



## **Project Level Habitats Regulations Assessment**

**Rayleigh Road, Thundersley, Essex**

**On Behalf of:**

**This Land Development Ltd.**

**November 2022**

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## **SES Quality Management**

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## 1.0 Introduction

### Purpose of this report

- 1.1** This Habitats Regulations Assessment report ('HRA report') has been prepared on behalf of This Land Development Ltd. The site was allocated for residential purposes within the now withdrawn Castle Point Borough Council (CPBC) Local Plan under policy HO13 (CPBC, 2019) and is subject to an outline planning application for the development of up to 455 new homes, a multi-use community hall, land for the provision of a healthcare facility, land for a stand-alone early years and childcare nursery, new vehicular/pedestrian access points from Stadium Way in the north and Daws Heath Road in the south, new greenways and green links, multi-functional open space, green infrastructure, surface water attenuation, landscaping and associated infrastructure. All matters reserved except access
- 1.2** This HRA report relates specifically to potential impacts on sites protected under the Conservation of Species and Habitats Regulations 2017 (Habitats Regulations, 2017) including Special Protection Areas (SPA) and Special Areas of Conservation (SAC), which are European designated sites (Natura 2000 Sites) and Ramsar Wetlands of International Importance (Ramsar sites), and species and habitats which are listed as qualifying features in the citations of these designated sites. Together these are referred to as 'protected sites.'
- 1.3** The purpose of this report is to inform Castle Point District Council's Appropriate Assessment, as the competent authority under the Habitats Regulations, 2017, and decision-making process in respect of the planning application for the development.

### Background to HRA process

- 1.4** The HRA process is a four-stage stepwise process to ensure that there are no direct or indirect impacts on the site integrity (qualifying habitats or species) arising from a proposed development on a designated or proposed protected site. In summary these are:
- **Stage 1 – Screening:** To test whether a plan or project either alone or in combination with other plans and projects is likely to have a significant effect on a protected site;
  - **Stage 2 – Appropriate Assessment:** To determine whether, in view of a protected site's conservation objectives, the plan, either alone or in combination with other projects and plans, would have an adverse effect, or even a risk of this, on the integrity of the site with respect to the site structure, function and conservation objectives. If adverse impacts are anticipated, potential mitigation measures to alleviate impacts should be proposed and assessed;
  - **Stage 3 – Assessment of Alternatives:** Where a plan is assessed as having an adverse impact, or risk of this, on the integrity of an international site even with mitigation in place, there should be an examination of alternatives such as alternative locations and designs of development; and,
  - **Stage 4 – 'IROPI':** Final stage assessment where there are no alternative solutions and where adverse impacts remain. Only where there are 'imperative reasons of overriding public interest (IROPI), compensatory measures may be agreed and provided to offset adverse impacts and so maintain the overall coherence of the site or integrity of the European site network.
- 1.5** The first two steps in the HRA sequential process are relevant to the development proposals and these are the screening and appropriate assessment stages, as described below.

- 1.6** Following a recent European court ruling (Court of Justice of the European Union on the interpretation of the Habitats Directive in the case of People Over Wind and Sweetman vs Coillte Teoranta (date: April 2018, ref: C 323/17)), mitigation measures cannot be considered when deciding whether a plan or project is likely to have a significant effect on a European site. A competent authority must take account of measure intended to avoid or reduce the harmful effects of a plan or project as part of the Appropriate Assessment. Only then can a conclusion be drawn as to whether the plan or project will have an adverse effect on the integrity of the site. This overrules the approach under English law that incorporated mitigation and avoidance measures could (and should) be considered at the screening stage when judging the likelihood of a significant effect.

### **Stage 1: Screening**

- 1.7** Issues to consider and include within an HRA screening assessment may include:
- a description of the development, processes, timings, and method of work;
  - proposed details of the methods used to determine which protected sites to include within the assessment;
  - a description of the protected site(s) and all associated interest features potentially affected;
  - an outline and interpretation of baseline data;
  - an appraisal of the project's likely significant effects on the protected site(s); and
  - an appraisal, where known, of other plans or projects likely to have a significant effect in combination with the proposed development.

