



# **North Marston Neighbourhood Plan**

**SEA and HRA Screening Opinion by  
Buckinghamshire Council for consultation in  
accordance with the European Directive  
2001/42/EC and associated Environmental  
Assessment of Plans and Programmes  
Regulations 2004**

**and**

**European Directive 92/43/EEC and Regulation  
106 of The Conservation of Habitats and Species  
Regulations 2017**

Final Screening Outcome

Date: November 2021

# **NORTH MARSTON NEIGHBOURHOOD PLAN - DRAFT**

**November 2021**

## **Strategic Environmental Assessment (SEA) FINAL Screening**

## **Habitats Regulations Assessment (HRA) FINAL Screening**

### **Contents**

#### **Part One - SEA**

1. Introduction	4
2. Legislative Background	4
3. Criteria for Assessing the Effects of Supplementary Planning Documents	4
4. Assessment	6
5. Screening Outcome	14

#### **Part Two - HRA**

1. Introduction	16
2. The Habitats Regulations Assessment (HRA) process	16
3. People Over Wind	17
4. Assessment Process	19
5. Assessment of North Marston Draft Neighbourhood Plan	22
6. Screening Outcome	25

#### **Appendices**

Appendix 1 – statutory consultation responses received	26
Appendix 2 - Note on the ‘People over Wind’ Court of Justice of the European Union (CJEU) case	29

(Blank page)

# Strategic Environmental Assessment Screening

## 1. Introduction

- 1.1 This screening statement considers whether the contents of the North Marston 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 or not to have “significant environmental effects”. The result of Buckinghamshire Council’s (BC) 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 North Marston Neighbourhood Plan and the need for a full Strategic Environmental Assessment.

## 2. Legislative Background

- 2.1 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.
- 2.2 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.

## 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>1</sup>:

---

<sup>1</sup> Source: Annex II of SEA Directive 2001/42/EC

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

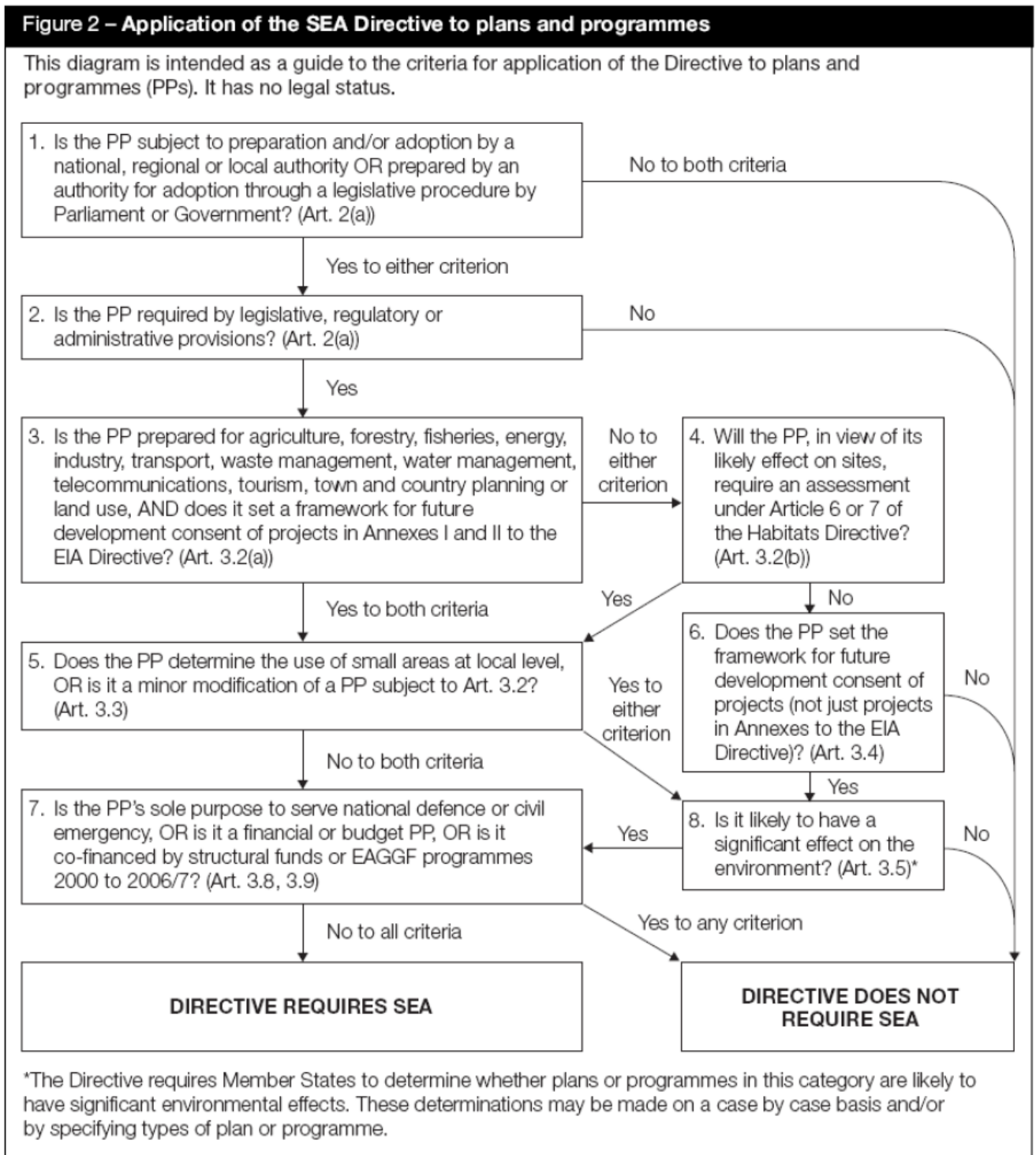
- the degree to which the plan or programme sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources,
- the degree to which the plan or programme influences other plans and programmes including those in a 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.

