement is to maintain this position and not allow deterioration. Where a site requires restoration, competent authorities should work to bring site interest features back to a status that enables conservation objectives to be met.

1.25 In addition to conservation objectives, Natural England produces Site Improvement Plans (SIPS) for each European site in England as part of a wider programme of work under the 'Improvement Programme for England's Natura 2000 sites.' Each plan includes a set of actions for alleviating issues that are impeding the delivery of conservation objectives, with lead delivery bodies identified and indicative timescales. The SIPs can provide an additional useful reference for HRA work, identifying where there are site sensitivities.

# 2. Establishing Impact Pathways

2.1 All aspects of the emerging plan that influence sustainable development for the Waveney District are checked through this assessment for risks to European sites. Risks need to be identified in order to inform the screening for likely significant effects. This section therefore considers the potential risks arising from the plan.

2.2 European sites are at risk if there are possible means by which any aspect of a plan can, when being taken forward for implementation, pose a potential threat to the wildlife interest of the sites. This is often referred to as the 'impact pathway' as it is an identifiable means by which the plan or project could potentially affect the European site.

2.3 HRA work was undertaken by the Waveney District Council at the Draft Local Plan Stage and this provided the foundation for subsequent work undertaken by Footprint Ecology. At the Draft Local Plan stage all policies and allocations were checked and no likely significant effects were identified.

2.4 GIS data showing allocations were provided to us by Waveney District Council. These data showed locations from the Draft Plan and as a check for relevant potential pathways we calculated the sum total of dwellings within different distance bands of each European site. We also checked the total length of roads (A and B roads) around each site. The allocations and roads (within 400m of the European sites) are shown in Map 4.

2.5 For the housing we used buffers of 400m, 5km and 13km and the length of roads were extracted for each site within the 400m buffer only. This choice of buffers was a pragmatic choice at this initial screening stage. The 400m reflects a typical boundary within which urban effects may be expected. This is the zone of influence used around a range of European sites such as the Dorset Heathlands and Thames Basin Heaths and the Exe Estuary within which there is a presumption against development in the relevant plans. 5km reflects a short and easy travel distance, and is particularly relevant for recreation impacts. These can extend to 13km, which is the distance used to define a zone of influence in the wider Suffolk mitigation strategy and was based on postcode data from visitor surveys on the Suffolk Sandlings and the Deben Estuary. For roads, impacts have been identified for semi-natural habitats within 200m of roads, 400m is therefore a good precautionary distance.

2.6 The number of potential new dwellings (from allocations) and the length of A road within 400m of each relevant European site are summarised in Table 2. For a range of different sites there are potentially relatively large numbers of dwellings with 5km and certainly within 13km.

2.7 Table 3 provides an initial summary of all potentially relevant impact pathways. These are all re-checked in the discussion below, to determine whether any can be eliminated.

**Table 2: Summary of the number of potential new dwellings and lengths of A road (within 400m) for each relevant European site. Potential new dwellings provided by Waveney District Council. Marine sites are excluded.**

| Site | 400m | 5km | 13km | A Roads within 400m (m) |
|---|---|---|---|---|
| Alde-Ore & Butley Estuaries SAC/ Alde-Ore Estuary SPA/Ramsar | 0 | 0 | 0 | 1264 |
| Benacre to Easton Bavents Lagoons SAC | 0 | 1307 | 5399 | 0 |
| Benacre to Easton Bavents SPA | 0 | 1357 | 5349 | 0 |
| Breydon Water Ramsar | 0 | 0 | 4768 | 3696 |
| Breydon Water SPA | 0 | 0 | 4768 | 3701 |
| Broadland Ramsar | 0 | 5657 | 936 | 9470 |
| Broadland SPA | 0 | 5657 | 936 | 6731 |
| Dew's Ponds SAC | 0 | 0 | 851 | 0 |
| Great Yarmouth North Denes SPA | 0 | 0 | 1511 | 0 |
| Minsmere to Walberswick Heaths & Marshes SAC | 0 | 288 | 742 | 0 |
| Minsmere-Walberswick SPA/ Ramsar | 0 | 288 | 3172 | 5571 |
| Norfolk Valley Fens SAC | 0 | 0 | 0 | 3814 |
| The Broads SAC | 0 | 5657 | 936 | 13792 |

**Table 3: Summary of potential impact pathways – i.e. potential mechanisms where by the different European sites could be impacted.**

| Site | Recreation | Air quality | Water quality | Water abstraction | Urban effects | Distance from District (if outside boundary) |
|---|---|---|---|---|---|---|
| Alde-Ore & Butley Estuaries SAC, Alde-Ore Estuary SPA, Alde-Ore Ramsar | | | | | | 17km |
| Benacre to Easton Bavents Lagoons SAC, Benacre to Easton Bavents SPA | ✓ | | ✓ | ✓ | | |
| Breydon Water SPA/Ramsar | ✓ | | | | | 4km |
| Dew's Ponds SAC | | | | | | 4km |
| Haisborough, Hammond and Winterton | | | | | | Marine site, offshore |
| Minsmere to Walberswick Heaths & Marshes SAC, Minsmere-Walberswick SPA/Ramsar | ✓ | ✓ | ✓ | ✓ | | <1km |
| Norfolk Valley Fens | | | | | | 15km |
| Outer Thames Estuary SPA | | | | | | Marine site, offshore |
| Sandlings SPA | | | | | | 13km |
| The Broads SAC, Broadland SPA/Ramsar | ✓ | ✓ | ✓ | ✓ | | |
| Winterton-Horsey Dunes SAC, Great Yarmouth North Denes SPA | | | | | | SAC 17km; SPA 9km |

## Natural England's advice on impact pathways

2.8 Natural England wrote to Waveney District Council[3] in response to the First Draft Waveney Local Plan in October 2017 to highlight some concerns relating to the Local Plan, including HRA matters.

### *Recreation impact concerns*

2.9 This HRA is informed by HRA work in Suffolk Coastal District relating to a mitigation strategy for European Sites on the Suffolk Coast. This strategy had identified a zone of influence of 13km for sites such as Minsmere /Walberswick[4] for recreation impacts and sets out a mitigation approach involving developer contributions to fund targeted mitigation measures. Natural England advised Waveney District Council that following this work, their advice was that impacts from recreation could not be screened out at the likely significant effects stage, and appropriate assessment would be required.

2.10 Impacts from recreation relate to disturbance, trampling, increased fire risk and enrichment such as through dog fouling. These impacts are reviewed and summarised in a range of sources (e.g. Saunders *et al.* 2000; Lowen *et al.* 2008; Liley *et al.* 2010). Sites that will be vulnerable are those with public access; those likely to draw recreation users and are in relatively close proximity to new development. Some interest features (such as wintering waterfowl and ground-nesting birds) are particularly vulnerable. Little Terns, an interest feature of Minsmere-Walberswick SPA and Benacre to Easton Bavents SPA are known to be particularly vulnerable to impacts from recreation (Medeiros *et al.* 2007; Ratcliffe *et al.* 2008). Ground nesting birds associated with heathland sites (are also vulnerable (Murison 2002; Liley & Clarke 2003; Mallord *et al.* 2007). Sites well outside the District, difficult to reach or (if set back from development locations) with limited parking are likely to be less vulnerable.

2.11 Sites potentially vulnerable to recreation impacts are Benacre to Easton Bavents Lagoons SAC/Benacre to Easton Bavents SPA; Breydon Water SPA/Ramsar; Minsmere to Walberswick Heaths & Marshes SAC/Minsmere-Walberswick SPA/Ramsar and The Broads SAC/Broadland SPA/Ramsar.

2.12 The recent HRAs undertaken for the Broads Local Plan and the Broads Management Plan both focus on visitor management, including boating activities. The plans provide comprehensive measures for managing tourism, and this accords with the duties of The Broads Authority. Breydon Water

[3] Letter from John Jackson, 9th October 2017
[4] Minsmere to Walberswick Heaths & Marshes SAC, Minsmere-Walberswick SPA/Ramsar

SPA/Ramsar is part of a RSPB reserve and is well managed for visitors and nature conservation. This does not mean that these sites are not still vulnerable to recreation pressure, and it is important for competent authorities to continue to monitor issues and maintain the site interest for the long term. There is a partnership of the Norfolk wide authorities established, which is gathering evidence and looking at measures to manage recreation impacts at the Norfolk European sites, including The Broads and Breydon Water. This work is in its early stages, but a Norfolk wide approach provides confidence that visitor pressure to these sites is going to be effectively managed. As discussed later in this HRA, there is an opportunity for Waveney to join a similar county wide approach within Suffolk.

2.13 This HRA therefore focuses potential recreation impacts relating to Benacre to Easton Bavents Lagoons SAC/Benacre to Easton Bavents SPA and Minsmere to Walberswick Heaths & Marshes SAC/Minsmere-Walberswick SPA/Ramsar.

### *Air quality impact concerns*

2.14 The consultation letter from Natural England at First Draft stage also raised air quality as a potential issue. The HRA work at the draft local plan stage had identified that the Suffolk County Transport Model (SCTM) Forecast Model Report (2017) demonstrated that overall the number of car journeys was anticipated to increase by about 4700 trips daily by 2036. Increased traffic volumes will be distributed along the strategic road network including the A12 north and south bound which pass close to European sites along the coast and the A146 which is in proximity to European sites in the Waveney Valley. Natural England suggested that the HRA should not dismiss potential impacts on European sites.

2.15 The length of roads within 400m of the European sites and visual checks of how those road sections relate to Waveney District would suggest that there is a relevant pathway with air quality issues and transport that relates to the various Broads sites (The Broads SAC, Broadland SPA/Ramsar) and for the Minsmere-Walberswick sites (Minsmere to Walberswick Heaths & Marshes SAC, Minsmere-Walberswick SPA/Ramsar). Map 4 illustrates where roads are within 400m of European sites. Air quality impacts are therefore assessed further within this HRA.

## Re-checking other impact pathways

2.16 Whilst all potential risks were screened out by the previous HRA report, it is important to re-check these conclusions to provide a robust and continual record of assessing European site impacts as the plan progresses. Alongside

recreation and air quality, discussed above, there are other potential pathways that are re-visited here.

### *Water issues*

2.17 Water issues include water quality and water quantity (i.e. water availability), and flood management. Run-off, outflow from sewage treatments and overflow from septic tanks can result in increased nutrient loads and contamination of water courses. Abstraction and land management can influence water flow and quantity, resulting in reduced water availability at certain periods or changes in the flow. Such impacts particularly relate to aquatic and wetland habitats.

2.18 The Waveney Local Plan is supported by a Water Cycle Study, prepared in 2017. As explained in earlier HRA work at Draft Plan stage, this concluded that the proposed development within the Local Plan is capable of being supported by the current network in terms of water quality and water availability, although some specific risks were identified. These are waste water treatment capacity issues for the Beccles area and discharges along the Waveney Valley. It is understood that Anglian Water will be undertaking improvements to the Beccles water recycling centre and that the discharge consents of concern will be reviewed.

