

## Hatfield Peverel Neighbourhood Plan Post Submission Further Changes - Explanatory Note

- 1.1 The Hatfield Peverel Neighbourhood Plan was submitted to Braintree District Council under Regulation 15 of the Neighbourhood Planning Regulations (2012) in March 2017.
- 1.2 Following submission a Regulation 16 consultation was held in June/July 2017, and once this was completed, an Examiner appointed.
- 1.3 As part of their initial assessment of the examination documents, and responses received at Regulation 16 Consultation, the Examiner identified an issue regarding the Strategic Environmental Assessment work which had been undertaken, and it was determined that further work on SEA was required. Work was also needed on Habitats Regulation Assessment because Hatfield Peverel Parish is within a “zone of influence” of European sites on the Essex coast (See Appendix 1).
- 1.4 Braintree District Council commissioned further work on SEA in September 2017, this work was completed in March 2018, and details for a further consultation was arranged to take place in May following local elections. The consultation consisted of three changes to the Plan’s policies on Transport and Access, Design of New Developments and Allocation of the former Arla site as a result of the SEA/HRA work, and a SEA Screening and Environmental Report and Habitat Regulation Assessment. Once this consultation was concluded, the responses were sent to the Examiner.
- 1.5 In April 2018 European Court Judgements known as “*People Over Wind and Peter Sweetman v Coillte*”<sup>1</sup> were issued. This decision clarified that mitigation measures could not be taken into account when deciding whether a Plan or Proposal would result in significant effects on designated European Sites, and that it was more appropriate for mitigation to be considered through an Appropriate Assessment.
- 1.6 As it was determined that screening could not take into account changes proposed to Plans to mitigate effects identified at the screening stage, Appropriate Assessment could not be avoided. Therefore, Plans which had a likely significant effect would have to proceed to Appropriate Assessment stage regardless of any mitigation measure proposed in that Plan. For Neighbourhood Plans this would likely mean an automatic failure to meet Basic Conditions<sup>2</sup>, as if they had a likely significant effect on a European site as per schedule 2 of the Neighbourhood Planning Regulations (2012) (as it was drafted at the time), then the Basic Conditions would be failed.
- 1.7 In June 2018 Braintree District Council was asked to provide the Examiner with its position regarding “*People over wind/Sweetman*”, and following legal advice, the Council decided that the Neighbourhood Plan could proceed<sup>3</sup>.
- 1.8 In December 2018 MHCLG issued a revised Regulation under the The Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations

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<http://curia.europa.eu/juris/document/document.jsf?jsessionid=9ea7d2dc30ddf571da66f02d449d9f60cc9f39bf8846.e34KaxiLc3qMb40Rch0SaxyNch10?text=&docid=200970&pageIndex=0&doclang=EN&mode=lst&dir=&oc=first&part=1&cid=628325>

<sup>2</sup> See <https://www.gov.uk/guidance/neighbourhood-planning--2>

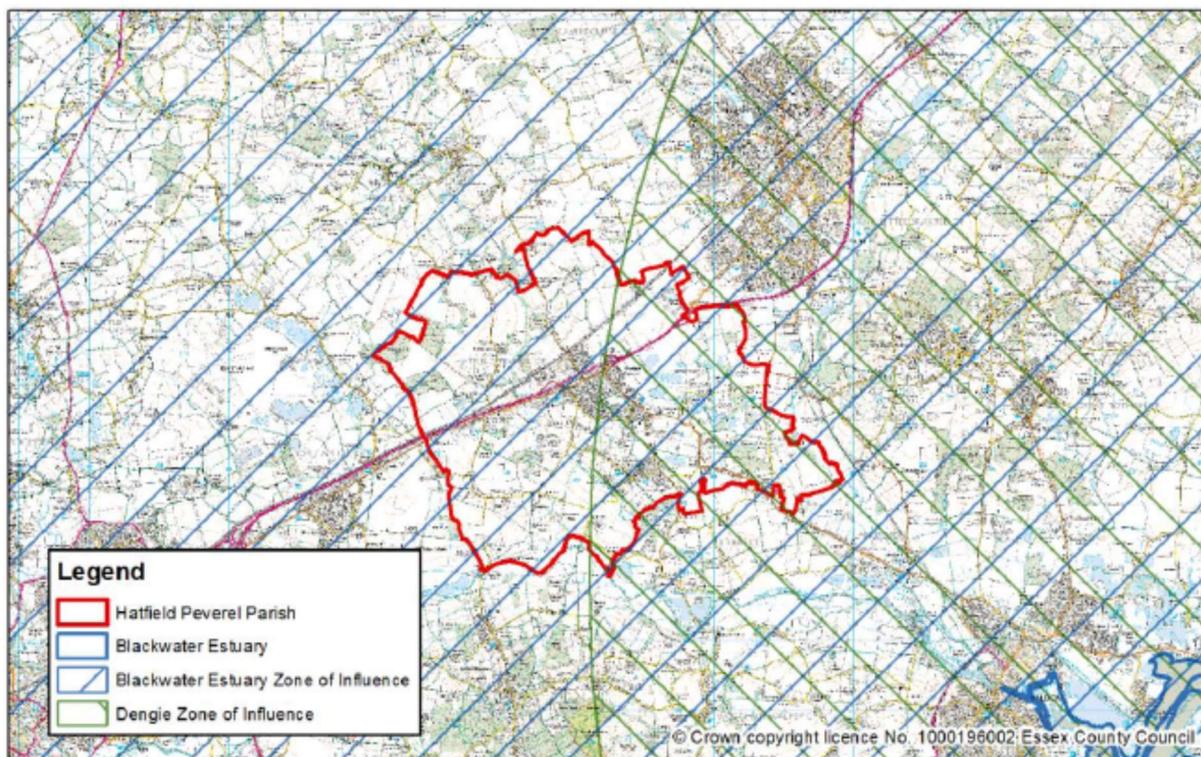
<sup>3</sup> [https://www.braintree.gov.uk/downloads/file/7987/02bdchpnp\\_braintree\\_letter\\_to\\_examiner\\_8th\\_aug\\_18](https://www.braintree.gov.uk/downloads/file/7987/02bdchpnp_braintree_letter_to_examiner_8th_aug_18)

2018. This change meant that Plans could progress through examination if they had likely significant effects. The previous regulation meant that any Plan which had been identified as having “Likely Significant Effects” would automatically fail the basic conditions that Neighbourhood Plans have to comply with.

- 1.9 Following on from the change in regulation, the granting of planning permission at the Arla Dairy Site in Hatfield Peverel<sup>4</sup> (which is allocated in the Neighbourhood Plan), and advice received from Natural England, the Plan was rescreened as having “No likely Significant Effects”. It is this version of the Plan which is currently available for public consultation, alongside the SEA/HRA Screening and revised Basic Conditions Statement. Whilst three policies have new text which is highlight red and underlined, the whole neighbourhood plan, SEA/HRA and revised Basic Condition Statement are available for comment.

Braintree District Council – February 2019

### Appendix 1 – Hatfield Peverel - Zone of Influences



<sup>4</sup> See [www.braintree.gov.uk](http://www.braintree.gov.uk) Reference 16/02096/OUT