## 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 North Marston Neighbourhood Plan (August 2021 draft) 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 Buckinghamshire Council an early scope of a plan. This is what the screening is based on.
- 4.3 The draft neighbourhood plan contains the following policies and proposals. These will continue to evolve towards the Regulation 14 Pre Submission consultation stage.

## **Early Draft Neighbourhood Plan Policies – Summary of Each Policy.**

Majority of policies to have detailed criteria to be met.

### **Policy E1: Rural Character**

The rural character of the village and its surroundings should be respected through new development.

### **Policy E2: North Marston Conservation Area and its Setting**

Development in the Conservation Area and its setting should achieve high quality design, set in a clear context in terms of materials, scale, setting and layout.

### **Policy E3: Protecting and enhancing local heritage assets**

All development proposals affecting identified local heritage assets will be required to take into account the character, context and setting of the assets.

### **Policy E4: Field patterns and archaeology**

Development proposals should demonstrate that they have considered the potential impact on above and below ground archaeology.

### **Policy NE1: Protecting the Landscape**

Any proposals for development should recognise and seek to protect and enhance the historic and natural landscape and local character of the Parish.

### **Policy NE2: Biodiversity**

New development will be required to protect and enhance existing natural features of sites and provide at least 10% net gain in biodiversity.

### **Policy SD1: Development within the Settlement Boundary**

Appropriate new development, including housing, will be supported on infill or redevelopment sites inside the Settlement Boundary where there is no adverse impact on existing residential, employment and community uses.

### **Policy SD2: New Housing Development**

On all developments of more than 2 houses, the sizes of dwelling should be mixed.

### **Policy SD3: High Quality Design**

Proposals for good quality new development (including new buildings and extensions to existing buildings) will be supported, where they are in accordance with other policies in the North Marston Neighbourhood Plan and the North Marston Design Code.

### **Policy SD4: Provision of energy efficient buildings**

The design and standard of all new development should achieve a high level of sustainable design and construction.

### **Policy SD5: Water management**

Proposals for development must incorporate a sustainable and integrated approach to the management of flood risk, surface water (including run off) and foul drainage.

### **Policy C1: Community facilities**

The identified community facilities will be retained and planning applications which result in either the loss of or significant harm to the facility will be resisted.

