



# **Penn Parish Neighbourhood Plan – Scope**

## **Strategic Environmental Assessment and Habitats Regulations Assessment Screening**

**Final Screening Outcome**

**April 2023**

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# 1. Summary

1. The Conservation of Habitats and Species Regulations 2017 (as amended) places a requirement for competent authorities – here the Council – to ascertain whether a plan or project will have any adverse effects on the integrity of European sites.
2. To assess whether a full Appropriate Assessment is required under the Conservation of Habitats and Species regulations 2017 (as amended), the Council has undertaken a screening assessment of the Penn Parish Scope for a Neighbourhood Plan.
3. Strategic Environmental Assessments (SEA) are a way of ensuring the environmental implications of decisions are considered before any decisions are made. The need for environmental assessment of plans and programmes is set out in the Environmental Assessment of Plans and Programmes Regulations 2004. Under these regulations, Neighbourhood Plans may require SEA if they could have significant environmental effects. A plan or project that has been identified as triggering an Appropriate Assessment is also required to undertake a Strategic Environmental Assessment (SEA).
4. To assess whether a SEA / HRA are required, the local planning authority must undertake a screening process. This must be subject to consultation with the three consultation bodies: Historic England, the Environment Agency and Natural England. Following consultation, the results of the screening process must be detailed in a screening statement, which is required to be made available to the public.
5. If a Neighbourhood Plan as drafted is considered potential to have significant environmental effects through the screening process, then the conclusion will be that the preparation of a SEA and/ or Appropriate Assessment is necessary.
6. Buckinghamshire Council considers that, following this Draft Screening statement, the Penn Parish Neighbourhood Plan Scope does **not** have potential to introduce significant environmental effects and does **not** require an Appropriate Assessment or an SEA.

7. A consultation is taking place with the statutory bodies and their conclusions will be reflected in the final report. The consultation took place with Natural England, The Environment Agency and Historic England for 4 weeks between 10 March 2023 and 7 April 2023.
8. The full screening statement follows.

## 2. Legislative Background and Criteria

### Legislative Background

9. 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.
10. 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.

### Criteria for Assessing the Effects of Neighbourhood Development Plans

11. Criteria for determining the likely significance of effects referred to in Article 3(5) of Directive 2001/42/EC are set out as follows (Source: Annex II of SEA Directive 2001/42/EC):
12. The characteristics of plans and programmes, having regard to:
  - the degree to which the plan or programme sets a framework for projects and other activities, either regarding 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 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).
13. Characteristics of the effects and of the area likely to be affected, having regard 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.