### **Stage 2: Appropriate Assessment**

- 1.8** Where required, in addition to the issues set out under 'Stage 1: Screening', the HRA report should include the following:
- evidence about the project's impacts on the integrity of protected sites;
  - a description of any mitigation measures proposed which avoid or reduce each impact, and any residual effect; and
  - the timing of mitigation measures in relation to the progress of the development.

## 2.0 Site context and description

### Development proposal

- 2.1** The site is 27.89ha and the proposal is for an development of up to 455 new homes, a multi-use community hall, land for the provision of a healthcare facility, land for a stand-alone early years and childcare nursery, new vehicular/pedestrian access points from Stadium Way in the north and Daws Heath Road in the south, new greenways and green links, multi-functional open space, green infrastructure, surface water attenuation, landscaping and associated infrastructure.

## 3.0 European designated sites

- 3.1** A review of designated sites has been undertaken in order to identify the European and international sites to be considered in this HRA report.
- 3.2** A web-based search was undertaken via the Multi Agency Geographic Information for the Countryside (MAGIC) spatial data resource [www.magic.gov.uk](http://www.magic.gov.uk). The search for European statutory designated sites extended to a radius up to 22km from the site boundary, as per the maximal Zone of Influence (Zoi) for Essex coastal designated sites specified in The Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) Habitats Regulations Assessment Strategy for 2018-2038 (Essex County Council (ECC) & Place Services, March 2019).
- 3.3** The site falls within the Zone of Influence (Zoi) of Blackwater Estuary SPA and Ramsar site, Benfleet and Southend Marches SPA and Ramsar, and Foulness Estuary SPA and Ramsar, which form part of the Essex Estuaries Special Area of Conservation (SAC). Descriptions of these European designated sites are provided in Table 1. Full details of the qualifying features are provided on the Joint Nature Conservation Committee UK protected sites database (accessed online at <http://jncc.defra.gov.uk>) but those sites within the Zoi are listed in Table 2 below.

**Table 1: Zones of Influence of Essex Coast European Designated Sites (Place Services, 2019)**

European designated site	Underpinning SSSIs*	Zois (km)
Stour and Orwell Estuaries SPA and Ramsar	Orwell Estuary SSSI Stour Estuary SSSI Cattawade Marshes SSSI	13
Hamford Water SPA and Ramsar	Hamford Water SSSI	8
Colne Estuary SPA and Ramsar	Colne Estuary SSSI	9.7
Blackwater Estuary SPA and Ramsar	Blackwater Estuary SSSI	22
Dengie SPA and Ramsar	Dengie SSSI	20.8
Crouch and Roach Estuaries Ramsar and SPA	Crouch and Roach Estuaries SSSI	4.5
Foulness Estuary SPA and Ramsar	Foulness SSSI	13
Essex Estuaries SAC	Blackwater Estuary SSSI Colne Estuary SSSI Crouch and Roach Estuaries SSSI Dengie SSSI Foulness SSSI	***
Benfleet and Southend Marshes SPA and Ramsar	Benfleet and Southend Marshes SSSI	4.3

European designated site	Underpinning SSSIs*	Zols (km)
Thames Estuary and Marshes SPA and Ramsar	Mucking Flats and Marshes SSSI	8.1
<p>*Underpinning SSSIs are listed for Essex sites as these are what the Impact Risk Zones (IRZs) are aligned to.</p> <p>**The Essex Estuaries SAC comprises the Colne Estuary, Blackwater Estuary, Dengie, Crouch and Roach Estuaries and Foulness Estuary and so follow the respective Zols throughout.</p>		

