

Strategic Environmental Assessment  
(SEA) Screening by Aylesbury Vale  
District Council for consultation in  
accordance with the European  
Directive 2001/42/EC and associated  
Environmental Assessment of Plans  
and Programmes Regulations 2004



# Bierton with Broughton

## Neighbourhood Plan

SEA Screening - **FINAL**

January 2020

**Aylesbury Vale District Council**

**Strategic Environmental Assessment Screening Report**

**For the BIERTON WITH BROUGHTON Neighbourhood  
Plan**

**FINAL version**

**January 2020**

# **BIERTON WITH BROUGHTON NEIGHBOURHOOD PLAN 2019-33**

## **SEA Screening**

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## **1. Introduction**

- 1.1 This screening statement considers whether the contents of the Bierton-with-Broughton Neighbourhood Plan requires a Strategic Environmental Assessment (SEA) in accordance with the European Directive 2001/42/EC and associated Environmental Assessment of Plans and Programmes Regulations 2004.
- 1.2 The screening process is based upon consideration of standard criteria to determine whether the plan is likely to have “significant environmental effects”. The result of AVDC’s screening process is detailed in this Screening Statement.
- 1.3 The legislative background set out below outlines the regulations that require the need for this screening exercise. Section 4, provides a screening assessment of the likely significant environmental effects of the policies in the Bierton-with Broughton Neighbourhood Plan and the need for a full Strategic Environmental Assessment.

## **2. Legislative Background**

- 2.1 The basis for Strategic Environmental Assessments and Sustainability Appraisal legislation is European Directive 2001/42/EC and was transposed into English law by the Environmental Assessment of Plans and Programmes Regulations 2004, or SEA Regulations. Detailed Guidance of these regulations can be found in the Government publication ‘A Practical Guide to the Strategic Environmental Assessment Directive’<sup>1</sup>.
- 2.2 The Planning and Compulsory Purchase Act 2004 required Local Authorities to produce Sustainability Appraisals (SA) for all local development documents to meet the requirement of the EU Directive on SEA. It is considered best practice to incorporate requirements of the SEA Directive into an SA.
- 2.3 Although a Sustainability Appraisal is not a requirement for a Neighbourhood Plan, part of meeting the ‘Basic Conditions’ which the plan is examined on, is to show how the plan achieves sustainable development. The Sustainability Appraisal process is an established method and a well recognised ‘best practice’ method for doing this. It is therefore advised, where an SEA is identified as a requirement, an SA should be incorporated with SEA, at a level of detail that is appropriate to the content of the Neighbourhood Plan.

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<sup>1</sup>‘A Practical Guide to the Strategic Environmental Assessment Directive’ <https://www.gov.uk/government/publications/strategic-environmental-assessment-directive-guidance> (ODPM 2005)

### **3. Criteria for Assessing the Effects of Neighbourhood Development Plans**

3.1 Criteria for determining the likely significance of effects referred to in Article 3(5) of Directive 2001/42/EC are set out below<sup>2</sup>:

1. The characteristics of plans and programmes, having regard, in particular, to:

- the degree to which the plan or programme sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources,
- the degree to which the plan or programme influences other plans and programmes including those in a hierarchy,
- the relevance of the plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development,
- environmental problems relevant to the plan or programme,
- the relevance of the plan or programme for the implementation of Community legislation on the environment (e.g. plans and programmes linked to waste-management or water protection).

2. Characteristics of the effects and of the area likely to be affected, having regard, in particular, to:

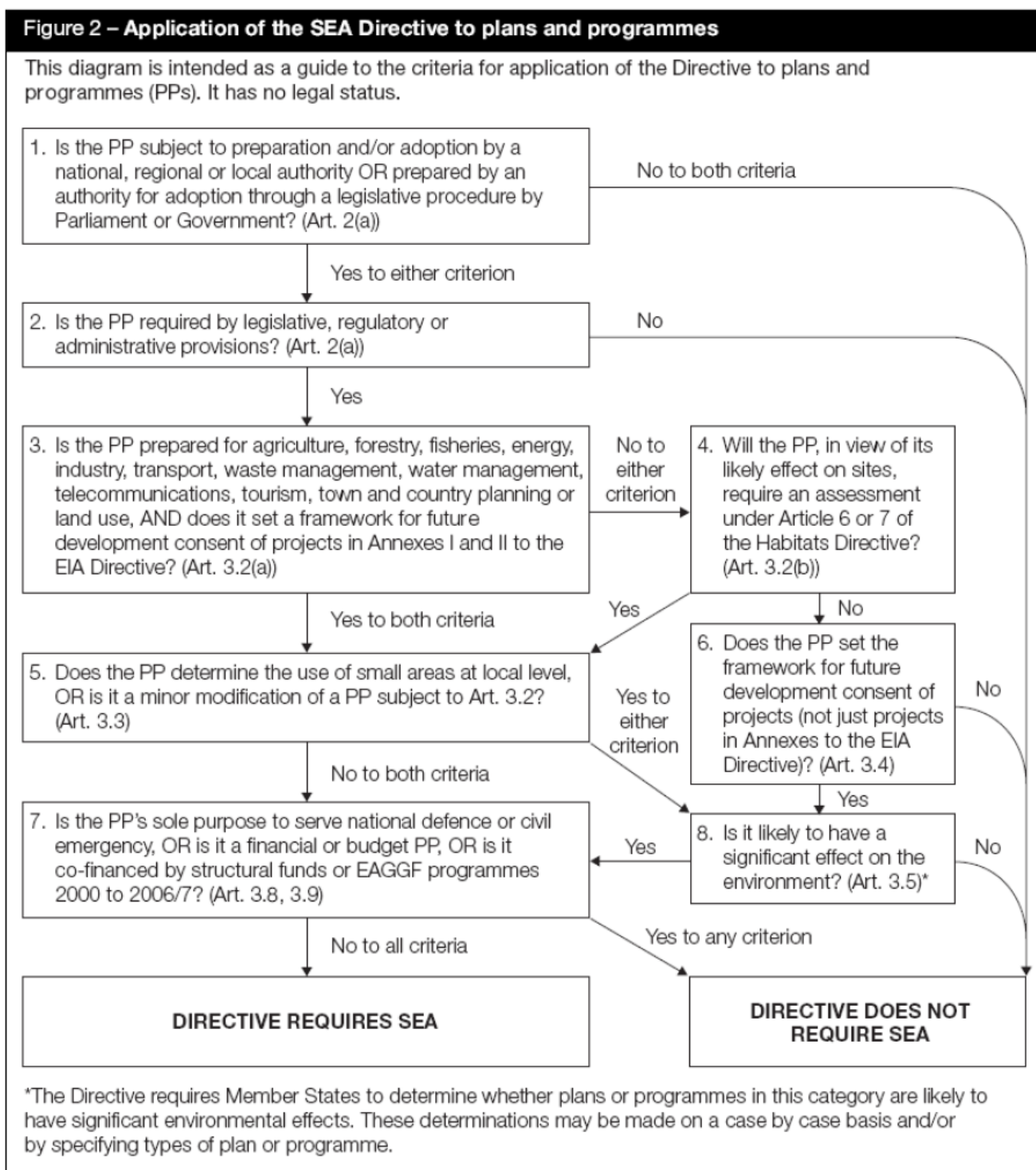
- the probability, duration, frequency and reversibility of the effects,
- the cumulative nature of the effects,
- the transboundary nature of the effects,
- the risks to human health or the environment (e.g. due to accidents),
- the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected),
- the value and vulnerability of the area likely to be affected due to:
  - special natural characteristics or cultural heritage,
  - exceeded environmental quality standards or limit values,
  - intensive land-use,
- the effects on areas or landscapes which have a recognised national, Community or international protection status.