### 3. The Penn Parish Neighbourhood Plan - Scope

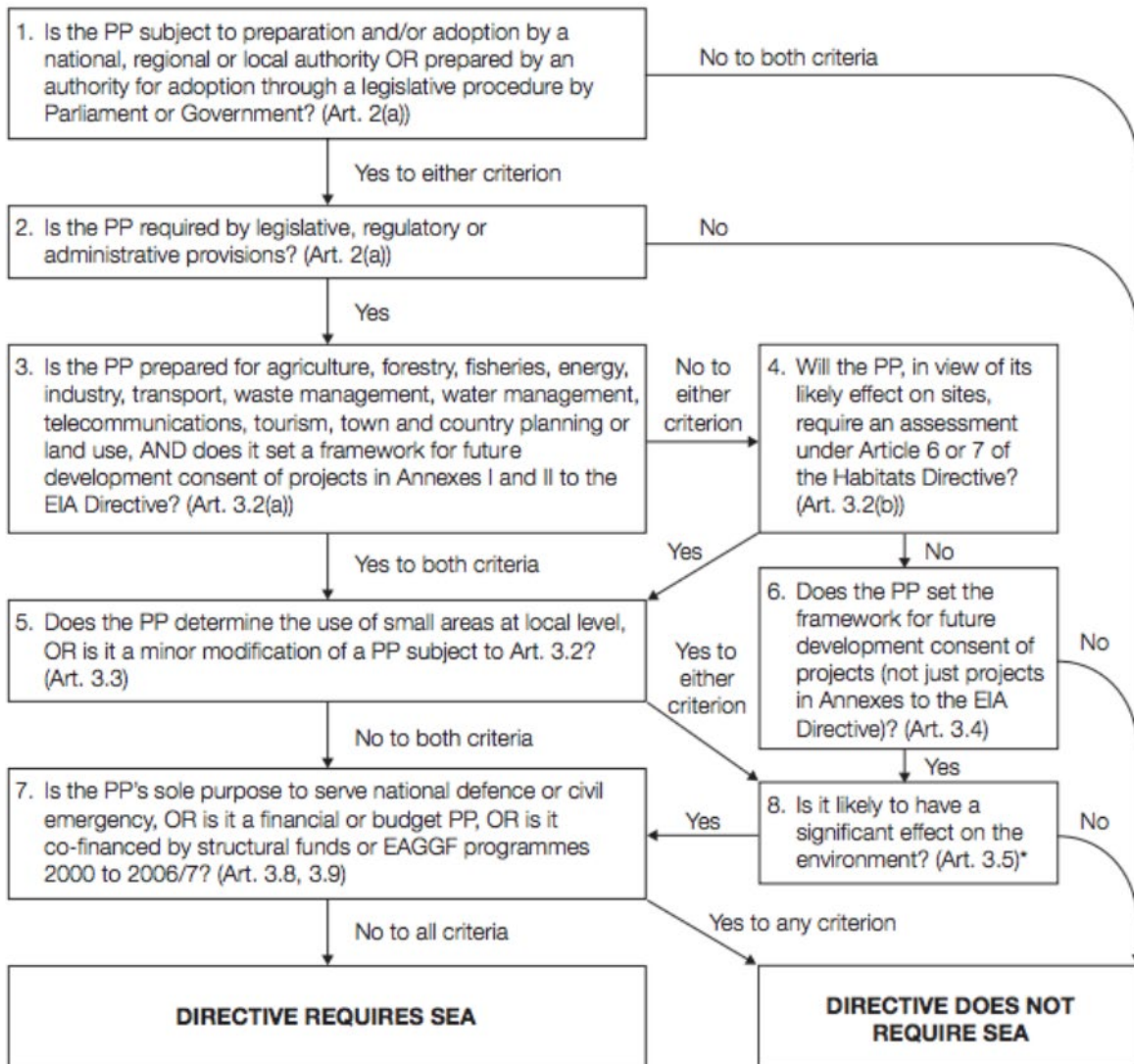
14. There is as yet no draft neighbourhood plan. However, the Steering Group working to the Parish Council have appointed an Agent who has agreed with the Group a scope for the neighbourhood plan coverage. The following has been provided on 22 December 2022 from the Agent for the purpose of this screening.
15. In order to assist you in providing your opinion I can provide you with the following information on the intended policy scope of the Penn Neighbourhood Plan (PPNP):
  - It will cover the plan period to 2040 to coincide with the emerging Local Plan For Buckinghamshire
  - It will not be allocating sites for development
  - It is to contain policies on parish-wide design coding, identifying Local Heritage Assets, Areas of Special Character, important green infrastructure assets, the sustainable travel network, community facilities and commercial assets to protect and where possible enhance, incentivising Zero Carbon Buildings, and encouraging smaller homes, all limited to the existing planning policy context.
16. The Agent has also set out a summary of the environmental designations, policies and other constraints within and beyond the neighbourhood area. The agent notes that the neighbourhood area is within 10km of the Burnham Beeches Special Area of Conservation and the provisions of the Adopted Burnham Beeches SPD continue to apply. The agent also confirms the intention of the neighbourhood planning group to proceed to a Regulation 14 consultation by the first Quarter of 2023.