**Table 2. European Designated Sites within the Zone of Influence**

Name and Site Designation	Distance and Direction from Site	Designated Features
Benfleet and Southend Marshes SPA and Ramsar  <i>Underpinned by Benfleet and Southend Marshes SSSI</i>	3.078km south	Made up of several intertidal, subtidal, and terrestrial habitats that support internationally significant populations of overwintering waterfowl. The site supports internationally important numbers of non-breeding dark-bellied brent goose <i>Branta bernicla bernicla</i> , grey plover <i>Pluvialis squatarola</i> , and knot <i>Calidris canutus</i> ; and nationally important populations of dunlin <i>Calidris alpina alpina</i> and ringed plover <i>Charadrius hiaticula</i> . The site supports internationally important assemblage of non-breeding waterfowl in excess of 27,000 birds.
Foulness Estuary SPA and Ramsar  <i>Underpinned by Foulness SSSI</i>	8.528km north east	<p>Made up of several intertidal, subtidal, and terrestrial habitats supporting nationally / international important Annex 1 species</p> <p><b>Breeding:</b> Populations of avocet <i>Recurvirostra avosetta</i>, Sandwich tern <i>Sterna sandvicensis</i>, common tern <i>S. hirundo</i>, little tern <i>s. albifrons</i>, ringed plover <i>Charadrius</i>,</p> <p><b>Wintering:</b> Hen harrier <i>Circus cyaneus</i>, dark bellied brent geese <i>Branta bernicla bernicla</i>, oystercatcher <i>Hameatopus ostralegus</i>, grey plover <i>Pluvialis squararola</i>, knot <i>Calidris canutus</i> bar tailed godwit <i>Limosa lapponica</i>, redshank <i>Tinga tetanus</i>, shelduck <i>Tadorna tadorna</i>, dunlin <i>Calidris alpina</i> and curlew <i>Numenius arquata</i></p>

Name and Site Designation	Distance and Direction from Site	Designated Features
<p>Blackwater Estuary SPA and Ramsar</p> <p><i>Underpinned by Blackwater Estuary SSSI</i></p>	15.719km north east	<p>The Blackwater Estuary is the largest estuary in Essex and is one of the largest estuarine complexes in East Anglia. This site qualifies by supporting breeding and wintering bird assemblages of European importance, including populations of the following Annex I species:</p> <p><b>Breeding:</b> Little Tern <i>Sterna albifrons</i></p> <p><b>Wintering:</b> Avocet <i>Recurvirostra avosetta</i> Golden Plover <i>Pluvialis apricaria</i> Hen Harrier <i>Circus cyaneus</i> Ruff <i>Philomachus pugnax</i> Black-tailed Godwit <i>Limosa limosa islandica</i> Dark-bellied Brent Goose <i>Branta bernicla bernicla</i> Dunlin <i>Calidris alpina alpina</i> Grey Plover <i>Pluvialis squatarola</i> Redshank <i>Tringa totanus</i> Ringed Plover <i>Charadrius hiaticula</i> Shelduck <i>Tadorna tadorna</i></p>

#### 4.0 Assessment of likely significant effects

##### Construction Phase

- 4.1 Given the distance of the site from the site there are no likely significant direct or indirect effects during the construction phase.

##### Operational Phase - Direct effects

- 4.2 Given the distance of the site direct effects during the operational phase are not considered likely.

##### Operational Phase - Indirect effects

- 4.3 The site lies within the Zone of Influence (Zoi) of the Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS). This is confirmed by the Essex Coast RAMS Strategy (ECC & Place Services, March 2019). As such the proposed development is considered to lead to a likely significant effect from increased recreational pressure and hence mitigation is required in line with the HRA Record form provided for guidance by Natural England (August 2018).
- 4.4 Given the distance of the site from the coastal protected site, indirect effects both alone and in-combination during the operational phase are limited to recreational disturbance.



## **5.0 Mitigation measures and assessment of adverse effects**

**5.1** The following mitigation measures, solely targeted at addressing the likely significant effects on international designated sites identified above, are proposed to ensure no adverse effects on the integrity of international designated sites.