### **Policy C2: Local Green Spaces**

The following areas shown on the Policies Map are designated as Local Green Spaces.

### **Policy C3: Supporting Local Employment and Agriculture**

Proposals for the development of new small businesses and for the expansion or diversification of existing businesses, including farm-based operations, will be encouraged, providing that criteria are met.

### **Policy TT1: Car Parking**

Proposals for new housing developments will provide parking in line with Buckinghamshire's parking standards and have adequate on-site parking to meet current and future needs, unless alternative and accessible car parking arrangements can be made which do not add to on-street congestion.

### **Policy TT2: Provision for pedestrians, cyclists and horse riders**

New development should include measures that that keep traffic speeds low and improve the provision of pavements and access for pedestrians and cyclists and horse riders. Where they are proposed, new roads, junctions, pavements and traffic management measures should be designed to complement the rural character of the village and reflect local heritage.



4.4 The assessment on SEA requirement or not follows:

<b>Table 1: Establishing the Need for SEA</b>		
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 adopted (made) subject to passing examination and referendum, by a Local Planning Authority, 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 North Marston 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 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 17.9km near Ellesborough or 18.1km near Pitstone.</p> <p>There are sightings of the following in the parish. These are all protected species under Schedule IV or V of the EU Habitats Directive 1992</p> <ul style="list-style-type: none"> <li>• 3 Rana Temporaria, Common Frog</li> <li>• 1 Triturus Cristatus, Great Crested Newt</li> <li>• 15 Chiroptera, a bat species</li> <li>• 1 Myotis, a bat species</li> </ul>

		<ul style="list-style-type: none"> <li>• 1 Nyctalus Noctula, a bat species</li> <li>• 15 Pipistrelle species</li> <li>• 5 Plecotus auritus, a brown long eared bat</li> </ul> <p>In terms of Natura 2000 sites however there would not be any impact on the Natura 2000 sites given the distance to the nearest SAC. This impact can be subject to re-screening at a later stage of the plan before it is made.</p>
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 settlement (North Marston village) boundary.
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. The policies of the neighbourhood plan will be take into account as part of the development plan alongside the local plan in force for this part of Buckinghamshire.
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 draft 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.

	<p>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</p>	<p>N</p>	<p>The North Marston Neighbourhood Plan – scope 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.</p>
	<p>1 (b) the degree to which the plan or programme influences other plans or programmes including those in a hierarchy.</p>	<p>N</p>	<p>The North Marston 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 (in this case the North Marston parish) while the policies at the Aylesbury Vale area of Buckinghamshire and National level provide a strategic context for the North Marston 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>
	<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</p>	<p>N</p>	<p>Policies are to be set out in the North Marston Neighbourhood Plan to balance environmental, social and economic considerations of sustainable development. The draft North Marston neighbourhood plan does have a policy to promote sustainable development.</p> <p>It is considered that the North Marston 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>The North Marston 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 near to the Neighbourhood Area.</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 North Marston Neighbourhood Plan is to be developed in general conformity with the Vale of Aylesbury Local Plan adopted September 2021), 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 North Marston 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. The plan will in any case contain policies to avoid for example adverse impacts on landscape, heritage, existing built character, biodiversity and from traffic.</p> <p>Any future housing development in the parish will be restricted to small scale sites within and in keeping with existing development in a North Marston village settlement boundary.</p> <p>The plan will be supporting community facilities in the parish – new and existing.</p> <p>It is highly unlikely these will be significant and have any irreversible damaging environmental impacts associated with the</p>

		North Marston Neighbourhood Plan.
2 (b) the cumulative nature of the effects	N	It is highly unlikely there will be any negative cumulative effects of the policies, rather it 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 800 ha and contains a population is of 781 residents (2011 census). The neighbourhood plan is not allocating any land for development and would promote small scale local housing development contiguous with existing housing in the village subject to meeting policy criteria. Community facilities will also be supported in the parish and local green spaces designated.
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 neighbourhood plan is not allocating any land for development and any future residential development in the parish will be restricted to land in North Marston Village.  Part of the village was designated a Conservation Area in 1972 and continues to be so. There are 21 Listed Buildings in and around the village, all Grade II except the Grade I Church of St Mary.  The southern part of the parish around 0.5 kilometres at the nearest point from Portway, North Marston village forms part of the Quainton-Wing Hills Area of Attractive Landscape, a locally designated