## 4. The SEA Screening Process

17. The requirement for a Strategic Environment Assessment (SEA) is set out in the “Environmental Assessment of Plans and Programmes Regulations 2004”. There is also practical guidance on applying European Directive 2001/42/EC produced by the former Government department for planning, the ODPM (now DLUHC). These documents have been used as the basis for this screening report.
18. Paragraph 008 of the DLUHC ‘Strategic environmental assessment and sustainability appraisal guidance’ states that “Supplementary planning documents do not require a sustainability appraisal but may in exceptional circumstances require a strategic environmental assessment if they are likely to have significant environmental effects that have not already have been assessed during the preparation of the relevant strategic policies.”
19. The former ODPM practical guidance provides a checklist approach based on the SEA regulations to help determine whether SEA is required. This guide has been used as the basis on which to assess the need for SEA as set out below. Figure 2 sets out a flow diagram showing the process for assessing plans and programmes.

**Figure 2 – Application of the SEA Directive to plans and programmes**

This diagram is intended as a guide to the criteria for application of the Directive to plans and programmes (PPs). It has no legal status.



\*The Directive requires Member States to determine whether plans or programmes in this category are likely to have significant environmental effects. These determinations may be made on a case by case basis and/or by specifying types of plan or programme.

20. The next section assesses the Neighbourhood Plan Scope against the questions set out in Figure 1 above to establish whether the Neighbourhood Plan is likely to require an SEA.

## Stage 1

21. Is the Neighbourhood 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 of Government?  
(Article 2(a))

Response – Yes

Reason – The Neighbourhood Plan will be adopted (made) subject to passing examination and referendum, by a Local Planning Authority, Buckinghamshire Council)

## **Stage 2**

28. Is the Neighbourhood Plan required by legislative, regulatory, or administrative provisions? (Article 2(a))

Response – No

Reason - The Neighbourhood Development Plan is an optional plan produced by Penn Parish Council.

## **Stage 3**

29. 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))

Response – No

Reason - 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)).

## **Stage 4**

30. Will the draft neighbourhood plan in view of its likely effect on sites, require an assessment under Article 6 or 7 of the Habitats Directive?

Response – No

Reason – The neighbourhood plan will not be allocating sites for development. It is to contain policies on parish-wide design coding, identifying Local Heritage Assets, Areas of Special Character, important green infrastructure assets, the sustainable travel network, community facilities and commercial assets to protect and where possible enhance, incentivising Zero Carbon Buildings, and encouraging smaller homes, all limited to the existing planning policy context. None of these policies should impact on a Special Area of Conservation or Special Protection Area. When the plan is fully worked up and draft policies are available, any impact can be reconsidered and if necessary, re-screened for SEA/HRA.

The parish does not include any area of Special Area of Conservation or Special Protection Area. The Burnham Beeches SAC is the nearest, 4.3km away due south. The nearest area part of the Chiltern Beechwoods SAC is at Naphill, 5.6km to the west of Penn parish boundary. Penn parish is not in the Ashridge Commons and Woods SSSI 12.6km buffer zone. The nearest part of Penn parish is 14.3km to the SAC including its constituent SSSIs (see the recreational pressures issue affecting these SSSIs confirmed in March 2022 [Chilterns Beechwoods Special Area of Conservation \(dacorum.gov.uk\)](http://dacorum.gov.uk) ). There would also be no adverse effects due to the nature of the plan and distance on the Windsor Forest and Great Park SAC or Richmond Park SAC or SPAs and RAMSAR sites.

There have been recorded sightings of the following protected species in the parish. These are all species protected under either Schedule II, IV or V of the EU Habitats Directive 1992, transposed into UK law.

<b>Group_</b>	<b>Species</b>	<b>Vernacular</b>
Amphibians and reptiles	Rana temporaria	Common Frog
Amphibians and reptiles	Triturus cristatus	Great Crested Newt
Insects: Lepidoptera: moths	Euplagia quadripunctaria	Jersey Tiger
Mammals	Muscardinus avellanarius	Hazel Dormouse
Mammals	Muscardinus avellanarius	Hazel Dormouse
Mammals	Mustela putorius	Western Polecat
Mammals	Myotis nattereri	Natterer's Bat
Mammals	Myotis nattereri	Natterer's Bat
Mammals	Myotis nattereri	Natterer's Bat
Mammals	Myotis sp.	Myotis bat sp.