### **Guidance**

**5.2** The guidance for the Essex Coast RAMS was published in March 2019 (ECC & Place Services, 2019); it states that for developments within the ZoI of European designated sites that are for more than 100 dwellings then the principal mitigation is:

**5.3** For mitigation of effects alone:

- the provision of high quality informal semi natural areas;
- Circular walk of 2.7km within the site and/ or links to surrounding adjacent PRow and greenspace;
- Dedicated 'dogs off lead' areas
- Dog waste bins
- Signage / information leaflets to householders to promote these areas for recreation
- Commitment to long term management and maintenance of these provisions

**5.4** For mitigation of effects in combination:

- A proportionate financial contribution in line with the Essex Coast RAMS requirements

### **Mitigation provision**

#### On-site Semi Natural Open Space

**5.5** The Natural England Thames Basin Heaths guidance on SANGs provision to mitigate for recreational pressures on European designated sites recommends 8ha per 1,000 persons. With 455 units proposed and an average 2.4 persons per household (based on UK 2011 Census Data), this equates to an 8.74ha requirement for the site. It should be noted that SANGs guidance does not relate to coastal sites but the principles of SANGs quality open space has been used to guide open space provision and quality

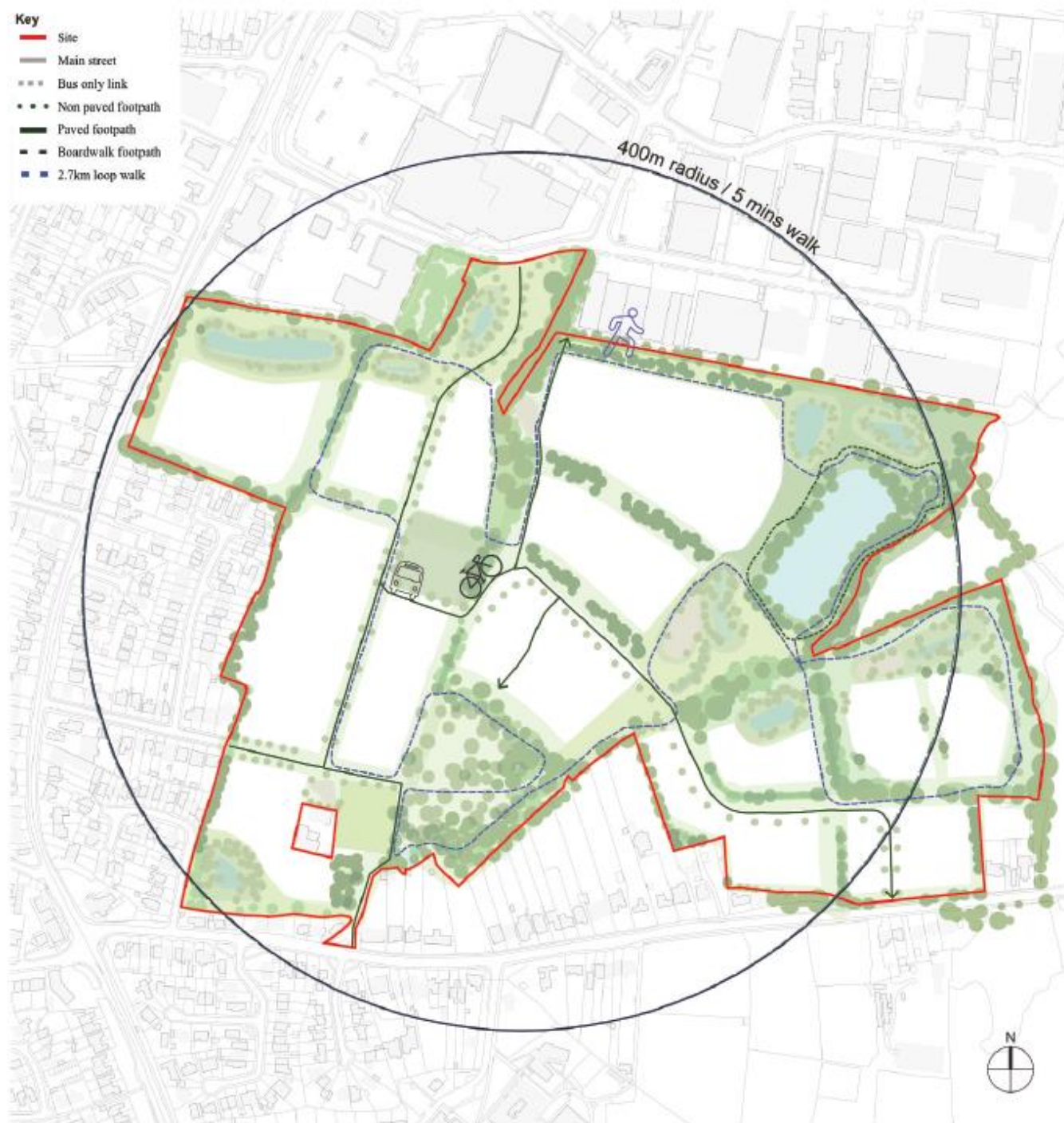
**5.6** While the development proposal is still at outline stage, the multi-functional open space parameter plan (Appendix 1) includes a total of 14.60ha of informal open space will be provided which include a range of different experiences including a lake, woodlands, traditional orchard, wet grasslands, scrub grasslands and meadow grasslands which are all interlinked. Figure 1 illustrates proposed walking routes including a measured walking route sampling the different habitat experiences and covers a total linear distance of 2.7km (links to wider offsite routes are described within section 5.11-12).