2.19 Whilst this conclusion is still valid for this new HRA to support the Waveney Local Plan at Final Draft stage, it is recommended that references to these matters made within policy WLP1.4 should be strengthened. The screening table in Section 3 highlights this recommendation, which is then highlighted again in the recommendations set out in Section 5.

2.20 For flood risk the main location of concern is Lowestoft. The previous HRA work highlights the infrastructure in place to prevent flooding and mixing of fresh and salt water. It also highlights that Policy WLP8.24 Flood Risk provides suitable protection measures. It is concluded that these previous points remain valid, but that Policy WLP8.24 could be strengthened with a small wording change to identify the need to consider impacts on the natural environment in project level flood risk assessment. The screening table in Section 3 highlights this recommendation, which is then highlighted again in the recommendations set out in Section 5.

### *Urban effects*

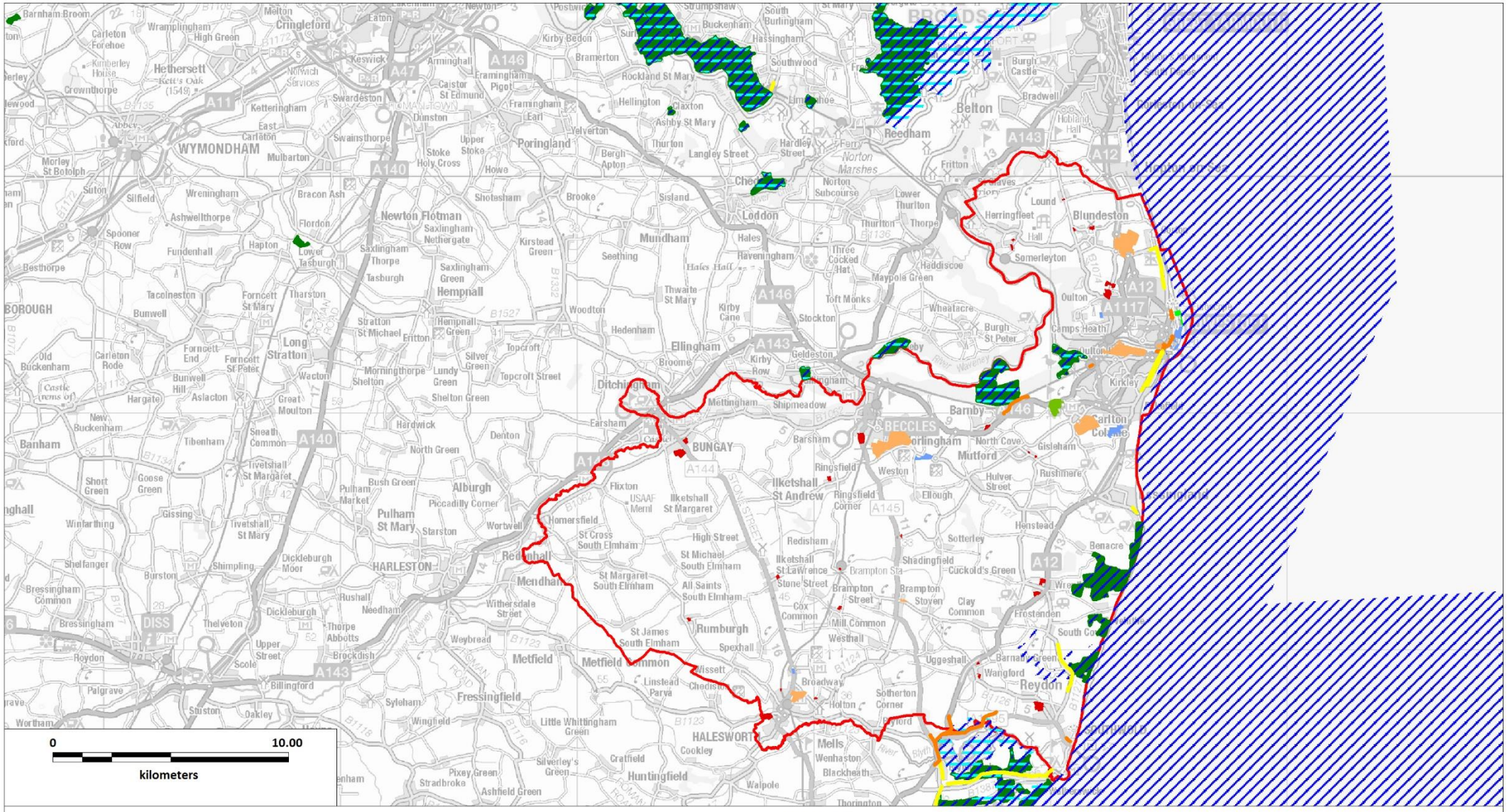
2.21 Urban effects relate to issues where development is close to the European site boundary and is an umbrella term relating to impacts such as cat predation, fly tipping and vandalism (see Underhill-Day 2005 for review). From the distance bands and development locations set out in Table 2, it can be seen that no new

allocations are proposed within 400m of any of the European sites and therefore urban effects can be dismissed as a potential impact pathway.

## European sites without impact pathways

2.22 The two marine sites are not relevant to any of the various pathways discussed above and these can be ruled out for any likely significant effect. Similarly, for Dew's Ponds SAC, located outside Waveney District and with Great Crested Newt the sole interest feature, there are no relevant impact pathways. Given the distances involved, the travel time and the proximity of closer areas of coast, we can rule out recreation impacts for Great Yarmouth North Denes SPA and Winterton-Horsey Dunes SAC. Similarly, the Valley Fens are all well outside the District and the nearest sites have little draw for recreation and the Sandlings are over 13km from virtually all parts of the District.

# Map 4: Roads within 400m European Sites




Contains Ordnance Survey Data. © Crown copyright and database right 2016.
Designated site boundary files downloaded from Natural England website. ©Natural England.

# 3. Screening for likely significant effects

3.1 HRA is a step by step process, with the competent authority required to undertake a screening for likely significant effects on European sites, after determining that the plan or project in question is not one that is entirely necessary for site management. Once relevant background information and potential impact pathways are understood, the HRA can progress to the screening for likely significant effects stage, fully informed by the background research undertaken. The screening for likely significant effects is undertaken on all policies within the plan. It is an initial check, made on a precautionary basis, to determine whether any part of the plan poses a risk to European sites in terms of its future implementation.

3.2 The Waveney Local Plan is being prepared to steer sustainable development in the Waveney District, and whilst protection and enhancement of the natural environment is an integral part of sustainable development, the plan is not singularly focussed on European site management. The screening for likely significant effects is therefore undertaken.

3.3 When a HRA is being undertaken on a plan or project that is initiated by the competent authority themselves, there is greater opportunity to identify potential issues arising from the plan or project in the initial stages of design or preparation. Where a competent authority is approving a project being proposed by another party, the application for permission is usually made when the proposal has already been designed and all details finalised, thus the opportunity to identify issues early on is more limited unless an applicant chooses to hold early discussions with the competent authority.

3.4 For the Waveney Local Plan, Waveney District Council is both the plan proposer and the competent authority, thus allowing the HRA to influence the plan in its earlier stages, at later refining stages and up to submission for Examination.

## What constitutes a likely significant effect?

3.5 At the screening stage of HRA, there is the opportunity to identify changes to the plan that could be made to avoid risks to European sites. The screening for likely significant effects is an initial check to identify risks or uncertainties in policy wording, and recommend any obvious changes that can avoid those risks with clarifications, corrections or instructions for development project level HRA. Any recommendations that need to be justified in terms of effectiveness and applicability should be considered within the appropriate assessment stage of HRA. As described in Appendix 1, screening for likely significant effect is an

initial check to identify risks and uncertainties that could potentially be significant for the European sites, and to recommend any obvious changes that can avoid those risks. Where risks cannot be avoided with simple clarifications, corrections or instructions for project level HRA, a more detailed assessment is undertaken to gather more information about the likely significant effects, and give the necessary scrutiny to potential mitigation measures. This is the appropriate assessment stage of HRA.

3.6 The screening check of each aspect of the plan is essentially looking for two things to enable a conclusion of no likely significant effect;

- Whether it is possible to say with certainty that there are no possible impacts on European sites, or
- Whether, in light of a potential risk, simple clarifications can be built into the policy and/or its supporting text, which serve to avoid any likely impacts.

3.7 If one of these can be met, it enables a competent authority to screen out from further stages of assessment. Where there is the potential for European sites to be affected, or mitigation measures need to be checked to ensure they are effective and appropriate, more detailed consideration is required and this then screens those aspects of the plan in to the appropriate assessment.

3.8 A likely significant effect could be concluded on the basis of clear evidence of risk to European site interest, or there could be a scientific and plausible justification for concluding that a risk is present, even in the absence of direct evidence. The latter is a precautionary approach, which is one of the foundations of the high-level of protection pursued by EU policy on the environment, in accordance with the EU Treaty.[5] The precautionary principle should be applied at all stages in the HRA process. follows the principles established in case law relating to the use of such a principle in applying the European Directives and domestic Habitats Regulations. In particular, the European Court in the 'Waddensee' case[6] refers to "*no reasonable scientific doubt*" and the 'Sweetman' case[7] the Advocate General identified that a positive conclusion on screening for likely significant effects relates to where there "*is a possibility of there being a significant effect*".

3.9 Table 4 below records the conclusions drawn and recommendations made on a policy by policy check for likely significant effects of the Waveney Local Plan at

---

[5] Article 191 of the Treaty on the Functioning of the EU. Previously Article 174 of the Treaty of the EC.

[6] European Court of Justice case C - 127/02

[7] European Court of Justice case C - 258/11

Final Draft stage. Potential risks are highlighted. For a number of policies, particularly those related to site allocations, the screening has identified a likely significant effect. These can be categorised as follows:

- For policies that do not set a quantum of development or specific locations, the potential for significant effects relates to the possibility of development coming forward in a particular location or with particular characteristics. In such instances, the risks may be simply avoided with straightforward clarifications, which remove any uncertainty. The recommendations add text to the policy to explain how the policy should be implemented to prevent adverse effects. This does not exclude the need for project level HRA but enables a conclusion of no likely significant effects at the plan level, because the identified risks to European sites have been removed. Project level HRA provides a means of checking for any further risks unforeseen at the plan level, and for developing project specific mitigation measures in greater detail within a project level appropriate assessment.

- For policies that do set a quantum of development or specific locations, the risks relate to those highlighted by Natural England in their response letter for the First Draft of the Waveney Local Plan. These are primarily related to recreation pressure. It is important to note that during the screening stage, a particular geographical zone from which such pressure may derive is not assessed further. The screening table simply highlights the potential risk from the combined effect of all residential development. The further detailed assessment of this, including the potential zone of influence is discussed in more detail in the appropriate assessment chapter.