Mammals	Myotis sp.	Myotis bat sp.
Mammals	Nyctalus noctula	Noctule Bat
Mammals	Pipistrellus pipistrellus	Common Pipistrelle
Mammals	Pipistrellus pipistrellus	Common Pipistrelle
Mammals	Plecotus auritus	Brown Long-eared Bat
Mammals	Plecotus auritus	Brown Long-eared Bat
Mammals	Plecotus auritus	Brown Long-eared Bat
Mammals	Plecotus auritus	Brown Long-eared Bat
Mammals	Plecotus auritus	Brown Long-eared Bat
Mammals	Plecotus auritus	Brown Long-eared Bat

## Stage 5

31. 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)

Response – No

Reason - The neighbourhood plan will not be allocating sites for development. It is to contain policies on parish-wide design coding, identifying Local Heritage Assets, Areas of Special Character, important green infrastructure assets, the sustainable travel network, community facilities and commercial assets to protect and where possible enhance, incentivising Zero Carbon Buildings, and encouraging smaller homes, all limited to the existing planning policy context.

## Stage 6

32. Does the plan set the framework for future development consent of projects (not just projects in Annexes to the EIA Directive)?

Response – Yes

Reason - The Neighbourhood Plan scope does intend to set a framework for future development consent of projects. The policies of the neighbourhood plan will be considered as part of the development plan alongside the local plan in force for this part of Buckinghamshire.

## Stage 7

33. Is the plan's 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)

Response – No

Reason - The purpose of the Neighbourhood Plan is not for any of the projects listed in Art 3.8, 3.9.

## 5. SEA Criteria for determining likely significance of effects

### Evaluation of the Penn Parish Neighbourhood Plan - Scope

34. The following is an assessment under the SEA Directive Annex II: Criteria for determining likely significance of effects referred to in Article 3(5).

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

35. a) the degree to which the plan or programme sets a framework for projects and other activities, either regarding the location, nature, size and operating conditions or by allocating resources

Likely to have significant environmental effects? – No

Reason - The neighbourhood plan will not be allocating sites for development. It is to contain policies on parish-wide design coding, identifying Local Heritage Assets, Areas of Special Character, important green infrastructure assets, the sustainable travel network, community facilities and commercial assets to protect and where possible enhance, incentivising Zero Carbon Buildings, and encouraging smaller homes, all limited to the existing planning policy context.

36. b) the degree to which the plan or programme influences other plans and programmes, including those in a hierarchy

Likely to have significant environmental effects? – No

Reason - The Penn Parish Neighbourhood Plan Scope, 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 Penn parish) while the policies in the local plan in force in the Chiltern area of Buckinghamshire are the Chiltern Local Plan (Adopted 1997, Consolidated 2007 and 2011) and Chiltern Core Strategy (Adopted 2011) ([Local development plans for Buckinghamshire | Buckinghamshire Council](#))



and National Planning Policy Framework [National Planning Policy Framework - Guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/426272/nppf-2019.pdf) provide a strategic context for the Penn Parish Neighbourhood Plan to be in general conformity with.

None of the policies in the Neighbourhood Plan have any significant impact on other plans in neighbouring areas. The parish is 7km to the Buckinghamshire eastern boundary in the vicinity of Rickmansworth and is 8.3km to the southern boundary in the vicinity of Slough. There will be no new development identified through the neighbourhood plan.

37. c) The relevance of the plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development

Likely to have significant environmental effects? – No

Reason – The neighbourhood plan will not be allocating sites for development. It is to contain policies on parish-wide design coding, identifying Local Heritage Assets, Areas of Special Character, important green infrastructure assets, the sustainable travel network, community facilities and commercial assets to protect and where possible enhance, incentivising Zero Carbon Buildings, and encouraging smaller homes, all limited to the existing planning policy context.

37. d) Environmental problems relevant to the plan or programme.