- 5.7** The areas of accessible semi-natural open space that will be provided by the proposed development is considered more than sufficient mitigation for any potential recreational impacts on European coastal designated sites. Access throughout the new open spaces will be unrestricted and ensured through the provision of a network of footpaths.
- 5.8** The orchard and lake area to the south will include two dog waste bins provided to ensure the amenity of the area is maintained for all residents to enjoy. A further dog waste bin will be provided at the northern boundary of the site which links to the offsite PRow network.
- 5.9** New residents of the development will receive a welcome pack on arrival containing information leaflets detailing the open space facilities available on-site and locally off-site. This information will include suggested walking routes. Information boards will also be strategically located highlighting walking routes and wildlife / habitat sensitivities including the neighbouring Little Haven/Tile Wood Complex LoWS.
- 5.10** To ensure the long-term maintenance and management of on-site open spaces, a Landscape and Ecological Management Plan (LEMP) will be produced. This will detail appropriate management actions for maintaining the on-site provisions to the required standard, works schedules, details of funding and the body or organisation responsible for implementation.

Links to Adjacent Public Rights of Way (PRow) & Greenspace

- 5.11** The site provides ample onsite open space for informal recreation but also has links to the wider offsite PRow network for resident looking for wider exploration and recreation. These include links north of the site onto Stadium Way but also to the east via a PRow which runs west to east along the northern boundary. This links into Little Haven/Tile Wood Complex LoWS and the network of way marked PRow and permissive pathways providing a wide range of walking experiences for residents (including dogs off lead but under 'effective control'). This wood complex links to further areas of recreation such as Pound Wood. There are a large number of working routes available through permissive pathways and PRow which will enable both shorter and long-distance circular walks.
- 5.12** Care has been taken to protect Little Haven/Tile Wood Complex LoWS from unrestricted recreational pressure while still providing a connected landscape for residents to enjoy the great British outdoors. Such physical measures include:
- Locating the access to the northern PRow away from the Little Haven/Tile Wood Complex LoWS site boundary to prevent unrestricted/ unmanaged access to the site, while still enabling residents who wish to enjoy a longer walk the opportunity to connect with nature to do so;
  - Strategically locating thorny scrub planting on the sites eastern boundary with Little Haven/Tile Wood Complex LoWS to deter unrestricted/ unmanaged access; and
  - Strategically locating areas of wetland grasslands to the north east boundary of the site adjacent to the PRow to deter unrestricted/unmanaged access to Little Haven/Tile Wood Complex LoWS