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<sup>2</sup> Source: Annex II of SEA Directive 2001/42/EC

## 4. Assessment

4.1 The diagram below illustrates the process for screening a planning document to ascertain whether a full SEA is required.



4.2 The table below shows the assessment of whether or not the Bierton-and-Broughton Neighbourhood Development Plan will require a full SEA. The questions below are drawn from the diagram above which sets out how the SEA Directive should be applied. The Parish Council has given the District Council an early indication of the scope of the plan and the policy areas they intend to cover. This is what the screening is based on.

Stage	Y/ N	Reason
1. Is the plan subject to preparation and/or adoption by a national, regional or local authority OR prepared by an authority for adoption through a legislative procedure by Parliament or Government? (Art. 2(a))	Y	The Neighbourhood Development Plan will be 'Made' (adopted) by a Local Planning Authority, Aylesbury Vale District Council (or post 31 March 2020, the new Buckinghamshire Council)
2. Is the plan required by legislative, regulatory or administrative provisions? (Art. 2(a))	N	The Neighbourhood Development Plan is an optional plan produced by Bierton-with-Broughton Parish Council.
3. Is the plan prepared for agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use, AND does it set a framework for future development consent of projects in Annexes I and II to the EIA Directive? (Art 3.2(a))	N	The Neighbourhood Development Plan is prepared for town and country planning purposes, but it does not intend to set a framework for future development consent of projects in Annexes I and II to the EIA Directive (Art 3.2(a)).
4. Will the plan, in view of its likely effect on sites, require an assessment for future development under Article 6 or 7 of the Habitats Directive? (Art. 3.2 (b))	N	<p>There are no areas of Natura 2000 sites (Special Areas of Conservation or Special Protection Areas) in the parish. The nearest such site is part of the Chiltern Beechwoods SAC, 7.29km away at West Leith and Hastoe in Chiltern district – Deacon's Hill Wood/Grove Wood/Stubbings Wood/Dog Wood. There are sightings of the following. These are all protected species under Schedule IV or V of the EU Habitats Directive 1992</p> <ul style="list-style-type: none"> <li>• 6 Common Frogs</li> <li>• 24 Great Crested Newts</li> <li>• 31 Brown Long Eared Bat</li> <li>• 5 Pipistrelle Species</li> <li>• 109 Soprano Pipistrelle</li> <li>• 313 Common Pipistrelle</li> <li>• 35 Nocturle Bat</li> <li>• 21 Myotis Bat</li> <li>• 3 Natterer's Bat</li> <li>• 13 Daubenton's Bat</li> <li>• 3 Serotine</li> <li>• 6 Chiroptera Species</li> </ul> <p>In terms of Natura 2000 sites however there would not be any impact on the Natura 2000</p>

			sites given the distance to the nearest SAC. This impact can be subject to re-screening at the Pre Submission, Submission and Referendum stages of the plan.
5. Does the plan determine the use of small areas at local level, OR is it a minor modification of a plan subject to Art. 3.2? (Art. 3.3)	Y		The scope of a Neighbourhood Plan indicated by the parish council does not intend to allocate specific sites for new housing and does not intend to set a housing target to be met by provision within the neighbourhood plan. But the plan does allow for small scale housing within the development boundaries up to 4 houses, and the plan does encourage the growth of small businesses and enhance community facilities.
6. Does the plan set the framework for future development consent of projects (not just projects in annexes to the EIA Directive)? (Art 3.4)	Y		The Neighbourhood Plan scope does intend to set a framework for future development consent of projects.
7. Is the plans sole purpose to serve the national defence or civil emergency, OR is it a financial or budget PP, OR is it co-financed by structural funds or EAGGF programmes 2000 to 2006/7? (Art 3.8, 3.9)	N		The purpose of the Neighbourhood Plan is not for any of the projects listed in Art 3.8, 3.9.
8. Is it likely to have a significant effect on the environment? (Art. 3.5)	N		The scope of a Neighbourhood Plan indicated by the parish council does not intend to allocate specific sites for new housing and does not intend to set a housing target to be met by provision within the neighbourhood plan. There are expected to be policies in the plan to mitigate the impacts of small scale development on the environment.
	1 (a) the degree to which the plan or programme sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources	N	The Bierton with Broughton Neighbourhood Plan intends to set out a spatial vision for the designated Neighbourhood Area and provide objectives and policies to guide sustainable development coming forward. However the plan is not intending allocating any sites for development.
	1 (b) the degree to which the plan or programme influences other plans or programmes including those in a hierarchy.	N	<p>The Bierton with Broughton Neighbourhood Plan, where possible, will respond to rather than influence other plans or programmes. A Neighbourhood Plan can only provide policies for the area it covers while the policies at the District and National level provide a strategic context for the Bierton with Broughton Neighbourhood Plan to be in general conformity with.</p> <p>None of the policies in the Neighbourhood Plan have a direct impact on other plans in neighbouring areas.</p>