3.10 The screening table below provides a record of screening of the entire plan at Final Draft stage. It should be noted that recreation pressure at this screening stage is simply flagged as a risk for any residential allocation. The risk is not deemed to be location specific, but rather it is a combined effect of multiple housing that poses a risk. The geographical extent of that risk is not established here, for reasons explained in the appropriate assessment in Section 4.

3.11 In their response letter of May 2018, Natural England highlighted a number of allocations that will require project level HRA (along with other non-HRA matters such as landscape assessments). This response follows a new European Court of Justice Judgment in 2018[8] which clarified the need to carefully explain actions taken at each HRA stage, particularly at the screening for likely significant effects stage. The Judgment is a timely reminder of the need for clear distinction

[8] European Court of Justice case C - 323/17 being referred to as 'People Over Wind'

between the stages of HRA, and good practice in recognising the function of each. The screening for likely significant effects stage should function as a screening or checking stage, to determine whether further assessment is required. Assessing the nature and extent of potential impacts on European site interest features, and the robustness of mitigation options, should be done at the appropriate assessment stage. This HRA report has been updated in June 2018 in light of this Judgment and Natural England's advice. Explanatory text has been added to the screening for likely significant effects table below. The recommendations have not changed from the previous HRA report, rather the reason why the recommendation is applicable at the screening stage is provided.

3.12 The screening table includes a final column that is yet to be populated. This will be undertaken on the final plan with all of its proposed modification after Examination in Public, prior to adoption. This ensures that the final adopted plan has an up to date HRA report.

**Table 4: Screening for likely significant effects – Final Draft Local Plan**

| Policy | Description | Initial LSE screening | Potential risks | Recommendations | Re-screen |
|---|---|---|---|---|---|
| Overall strategy - vision | Vision for 2036 as a result of the implementation of the Local Plan | No LSE – includes strong protection and enhancement of the natural environment as part of sustainable development. Location specific protection also referred to. | N/A | N/A | |
| Overall strategy - objectives | Objective 2 - Delivery of 8,223 homes<br>Objective 3 – protect and enhance the natural environment | LSE – delivery of the quantum of housing development is linked to the recreation pressure impact pathway | In-combination effects relating to recreation and air pollution | Themes for consideration at appropriate assessment – extent of impact and suitability of mitigation measures requires further scrutiny at appropriate assessment | |
| WLP1.1 Scale and location of growth | Sets out the quantum and location of growth to be achieved by the end of the plan period<br>8,223 dwellings<br>43 ha of employment land<br>13,200m2 retail floorspace.<br>Development distribution | LSE – delivery of the quantum of housing development is linked to the recreation pressure impact pathway<br>General growth linked to the air pollution impact pathway | In-combination effects relating to recreation and air pollution | Themes for consideration at appropriate assessment– extent of impact and suitability of mitigation measures requires further scrutiny at appropriate assessment | |
| WLP1.2 Presumption in favour of sustainable development | Accords with the NPPF presumption in favour of sustainable development unless material considerations demonstrate otherwise. | No LSE – policy explains that exceptions relate to specific national planning policies. The NPPF advises that the presumption does not apply where European sites are potentially affected. | N/A | N/A | |
| WLP1.3 Settlement boundaries | Explanatory policy for the settlement | No LSE – explanatory only and does not promote development | N/A | N/A | |

| Policy | Description | Initial LSE screening | Potential risks | Recommendations | Re-screen |
|---|---|---|---|---|---|
| | boundaries in place for the plan | | | | |
| WLP1.4 Infrastructure | General policy to a) secure necessary infrastructure and b) list key infrastructure projects (road and flood management) | LSE – a) securing the necessary infrastructure requires strengthening of policy wording in relation to water. LSE –b) the policy lists projects that will be undertaken with partners and will improve general traffic congestion issues. Whilst the risks are low, project level HRA will need to fully account for risks. | Potential for projects coming forward to have construction or operation related impacts, particularly in relation to water quality, air quality and disturbance. | a) policy wording changes *"Development will not be permitted where it would have a significant effect on the capacity of existing infrastructure, and therefore potential risks to the natural environment which cannot be mitigated. Specifically, developers should provide evidence to ensure there is capacity in the water recycling centre and the wastewater network. Where there is no capacity in the water recycling centre, development may need to be phased in order to allow improvement works to take place.* Recommended wording changes are for clarity and to assist correct interpretation of the policy only and are not mitigation measures that require further assessment.<br><br>b) no plan changes but this HRA identifies that project level HRAs will need to cover construction impacts and good practice mitigation in relation to run off, air quality during construction etc. | |
| WLP2.1 Central and coastal Lowestoft regeneration | A general policy committing to working with relevant partners to deliver regeneration objectives for Lowestoft. | No LSE – high level commitments only | N/A | See below | |
| Lowestoft non-residential allocations WLP2.2 WLP2.3 | These policies for Lowestoft set out the key new development and regeneration | LSE – these policies and associated map identify large development and regeneration projects that are in close proximity to the Broads | Potential for projects coming forward to have construction or operation related impacts, particularly in | Policy wording changes - the Lowestoft section of the plan needs to recognise the close proximity of European sites and the potential risks that must be addressed at project level HRA/EIA/EcIA. This may be best referenced | |

| Policy | Description | Initial LSE screening | Potential risks | Recommendations | Re-screen |
|---|---|---|---|---|---|
| WLP2.4<br>WLP2.5<br>WLP2.7<br>WLP2.8<br>WLP2.9<br>WLP2.10<br>WLP2.11<br>WLP2.12<br>WLP2.17<br>WLP2.18<br>WLP2.19 | projects to be taken forward. | SAC/Broadland SPA and Ramsar site. | relation to water quality, air quality and disturbance. | within the introductory section for Lowestoft or at an appropriate policy.<br>Recommended wording changes are for clarity and to enable developers to be fully aware of project level HRA requirements.<br>Recommendations are not mitigation measures that require further assessment.<br>Natural England's consultation response of May 2018 confirms the need for project level HRA. | |
| Lowestoft residential allocations<br>WLP2.6<br>WLP2.8<br>WLP2.13<br>WLP2.14<br>WLP2.15<br>WLP2.16<br>WLP2.20 | These policies for Lowestoft set out mixed use allocations, including residential | LSE – a) residential development could pose a risk in terms of increased recreation pressure at European sites.<br>LSE b) project level risks as above | In-combination recreation pressure.<br>Plus, project level risks, as above.<br>Inclusion of greenspace as potential mitigation in some allocations needs to be considered. | Theme for consideration at appropriate assessment<br>Greenspace to be further considered as viable mitigation.<br>Project level risks covered by recommendations for Lowestoft policies above.<br>Natural England's consultation response of May 2018 confirms the need for project level HRA. | |
| Beccles and Worlingham allocations<br>WLP3.1<br>WLP3.2<br>WLP3.3 | These policies for Beccles and Worlingham set out mixed use allocations, including residential | LSE – residential development could pose a risk in terms of increased recreation pressure at European sites.<br>Proximity to | In-combination recreation pressure. | Theme for consideration at appropriate assessment.<br>Greenspace to be further considered as viable mitigation.<br>Natural England's consultation response of May 2018 confirms the need for project level HRA. | |
| Halesworth and Holton allocations<br>WLP4.1<br>WLP4.2<br>WLP4.3 | These policies for Halesworth and Holton set out mixed use allocations, including residential | LSE – residential development could pose a risk in terms of increased recreation pressure at European sites. | In-combination recreation pressure. | Theme for consideration at appropriate assessment.<br>Greenspace to be further considered as viable mitigation. | |

| Policy | Description | Initial LSE screening | Potential risks | Recommendations | Re-screen |
|---|---|---|---|---|---|
| WLP4.4<br>WLP4.5<br>WLP4.6 | | | | | |
| Bungay allocations<br>WLP5.1<br>WLP5.2 | These policies for Bungay set out mixed use allocations, including residential | LSE – residential development could pose a risk in terms of increased recreation pressure at European sites. | In-combination recreation pressure. | Theme for consideration at appropriate assessment.<br>Greenspace to be further considered as viable mitigation. | |
| Southwold and Reydon allocation<br>WLP6.1<br>WLP6.2 | These policies for Southwold and Reydon set out mixed use allocations, including residential | LSE – residential development could pose a risk in terms of increased recreation pressure at European sites. | In-combination recreation pressure. | Theme for consideration at appropriate assessment.<br>Greenspace to be further considered as viable mitigation.<br>Natural England's consultation response of May 2018 confirms the need for project level HRA. | |
| Southwold and Reydon allocation<br>WLP6.2 | Southwold harbour criteria | LSE – these policies and associated map identify large development and regeneration projects that are in close proximity to the Broads SAC/Broadland SPA and Ramsar site. | Potential for projects coming forward to have construction or operation related impacts, particularly in relation to water quality, air quality and disturbance. | The Lowestoft section of the plan needs to recognise the close proximity of European sites and the potential risks that must be addressed at project level HRA/EIA/EcIA.<br>This may be best referenced within WLP2.1 or its supporting text.<br>Recommended wording changes are for clarity and to enable developers to be fully aware of project level HRA requirements.<br>Recommendations are not mitigation measures that require further assessment. | |
| WLP7.1<br>Rural settlement hierarchy and housing growth | Sets out the delivery of 10% of housing growth in rural areas, focussing on larger villages, then smaller villages | No LSE – high level explanatory policy relating to rural housing allocations | N/A | N/A | |
| Rural areas allocations | These policies for rural areas set out mixed use | LSE – residential development could pose a risk in terms of | In-combination recreation pressure. | Theme for consideration at appropriate assessment. | |

| Policy | Description | Initial LSE screening | Potential risks | Recommendations | Re-screen |
|---|---|---|---|---|---|
| WLP7.2<br>WLP7.3<br>WLP7.4<br>WLP7.5<br>WLP7.6<br>WLP7.7<br>WLP7.8<br>WLP7.9<br>WLP7.10<br>WLP7.11<br>WLP7.12<br>WLP7.13<br>WLP7.14<br>WLP7.15<br>WLP7.16<br>WLP7.17 | allocations, including residential | increased recreation pressure at European sites. | | Greenspace to be further considered as viable mitigation.<br>Natural England's consultation response of May 2018 confirms the need for project level HRA. | |
| WLP8.1<br>Housing mix | The policy qualifies the need for a mix of housing types, including smaller properties to meet need | No LSE – All housing types within the zone(s) of influence to be established will need to be mitigated for. | N/A | N/A | |
| WLP8.1<br>Affordable housing | The policy qualifies the need for a percentage of housing provision to be affordable | No LSE – All housing types within the zone(s) of influence to be established will need to be mitigated for. | N/A | N/A | |
| WLP8.3<br>Self build and custom build | Supporting custom and self build as part of the housing mix | No LSE – All housing types within the zone(s) of influence to be established will need to be mitigated for. | N/A | N/A | |
| WLP8.4<br>Conversion of properties to flats | Policy requirements for conversions | No LSE – All housing types within the zone(s) of influence to be established will need to be mitigated for, wherever there is | N/A | N/A | |