			<p>landscape in the VALP.</p> <p>There are just minor watercourses in the parish area.</p> <p>The plan as drafted includes objectives and policies to enhance the natural and cultural heritage, for example provide greater support in design policies and enhance the setting of heritage, heritage assets and green spaces.</p> <p>The plan also will have policies to enhance environmental assets, landscape and protect designated local green spaces which will have a positive effect environmentally and help protect the rural character of North Marston.</p>
	2 (g) the effects on areas or landscapes which have a recognised national, community or international protection status	N	The North Marston Neighbourhood Plan Area is not within an designated local landscape or an Area of Outstanding Natural Beauty or other recognised landscape.

## 5. FINAL Screening Outcome - SEA Not Needed

- 5.1 The Draft North Marston Neighbourhood Development Plan is not intending to allocate sites for housing or other development or identify a housing target. The plan is unlikely to have significant environmental effects on North Marston parish and surrounding area including the existing natural and built heritage.
- 5.2 The plan intends to contain policies to restrict housing to within the existing North Marston village and also to ensure harm to the wider environment is avoided. Local Green Spaces will be designated for their special value and will have protection against other non conforming uses. There will be wider plan policies including on environmental protection and areas such as harm from increased traffic. The policies in the recently adopted local plan will also apply.
- 5.3 This screening opinion can be revisited once if the plan changes in any significant extent as it moves through the later stages towards being made. When taken together (as is required by law) with relevant policies

from the Local Plan policy and national planning policy, it is considered that the plan currently intended currently would NOT be likely to give rise to significant environmental effects.

5.4 The statutory consultee responses concur with this screening outcome.

5.5 Therefore a Strategic Environmental Assessment (SEA) is NOT needed.

# Habitat Regulations Assessment (HRA)

## 1. Introduction

- 1.1 The screening statement will consider whether the Draft North Marston 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>2</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,

---

<sup>2</sup> <https://www.legislation.gov.uk/ukxi/2017/1012/regulation/106/made>



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 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 20km area of search around the North Marston 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 the North Marston parish are:**

- 17.9km near Ellesborough
- or 18.1km near Pitstone

- 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 a 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 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>3</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.

---

<sup>3</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
<p><b>Physical loss</b></p> <ul style="list-style-type: none"> <li>• Removal (including offsite effects, e.g. foraging habitat)</li> <li>• Smothering</li> <li>• Habitat degradation</li> </ul>	<p>Development (e.g. housing, employment, infrastructure, tourism)</p> <p>Infilling (e.g. of mines, water bodies)</p> <p>Alterations or works to disused quarries</p> <p>Structural alterations to buildings (bat roosts)</p> <p>Afforestation</p> <p>Tipping</p> <p>Cessation of or inappropriate management for nature conservation</p> <p>Mine collapse</p>
<p><b>Physical damage</b></p> <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> </ul>	<p>Flood defences</p> <p>Dredging</p> <p>Mineral extraction</p> <p>Recreation (e.g. motor cycling, cycling, walking, horse riding, water sports,</p>

Broad categories and examples of potential impacts on European sites	Examples of activities responsible for impacts
<ul style="list-style-type: none"> <li>• Fragmentation</li> <li>• Severance / barrier effect</li> <li>• Edge effects</li> <li>• Fire</li> </ul>	<p>caving)</p> <p>Development (e.g. infrastructure, 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>