Likely to have significant environmental effects? – No

Reason – The neighbourhood plan will not be allocating sites for development. It is to contain policies on parish-wide design coding, identifying Local Heritage Assets, Areas of Special Character, important green infrastructure assets, the sustainable travel network, community facilities and commercial assets to protect and where possible enhance, incentivising Zero Carbon Buildings, and encouraging smaller homes, all limited to the existing planning policy context.

38. e) The relevance of the plan or programme for the implementation of Community legislation on the environment (for example, plans and programmes linked to waste management or water protection)

Likely to have significant environmental effects? – No

Reason - The Penn Parish Neighbourhood Plan Scope will be developed in general conformity with the policies in use from the Chiltern Local Plan (Adopted 1999, Consolidated 2007, 2011 ) and Chiltern Core Strategy 2011), the Buckinghamshire Minerals and Waste Local Plan 2019 and national policy. The plan has no relevance to the implementation of community legislation.

## **Characteristics of the effects and of the area likely to be affected, having regard to:**

39. a) the probability, duration, frequency and reversibility of the effects

Likely to have significant environmental effects? – No

Reason - The neighbourhood plan will not be allocating sites for development. It is to contain policies on parish-wide design coding, identifying Local Heritage Assets, Areas of Special Character, important green infrastructure assets, the sustainable travel network, community facilities and commercial assets to protect and where possible enhance, incentivising Zero Carbon Buildings, and encouraging smaller homes, all limited to the existing planning policy context.

40. b) The cumulative nature of the effects

Likely to have significant environmental effects? – No

Reason - 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.

41. 2c) The trans-boundary nature of the effects

Likely to have significant environmental effects? – No

Reason - The neighbourhood plan will not be allocating sites for development. It is to contain policies on parish-wide design coding, identifying Local Heritage Assets, Areas of Special Character, important green infrastructure assets, the sustainable travel network, community facilities and commercial assets to protect and where possible enhance, incentivising Zero Carbon

Buildings, and encouraging smaller homes, all limited to the existing planning policy context.

42. 2d) The risks to human health or the environment (e.g., due to accidents)

Likely to have significant environmental effects? – No

Reason - No risks have been identified.

43. 2e) The magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected)

Likely to have significant environmental effects? – No

Reason - The Neighbourhood Area covers an area which is 1,646 ha and contains a population is of 3,961 residents (2011 census) including Tylers Green. The neighbourhood plan will not be allocating sites for development. It is to contain policies on parish-wide design coding, identifying Local Heritage Assets, Areas of Special Character, important green infrastructure assets, the sustainable travel network, community facilities and commercial assets to protect and where possible enhance, incentivising Zero Carbon Buildings, and encouraging smaller homes, all limited to the existing planning policy context.

44. 2f) 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 or limit values

III. intensive land-use

Likely to have significant environmental effects? – No

Reason - The neighbourhood plan will not be allocating sites for development. It is to contain policies on parish-wide design coding, identifying Local Heritage Assets, Areas of Special Character, important green infrastructure assets, the sustainable travel network, community facilities and commercial assets to protect and where possible enhance, incentivising Zero Carbon Buildings, and encouraging smaller homes, all limited to the existing planning policy context.

Parts of the built-up area of Penn, the whole built-up area of Knotty Green and Forty Green are inset from the Green Belt. The remaining built-up areas of Penn, and other built-up areas of Penn Street and Winchmore Hill are 'washed over' by the Green Belt.

Penn and Tylers Green share a single, very large and varied joint Conservation Area, which crosses the former Chiltern/Wycombe District boundary. The combined area covers about 34 hectares with some 329 properties, 50 of which are listed. The two conservation areas are Penn and Tylers Green and Penn Street. Winchmore Hill is a larger village where more than limited infilling was permitted under the local plan. The southern part of the parish falls within the minerals consultation area. Large parts of the parish are Ancient Woodland i.e. Penn Wood and Common Woods as well as smaller areas of woodland. There are also priority habitats as well as areas subject to surface water flooding. The majority of Neighbourhood Area (NA) falls within the Chilterns Area of Outstanding Natural Beauty (AONB). Areas of Forty Green and Knotty Green fall outside the AONB, in addition to a small section along the western border of the parish boundary.

