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Dear Ms O'Rourke,

### **RE – Hatfield Peverel Neighbourhood Plan**

Unfortunately we have had to postpone the planned consultation on the Hatfield Peverel Neighbourhood Plan. This is because we have been made aware of a proposed change to the Neighbourhood Planning Regulations (enclosed), which may come into force on the 28<sup>th</sup> December 2018. It is anticipated that once the regulations have taken effect, then we will be in a position to update our relevant evidence base, and then carry out a consultation in the New Year.

The decision to delay the further consultation has been agreed with the neighbourhood plan group.

I will write again once we have a firm timetable, outlining what documents will be included within the consultation, and its general arrangements.

Yours sincerely,

Alan Massow  
Acting Principal Planning Policy Officer

*CC – Hatfield Peverel Parish Council*

*Inc - e-mail from MHCLG dated*

**From:** Helen Keen

**Subject: Amendment to basic conditions on habitats assessments**

**Date:** 14 November 2018 20:14:50 GMT

Dear Neighbourhood Planning contacts, you may have been in touch with MHCLG recently, or received a call from me around the tricky issue of habitats assessments for neighbourhood plans in light of the People Over Wind judgment. I'm really sorry we haven't been able to send something to you sooner, however, we now have greater certainty that we can make an amendment to regulations to ensure neighbourhood plans that are 'screened in' to the assessment process can continue to progress, following an Appropriate Assessment. The Appropriate Assessment would consider any impacts alongside mitigation measures, following the same process as assessments for Local Plans.

We still have a few things to finalise internally but expect to lay the amendment (alongside other amendments for various planning tools affected - LDOs, Permission in Principle, Brownfield registers, and SDOs) in early December, and subject to parliamentary approval, the new basic condition should take effect at the end of Dec, (replacing the existing basic condition referring to 'likely significant effect'). Our current working date for commencement is 28<sup>th</sup> Dec. It would not apply retrospectively.

We hope to issue planning guidance on the implications of the judgment around the same time as the new regulations.

We wanted to give you early sight of the draft regulation, as obviously this is a live issue for many LPAs, examiners and communities preparing plans. I have pasted in the relevant part of the draft regulation and explanatory memorandum for your information. Please do let me know if you have questions, and if you want to share among your colleagues or members that may be affected then please do so.

### **Amendment to the Neighbourhood Planning (General) Regulations 2012**

- 3.—(1) The Neighbourhood Planning (General) Regulations 2012<sup>(1)</sup> are amended as follows.  
(1) In Schedule 2 (Habitats), for paragraph 1 substitute:

#### **Neighbourhood development plans**

1. In relation to the examination of neighbourhood development plans the following basic condition is prescribed for the purpose of paragraph 8(2)(g) of Schedule 4B to the 1990 Act<sup>(2)</sup>—

The making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017<sup>(3)</sup>.

Explanatory memorandum:

Regulation 3 amends the Neighbourhood Planning (General) Regulations 2012 to revise one of the basic conditions for making a neighbourhood plan. The revised basic condition requires that neighbourhood plans can only be made if they have followed the requirements of the Directive transposed into Chapter 8 of Part 6 of the 2017 Regulations (which set out the habitat assessment process for other land use plans, such as Local Plans). This assessment process

is already applicable to neighbourhood plans, as they are defined as a 'land use plan' in regulation 111 of the 2017 Regulations. This amendment connects the basic condition for making neighbourhood plans to this process.

I should also say, thank you for bearing with us on this, as I do appreciate it has been very frustrating for communities held up with their plans. Please do continue to raise any issues with us.

Many thanks  
Helen Keen

**Helen Keen – Head of Plan-Making Policy (Mon-Weds)**  
Ministry of Housing, Communities and Local Government