1 (c) the relevance of the plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development	N	<p>Proposals will need to be set out in the Bierton with Broughton Neighbourhood Plan to balance environmental, social and economic considerations of sustainable development.</p> <p>It is considered that the Bierton with Broughton neighbourhood plan , intending to incorporate sensitive and mitigating policies to address constraints may have a positive impact on local environmental assets and places valued by local people in the Neighbourhood Area.</p>
1(d) environmental problems relevant to the plan	N	<p>Bierton with Broughton Neighbourhood Plan is not allocating any land for development and is unlikely to give rise to significant additional car movements.</p> <p>There are no Air Quality Management Areas within or particularly near to the Neighbourhood Area. The nearest areas are in Aylesbury close to the town centre <a href="https://www.aylesburyvaledc.gov.uk/air-quality-management-areas">https://www.aylesburyvaledc.gov.uk/air-quality-management-areas</a></p>
1 (e) the relevance of the plan or programme for the implementation of Community legislation on the environment (e.g. plans and programmes linked to waste management or water protection)	N	<p>The Bierton with Broughton Neighbourhood Plan is to be developed in general conformity with the AVDLP 2004) saved policies (Vale of Aylesbury Local Plan once adopted expected early 2020), the Buckinghamshire Minerals and Waste Local Plan 2019 and national policy. The plan has no relevance to the implementation of community legislation.</p>
2 (a) the probability, duration, frequency and reversibility of the effects	N	<p>As the Bierton with Broughton Neighbourhood Plan is not proposing to allocate land for development there is unlikely to be any significant environmental change involved in meeting the needs of people living and working in the parish. Any future housing development in the parish will be restricted to land in development boundaries, for no more than 4 houses on a site and is in keeping with existing buildings in the vicinity. New employment areas will be small and micro businesses. Enhanced community facilities will be existing facilities and will not harm the amenities of adjoining residential properties. It is highly unlikely these will be significant and have any irreversible damaging environmental impacts associated with the Bierton with Broughton Neighbourhood Plan.</p>
2 (b) the cumulative nature of the effects	N	<p>It is highly unlikely there will be any negative cumulative effects of the policies, rather it</p>

			could potentially have moderate positive effects. Any impact will be local in nature.
2 (c) the trans boundary nature of the effects	N		Effects will be local with no expected impacts on neighbouring areas.
2 (d) the risks to human health or the environment (e.g. due to accidents)	N		No risks have been identified.
2 (e) the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected)	N		The Neighbourhood Area covers an area which is 983.5ha and contains a population is of 2,178 residents (2011 census). The neighbourhood plan is not allocating any land for development and any future housing development in the parish will be restricted to land in development boundaries, for no more than 4 houses on a site and is in keeping with existing buildings in the vicinity. New employment areas will be small and micro businesses. Enhanced community facilities will be existing facilities and will not harm the amenities of adjoining residential properties.
2 (f) the value and vulnerability of the area likely to be affected due to: (i) special natural characteristics or cultural heritage (ii) exceeded environmental quality standards (iii) intensive land-use	N		The Bierton with Broughton neighbourhood plan does not intend to allocate any housing sites. Any future housing development in the parish will be restricted to land in development boundaries, for no more than 4 houses on a site and is in keeping with existing buildings in the vicinity. New employment areas will be small and micro businesses. Enhanced community facilities will be existing facilities and will not harm the amenities of adjoining residential properties. The plan does expect to include policies to protect the environment too. Therefore there is no impacts on special natural/cultural heritage, environmental standards or from intensive land use.
2 (g) the effects on areas or landscapes which have a recognised national, community or international protection status	N		The Bierton with Broughton Neighbourhood Development Plan Area is not within an area or landscape of a nationally, internationally or community status.

## 5.0 Final Screening Outcome - SEA Not Needed

### Reason:

- 5.1 The Bierton with Broughton Neighbourhood Development Plan is not intending allocating any sites for development, is not intended to include a housing or development target to be met and is also likely to contain a number of policies to control environmental effects including restricting development to within

development boundaries. Enhanced Employment growth and community facilities would be small scale. When taken together (as is required by law) with relevant policies from the Local Plan policy and national planning policy, it is not considered that the plan would be likely to give rise to significant environmental effects. On this basis a Sustainability Appraisal to meet the requirements for Strategic Environmental Assessment is not considered to be needed.

## Appendix – Statutory Consultation Responses

### 1. Environment Agency – Response received 30.01.20

Mr David Broadley  
Aylesbury Vale District Council  
Department of Planning Property and  
Construction Services  
The Gateway Gatehouse Road  
Aylesbury  
Buckinghamshire  
HP19 8FF

**Our ref:** WA/2006/000227/SE-20/SC2-L01  
**Your ref:**  
**Date:** 30 January 2020

Dear Mr Broadley

#### **Bierton with Broughton Neighbourhood Plan- Draft SEA Screening**

Thank you for your consultation on the draft Bierton with Broughton Neighbourhood Plan SEA. We are a statutory consultee in the SEA process and aim to reduce flood risk and protect and enhance the water environment.

We have identified that the neighbourhood plan area will be affected by the following environmental constraints:

#### **Flood risk**

The Bierton and Broughton Neighbourhood Plan area lies within areas of Flood Zones 2 and 3. The submitted SEA Screening Report says that it is not allocating sites however there is any development proposed within Flood Zones 2 or 3 then the sequential test will need to be applied and if required an exception test. The proposed development may also require a flood risk assessment.