Broad categories and examples of potential impacts on European sites	Examples of activities responsible for impacts
	<p>Tipping</p> <p>Landfill</p> <p>Vehicular traffic</p> <p>Industrial waste / emissions</p>
<p><b>Non-toxic contamination</b></p> <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>	<p>Agricultural runoff</p> <p>Sewage discharge</p> <p>Water abstraction</p> <p>Industrial activity</p> <p>Flood defences</p> <p>Navigation</p> <p>Construction</p>
<p><b>Biological disturbance</b></p> <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>	<p>Development (e.g. housing areas with domestic and public gardens)</p> <p>Predation by domestic pets</p> <p>Introduction of non-native species (e.g. from gardens)</p> <p>Fishing</p> <p>Hunting</p> <p>Agriculture</p> <p>Changes in management practices (e.g. grazing regimes, access controls, cutting/clearing)</p>

### *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>4</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).
- 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>5</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 North Marston Neighbourhood Plan**

5.1 The plan area is approximately 18km from the nearest SAC site. The parish council are not proposing to allocate sites for new development. The plan scope would restrict new housing to be infill or redevelopment plots in character complimentary to existing village and located within a defined boundary of North Marston village.

5.2 The parish council intends to have a range of policies as follows which will help to control the extent of development to ensure it is sustainable and mitigate against the adverse effects

---

<sup>4</sup> ECJ Case C-127/02 “Waddenzee” Jan 2004.

<sup>5</sup> Advocate General’s Opinion to CJEU in Case C-258/11 Sweetman and others v An Bord Pleanala 22nd Nov 2012.

## **Early Draft Neighbourhood Plan Policies – Summary of Each Policy.**

Majority of policies to have detailed criteria to be met.

### **Policy E1: Rural Character**

The rural character of the village and its surroundings should be respected through new development.

### **Policy E2: North Marston Conservation Area and its Setting**

Development in the Conservation Area and its setting should achieve high quality design, set in a clear context in terms of materials, scale, setting and layout.

### **Policy E3: Protecting and enhancing local heritage assets**

All development proposals affecting identified local heritage assets will be required to take into account the character, context and setting of the assets.

### **Policy E4: Field patterns and archaeology**

Development proposals should demonstrate that they have considered the potential impact on above and below ground archaeology.

### **Policy NE1: Protecting the Landscape**

Any proposals for development should recognise and seek to protect and enhance the historic and natural landscape and local character of the Parish.

### **Policy NE2: Biodiversity**

New development will be required to protect and enhance existing natural features of sites and provide at least 10% net gain in biodiversity.

### **Policy SD1: Development within the Settlement Boundary**

Appropriate new development, including housing, will be supported on infill or redevelopment sites inside the Settlement Boundary where there is no adverse impact on existing residential, employment and community uses.

### **Policy SD2: New Housing Development**

On all developments of more than 2 houses, the sizes of dwelling should be mixed.

### **Policy SD3: High Quality Design**

Proposals for good quality new development (including new buildings and extensions to existing buildings) will be supported, where they are in accordance with other policies in the North Marston Neighbourhood Plan and the North Marston Design Code.

#### **Policy SD4: Provision of energy efficient buildings**

The design and standard of all new development should achieve a high level of sustainable design and construction.

#### **Policy SD5: Water management**

Proposals for development must incorporate a sustainable and integrated approach to the management of flood risk, surface water (including run off) and foul drainage.

#### **Policy C1: Community facilities**

The identified community facilities will be retained and planning applications which result in either the loss of or significant harm to the facility will be resisted.

#### **Policy C2: Local Green Spaces**

The following areas shown on the Policies Map are designated as Local Green Spaces.

#### **Policy C3: Supporting Local Employment and Agriculture**

Proposals for the development of new small businesses and for the expansion or diversification of existing businesses, including farm-based operations, will be encouraged, providing that criteria are met.

#### **Policy TT1: Car Parking**

Proposals for new housing developments will provide parking in line with Buckinghamshire's parking standards and have adequate on-site parking to meet current and future needs, unless alternative and accessible car parking arrangements can be made which do not add to on-street congestion.

#### **Policy TT2: Provision for pedestrians, cyclists and horse riders**

New development should include measures that that keep traffic speeds low and improve the provision of pavements and access for pedestrians and cyclists and horse riders. Where they are proposed, new roads, junctions, pavements and traffic management measures should be designed to complement the rural character of the village and reflect local heritage.

5.3 In terms of 'in combination effects' , the emerging local plan, the Adopted Vale of Aylesbury Local Plan 2021 and 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.