**Figure 1. Onsite walking routes**



## Financial contribution to Essex RAMs

- 5.13** Mitigation in the form of a contribution to the Essex Coast RAMS proposed to ensure that there are no increased recreational pressures on the Essex Coast protected areas in combination with other plans and projects within the Zone of Influence of the Essex coast European designated sites. This mitigation measure is a standard measure agreed by Natural England and relevant competent authorities including Castle Point District Council.
- 5.14** The Essex Coast RAMS indicates a financial contribution of £137.71 per net new dwelling (as of April 2022). Subject to agreement on a reasonable per unit contribution, the RAMS financial contribution may be secured by an appropriate planning condition or commitment within a S106 agreement.

## **6.0 Assessment of effects**

- 6.1** The proposed mitigation for the development is to provide locally available SANGs and a one-off financial contribution to assist the appropriate management of the nearby coastal designated sites.

### **In isolation effects (effects alone)**

- 6.2** The mitigation measures provided will result in no adverse effects on Integrity on the interest features upon any European Designated Sites.
- 6.3** On this basis, **no adverse effects on the integrity in isolation** of nearby European designated sites, resulting from the site proposals, are anticipated.

### **In combination effects**

- 6.4** The mitigation measures provided will result in no adverse effects on integrity on the interest features upon any European Designated Sites.
- 6.5** On this basis, **no adverse effects on the integrity** of nearby European designated sites, resulting from the site proposals in combination, are anticipated.

## 7.0 Conclusions

- 7.1** Given the mitigation measures proposed - the provision of semi natural, high quality open space and controlled links the PRow/ permitted pathways offsite and promotion of these features to new residents through information leaflets, display boards and signage, together with a financial contribution to the Essex Coast RAMS to mitigate increases in recreational pressure, there are no predicted impacts that contribute to any in combination effects considering other plans or proposals on the interest features of the SPA within the zone of influence.
- 7.2** With the implementation of the above mitigation measures, this HRA concludes that there will be **no adverse effects on the integrity in isolation or in combination with other plans or projects** of nearby European designated sites.

## 8.0 **References**

Castle Point Borough Council (CPBC) (2018) Local Plan December 2018.

Essex County Council and Place Services (2019). *Essex Coast Recreational disturbance Avoidance & Mitigation Strategy (RAMS) Habitats Regulations Assessment Strategy document 2018-2038*. Place Services, Chelmsford.

Natural England (2018). *'Essex Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) – Revised interim advice to ensure new residential development and associated recreational disturbance mitigation for designated site impacts is compliant with the Habitats Regulations 2010 (as amended)*. Letter Reference: 214991, dated 16th August 2018.

Natural England (2021) Guidelines for Creation of Suitable Alternative Natural Greenspace (SANG)



**KEY**

- Application site area - 27.89ha
- Development area
- Multi functional open space - 14.60ha  
Including all elements of multi-functional open space, as set out below:
- Line of trees
- Other broadleaved woodland
- Other mixed woodland
- Native hedgerow with trees
- Species rich grassland
- Species rich seasonal wet grassland (SUOS)
- Mixed scrub
- Traditional orchard
- Allotments
- Ornamental lake
- Modified grassland
- Artificial vegetated unsealed surface

**Broadway Malyan™**

Land East of Rayleigh Road  
Thundersley

Proposed Parameter Plan  
Multi Functional Open Space

Date	Drawn By	Check By	Scale
1:2000@A1	MJ	NW 22	
Job Number	Drawing Number	Version	
34580	303	G	

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