#### **Main rivers**

The River Thames, Stocklake Brook, Burcott Brook, Draytonmead Brook and Bear Brook Broughton Stream run within or adjacent to the neighbourhood plan area. Any development

proposed within 10 metres of a watercourse needs to be compliant with the emerging Aylesbury Vale local plan Policy NE3 River and Stream Corridors.

### **Water quality**

Developments within or adjacent to watercourses should not cause further deterioration and should seek to improve the water quality based on the recommendations of the Thames River Basin Management Plan. An assessment of the potential impacts of the neighbourhood plan on watercourses under water framework directive (WFD) should be included within the SEA/SA appraisal.

### **Final Comments**

Once again, thank you for contacting us. Our comments are based on our available records and the information as submitted to us.

Please quote our reference number in any future correspondence.

If you have any queries please contact me.

Yours sincerely

**Miss Michelle Kidd**  
**Planning Advisor**

Direct dial 02030259712

E-mail [planning\\_THM@environment-agency.gov.uk](mailto:planning_THM@environment-agency.gov.uk)

### **Environment Agency – Response Received 28.01.20**

Mr David Broadley  
Aylesbury Vale District Council  
Department of Planning Property and  
Construction Services  
The Gateway  
Gatehouse Road  
Aylesbury  
Buckinghamshire  
HP19 8FF

**Our ref:** WA/2006/000227/SE-20/SC1-L01

**Your ref:**

**Date:** 28 January 2020

Dear Mr Broadley

### **Bierton with Broughton Neighbourhood Plan- Draft SEA Screening**

Thank you for your consultation on the draft Bierton with Broughton Neighbourhood Plan SEA.

We need to see a map of the area covered by the Bierton with Broughton Neighbourhood Plan in order to see if there are any constraints that we are concerned about.

Please can you also send us a copy of the draft Neighbourhood Plan for Bierton with Broughton as we are unable to comment on the statements made in the SEA screening without a draft Neighbourhood Plan for us to check them against.

### **Final Comments**

Once again, thank you for contacting us. Our comments are based on our available records and the information as submitted to us.

Please quote our reference number in any future correspondence.

If you have any queries please contact me.

Yours sincerely

**Miss Michelle Kidd**  
**Planning Advisor**

Direct dial 02030259712

E-mail [planning\\_THM@environment-agency.gov.uk](mailto:planning_THM@environment-agency.gov.uk)

2. **Historic England – No response received**
3. **Natural England – response received 13.01.20**

Date: 13 January 2020

Our ref: 304354  
Aylesbury Vale District Council  
**BY EMAIL ONLY**

Customer Services  
Hornbeam House  
Crewe Business Park  
Electra Way  
Crewe  
Cheshire  
CW1 6GJ  
T 0300 060 3900

Dear David Broadley,

### **Planning Consultation: Bierton with Broughton Neighbourhood Plan SEA Screening**

Thank you for your consultation on the above dated 23 December 2019.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Natural England is a statutory consultee in neighbourhood planning and must be consulted on draft neighbourhood development plans by the Parish/Town Councils or Neighbourhood Forums where our interests would be affected by the proposals made.

In our review of the Bierton with Broughton Neighbourhood Plan SEA screening we note that;

- there are no designated sites or protected landscapes within the impacts zones of the Neighbourhood Plan area and there are no additional dwelling sites or 1000 sqm of commercial sites proposed.

As a result we agree with the assessment that the Neighbourhood Plan does not require an SEA.

However, we would like to draw your attention to the requirement to conserve biodiversity and provide a net gain in biodiversity through planning policy (Section 40 of the Natural Environment and Rural Communities Act 2006 and section 109 of the National Planning Policy Framework). Please ensure that any development policy in your plan includes wording to ensure “all development results in a biodiversity net gain for the parish”.

The recently produced Neighbourhood Plan for Benson, in South Oxfordshire provides an excellent example. We are of the opinion that the policy wording around the Environment, Green Space and Biodiversity is exemplar. We would recommend you considering this document, when reviewing yours.

### **Further Recommendations**

Natural England would also like to highlight that removal of green space in favour of development may have serious impacts on biodiversity and connected habitat and therefore species ability to adapt to climate change. We recommend that the final neighbourhood plan include:

Policies around connected Green Infrastructure (GI) within the parish. Elements of GI such as open green space, wild green space, allotments, and green walls and roofs can all be used to create connected habitats suitable for species adaptation to climate change. Green infrastructure also provides multiple benefits for people including recreation, health and well-

being, access to nature, opportunities for food growing, and resilience to climate change. Annex A provides examples of Green Infrastructure;

- Policies around Biodiversity Net Gain should propose the use of a biodiversity measure for development proposals. Examples of calculation methods are included in Annex A;

Annex A provides information on the natural environment and issues and opportunities for your Neighbourhood planning.

Yours sincerely,  
Eleanor Sweet-Escott

Lead Adviser  
Sustainable Development  
Thames Solent Team

## Annex A - Neighbourhood planning and the natural environment: Information, Issues and Opportunities Natural Environment Information Sources

The Magic<sup>1</sup> website will provide you with much of the nationally held natural environment data for your plan area. The most relevant layers for you to consider are: **Agricultural Land Classification, Ancient Woodland, Areas of Outstanding Natural Beauty, Local Nature Reserves, National Parks (England), National Trails, Priority Habitat Inventory, public rights of way (on the Ordnance Survey base map) and Sites of Special Scientific Interest (including their impact risk zones)**. Local environmental record centres may hold a range of additional information on the natural environment. A list of local record centres is available here<sup>2</sup>.