5.4 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>



5.5 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 the North Marston Neighbourhood Development Plan - No Habitats Regulations Assessment required.**

- 6.1 The draft North Marston 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 housing through a settlement boundary to North Marston village. Development proposals would need to comply with policy criteria so the housing coming forward will be infill and brownfield redevelopment plots within the village. 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 The statutory consultee responses concur with this screening outcome.

# **Appendix 1 – Statutory Consultation Responses to the Draft SEA and HRA Screening**

A 28 day consultation period with Natural England, the Environment Agency and Historic England will take place 7 October 2021 to 4 November 2021.

## **RESPONSES**

### **1. Environment Agency**

**Received 07/10/21**

Dear David,

Thank you for consulting the Environment Agency on your North Marston neighbourhood plan SEA HRA screening consultation.

We regret that at present, the Thames Area Sustainable Places team is unable to review this consultation. This is due to resourcing issues within the team, a high development management workload and an increasing volume of neighbourhood planning consultations. We have had to prioritise our limited resource, and must focus on influencing plans where the environmental risks and opportunities are highest. For the purposes of neighbourhood planning, we have assessed those authorities who have “up to date” local plans (plans adopted since 2012, or which have been confirmed as being compliant with the National Planning Policy Framework) as being of lower risk. At this time, therefore, we are unable to make any detailed input on neighbourhood plans being prepared within this local authority area.

However, together with Natural England, English Heritage and Forestry Commission, we have published joint guidance on neighbourhood planning, which sets out sources of environmental information and ideas on incorporating the environment into plans. This is available at:

[http://webarchive.nationalarchives.gov.uk/20140328084622/http://cdn.environment-agency.gov.uk/LIT\\_6524\\_7da381.pdf](http://webarchive.nationalarchives.gov.uk/20140328084622/http://cdn.environment-agency.gov.uk/LIT_6524_7da381.pdf)

Thames Sustainable Places Team  
Environment Agency | Red Kite House, Wallingford, OX10 8BD

### **2. Historic England**

**Received 08/10/21**

Dear David

Thank you for consulting Historic England on the draft screening statement for SEA of the North Marston Neighbourhood plan.

Based on the information provided I'm happy to confirm Historic England agreement that SEA would not be merited on grounds within our areas of interest. We do however reserve the right to request a review of this decision should the scope of the plan change to include site allocations or policies that limit areas for development (such as settlement boundaries) to locations likely to generate effects for heritage assets, or policies promoting change of use create a significant pressure for change that would prejudice the conservation of the significance of heritage assets.

I would be happy to answer any queries with regard to these comments

Yours sincerely

Robert Lloyd-Sweet

Robert Lloyd-Sweet | Historic Places Adviser | South East England | Historic England  
Cannon Bridge House | 25 Dowgate Hill | London | EC4R 2YA  
Mobile: 07825 907288

### **3. Natural England**

**Received 27/10/21**

Dear David,

Planning consultation: North Marston Neighbourhood Plan SEA and HRA Screening

Our ref: 370196

Thank you for your consultation on the above dated 6th October 2021 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 plan submitted, Natural England agree with the assessment that the Neighbourhood Plan does not require an SEA or HRA.

Should the proposal 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 Adviser

Thames Solent Team | Natural England

07899902408

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

## APPENDIX 2 – Note on the ‘People over Wind’ Court of Justice of the European Union (CJEU) case

- A2.1 This Appendix provides an update to the HRA Screening in light of the recent ‘People over Wind’ Court of Justice of the European Union (CJEU) case<sup>6</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.
- A2.2 Buckinghamshire Council considers that in re-applying the criteria in para 4.1 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 the plan is substantively the same as that assessed in 2017 and as described in para 6.1 of the HRA Screening i.e. there are no land allocations and development coming forward is restricted to within settlement boundary for North Marston village
- A2.3 The council therefore considers there is no reason to alter the screening outcome identified in para 6.1 of this report and the neighbourhood plan is not anticipated to have a significant effect on Chiltern Beechwoods SAC.

---

<sup>6</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