| Policy | Description | Initial LSE screening | Potential risks | Recommendations | Re-screen |
|---|---|---|---|---|---|
| | | a net increase in dwellings, including within conversion. | | | |
| WLP8.5 Gypsy and traveller sites | Policy requirements for gypsy and traveller sites | No LSE – All housing types within the zone(s) of influence to be established will need to be mitigated for, wherever there is a net increase in dwellings, including gypsy and traveller sites. | N/A | N/A | |
| Dwellings in the countryside WLP8.6 WLP8.7 WLP8.8 WLP8.9 WLP8.10 WLP8.11 | Policy requirements for affordable housing in the countryside | No LSE – All housing types within the zone(s) of influence to be established will need to be mitigated for, wherever there is a net increase in dwellings, irrespective of type. No LSE - Annexes do not constitute a net increase in dwellings | N/A | N/A | |
| Employment policies WLP8.12 WLP8.13 WLP8.14 | Policies setting out the extent and location of employment growth | LSE – project level risks | Potential for projects coming forward to have construction or operation related impacts, particularly in relation to water quality, air quality and disturbance. | No plan changes but this HRA identifies that project level HRAs will need to cover construction impacts and good practice mitigation in relation to run off, air quality during construction etc. | |
| Tourism policies WLP8.15 WLP8.16 WLP8.17 | Policies setting out the criteria for tourism growth | LSE – project level risks | Potential for projects coming forward to have construction or operation related impacts, particularly in relation to water | No plan changes but this HRA identifies that project level HRAs will need to cover construction impacts and good practice mitigation in relation to run off, air quality during construction etc. | |

| Policy | Description | Initial LSE screening | Potential risks | Recommendations | Re-screen |
|---|---|---|---|---|---|
| | | | quality, air quality and disturbance. | | |
| Retail and leisure policies<br>WLP8.18<br>WLP8.19<br>WLP8.20 | Policies setting out the criteria for retail and leisure development | LSE – project level risks | Potential for projects coming forward to have construction or operation related impacts, particularly in relation to water quality, air quality and disturbance. | No plan changes but this HRA identifies that project level HRAs will need to cover construction impacts and good practice mitigation in relation to run off, air quality during construction etc. | |
| Transport<br>WLP8.21 | Requirements for taking into account any transport matters in new development | LSE – protective measures are incorporated with the requirement for Transport Statements and Assessments but not explicitly to cover the natural environment | Risk that air quality impacts on the natural environment are not covered by Transport Statements and Assessments | Recommend that supporting text for the policy makes clear that Transport Statements and Assessments need to cover the natural environment. This recommendation is to provide clarity within the policy and does not constitute mitigation that requires further assessment. | |
| Built community services and facilities<br>WLP8.22 | Policies setting out the criteria for Built community services and facilities | LSE – project level risks | Potential for projects coming forward to have construction or operation related impacts, particularly in relation to water quality, air quality and disturbance. | No plan changes but this HRA identifies that project level HRAs will need to cover construction impacts and good practice mitigation in relation to run off, air quality during construction etc. | |
| Protection of open space<br>WLP8.23 | Protective policy for the retention of open space | No LSE – protects assets of benefit to European site mitigation | N/A | N/A | |
| Flood Risk<br>WLP8.24 | A protective policy requiring appropriate flood risk assessment and flood prevention | LSE – a strong protective policy, with the policy focus on preventing flooding, but does not identify risks to the natural environment | Developers are not aware of the need to assess and mitigate for impacts on the natural environment. | Recommended policy wording changes:<br>*"An appropriate site specific flood risk assessment has been submitted which demonstrates that the flood risk can be satisfactorily mitigated over the lifetime of the* | |

| Policy | Description | Initial LSE screening | Potential risks | Recommendations | Re-screen |
|---|---|---|---|---|---|
| | measures in development | | | *development. This should address as a minimum: finished floor levels; safe access and egress; an emergency flood plan; flood resilience/resistance measures; any increase in built or surfaced area; and any impact on flooding elsewhere, <u>including on the natural environment</u>"*<br>This recommendation is to provide clarity within the policy and does not constitute mitigation that requires further assessment. | |
| Coastal change management area policies<br>WLP8.25<br>WLP8.26 | Protective policies in preparation for future coastal change | No LSE – protect coastline and is of benefit to European site mitigation | N/A | N/A | |
| Renewable and low carbon energy<br>WLP8.27 | Qualitative policy with criteria for renewable and low carbon energy development | No LSE – qualitative and does not promote development | N/A | N/A | |
| Sustainable construction<br>WLP8.28 | Qualitative policy with criteria for sustainable construction | No LSE – qualitative and does not promote development, brings sustainable building methods into construction and therefore helps protect natural resources | N/A | N/A | |
| Design<br>WLP8.29<br>WLP8.31<br>WLP8.32 | Qualitative policies with criteria for high quality design and targeting particular design requirements | No LSE – qualitative and does not promote development | N/A | N/A | |
| Design of open spaces | Qualitative policy with criteria for high quality | No LSE – qualitative and does not promote development. | N/A | N/A | |

| Policy | Description | Initial LSE screening | Potential risks | Recommendations | Re-screen |
|---|---|---|---|---|---|
| WLP8.30 | open spaces to cover a range of uses, including those benefiting the natural environment | Provides a positive policy that will support a recreation mitigation strategy, including provision of additional greenspace as part of the mitigation package. | | | |
| Residential gardens and urban infilling WLP8.33 | Criteria for development proposals that are urban infilling | No LSE – All housing types within the zone(s) of influence to be established will need to be mitigated for. | N/A | N/A | |
| Biodiversity and Geodiversity WLP8.34 | Protective policy for biodiversity | LSE – this is a strong and positive policy for biodiversity, in terms of both the supporting text and policy wording. LSE conclusion relates to the need to add a commitment to a strategic recreation strategy, as per the appropriate assessment. | Lack of clarity or commitment to a recreation strategy does not give certainty in mitigation delivery | This policy needs to provide a commitment to a strategic mitigation strategy for recreation pressure. Recommended addition – "*The Council will work with neighbouring authorities and Natural England to develop a strategic mitigation strategy to alleviate recreation pressure at coastal designated sites as a result of new growth. The strategy will include a requirement for developers to contribute towards the provision of strategic mitigation, within defined zones.*"<br>It would also be beneficial to add further explanatory wording within the supporting text for this policy. The supporting text should explain that a developer contributions based mitigation strategy will also be complemented by the delivery of large scale green infrastructure as set out within the allocations. The strategy will provide additional recommendations for taking these forward.<br>This recommendation is to provide direction in relation to the strategic approach that is | |

| Policy | Description | Initial LSE screening | Potential risks | Recommendations | Re-screen |
|---|---|---|---|---|---|
| | | | | discussed in the appropriate assessment section of this report. The recommendation is therefore linked to appropriate assessment recommendations.<br><br>An additional point of clarification is that HRAs are undertaken by the Council, not developers. Policy wording changes recommended -<br>*"Any development with the potential to impact on a Special Protection Area or Special Area for Conservation within or outside of the District will need to be supported by information to inform a Habitat Regulations Assessment"*<br>This recommendation is a correction to ensure the right terminology in relation to the legislation.<br><br>Natural England's consultation response of May 2018 highlights the need for this policy to provide strong policy wording in relation to wider biodiversity assets and the construction development should make to delivering net gains for biodiversity. This point is discussed in the appropriate assessment. | |
| Landscape character, coalescence, historic environment<br>WLP8.35<br>WLP8.36 | Protective polices for landscape and historic environment | No LSE – qualitative and protective, and do not promote development | N/A | N/A | |

| Policy | Description | Initial LSE screening | Potential risks | Recommendations | Re-screen |
|---|---|---|---|---|---|
| WLP8.37<br>WLP8.38<br>WLP8.39<br>WLP8.40 | | | | | |

# 4. Appropriate assessment

4.1 This section provides an appropriate assessment of the potential impacts of recreation pressure and air quality, both of which have been screened in by the checking of impact pathways and screening for likely significant effects. These are also the potential impacts for which the Natural England advice at First Draft Local Plan stage recommended further consideration. This section also includes discussion in relation to Natural England's recommendations for the Biodiversity and Geodiversity Policy to be strengthened in relation to the provision of net gains for biodiversity as a result of new development.

4.2 Once a likely significant effect has been identified, the purpose of the appropriate assessment is to examine evidence and information in more detail to establish the nature and extent of the predicted impacts, in order to answer the question as to whether such impacts could lead to adverse effects on European site integrity.

4.3 An appropriate assessment should be based on evidence, and that can take different forms (direct evidence, comparable evidence, modelling, expert opinion, Natural England's advice etc). In reality however, appropriate assessments are often undertaken with some evidence, but not enough to give absolute or definitive answers. The assessment is therefore often drawing on the knowledge and experience of the assessors, to make scientifically justified decisions about risk.

4.4 The 'precautionary principle' is described in the previous section. It is equally relevant for the appropriate assessment as it is for screening likely significant effects. It is an accepted principle that is embedded within the wording of the legislation, and latterly within case decisions, both European and domestic. Essentially, the appropriate assessment stage is, in accordance with the Habitats Regulations, an assessment that enables a competent authority to only give effect to a plan or authorise/undertake a project after having ascertained that it will not adversely affect the integrity of the European site.

4.5 It is for the competent authority to gather the information and evidence necessary for the appropriate assessment to give them certainty that adverse effects will not occur. Fundamentally that therefore means that in the absence of certainty, the plan or project should not normally proceed (subject to the further exceptional tests explained in Appendix 1). Hence the precaution is in the competent authority's duty to only allow plans or projects to proceed whether there is certainty and to apply a precautionary approach where uncertainties remain. Competent authorities should have enough evidence to satisfy themselves that there are feasible measures to prevent adverse effects.

These should be feasible in terms of cost, practical implementation, timeliness and attributing responsibility,

## Recreation

4.6 The European sites considered to be at risk from recreation pressure arising from growth in the Waveney Local Plan are Benacre to Easton Bavents Lagoons SAC/Benacre to Easton Bavents SPA and Minsmere to Walberswick Heaths & Marshes SAC/Minsmere-Walberswick SPA/Ramsar.

4.7 The Waveney Local Plan promotes the delivery of a minimum of 8,223 homes over the plan period of 2014 to 2036. Housing allocations allow for a contingency of around 12%, to secure the delivery of at least the minimum requirement.

