

From: [Massow, Alan](#)
To: [Steve Carnaby](#)
Subject: FW: Hatfield Peverel Neighbourhood Plan - AA NE Consultation Response
Date: 16 October 2018 15:30:00

Hello Steve,

We have had a response from Natural England which is set out below. Please note that we had also asked some questions which NE have also responded to in this e-mail. The examiners question is answered toward then end.

Alan

Alan Massow MRTPI

Acting Principal Planning Policy Officer

Braintree District Council | Causeway House, Bocking End, Braintree, CM7 9HB

☎ 01376 552525 Ext. 2577 | www.braintree.gov.uk | ✉ alan.massow@braintree.gov.uk

From: Read, Heather (NE) [mailto:Heather.Read@naturalengland.org.uk]
Sent: 16 October 2018 2:09 PM
To: Massow, Alan <alan.massow@braintree.gov.uk>
Cc: Sue Hooton, Principal Consultant Ecologist <Sue.Hooton@essex.gov.uk>
Subject: RE: Hatfield Peverel Neighbourhood Plan - AA NE Consultation Response

Hello Alan,

My apologies for the delay in getting back to you.

Starting with your initial email, I can advise that in terms of the neighbourhood plans, there is not a restriction in so far as sites cannot be allocated, however there is an issue in terms of progression where a likely significant effect has been identified and mitigation is required to enable a conclusion of no likely significant effect to be reached, such as the Essex RAMS. This is particularly the case where the Neighbourhood Plan is progressing ahead of the Local Plan. The situation with Hatfield Peverel, having already approved permission with mitigation for the site allocation is unique, as the key here is that the planning permission and mitigation was agreed prior to the Sweetman II ruling. As mitigation has already been agreed through planning permission there are therefore no impacts outstanding from the allocation. We are awaiting further guidance from MHCLG on the issues of Neighbourhood Plans and the limitation on progressing to Appropriate Assessment and I would advise you contact them directly regarding this situation (or any others relevant) and the difficulties involved.

On your second point, I cannot say that Natural England would support or promote the submission of planning applications for such allocated sites ahead of the Neighbourhood Plan – as I understand it this would be contrary to the plan process, though in practice it is understood that planning applications can often come ahead of either a local or a neighbourhood plan. As I have stated, the reasons for the Hatfield Peverel Plan being able to proceed are very specific and this is not a situation which can be applied as a general rule. At present there is a known issue following the recent ruling and the progression of Neighbourhood Plans; I can only advise that the LPA as Competent Authority seeks its own legal advice on the matter and that you contact

MHCLG directly.

Finally, the Neighbourhood Plans could potentially allocate sites outside of those adopted within the Local Plan, however under the current legislation there would be a similar situation in that within the Zone of Influence, these would require their own HRA and would need a conclusion of no likely significant effect in order to proceed. The issues around the Sweetman II ruling would also apply to additional allocations which were in addition to or different to what was proposed in the Local Plan.

In response to the Examiners email, Paragraph 1 of Schedule 2 to the Neighbourhood Planning (General) Regulations 2012 states that a neighbourhood plan cannot proceed if there is a likely significant effect on a European Site.

I hope this answers your queries, but please do not hesitate to contact me if you need anything further.

Kind regards,
Heather Read

Lead Adviser
Essex Local Delivery Team
Cambridgeshire, Northamptonshire, Bedfordshire, Essex and Hertfordshire Area Team
Natural England
Eastbrook, Shaftesbury Road
Cambridge
CB2 8DR
Tel: 02078955446 Mob. 07827553398

www.gov.uk/naturalengland.org.uk

We are here to secure a healthy natural environment for people to enjoy, where wildlife is protected and England's traditional landscapes are safeguarded for future generations.

[Follow us on Twitter @NE_WestAnglia](https://twitter.com/NE_WestAnglia)

From: Massow, Alan [<mailto:alan.massow@braintree.gov.uk>]
Sent: 02 October 2018 10:04
To: Read, Heather (NE) <Heather.Read@naturalengland.org.uk>
Cc: 'Sue.Hooton@essex.gov.uk' <Sue.Hooton@essex.gov.uk>
Subject: FW: Hatfield Peverel Neighbourhood Plan - AA NE Consultation Response

Dear Heather,

Following your e-mail yesterday we contact the Hatfield Peverel Neighbourhood Plan examiner for a steer on the next step of the consultation process. Before they will respond can you provide an answer to the question below?

