

Our ref: -
Your ref: 05/MOR/HPNP

Ask for: Alan Massow
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Date: 08/08/18

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To:
Mary O'Rourke, Examiner
CC:
Lisa Miller, Hatfield Peverel PC
Diane Wallace, Hatfield Peverel PC
Sue Hooton, Essex County Council
Jack Haynes, Natural England

Dear Ms O'Rourke,

RE – Implications of the “*People Over Wind*” judgement for the Draft Hatfield Peverel Neighbourhood Plan (HPNP)

This letter is in response to the request for a view on the “*People Over Wind*” ruling and what impact it may have on Hatfield Peverel Neighbourhood Plan.

It has been necessary for Braintree District Council to obtain a legal opinion on this matter.

Our understanding is that the *People Over Wind* case was focused on whether or not under the Habitats Directive, measures intended to avoid or reduce the harmful effects of a plan or a project on a site can be taken into consideration at the screening stage, in order to determine if it is necessary to carry out appropriate assessment of the implications for that site or project.

The Council's legal advice has concluded that the following steps should be undertaken to ensure compliance with that ruling;

- Re-screen the HPNP, ignoring any operational mitigation wording, and sense-check the analysis previously undertaken;
- If that screening concludes that there are Likely Significant Effects, an appropriate assessment should be carried out.

The legal advice has also concluded that the need to carry out appropriate assessment would not likely be fatal for compliance with the basic conditions.

As such it is proposed that we carry out the actions set out above.

It is likely that additional consultation will need to take place once these documents have been produced. We would like to agree the form this should take with yourself.

I will arrange for this letter to be placed on the Council's website.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Alan Massow". The signature is fluid and cursive, with a long horizontal stroke at the end.

Alan Massow
Acting Principal Planning Policy Officer