4.8 There will be 56% of the new housing growth delivered in the Lowestoft area. The Local Plan has a strong focus on delivering most of its housing within Lowestoft, the largest town. This presents the most sustainable option as it should reduce travel by enabling people to live where there are the best employment opportunities, services and facilities. Additionally, 16% will be delivered in Beccles and Worlingham, 8% in Halesworth and Holton, 6% in Bungay and 4% in Southwold. Waveney District Council also anticipates delivering 10% of the required new housing growth within the rural area. The spread of housing is detailed in the plan as follows:

- Lowestoft 5,106 houses
- Beccles and Worlingham 1,473 houses
- Bungay 557 houses
- Halesworth and Holton 762 houses
- Southwold and Reydon 387 houses
- Rural areas 877 houses
- **Total = 9,213**

4.9 This amount of housing growth is concluded to be significant in terms of the potential recreation pressure that may occur as a result of the new residential growth over the plan period. This conclusion is drawn from the following:

- Sensitivity of the relevant European sites to recreation pressure and current recreation issues
- Advice of Natural England
- Reference to strategic mitigation approach being taken forward in Suffolk for coastal and heathland sites, and the underpinning evidence.

### *Sensitivity and recommended approach for Minsmere/Walberswick*

4.10 The Suffolk HRA RAM Strategy is being implemented by Ipswich Borough Council, Babergh District Council and Suffolk Coastal District Council. It focuses on avoiding and mitigating for recreation pressure on the following European site groups:

- Alde-Ore Estuary SPA/Ramsar site with Orfordness-Shingle Street SAC
- Deben Estuary SPA/Ramsar site
- Stour and Orwell Estuaries SPA/Ramsar site
- Sandlings SPA
- Minsmere-Walberswick SPA/SAC/Ramsar site

4.11 The Suffolk HRA RAM Strategy includes Minsmere/Walberswick SPA/SAC/Ramsar site, but specifically only the accessible fringes of the designated sites, which lie outside the reserve areas that are managed to provide a visitor destination to access nature. The inclusion of the areas out with the Reserve is primarily in response to concerns raised by the RSPB as site manager for Minsmere RSPB Reserve and by Natural England, both as the Government statutory nature conservation and advisory body for England and as site manager for Walberswick National Nature Reserve.

4.12 The Suffolk HRA RAM Strategy is being put in place in response to plan level HRA findings, visitor data, ecological data, and advice from Natural England. It includes a zone of influence around each European site, which is currently 13km in response to visitor data. The 13 km zone around Minsmere/Walberswick covers part of the Waveney District, and is therefore a missing section of the mitigation coverage for the Suffolk HRA RAM Strategy. There is a similar issue for some of the other European sites in relation to missing coverage in the Mid Suffolk District.

4.13 Waveney District Council and Mid Suffolk District Council have recently commenced discussions with Ipswich Borough Council, Babergh District Council and Suffolk Coastal District Council, and Natural England to explore options for aligning with or joining the Suffolk HRA RAM Strategy. This would enable housing growth within the Waveney District and within the zone of influence for Minsmere/Walberswick to be adequately mitigated for. An alternative option would be to develop a separate mitigation approach for Waveney. However, this may lead to difficulties in applying measures to the same site from different strategies. A joined approach brings added benefits of oversight, co-ordination, and efficiencies in governance, administration, implementation and monitoring.

### *Sensitivity and recommended approach for Benacre*

4.14 Breeding Little Tern colonies are the interest feature for the Benacre to Easton Bavents SPA that is highly sensitive to recreation pressure. Little Terns are

summer migrants, nesting on sand with pebbles or shingle in shallow scrapes, which are susceptible to predation, including by dogs. Nest disturbance can cause birds to abandon nest sites. In addition to recreation, breeding Little Terns are particularly vulnerable to predation or single incidents such as vandalism.

4.15 Little Terns will move in response to the availability of suitable nesting habitat, distribution of fish stocks and predator abundance. Where a coastline is dynamic, shifting beach habitat can cause a colony to move and Little Terms will take advantage of suitable sand banks or bars as they emerge, provided that they are not flooded at high tide.

4.16 The Little Tern nesting colonies along the Norfolk and Suffolk coast have shifted in size and location in recent years. To the north of Benacre to Easton Bavents SPA there are other SPAs holding Little Tern breeding colonies and it is likely that birds do move between SPAs. Recently a breeding colony at North Denes SPA thought to be the largest colony in the UK, dispersed as the changing beach shape reduced the suitable nesting habitat, constraining it to areas of recreation disturbance and leaving the nests more vulnerable to predation. There is a breeding colony at Winterton, Kessingland and also on the beach at Minsmere and Walberswick, being a feature of the Minsmere Walberswick SPA.

4.17 Current management and protection of Little Terns around the English coast is funded by the European Life Project, with funding in place until the end of 2018. The RSPB and Natural England implement suitable management at the sites around the coast, in response to Little Tern presence. This has involved mobile fencing and deployment of resources at different locations. Warden effort is in response to need, particularly when the birds move into new locations. The vulnerability of Little Tern colonies is evidenced by recent vandalism incidents at Kessingland and on the Northumbria coast in 2017, where colony fencing was breached and eggs taken.

4.18 The Norfolk Little Tern sites will benefit from continued management measures as a consequence of the Great Yarmouth monitoring and mitigation strategy now in place, in response to the recommendations within the Core Strategy HRA for partnership working to deliver the required recreation mitigation measures. A charging schedule enables developer contributions to be taken that are then used to fund measures to manage recreation pressure at Winterton-Horsey Dunes SAC, North Denes SPA and Breydon Water SPA/Ramsar site. For Suffolk, management of disturbance on the beach areas Minsmere and Walberswick used by breeding Little Terns is also included in the Suffolk HRA RAM Strategy.

4.19 It is recognised that a strategic approach to managing recreation pressure for the Little Tern interest feature of Benacre to Easton Bavents SPA would bridge the gap between Minsmere and Walberswick to the south and North Denes to

the north. With the imminent termination of Life Project funding, it is clear that a mitigation approach that covers the range of breeding sites used, and is complementary, is the most optimal way forward. The most practical way of implementing this is for the mitigation for Benacre to Easton Bavents SPA is be added into the Suffolk HRA RAM Strategy.

### *The zone of influence for recreation pressure*

4.20 As described above, evidence used to inform the Suffolk HRA RAM Strategy identified a zone of influence of 13km around the European sites. This is therefore equally applicable to the expansion of the strategy to include Waveney. However the mitigation package currently proposed for the Suffolk HRA RAM Strategy will need to be revisited if the expansion of the Suffolk HRA RAM Strategy is progressed, as the mitigation requirements for new housing in Waveney and Mid Suffolk would need to be accounted for. Additionally, if the Suffolk HRA RAM Strategy is to be expanded to provide mitigation for Benacre to Easton Bavents SPA, and a continuous mitigation approach for Little Terns continuing into Norfolk, a suitable application of zones will need careful consideration.

### *The role of green infrastructure*

4.21 A number of the allocations within the plan have strong policy wording in relation to the provision of adequate green infrastructure, and the previous HRA work identified the importance of green infrastructure as part of the mitigation package for reducing recreation pressure, i.e. by diverting that pressure to other sites. The Final Draft Local Plan includes very positive policy requirements for large scale green infrastructure, normally referred to in the plan as country parks. The detail of these and the contribution they will make to the overall approach will be referred to in taking forward a recreation strategy for Waveney that adds on to the Suffolk HRA RAM Strategy.

4.22 Natural England's consultation response of May 2018 includes specific wording recommendations for green infrastructure provision, which will be included in the Suffolk HRA RAM Strategy. It could also be included within the plan, potentially within the supporting text for the Biodiversity and Geodiversity policy.

## Air Quality

4.23 Airborne nitrogen (mostly as ammonia and nitrous oxides) from burning fossil fuels by industry, traffic, shipping and agriculture, can be detrimental for habitats with low nutrient systems and poor buffering capability against inputs of nutrients (mostly airborne nitrogen) or increases in acidity (mostly a side

effect of nitrogen or from airborne sulphur). Following a recent High Court decision relating to Ashdown Forest[9] there is some uncertainty over the correct approach to assessment of plans or projects with air quality impacts. The High Court's decision criticised the advice that Natural England (and by analogy others e.g. the Environment Agency) had given about there being no need to carry out an express "in combination assessment" in relation to plans and projects which, alone, have air quality impacts falling below a particular threshold.

4.24 In drawing lessons learnt from this case, it is important to reiterate that protecting, maintaining and restoring European wildlife sites should not be reactive when there are clear indicators of deterioration. Rather, the legislation and NPPF policy in relation to the environment indicates that it is in integral part of sustainable development and an ongoing area of work. The objectives of the European Directives are to maintain European site interest, and restore where there is existing deterioration. It follows therefore that putting in place checks to avoid deterioration, or gathering further evidence to inform future action if necessary, is a meaningful measure to achieve these objectives.

4.25 Traffic modelling work has been undertaken across the Suffolk County, and this is being used to inform the Waveney Local Plan. The Suffolk County Transport Model 2017 concluded that for Waveney, the proposed growth in the emerging Local Plan could be accommodated within the existing road network, but that there is the potential for increased congestion at some junctions, particularly in the South Lowestoft local area as a result of the focus of growth here.

4.26 The previous HRA for the First Draft Local Plan concluded that the Suffolk County Transport Model 2017 indicates that the increased traffic as a result of new growth in Waveney will not be significant relative to current traffic volumes.

4.27 The previous HRA report also highlighted that the Sustainable Transport Policy WLP8.21 Sustainable Transport requires Transport Statements for larger developments. The policy wording requires Transport Statements to be produced for developments between 50 and 80 dwellings, with Transport Assessments and Travel Plans required for developments over 80 dwellings.

4.28 Natural England will advise on location and European site specific matters in relation to traffic increases and air quality, but generally refer to the thresholds originally set in the Design Manual for Roads and Bridges as an initial indication of likely significant effects, whereby if any road within 200m of a European site will see traffic increases of over 1000 Average Annual Daily Traffic (AADT) movements a likely significant effect should be considered further. The traffic

[9] Wealden District Council v Secretary of State for Communities and Local Government, Lewes District Council and South Downs National Park Authority [2017] EWHC 351

modelling undertaken in 2017 focusses on peak travel times rather than daily averages, making it difficult to draw conclusions. The model only reports on total flows, in both directions, in the peak morning 'rush hour' (08:00-09:00) and evening 'rush hour' (17:00-18:00) so does not provide total traffic movements in a day.

4.29 Table 5 below shows the modelling data, with the base year scenario for 2016, and then two growth scenarios; one just for growth based on existing commitments and then one based on a combination of existing commitments and the allocations up to 2036.

4.30 Whilst the roads in the table are in Waveney, the modelling is based on growth forecasts for both Waveney District and Suffolk Coastal District. It is not possible to isolate the traffic increases from just the new allocations in Waveney with this data. However, there is still the opportunity to make some basic comparisons between the scenarios to at least get an idea of the potential effect of growth within the Waveney Local Plan and some indication of where any notable change may occur in relation to European sites.

4.31 Only the A146 road stretches listed in the modelling lie within 400m of a European site (within the top two lines of Table 5). Both stretches of the A146 are predicted to incur a traffic increase based on the 2036 Local Plan scenario. However, the traffic congestion issues on the A146 relate to roundabouts and junctions, where there are capacity issues. The stretches of the A146 within 400m of The Broads are considered to be free flowing and without congestion issues, with the exception of a mild congestion issue on the 21-55 Beccles Road stretch, where the junction arm is at 79% capacity in the AM peak (Sam Hubbard, Principal Planner Waveney District Council, pers. comm.).