Yours sincerely,

Alan Massow MRTPI

Acting Principal Planning Policy Officer

Braintree District Council | Causeway House, Bocking End, Braintree, CM7 9HB

☎ 01376 552525 Ext. 2577 | www.braintree.gov.uk | ✉ alan.massow@braintree.gov.uk

From: Steve Carnaby [<mailto:steve.carnaby@intelligentplans.co.uk>]

Sent: 02 October 2018 9:42 AM

To: Massow, Alan <alan.massow@braintree.gov.uk>

Subject: RE: Hatfield Peverel Neighbourhood Plan - AA NE Consultation Response

Morning Alan

Before we can give you a definitive answer, could you get in touch with Natural England and ask them where in the Neighbourhood Plan Regulations it says that progression to the Appropriate Assessment stage is not possible.

Many thanks

Steve Carnaby
Associate Director

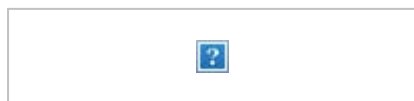
Intelligent Plans and Examinations (IPE) Ltd
Regency Offices
37 Gay Street
Bath BA1 2NT

Tel:: +44(0)1225 487230

Email: steve.carnaby@intelligentplans.co.uk

Web: www.intelligentplans.co.uk

Registered in England and Wales (Company No. 10100118).



***Disclaimer.** The information in this mail is confidential and solely for the use of the intended recipient(s). If you receive this email in error, please notify the sender and delete the email from your system immediately. In such circumstances, you must not make any use of the email or its contents. Views expressed by an individual in this email do not necessarily reflect the views of **Intelligent Plans and Examinations (IPE) Ltd**. Computer viruses may be transmitted by email. **Intelligent Plans and Examinations (IPE) Ltd** accepts no liability for any damage caused by any virus transmitted by this email. Email transmission cannot be guaranteed to be secure or error free. It is possible that information may be intercepted, corrupted, lost, destroyed, arrive late or incomplete or contain viruses. The sender does not accept liability for any errors or omissions in the contents of this message, which may arise as a result of email transmission.*

From: Massow, Alan [<mailto:alan.massow@braintree.gov.uk>]

Sent: 01 October 2018 16:16

To: Steve Carnaby <steve.carnaby@intelligentplans.co.uk>

Subject: FW: Hatfield Peverel Neighbourhood Plan - AA NE Consultation Response

Dear Steve,

Please can you forward the e-mail below to the examiner?

We were planning on going to consultation on the 12th October, however can the examiner advise if you think that would still be appropriate.

Yours sincerely,

Alan Massow MRTPI

Acting Principal Planning Policy Officer

Braintree District Council | Causeway House, Bocking End, Braintree, CM7 9HB

☎ 01376 552525 Ext. 2577 | www.braintree.gov.uk | ✉ alan.massow@braintree.gov.uk

From: Read, Heather (NE) [<mailto:Heather.Read@naturalengland.org.uk>]

Sent: 01 October 2018 3:54 PM

To: Massow, Alan <alan.massow@braintree.gov.uk>

Cc: Fraser2, Sarah (NE) <Sarah.Fraser2@naturalengland.org.uk>; Sue Hooton, Principal Consultant Ecologist <Sue.Hooton@essex.gov.uk>

Subject: Hatfield Peverel Neighbourhood Plan - AA NE Consultation Response

Dear Mr Massow,

Thank you for your consultation on the enclosed 'Non-Statutory' Appropriate Assessment for the Hatfield Peverel Neighbourhood Plan.