<sup>1</sup> <http://magic.defra.gov.uk/>

<sup>2</sup> <http://www.nbn-nfbr.org.uk/nfbr.php>

<sup>3</sup> [http://webarchive.nationalarchives.gov.uk/20140711133551/  
http://www.naturalengland.org.uk/ourwork/conservation/biodiversity/protectandmanage/habsandspeciesimportance.as](http://webarchive.nationalarchives.gov.uk/20140711133551/http://www.naturalengland.org.uk/ourwork/conservation/biodiversity/protectandmanage/habsandspeciesimportance.aspx)

[px](http://www.naturalengland.org.uk/ourwork/conservation/biodiversity/protectandmanage/habsandspeciesimportance.aspx)

<sup>4</sup> <https://www.gov.uk/government/publications/national-character-area-profiles-data-for-local-decision-making>

<sup>5</sup> <http://magic.defra.gov.uk/>

<sup>6</sup> <http://www.landis.org.uk/index.cfm>

<sup>7</sup> <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

<sup>8</sup> <http://planningguidance.planningportal.gov.uk/blog/guidance/natural-environment/>

**Priority habitats** are those habitats of particular importance for nature conservation, and the list of them can be found here<sup>3</sup>. Most of these will be mapped either as **Sites of Special Scientific Interest**, on the Magic website or as **Local Wildlife Sites**. Your local planning authority should be able to supply you with the locations of Local Wildlife Sites. **National Character Areas** (NCAs) divide England into 159 distinct natural areas. Each character area is defined by a unique combination of landscape, biodiversity, geodiversity and cultural and economic activity. NCA profiles contain descriptions of the area and statements of environmental opportunity, which may be useful to inform proposals in your plan. NCA information can be found here<sup>4</sup>.

There may also be a local **landscape character assessment** covering your area. This is a tool to help understand the character and local distinctiveness of the landscape and identify the features that give it a sense of place. It can help to inform, plan and manage

change in the area. Your local planning authority should be able to help you access these if you can't find them online.

If your neighbourhood planning area is within or adjacent to a **National Park** or **Area of Outstanding Natural Beauty** (AONB), the relevant National Park/AONB Management Plan for the area will set out useful information about the protected landscape. You can access the plans on from the relevant National Park Authority or Area of Outstanding Natural Beauty website.

General mapped information on **soil types** and **Agricultural Land Classification** is available (under 'landscape') on the Magic<sup>5</sup> website and also from the LandIS website<sup>6</sup>, which contains more information about obtaining soil data.

### **Natural Environment Issues to Consider**

The National Planning Policy Framework<sup>7</sup> sets out national planning policy on protecting and enhancing the natural environment. Planning Practice Guidance<sup>8</sup> sets out supporting guidance.

Your local planning authority should be able to provide you with further advice on the potential impacts of your plan on the natural environment and the need for any environmental assessments.



## Landscape

Paragraph 172 of the National Planning Policy Framework (NPPF) highlights the need to protect and enhance valued landscapes through the planning system. Your plan may present opportunities to protect and enhance locally valued landscapes. You may want to consider identifying distinctive local landscape features or characteristics such as ponds, woodland or dry stone walls and think about how any new development proposals can respect and enhance local landscape character and distinctiveness.

If you are proposing development within or close to a protected landscape (National Park or Area of Outstanding Natural Beauty) or other sensitive location, we recommend that you carry out a landscape assessment of the proposal. Landscape assessments can help you to choose the most appropriate sites for development and help to avoid or minimise impacts of development on the landscape through careful siting, design and landscaping.

## Wildlife habitats

Some proposals can have adverse impacts on designated wildlife sites or other priority habitats (listed here<sup>9</sup>), such as Sites of Special Scientific Interest or Ancient woodland<sup>10</sup>. If there are likely to be any adverse impacts you'll need to think about how such impacts can be avoided, mitigated or, as a last resort, compensated for.

<sup>9</sup> <http://webarchive.nationalarchives.gov.uk/20140711133551/http://www.naturalengland.org.uk/ourwork/conservation/biodiversity/protectandmanage/habsandspeciesimportance.aspx>

<sup>10</sup> <https://www.gov.uk/guidance/ancient-woodland-and-veteran-trees-protection-surveys-licences>

<sup>11</sup> <http://webarchive.nationalarchives.gov.uk/20140711133551/http://www.naturalengland.org.uk/ourwork/conservation/biodiversity/protectandmanage/habsandspeciesimportance.aspx>

<sup>12</sup> <https://www.gov.uk/protected-species-and-sites-how-to-review-planning-proposals>

<sup>13</sup> <https://www.gov.uk/government/collections/biodiversity-offsetting#guidance-for-offset-providers-developers-and-local-authorities-in-the-pilot-areas> Note; the 'Guidance for developers' and 'Guidance for offset providers' documents provide a calculation method .

<sup>14</sup> <http://www.environmentbank.com/impact-calculator.php> , and [http://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&ved=0ahUKEwj7vcbI0aDQAhVMDcAKHb8IDEUQFqgsMAI&url=http%3A%2F%2Fconsult.welhat.gov.uk%2Ffile%2F4184236&usq=AFQjCNFfkbJJQ\\_UN0044Qe6rmiLffxckg](http://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&ved=0ahUKEwj7vcbI0aDQAhVMDcAKHb8IDEUQFqgsMAI&url=http%3A%2F%2Fconsult.welhat.gov.uk%2Ffile%2F4184236&usq=AFQjCNFfkbJJQ_UN0044Qe6rmiLffxckg)

## Priority and protected species and habitat

You'll also want to consider whether any proposals might affect priority species (listed here<sup>11</sup>) or protected species. Natural England has produced advice here<sup>12</sup> to help understand the impact of particular developments on protected species. Consideration should also be given to the potential environmental value of brownfield sites, often found in urban areas and former industrial land, further information including links to the open mosaic habitats inventory can be found here.

Ancient woodland and veteran trees-link to standing advice

You should consider any impacts on ancient woodland and veteran trees in line with paragraph 175 of the NPPF. Natural England maintains the Ancient Woodland Inventory which can help identify ancient woodland. Natural England and the Forest Commission have produced standing advice for planning authorities in relation to ancient woodland and veteran trees. It should be taken into account by planning authorities when determining relevant planning applications. Natural England will only provide bespoke advice on ancient woodland/veteran trees where they form part of a SSSI or in exceptional circumstances.