4.32 The SIP for The Broads indicates that atmospheric nitrogen deposition is a pressure for the site. The habitat interest features, and habitats supporting species interest features are vulnerable to nutrient enrichment as a result of nitrogen deposition. The measure identified within the SIP to improve the situation is the preparation of a Site Nitrogen Action Plan, but this has not yet been progressed.

4.33 As similarly identified in the HRA for the Broads Local Plan, Waveney District Council should liaise with Natural England to determine whether there may be opportunities to contribute to the Site Nitrogen Action Plan, which may then be relevant for future plan reviews or for co-ordinated work on air quality with neighbouring authorities such as Great Yarmouth Borough Council.

4.34 With this analysis, and reference to the precautions in the plan for Traffic Assessments for large developments, it is currently concluded that a plan level

solution for air quality is therefore not recommended at this stage. However, this is a matter that should continue to be reviewed, and regular liaison with Natural England is essential to enable a conclusion of no adverse effects to continue to be held. Collaborative working on the Site Nitrogen Action Plan should be committed to. Project level HRA for developments providing Traffic Statements and Traffic Assessments will need to request relevant data from developers to assess implications for the natural environment, including designated sites.

**Table 5: Traffic scenarios for Waveney and Suffolk Coastal Districts from the Suffolk County Transport Model 2017**

| Road stretches | 2016 Base Year | | 2036 Reference Case (Existing Commitments) | | 2036 Local Plan First Draft Plan Allocations | |
|---|---|---|---|---|---|---|
| | AM Flow 8am-9am | PM Flow 5pm-6pm | AM Flow 8am-9am | PM Flow 5pm-6pm | AM Flow 8am-9am | PM Flow 5pm-6pm |
| A Road A146 21-55 Beccles Road | 1042 | 1402 | 1167 | 1489 | 1573 | 1541 |
| A Road A146 between Beecles and Lowestoft | 1546 | 1888 | 1921 | 2222 | 2269 | 2410 |
| B Road B1437 Kessingland | No data | | | | | |
| B Road B1127 north of Reydon | 476 | 394 | 629 | 507 | 594 | 622 |
| B Road B1125 Dunwich Road – essentially Blythburgh to Westleton | 331 | 323 | 424 | 426 | 327 | 449 |
| A Road A1095 Halesworth Road | 236 | 296 | 292 | 377 | 372 | 396 |
| A Road A12 Blythburgh | 917 | 973 | 1206 | 1235 | 1292 | 1343 |
| A Road A145 stretch approaching A12 at Blythburgh | 575 | 585 | 713 | 752 | 771 | 771 |
| B Road B1387 road between Blythburgh and Walberswick | 132 | 116 | 169 | 147 | 193 | 189 |
| B Road B1123 just as approaching A12 | 353 | 395 | 437 | 498 | 570 | 516 |

## Biodiversity net gain

4.35 In Natural England's consultation response of May 2018, advise is given in relation to the Biodiversity and Geodiversity policy. Natural England offers strong support for the policy, but suggests that it could be further strengthened to ensure that it aligns with current Government direction on biodiversity net

gain. The NPPF highlights that sustainable development should contribute to the conservation and enhancement of biodiversity, seeking net gains wherever possible. The recently published Defra 25 year plan sets out objectives for gains in the environment generally, including biodiversity. This is in recognition of the significant biodiversity losses both nationally and internationally, and the UK's commitments to halt and reverse that loss through international conventions and national biodiversity strategy.

4.36 Securing a biodiversity net gains through development will help to reverse biodiversity loss, and it should be recognised that biodiversity is highly complex and whilst we place administrative boundaries around biodiversity areas to enable practical management and adherence to legislation, those boundaries are not a segregation of biodiversity function. Biodiversity assets outside designated sites have a critical role in supporting biodiversity within designated sites, in terms of supporting processes, genetic exchange, additional habitat, buffering and climate change adaptation, for example.

4.37 Adequate protection of wider biodiversity, and proactive measures as part of development to secure biodiversity net gains will in turn increase the resilience of protected sites. Natural England has provided detailed recommendations for additional text within the Biodiversity and Geodiversity policy in terms of securing biodiversity net gains and applying the mitigation hierarchy as set out within the NPPF, whereby biodiversity losses are avoided through appropriate design and siting of development, and residual impacts after avoidance are fully mitigated for, and compensation, as a last resort, is only accepted where it has been demonstrated that a development need outweighs the harm. In all instances, whether there is potential harm or not, a biodiversity net gain should be sought.

4.38 Natural England's advice and recommendation in relation to the Biodiversity and Geodiversity policy provide a positive strengthening of the policy for the benefit of designated sites, and are therefore HRA compliant. Addition of text requiring biodiversity net gain from any development to the policy will soon be supported by the imminent publication of good practice guidance in relation to achieving biodiversity net gain through development. This will be published in 2018 by three professional institutes; CIRIA, CIEEM and IEMA. This guidance will include consideration of proportionate net gains for smaller scale development.

# 5. Recommendations

5.1 This HRA, undertaken at Final Draft Local Plan stage has recommendations from the screening assessment for policy wording changes, and recommendations from the appropriate assessment for strategic mitigation.

## Policy wording recommendations from screening

5.2 The screening assessment recommends wording changes to the following policies (or supporting text), which are clarifications, corrections or instructions for development project level HRA:

- WLP2.1 Lowestoft
- WLP1.4 Infrastructure
- WLP8.21 Transport
- WLP8.24 Flood Risk
- WLP8.34 Biodiversity and Geodiversity.

## Strategic mitigation recommendations from appropriate assessment

5.3 Issues and potential mitigation suitability are discussed within the appropriate assessment relate to the following:

- Recreation pressure on Minsmere to Walberswick Heaths & Marshes SAC/Minsmere-Walberswick SPA/Ramsar
- Recreation pressure and nesting Little Tern disturbance on Benacre to Easton Bavents SPA
- Traffic generated air quality impacts
- Biodiversity net gain.

5.4 For recreation pressure on Minsmere/Walberswick, it is recommended that Waveney District Council join the already established Suffolk HRA RAM Strategy. As explained within the appropriate assessment section, at the time of assessment and preparation of this HRA report, Waveney District Council is working proactively with the authorities already signed up to the Suffolk HRA RAM Strategy, to expand its coverage into Waveney District and Mid Suffolk District. Policy wording has been recommended in the screening of the plan at Table 4, for the plan to commit Waveney District Council to this ongoing work.

5.5 For recreation pressure and Little Tern nest disturbance at Benacre to Easton Bavents SPA it is similarly recommended that contributions are collected towards the continuation of wardening and fencing currently in place as part of the wider Little Tern project. This should complement the strategic approach

already in place for the North Denes SPA, providing additional coverage of the coastline, where Little Tern nesting is dynamic in response to changing conditions. This should also cover nesting sites on the Waveney coastline that are outside the SPA, including at Kessingland. This breeding site was vandalised last year.

5.6 The current preferred approach for a strategic mitigation scheme for Waveney, for both European sites, is therefore is to expand the current Suffolk HRA RAM Strategy to incorporate the mitigation requirements for recreation pressure arising from new residential growth in Waveney. In order for Waveney District Council to join the Suffolk HRA RAM Strategy, the detail of the scale and nature of potential impacts arising from Waveney will need to be established. It is therefore recommended that there are two stages to a strategic recreation approach for Waveney. The next steps are therefore to:

5.7 a) Develop the detail of the requirements for a strategic mitigation approach for Waveney, with the following analysis informing the approach:

- Housing numbers
- Housing distribution
- Evidence to inform zone(s) of influence, i.e. the geographical extent of influence on the European sites, that indicates a mitigation zone(s).
- Suitable options for mitigation measures at each European site
- The role of green infrastructure and recommendations for how to most effectively take forward the policy requirements for country parks and green infrastructure tied to the larger allocations.

5.8 b) Expand the Suffolk HRA RAM Strategy to accommodate the Waveney requirements established in a) above. The Suffolk HRA RAM Strategy expansion to include both Waveney and Mid Suffolk is a separate piece of work that is currently being progressed.

5.9 These next steps are now being taken forward. Footprint Ecology is working with the HRA RAM Strategy local planning authorities to set out the expansion requirements in relation to a) above, which will then inform the work necessary for part b) to enable Waveney District Council to join the Suffolk HRA RAM Strategy.

5.10 The recommendations above require Waveney District Council to commit to a recreation strategy. A high level commitment within policy wording is recommended at this point in time, which will put in place the necessary policy wording to support implementation of the Strategy, which is nearing completion ready for adoption. As above, this is recommended in the screening table (Table 4) for Policy WLP8.34 Biodiversity and Geodiversity.

5.11 Natural England's consultation response of May 2018 made suggestions in relation to text to support the commitment to green infrastructure delivery in the plan. Green infrastructure will contribute towards the Suffolk HRA RAM Strategy as the Strategy has measures for access management within the European sites, and provision of alternative greenspace for recreation. The finalisation of the Strategy will have regard for green infrastructure provision within Waveney and give further detail to support the green infrastructure policy wording. Natural England's suggested text in relation to what should be delivered as part of green infrastructure will be included in the Strategy, but could also be added to supporting text within the plan.

## Air quality recommendations

5.12 The potential risk of atmospheric nitrogen deposition increases as a result of traffic on the A146 has been considered within the appropriate assessment. It is currently concluded that a plan level solution for air quality is not recommended at this stage, but should continue to be reviewed. Regular liaison with Natural England and collaborative working with neighbouring authorities is essential, particularly in relation to the forthcoming Site Nitrogen Action Plan.

## Biodiversity net gain amendments

5.13 The biodiversity and geodiversity policy should be further strengthened with reference to the need for development to demonstrate compliance with the mitigation hierarchy of avoid, mitigate, compensate, and to incorporate biodiversity net gains within the development.

## Conclusions

5.14 With all recommended measures in place, and with a policy commitment to working with neighbouring authorities in relation to the expansion and implementation of the Suffolk HRA RAM Strategy, it is concluded that the Waveney Local Plan would be considered sound in terms of its conformity with the Habitats Regulations, and adverse effects on European site integrity would be prevented.

# 6. References

Liley, D. & Clarke, R.T. (2003) The impact of urban development and human disturbance on the numbers of nightjar Caprimulgus europaeus on heathlands in Dorset, England. *Biological Conservation*, **114**, 219–230.

Liley, D., Lake, S., Underhill-Day, J., Sharp, J., White, J., Hoskin, R., Cruickshanks, K. & Fearnley, H. (2010) *Welsh Seasonal Habitat Vulnerability Review*. Footprint Ecology / CCW.

Lowen, J., Liley, D., Underhill-Day, J. & Whitehouse, A.T. (2008) Access and Nature Conservation Reconciliation: supplementary guidance for England.