Whilst we appreciate the intentions of this document, we must advise you that it does not reflect the current Neighbourhood Planning Regulations. Neighbourhood Plans at present are unable to progress to Appropriate Assessment if a conclusion of likely significant effect has been reached. Where mitigation measures have been included (such as the Essex RAMS), as per the recent judgement of the Court of Justice of the European Union ([Case C-323/17 People Over Wind v Coillte Teoranta](#)), these must progress to Appropriate Assessment, which is therefore an issue in terms of the Hatfield Peverel Neighbourhood Plan.

We are therefore unable to agree with this assessment as it does not align with the current legislation.

We can however advise you that on further consideration of the specific circumstances involved with the Hatfield Peverel Neighbourhood plan, that it is possible to conclude no likely significant effect on the current basis.

Due to the fact that the only housing allocation currently has planning permission, which includes mitigation agreed with Natural England prior to the Sweetman II ruling, we therefore considered that it is possible to conclude that the Neighbourhood Plan will result in no likely significant effect as this impact has already been mitigated ahead of your Neighbourhood Plan.

We would consequently advise that on this basis, the Hatfield Peverel Neighbourhood Plan can

progress. This reasoning should be sufficiently recorded and is specific to the circumstances in this instance, however please note that the Appropriate Assessment is not considered valid in the context of legislation as stated.

I hope this is of assistance, but please do not hesitate to contact me should you have any queries.

Kind regards,
Heather Read

Lead Adviser
Essex Local Delivery Team
Cambridgeshire, Northamptonshire, Bedfordshire, Essex and Hertfordshire Area Team
Natural England
Eastbrook, Shaftesbury Road
Cambridge
CB2 8DR
Tel: 02078955446 Mob. 07827553398

www.gov.uk/naturalengland.org.uk

We are here to secure a healthy natural environment for people to enjoy, where wildlife is protected and England's traditional landscapes are safeguarded for future generations.

[Follow us on Twitter @NE_WestAnglia](#)

This email and any attachments is intended for the named recipient only. If you have received it in error you have no authority to use, disclose, store or copy any of its contents and you should destroy it and inform the sender. Whilst this email and associated attachments will have been checked for known viruses whilst within the Natural England systems, we can accept no responsibility once it has left our systems. Communications on Natural England systems may be monitored and/or recorded to secure the effective operation of the system and for other lawful purposes.

Think before you print!

This email and any attachments, replies and forwarded copies are in confidence and are strictly for the use of named recipient(s) only. If you are not the intended named recipient, please contact the sender and delete the email from your system and you are prohibited from distributing, copying, making use of or unlawful use of any information without first gaining the express permission of the sender.

Internet email may be susceptible to data corruption, interception and unauthorised amendment for which Braintree District Council will not accept any liability. We strongly advise you not to email any information that would be likely to cause you distress if it were to be seen by others. If you have an enquiry of this nature please provide a postal address to allow us to communicate with you in a more secure way.

Any opinions or views expressed are not necessarily those of Braintree District Council and do not form any kind of contract.

All communications sent to or from the Council may be subject to recording and/or monitoring in accordance with relevant legislation.

Think before you print!

This email and any attachments, replies and forwarded copies are in confidence and are strictly for the use of named recipient(s) only. If you are not the intended named recipient, please contact the sender and delete the email from your system and you are prohibited from distributing, copying, making use of or unlawful use of any information without first gaining the express permission of the sender.

Internet email may be susceptible to data corruption, interception and unauthorised amendment for which Braintree District Council will not accept any liability. We strongly advise you not to email any information that would be likely to cause you distress if it were to be seen by others. If you have an enquiry of this nature please provide a postal address to allow us to communicate with you in a more secure way.

Any opinions or views expressed are not necessarily those of Braintree District Council and do not form any kind of contract.

All communications sent to or from the Council may be subject to recording and/or monitoring in accordance with relevant legislation.

This email and any attachments is intended for the named recipient only. If you have received it in error you have no authority to use, disclose, store or copy any of its contents and you should destroy it and inform the sender. Whilst this email and associated attachments will have been checked for known viruses whilst within the Natural England systems, we can accept no responsibility once it has left our systems. Communications on Natural England systems may be monitored and/or recorded to secure the effective operation of the system and for other lawful purposes.