## Biodiversity net gain

Under section 40 of the Natural Environment and Rural Communities Act 2006 Local Planning Authorities are required to conserve biodiversity. The NPPF section 170 states the requirement for "*minimising impacts on and providing net gains for biodiversity*".

Suitable methods for calculating biodiversity net gain can include the Defra biodiversity offsetting metric<sup>13</sup> and the environment bank biodiversity impact calculator<sup>14</sup>. Natural

England would expect a policy within the Neighbourhood Plan to include wording to ensure that net biodiversity gain is achieved.

### **Best and Most Versatile Agricultural Land**

Soil is a finite resource that fulfils many important functions and services for society. It is a growing medium for food, timber and other crops, a store for carbon and water, a reservoir of biodiversity and a buffer against pollution. If you are proposing development, you should seek to use areas of poorer quality agricultural land in preference to that of a higher quality in line with National Planning Policy Framework para 170. For more information, see our publication Agricultural Land Classification: protecting the best and most versatile agricultural land<sup>15</sup>.

<sup>15</sup> <http://publications.naturalengland.org.uk/publication/35012>

<sup>16</sup> <http://planningguidance.planningportal.gov.uk/blog/guidance/open-space-sports-and-recreation-facilities-public-rights-of-way-and-local-green-space/local-green-space-designation/>

### **Green Infrastructure, Improving Your Natural Environment.**

Inclusion of Green Infrastructure (GI) in to development plans can provide multifunctional benefits to the area. These can include opportunities for recreation, health and wellbeing and access to nature as well as providing connected habitats for wildlife.

Your plan or order can offer exciting opportunities to enhance your local environment through inclusion of GI. If you are setting out policies on new development or proposing sites for development, you may wish to consider identifying what environmental features you want to be retained, connected, enhanced or new features you would like to see created as part of any new development. Examples might include:

- ☐ Providing a new footpath with landscaping through the new development to link into existing rights of way or other green spaces.
- ☐ Restoring a neglected hedgerow or creating new ones.
- ☐ Creating a new pond as an attractive feature on the site.
- ☐ Planting trees characteristic to the local area to make a positive contribution to the local landscape.
- ☐ Using native plants in landscaping schemes for better nectar and seed sources for bees and birds.
- ☐ Incorporating swift boxes or bat boxes into the design of new buildings.
- ☐ Considering how lighting can be best managed to encourage wildlife.
- ☐ Adding a green roof or walls to new or existing buildings.

You may also want to consider enhancing your local area in other ways, for example by:

- ☐ Setting out in your plan how you would like to implement elements of a wider Green Infrastructure Strategy in your community.
- ☐ Assessing needs for accessible greenspace and setting out proposals to address any deficiencies or enhance provision.
- ☐ Identifying green areas of particular importance for special protection through Local Green Space designation (see Planning Practice Guidance on this<sup>16</sup>).
- ☐ Managing existing (and new) public spaces to be more wildlife friendly (e.g. by sowing wild flower strips in less used parts of parks, changing hedge cutting timings and frequency).
- ☐ Planting additional street trees.
- ☐ Identifying any improvements to the existing public right of way network, e.g. cutting back hedges, improving the surface, clearing litter or installing kissing gates) or extending the network to create missing links.

☐ Restoring neglected environmental features (e.g. coppicing a prominent hedge that is in poor condition or clearing away an eyesore).

**Green Roofs**

Natural England is supportive of the inclusion of living roofs in all appropriate development. Research indicates that the benefits of green roofs include reducing run-off and thereby the risk of surface water flooding; reducing the requirement for heating and air-conditioning; and providing habitat for wildlife.

We would advise your council that some living roofs, such as sedum matting, can have limited biodiversity value in terms of the range of species that grow on them and habitats they provide. Natural England would encourage you to consider the use of bespoke solutions based on the needs of the wildlife specific to the site and adjacent area. I would refer you to <http://livingroofs.org/> for a range of innovative solutions.



Buckinghamshire Council

## Habitats Regulations Assessment

For the Bierton with Broughton Neighbourhood  
Development Plan

**FINAL version**

**August 2020**

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## **1. Introduction**

- 1.1 The screening statement will consider whether the Neighbourhood Development Plan requires a Habitats Regulations Assessment. This is a requirement of Regulation 106 of the Conservation of Habitats and Species Regulations 2017<sup>1</sup>

## **2. The Habitats Regulations Assessment (HRA) process**

- 2.1 The application of HRA to neighbourhood plans is a requirement of the Conservation of Habitats and Species Regulations 2017, the UK's transposition of European Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (the Habitats Directive).
- 2.2 The HRA process assesses the potential effects of a land-use plan against the conservation objectives of any European sites designated for their importance to nature conservation. These sites form a system of internationally important sites throughout Europe and are known collectively as the 'Natura 2000 network'.
- 2.3 European sites provide valuable ecological infrastructure for the protection of rare, endangered or vulnerable natural habitats and species of exceptional importance within the EU. These sites consist of Special Areas of Conservation (SAC), designated under the Habitats Directive and Special Protection Areas (SPA), designated under European Directive 2009/147/EC on the conservation of wild birds (the Birds Directive). Additionally, Government policy requires that sites designated under the Ramsar Convention (The Convention on Wetlands of International Importance, especially as Waterfowl Habitat) are treated as if they are fully designated European sites for the purpose of considering development proposals that may affect them.
- 2.4 Under Regulation 106 of the Habitats Regulations, the assessment must determine whether or not a neighbourhood plan is likely to have a significant effect on a European Site. The process is characterised by the precautionary principle. The European Commission describes the principle as follows:
- "If a preliminary scientific evaluation shows that there are reasonable grounds for concern that a particular activity might lead to damaging effects on the environment, or on human, animal or plant health, which would be inconsistent with protection normally afforded to these within the European Community, the Precautionary Principle is triggered."
- 2.5 Decision-makers then have to determine what action/s to take. They should take account of the potential consequences of no action, the uncertainties inherent in scientific evaluation, and

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<sup>1</sup> <https://www.legislation.gov.uk/uksi/2017/1012/regulation/106/made>



should consult interested parties on the possible ways of managing the risk. Measures should be proportionate to the level of risk, and to the desired level of protection. They should be provisional in nature pending the availability of more reliable scientific data.