Mallord, J.W., Dolman, P.M., Brown, A.F. & Sutherland, W.J. (2007) Linking recreational disturbance to population size in a ground-nesting passerine. *Journal of Applied Ecology*, **44**, 185–195.

Medeiros, R., Ramosa, J.A., Paivaa, V.H., Almeidac, A., Pedroa, P. & Antunes, S. (2007) Signage reduces the impact of human disturbance on little tern nesting success in Portugal. *Biological Conservation*, **135**, 99–106.

Murison, G. (2002) *The Impact of Human Disturbance on the Breeding Success of Nightjar Caprimulgus Europaeus on Heathlands in South Dorset, England*. English Nature, Peterborough.

Ratcliffe, N., Schmitt, S., Mayo, A., Tratalos, J. & Drewitt, A. (2008) Colony habitat selection by little terns sterna albifrons in East Anglia: implications for coastal management. *Seabird*, **21**, 55–63.

Saunders, C., Selwyn, J., Richardson, S., May, V. & Heeps, C. (2000) *A Review of the Effects of Recreational Interactions within UK European Marine Sites*. UK CEED & Bournemouth University.

Underhill-Day, J.C. (2005) *A Literature Review of Urban Effects on Lowland Heaths and Their Wildlife*. English Nature, Peterborough.

# 7. Appendix 1 - The Habitats Regulations Assessment Process

7.1 The designation, protection and restoration of European wildlife sites is embedded in the Conservation of Habitats and Species Regulations 2017, which are commonly referred to as the 'Habitats Regulations.' The most recent version of the Habitats Regulations does not affect the principles of European site assessment as defined by the previous Regulations, and which forms the focus of this report. Regulation numbers have changed from the 2010 Regulations.

7.2 The Habitats Regulations are in place to transpose European legislation set out within the Habitats Directive (Council Directive 92/43/EEC), which affords protection to plants, animals and habitats that are rare or vulnerable in a European context, and the Birds Directive (Council Directive 2009/147/EC), which originally came into force in 1979, and which protects rare and vulnerable birds and their habitats. These key pieces of European legislation seek to protect, conserve and restore habitats and species that are of utmost conservation importance and concern across Europe. Although the Habitats Regulations transpose the European legislation into domestic legislation, the European legislation still directly applies, and in some instances, it is better to look to the parent Directives to clarify particular duties and re-affirm the overarching purpose of the legislation.

7.3 European sites include Special Areas of Conservation (SACs) designated under the Habitats Directive and Special Protection Areas (SPAs) classified under the Birds Directive. The suite of European sites includes those in the marine environment as well as terrestrial, freshwater and coastal sites. European sites have the benefit of the highest level of legislative protection for biodiversity. Member states have specific duties in terms of avoiding deterioration of habitats and species for which sites are designated or classified, and stringent tests have to be met before plans and projects can be permitted, with a precautionary approach embedded in the legislation, i.e. it is necessary to demonstrate that impacts will not occur, rather than they will. The overarching objective is to maintain sites and their interest features in an ecologically robust and viable state, able to sustain and thrive into the long term, with adequate resilience against natural influences. Where sites are not achieving their potential, the focus should be on restoration.

7.4 The UK is also a contracting party to the Ramsar Convention, which is a global convention to protect wetlands of international importance, especially those wetlands utilised as waterfowl habitat. In order to ensure compliance with the requirements of the Convention, the UK Government expects all competent

authorities to treat listed Ramsar sites as if they are part of the suite of designated European sites, as a matter of government policy, as set out in Section 118 of the National Planning Policy Framework. Most Ramsar sites are also a SPA or SAC, but the Ramsar features and boundary lines may vary from those for which the site is designated as a SPA or SAC.

7.5 It should be noted that in addition to Ramsar sites, the National Planning Policy Framework also requires the legislation to be applied to potential SPAs and possible SACs, and areas identified or required for compensatory measures where previous plans or projects have not been able to rule out adverse effects on site integrity, yet their implementation needs meet the exceptional tests of Regulation 64 of the Habitats Regulations, as described below.

7.6 The step by step process of HRA is summarised in the diagram below. Within the Habitats Regulations, local planning authorities, as public bodies, are given specific duties as 'competent authorities' with regard to the protection of sites designated or classified for their species and habitats of European importance. Competent authorities are any public body individual holding public office with a statutory remit and function, and the requirements of the legislation apply where the competent authority is undertaking or implementing a plan or project, or authorising others to do so. Regulation 63 of the Habitats Regulations sets out the HRA process for plans and projects, which includes development proposals for which planning permission is sought. Additionally, Regulation 105 specifically sets out the process for assessing emerging land use plans.

7.7 The step by step approach to HRA is the process by which a competent authority considers any potential impacts on European sites that may arise from a plan or project that they are either undertaking themselves, or permitting an applicant to undertake. The step by step process of assessment can be broken down into the following stages, which should be undertaken in sequence:

- Check that the plan or project is not directly connected with or necessary for the management of the European site
- Check whether the plan or project is likely to have a significant effect on any European site, from the plan or project alone
- Check whether the plan or project is likely to have a significant effect on any European site, from the plan or project in-combination with other plans or projects
- Carry out an Appropriate Assessment
- Ascertain whether an adverse effect on site integrity can be ruled out

7.8 Throughout all stages, there is a continual consideration of the options available to avoid and mitigate any identified potential impacts. A competent authority may consider that there is a need to undertake further levels of evidence gathering and assessment in order to have certainty, and this is the Appropriate

Assessment stage. At this point the competent authority may identify the need to add to or modify the project in order to adequately protect the European site, and these mitigation measures may be added through the imposition of particular restrictions and conditions.

7.9 For plans, the stages of HRA are often quite fluid, with the plan normally being prepared by the competent authority itself. This gives the competent authority the opportunity to repeatedly explore options to prevent impacts, refine the plan and rescreen it to demonstrate that all potential risks to European sites have been successfully dealt with.

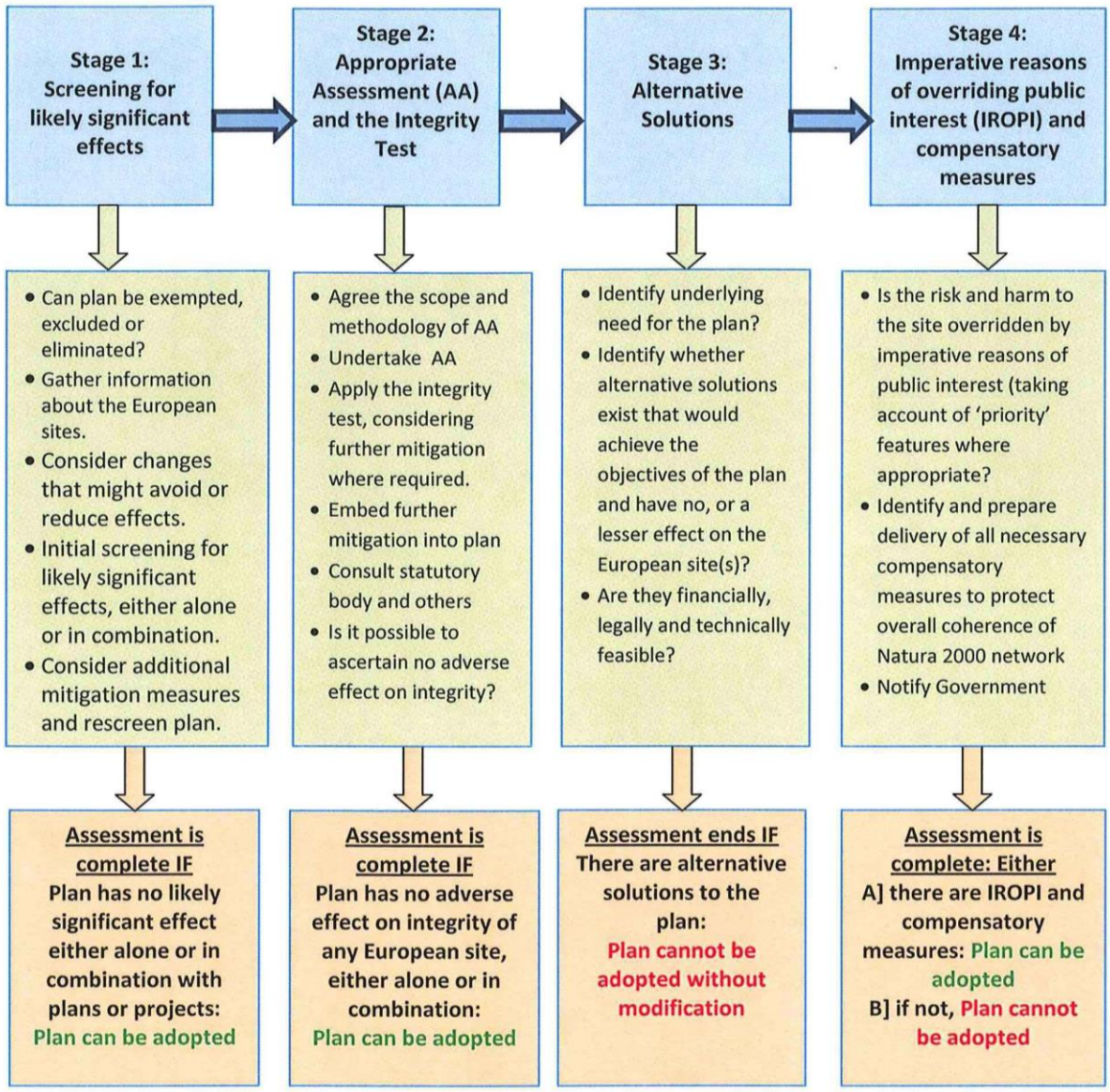
7.10 When preparing a plan, a competent authority may therefore go through a continued assessment as the plan develops, enabling the assessment to inform the development of the plan. For example, a competent authority may choose to pursue an amended or different option where impacts can be avoided, rather than continue to assess an option that has the potential to significantly affect European site interest features.

7.11 After completing an assessment, a competent authority should only approve a project or give effect to a plan where it can be ascertained that there will not be an adverse effect on the integrity of the European site(s) in question. In order to reach this conclusion, the competent authority may have made changes to the plan, or modified the project with restrictions or conditions, in light of their Appropriate Assessment findings.

7.12 Where adverse effects cannot be ruled out, there are further exceptional tests set out in Regulation 64 for plans and projects and in Regulation 107 specifically for land use plans. Exceptionally, a plan or project could be taken forward for imperative reasons of overriding public interest where adverse effects cannot be ruled out and there are no alternative solutions. It should be noted that meeting these tests is a rare occurrence and ordinarily, competent authorities seek to ensure that a plan or project is fully mitigated for, or it does not proceed.