2.6 Action is then undertaken to obtain further information, enabling a more objective assessment of the risk. The measures taken to manage the risk should be maintained so long as scientific information remains inconclusive and the risk is unacceptable.

2.7 The hierarchy of intervention is important: where significant effects are likely or uncertain, plan makers must firstly seek to avoid the effect through for example, a change of policy. If this is not possible, mitigation measures should be explored to remove or reduce the significant effect. If neither avoidance, nor subsequently, mitigation is possible, alternatives to the plan should be considered. Such alternatives should explore ways of achieving the plan's objectives that do not adversely affect European sites.

2.8 If no suitable alternatives exist, plan-makers must demonstrate under the conditions of Regulation 107 of the Habitats Regulations, that there are Imperative Reasons of Overriding Public Interest (IROPI) to continue with the proposal. The following European site was identified using a 15km area of search around the Bierton Neighbourhood Area as well as including sites which are potentially connected (e.g. hydrologically) beyond this distance:

• **Chiltern Beechwoods Special Area of Conservation (SAC)**

**The nearest part of the Chiltern Beechwoods SAC to Bierton with Broughton parish are:**

- 7.3km to Little Kimble Railway Station environs
- 7.6km to Hastoe-West Leith (south of Tring)
- 12.8km to Albury Common/ Old Copse (near to Ashridge National Trust site)

2.9A qualifying body which submits a proposal for a neighbourhood development plan must provide such information as the competent authority may reasonably require for the purposes of the assessment under regulation 105 or to enable it to determine whether that assessment is required. The information received is a draft (non-statutory) version of what will become the neighbourhood plan

2.10 The Council must under Regulation 105 provide such information as the appropriate authority (Natural England) may reasonably require for the purposes of the discharge by the appropriate authority of its obligations. That information is this screening recommendation and a draft version (non-statutory) version of what will become the neighbourhood plan.

### **3. People over Wind**

- 3.1 The HRA Screening in light of the 2017 'People over Wind' Court of Justice of the European Union (CJEU) case<sup>2</sup> which ruled that *where there would be* likely significant effects at the HRA Stage 1 Screening stage, mitigation measures (specifically measures which avoid or reduce adverse effects) should be assessed as part of an Appropriate Assessment, and should not be taken into account at the screening stage.
- 3.2 The Council considers that in re-applying the criteria in para 4.2 of this HRA Screening on the likely the screening outcome and considering the 'People over Wind' CJEU case, there would be *still no likely significant effect* because there are no land allocations and development coming forward is restricted to within development settlement boundaries.

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<sup>2</sup> Case C 323/17, REQUEST for a preliminary ruling under Article 267 TFEU from the High Court (Ireland), made by decision of 10 May 2017, received at the Court on 30 May 2017, in the proceedings People Over Wind, Peter Sweetman

## 4. Assessment Process

### 4.1 Stage of HRA Screening

Stage	Task	Outcome
Stage 1: Screening (the 'Significance Test') <b>that is this current stage</b>	Description of the plan. Identification of potential effects on European Sites. Assessing the effects on European Sites.	Where effects are unlikely, prepare a 'finding of no significant effect report'. Where effects judged likely, or lack of information to prove otherwise, proceed to Stage 2.

### 4.2 Potential impacts and activities adversely affecting European sites

Broad categories and examples of potential impacts on European sites	Examples of activities responsible for impacts
<b>Physical loss</b> <ul style="list-style-type: none"> <li>Removal (including offsite effects, e.g. foraging habitat)</li> <li>Smothering</li> <li>Habitat degradation</li> </ul>	Development (e.g. housing, employment, infrastructure, tourism) Infilling (e.g. of mines, water bodies) Alterations or works to disused quarries Structural alterations to buildings (bat roosts) Afforestation Tipping Cessation of or inappropriate management for nature conservation Mine collapse
<b>Physical damage</b> <ul style="list-style-type: none"> <li>Sedimentation / silting</li> <li>Prevention of natural processes</li> <li>Habitat degradation</li> <li>Erosion</li> <li>Trampling</li> <li>Fragmentation</li> <li>Severance / barrier effect</li> </ul>	Flood defences Dredging Mineral extraction Recreation (e.g. motor cycling, cycling, walking, horse riding, water sports, caving) Development (e.g. infrastructure,

Broad categories and examples of potential impacts on European sites	Examples of activities responsible for impacts
<ul style="list-style-type: none"> <li>• Edge effects</li> <li>• Fire</li> </ul>	<p>tourism, adjacent housing etc.)</p> <p>Vandalism</p> <p>Arson</p> <p>Cessation of or inappropriate management for nature conservation</p>
<p><b>Non-physical (and indirect) disturbance</b></p> <ul style="list-style-type: none"> <li>• Noise</li> <li>• Vibration</li> <li>• Visual presence</li> <li>• Human presence</li> <li>• Light pollution</li> </ul>	<p>Development (e.g. housing, industrial)</p> <p>Recreation (e.g. dog walking, water sports)</p> <p>Industrial activity</p> <p>Mineral extraction</p> <p>Navigation</p> <p>Vehicular traffic</p> <p>Artificial lighting (e.g. street lighting)</p>
<p><b>Water table/availability</b></p> <ul style="list-style-type: none"> <li>• Drying</li> <li>• Flooding / storm water</li> <li>• Water level and stability</li> <li>• Water flow (e.g. reduction in velocity of surface water)</li> <li>• Barrier effect (on migratory species)</li> </ul>	<p>Water abstraction</p> <p>Drainage interception (e.g. reservoir, dam, infrastructure and other development)</p> <p>Increased discharge (e.g. drainage, runoff)</p>
<p><b>Toxic contamination</b></p> <ul style="list-style-type: none"> <li>• Water pollution</li> <li>• Soil contamination</li> <li>• Air pollution</li> </ul>	<p>Agrochemical application and runoff</p> <p>Navigation</p> <p>Oil / chemical spills</p> <p>Tipping</p> <p>Landfill</p> <p>Vehicular traffic</p>

Broad categories and examples of potential impacts on European sites	Examples of activities responsible for impacts
	Industrial waste / emissions
<b>Non-toxic contamination</b> <ul style="list-style-type: none"> <li>• Nutrient enrichment (e.g. of soils and water)</li> <li>• Algal blooms</li> <li>• Changes in salinity</li> <li>• Changes in thermal regime</li> <li>• Changes in turbidity</li> <li>• Air pollution (dust)</li> </ul>	Agricultural runoff Sewage discharge Water abstraction Industrial activity Flood defences Navigation Construction
<b>Biological disturbance</b> <ul style="list-style-type: none"> <li>• Direct mortality</li> <li>• Out-competition by non-native species</li> <li>• Selective extraction of species</li> <li>• Introduction of disease</li> <li>• Rapid population fluctuations</li> <li>• Natural succession</li> </ul>	Development (e.g. housing areas with domestic and public gardens) Predation by domestic pets Introduction of non-native species (e.g. from gardens) Fishing Hunting Agriculture Changes in management practices (e.g. grazing regimes, access controls, cutting/clearing)

### Interpretation of ‘likely significant effect’

4.3 Relevant case law helps to interpret when effects should be considered as being likely to result in a significant effect, when carrying out a HRA of a plan.

4.4 In the Waddenzee case<sup>3</sup>, the European Court of Justice ruled on the interpretation of Article 6(3) of the Habitats Directive (translated into Reg. 102 in the Habitats Regulations), including that:

- An effect should be considered ‘likely’, “if it cannot be excluded, on the basis of objective information, that it will have a significant effect on the site” (para 44).

<sup>3</sup> ECJ Case C-127/02 “Waddenzee” Jan 2004.

- An effect should be considered ‘significant’, “if it undermines the conservation objectives” (para 48).
- Where a plan or project has an effect on a site “but is not likely to undermine its conservation objectives, it cannot be considered likely to have a significant effect on the site concerned” (para 47).

4.5 An opinion delivered to the Court of Justice of the European Union<sup>4</sup> commented that:

*“The requirement that an effect in question be ‘significant’ exists in order to lay down a de minimus threshold. Plans or projects that have no appreciable effect on the site are thereby excluded. If all plans or projects capable of having any effect whatsoever on the site were to be caught by Article 6(3), activities on or near the site would risk being impossible by reason of legislative overkill.”*

4.6 This opinion (the ‘Sweetman’ case) therefore allows for the authorisation of plans and projects whose possible effects, alone or in combination, can be considered ‘trivial’ or de minimus; referring to such cases as those “which have no appreciable effect on the site”. In practice such effects could be screened out as having no likely significant effect; they would be ‘insignificant’.

## **5. Assessment of the draft scope for Neighbourhood Plan**

5.1 The plan area is at least 7km from the nearest SAC site. The plan is not proposing to allocate sites for new development. The plan would propose to restrict new housing to no more than 4 houses within defined development boundaries. Outside development boundaries, new housing would be exceptional cases outlined in Draft Policy H2.

5.2 The draft plan proposes development boundaries covering 9 different areas in the neighbourhood area.

5.3 The plan intends to have policies to designated Local Green Spaces and to protect the environment. The only new transport proposals in the plan would be car parking, traffic calming measures and pedestrian crossings. Small and micro business would be encouraged and proposals to expand employment or retail premises existing will be supported as long as they respect heritage and local character.

5.4 In terms of ‘in combination effects’ , the emerging local plan, the Vale of Aylesbury Local Plan currently post-Modifications but at examination, the VALP HRA, has considered the effects of growth 2013-2033 outlined in the VALP upon European sites and no Stage 2 HRA was necessary. The VALP examiner has not indicated any inadequacy as to the HRA reports and process followed for the VALP.

5.5 The condition of the Chiltern Beechwoods SAC has been set out in the HRA for the VALP <https://www.aylesburyvaldc.gov.uk/habitats-regulations-assessment>

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<sup>4</sup> Advocate General’s Opinion to CJEU in Case C-258/11 Sweetman and others v An Bord Pleanala 22nd Nov 2012.

5.6 From the plan proposals there are not considered to be any adverse impacts to SAC sites as described as potential in para 4.2 above.

## **6. Screening Outcome for Bierton with Broughton Neighbourhood Development Plan**

### **No Habitats Regulations Assessment required.**

- 6.1 The draft Bierton with Broughton neighbourhood plan, which does not propose to allocate any land for development, is not anticipated to have a significant effect on any European Sites, in this case the Chiltern Beechwoods SAC. The plan intends to restrict future housing growth contiguous with existing or committed housing through development boundaries. Vulnerabilities of the SAC are not likely to be exacerbated by an increase in population (e.g. air quality, visitor disturbance, recreation), there are no anticipated likely significant effects of the draft Neighbourhood Plan policies or areas for development on Chilterns Beechwoods SAC. The Neighbourhood Plan is not likely to lead to adverse effects on any European sites alone or in-combination. There is no requirement to prepare an appropriate assessment.
- 6.2 Natural England have been consulted on a draft of this screening opinion and endorse the screening outcome.

## APPENDIX 1– Consultation Response with Natural England

Dear David,

### **Planning consultation: Bierton with Broughton Neighbourhood Plan Draft – HRA Screening Report**

**Our ref: 323782**

Thank you for your consultation on the above dated 22 July 2020 which was received by Natural England on the same day.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Based on the Draft Pre-submission Neighbourhood Plan submitted, Natural England consider it unlikely that the proposed development will have a likely significant effect on Chilterns Beechwoods Special Area of Conservation.

As a result we agree with the assessment that the Bierton and Broughton Neighbourhood Plan does not require an Habitats Regulations Assessment.

Should the plan change, please consult us again.

If you have any queries relating to this advice, please contact me on the details below.

Yours sincerely,

Ellen

**Ellen Satchwell**

Sustainable Development Lead Advisor

Thames Solent Team | Natural England

07899902408

<https://www.gov.uk/natural-england>