7.13 In such circumstances where a competent authority considers that a plan or project should proceed under Regulations 64 or 107, they must notify the relevant Secretary of State. Normally, planning decisions and competent authority duties are then transferred, becoming the responsibility of the Secretary of State, unless on considering the information, the planning authority is directed by the Secretary of State to make their own decision on the plan or project at the local level. The decision maker, whether the Secretary of State or the planning authority, should give full consideration to any proposed 'overriding reasons' for which a plan or project should proceed despite being unable to rule out adverse effects on European site interest features, and ensure that those reasons are in the public interest and are such that they override the

potential harm. The decision maker will also need to secure any necessary compensatory measures, to ensure the continued overall coherence of the European site network if such a plan or project is allowed to proceed.




Extract from *The Habitats Regulations Assessment Handbook*, www.dtapublications.co.uk
© DTA Publications Limited (September) 2013 all rights reserved
This work is registered with the UK Copyright Service

**Figure 1: Outline of the assessment of plans under the Habitat Regulations**

# 8. Appendix 2 –Conservation Objectives

8.1 As required by the Directives, 'Conservation Objectives' have been established by Natural England, which should define the required ecologically robust state for each European site interest feature. All sites should be meeting their conservation objectives. When being fully met, each site will be adequately contributing to the overall favourable conservation status of the species or habitat interest feature across its natural range. Where conservation objectives are not being met at a site level, and the interest feature is therefore not contributing to overall favourable conservation status of the species or habitat, plans should be in place for adequate restoration.

8.2 Natural England has embarked on a project to renew all European site Conservation Objectives, in order to ensure that they are up to date, comprehensive and easier for developers and consultants to use to inform project level HRA s in a consistent way. In 2012, Natural England issued now a set of generic European site Conservation Objectives, which should be applied to each interest feature of each European site. These generic objectives are the first stage in the project to renew conservation objectives, and the second stage, which is to provide more detailed and site-specific information for each site to support the generic objectives, is now underway.

8.3 The new list of generic Conservation Objectives for each European site includes an overarching objective, followed by a list of attributes that are essential for the achievement of the overarching objective. Whilst the generic objectives currently issued are standardised, they are to be applied to each interest feature of each European site, and the application and achievement of those objectives will therefore be site specific and dependant on the nature and characteristics of the site. The second stage, provision of the more supplementary information to underpin these generic objectives, will provide much more site-specific information, and this detail will play a fundamental role in informing HRAs, and importantly will give greater clarity to what might constitute an adverse effect on a site interest feature.

8.4 In the interim, Natural England advises that HRAs should use the generic objectives and apply them to the site-specific situation. This should be supported by comprehensive and up to date background information relating to the site.

8.5 For SPAs, the overarching objective is to:

8.6 '*Avoid the deterioration of the habitats of qualifying features, and the significant disturbance of the qualifying features, ensuring the integrity of the site is maintained and the site makes a full contribution to achieving the aims of the Birds Directive*.'

8.7 This is achieved by, subject to natural change, maintaining and restoring:

- The extent and distribution of the habitats of the qualifying features.
- The structure and function of the habitats of the qualifying features.
- The supporting processes on which the habitats of the qualifying features rely.
- The populations of the qualifying features.
- The distribution of the qualifying features within the site.

8.8 For SACs, the overarching objective is to:

*'Avoid the deterioration of the qualifying natural habitats and the habitats of qualifying species, and the significant disturbance of those qualifying species, ensuring the integrity of the site is maintained and the site makes a full contribution to achieving Favourable Conservation Status of each of the qualifying features.'*

8.9 This is achieved by, subject to natural change, maintaining and restoring:

- The extent and distribution of the qualifying natural habitats and habitats of qualifying species.
- The structure and function (including typical species) of qualifying natural habitats and habitats of qualifying species.
- The supporting processes on which qualifying natural habitats and habitats of qualifying species rely.
- The populations of qualifying species.
- The distribution of qualifying species within the site.

8.10 Conservation objectives inform any HRA of a plan or project, by identifying what the interest features for the site should be achieving, and what impacts may be significant for the site in terms of undermining the site's ability to meet its conservation objectives.

# 9. Appendix 3 – The Nature Conservation Interest of the European Sites

9.1 Waveney District lies in an area of considerable importance for nature conservation with a number of European sites located within and just outside the District, some of which are offshore. The range of sites, habitats and designations is complex with some areas having more than one designation.

9.2 The relevant European sites are summarised in Table 6 where the interest features, threats and pressures and links to the relevant conservation objectives are listed.

**Table 6: Summary of relevant European sites, their interest features and relevant pressures/threats. Pressures/threats are taken from the site improvement plans (SIP) and are listed in priority order. Hyperlinks in the first column link to the relevant site page on the Natural England website, providing details of the site's conservation objectives, citation etc. Pale blue shading indicates marine sites.**

| Site | Reason for designation (# denotes UK special responsibility) | Pressures and threats (from relevant SIP) |
|---|---|---|
| Alde-Ore & Butley Estuaries SAC, Alde-Ore Estuary SPA | H1330 Atlantic salt meadows (Glauco-Puccinellietalia maritimae)<br>H1130 Estuaries<br>H1140 Mudflats and sandflats not covered by seawater at low tide<br>A151(NB) Philomachus pugnax: Ruff<br>A132(NB) Recurvirostra avosetta: Pied avocet<br>A081(B) Circus aeruginosus: Eurasian marsh harrier<br>A162(NB) Tringa totanus: Common redshank<br>A132(B) Recurvirostra avosetta: Pied avocet<br>A183(B) Larus fuscus: Lesser black-backed gull<br>A191(B) Sterna sandvicensis: Sandwich tern<br>A195(B) Sterna albifrons: Little tern | Hydrological changes, public access/disturbance, inappropriate coastal management, coastal squeeze, inappropriate pest control, changes in species distributions, invasive species, air pollution, fisheries (commercial marine and estuarine) |
| The Broads SAC, Broadlands SPA | H7210# Calcareous fens with Cladium mariscus and species of the Caricion davallianae<br>S1016 Vertigo moulinsiana: Desmoulin`s whorl snail<br>H7230 Alkaline fens<br>H6410 Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae)<br>H91E0# Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae)<br>H7140 Transition mires and quaking bogs<br>H3140 Hard oligo-mesotrophic waters with benthic vegetation of Chara spp<br>H3150 Natural eutrophic lakes with Magnopotamion or Hydrocharition-type vegetation<br>S1355 Lutra lutra: Otter<br>S1903 Liparis loeselii: Fen orchid<br>S4056 Anisus vorticulus: Little ramshorn whirlpool snail | Water pollution, climate change, invasive species, siltation, inappropriate water levels, hydrological changes, water abstraction, change in land management, inappropriate ditch management, inappropriate scrub control, changes in species distributions, public access/disturbance, undergrazing, drainage, direct impact from 3rd party |

| Site | Reason for designation (# denotes UK special responsibility) | Pressures and threats (from relevant SIP) |
|---|---|---|
| Benacre to Easton Bavents Lagoon SAC, Benacre to Easton Bavents SPA | H1150# Coastal lagoons,<br>A195(B) Sterna albifrons: Little tern<br>A021(B) Botaurus stellaris: Great bittern<br>A081(B) Circus aeruginosus: Eurasian marsh harrier | Public access/disturbance, water pollution, physical modification, changes in species distributions, fisheries (marine and estuarine). |
| Breydon Water SPA | Waterbird assemblage<br>A037(NB) Cygnus columbianus bewickii: Bewick swan<br>A132(NB) Recurvirostra avosetta: Pied avocet<br>A140(NB) Pluvialis apricaria : European golden plover<br>A142(NB) Vanellus vanellus: Northern lapwing<br>A151(NB) Philomachus pugnax: Ruff<br>A193(B) Sterna hirundo: Common tern | Shooting/scaring, change in land management, public access/disturbance, hydrological changes, fisheries (marine and estuarine). |
| Dew's Ponds SAC | S1166 Triturus cristatus: Great crested newt | None identified |
| Haisborough, Hammond & Winterton SAC | H1110 Sandbanks which are slightly covered by sea water all the time<br>H1170 Reefs | Feature location/extent/condition unknown, fisheries (commercial marine and estuarine) |
| Minsmere to Walberswick Heaths & Marshes SAC, Minsmere-Walberswick SPA | H4030 European dry heaths<br>H1210 Annual vegetation of drift lines<br>H1220 Perennial vegetation of stony banks<br>A052(B) Anas crecca: Eurasian teal<br>A021(B) Botaurus stellaris: Great bittern<br>A081(B) Circus aeruginosus: Eurasian marsh harrier<br>A082(NB) Circus cyaneus: Hen harrier<br>A224(B) Caprimulgus europaeus: European nightjar<br>A056(B) Anas clypeata: Northern shoveler<br>A056(NB) Anas clypeata: Northern shoveler<br>A051(B) Anas strepera: Gadwall<br>A051(NB) Anas strepera: Gadwall<br>A132(B) Recurvirostra avosetta: Pied avocet<br>A195(B) Sterna albifrons: Little tern<br>A394(NB) Anser albifrons albifrons: Greater white-fronted goose | Coastal squeeze, public access/disturbance, changes in species distributions, invasive species, inappropriate pest control, air pollution, water pollution, deer, fisheries (commercial marine and estuarine) |
| Norfolk Valley Fens SAC | H7210# Calcareous fens with Cladium mariscus and species of the Caricion davallianae<br>S1014 Vertigo angustior: Narrow-mouthed whorl snail | Inappropriate water levels, inappropriate scrub control, hydrological changes, water pollution, inappropriate cutting/mowing, water abstraction, undergrazing, |

| Site | Reason for designation (# denotes UK special responsibility) | Pressures and threats (from relevant SIP) |
|---|---|---|
| | H6210# Semi-natural dry grasslands and scrubland facies: on calcareous substrates (Festuco-Brometalia)<br>S1016 Vertigo moulinsiana: Desmoulin`s whorl snail<br>H4030 European dry heaths<br>H7230 Alkaline fens<br>H6410 Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae)<br>H91E0# Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae)<br>H4010 Northern Atlantic wet heaths with Erica tetralix | overgrazing, invasive species, change in land management, changes in species distributions, air pollution. |
| Outer Thames Estuary SPA | A001 (W) Gavia stellate Red-throated Diver<br>A195 (B) Sterna hirundo Common Tern<br>A193 (B) Sternula albifrons Little Tern | |
| Sandlings SPA | A224(B) Caprimulgus europaeus: European nightjar<br>A246(B) Lullula arborea: Woodlark | Changes in species distributions, inappropriate scrub control, deer, air pollution, public access/disturbance, |
| Winterton-Horsey Dunes SAC, Great Yarmouth North Denes SPA | H2110 Embryonic shifting dunes<br>H2120 Shifting dunes along the shoreline with Ammophila arenaria ("white dunes")<br>H2150# Atlantic decalcified fixed dunes (Calluno-Ulicetea)<br>H2190 Humid dune slacks,<br>A195(B) Sterna albifrons: Little Tern | Inappropriate coastal management, coastal squeeze, public access/disturbance, hydrological changes, inappropriate scrub control, inappropriate pest control, invasive species, undergrazing, air pollution |