The NA does not include any sites which form part of the National Site Network (formerly Natura 2000 sites). However, the Burnham Beeches Special Area of Conservation (SAC) & Site of Special Scientific Interest (SSSI), and parts of the Chiltern Beechwoods SAC lie within 10km of the NA. It is noted that the provisions of the adopted Burnham Beeches SPD continue to apply.

There are no SSSIs within the NA, but the Gomm Valley SSSI lies in close proximity to the west and the Hodgemoor Wood SSSI lies in the adjacent parish to the east.

The M40 Air Quality Management Area is also in close proximity to the NA. Parts of the NA are also included within the Gomm Valley Biodiversity Opportunity Area, which also covers a significant area to the west of the NA.

45. 2g) The effects on areas or landscapes which have a recognised national, community or international protection status

Likely to have significant environmental effects? – No

Reason – The majority of Neighbourhood Area falls within the Chilterns Area of Outstanding Natural Beauty (AONB). Areas of Forty Green and Knotty Green fall outside the AONB, in addition to a small section along the western border of the parish boundary. However, the neighbourhood plan will not be allocating sites for development. It is to contain policies on parish-wide design coding, identifying Local Heritage Assets, Areas of Special Character, important green infrastructure assets, the sustainable travel network, community facilities and commercial assets to protect and where possible enhance, incentivising Zero Carbon Buildings, and encouraging smaller homes, all limited to the existing planning policy context.

## 6. SEA Screening Opinion

47. The parish contains and is adjacent to some significant environmental and heritage constraints providing a sensitive context for embarking on preparing a neighbourhood plan. A significant area is the parish is protected by the Green Belt and AONB limiting what can be achieved in terms of housing growth in this parish. Nevertheless, the scope for this plan can have a significant impact on design, green infrastructure, climate change, local heritage and community uses.
48. The neighbourhood plan will not be allocating sites for development. It is to contain policies on parish-wide design coding, identifying Local Heritage Assets, Areas of Special Character, important green infrastructure assets, the sustainable travel network, community facilities and commercial assets to protect and where possible enhance, incentivising Zero Carbon Buildings, and encouraging smaller homes, all limited to the existing planning policy context.
49. This screening opinion can be revisited as a full plan in draft is presented at the Pre-Submission stages and if it changes a 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 be not likely to give rise to significant environmental effects.
50. Therefore, a Strategic Environmental Assessment (SEA) is **not** needed. The consultation responses received from Historic England and Natural England concur with the Council's draft HRA screening recommendation for this plan.

# 7. Habitat Regulations Assessment Screening

## Introduction

51. The screening statement will consider whether the Scope for a Neighbourhood Development Plan requires a Habitats Regulations Assessment. This is a requirement of Regulation 106 of the Conservation of Habitats and Species Regulations 2017.

## The Habitats Regulations Assessment (HRA) process

52. 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).
53. 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'.
54. 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.

55. Under Regulation 106 of the Habitats Regulations, the assessment must determine whether 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.”
56. Decision-makers then must 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.
57. 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.
58. 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.
59. 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.
60. The parish does not include any area of Special Area of Conservation or Special Protection Area. The Burnham Beeches SAC is the nearest, 4.3km



away due south. The nearest area part of the Chiltern Beechwoods SAC is at Naphill, 5.6km to the west of Penn parish boundary. Penn parish is not in the Ashridge Commons and Woods SSSI 12.6km buffer zone. The nearest part of Penn parish is 14.3km to the SAC including its constituent SSSIs (see the recreational pressures issue affecting these SSSIs confirmed in March 2022 Chilterns Beechwoods Special Area of Conservation ([dacorum.gov.uk](http://dacorum.gov.uk))). There would also be no adverse effects due to the nature of the plan and distance on the Windsor Forest and Great Park SAC or Richmond Park SAC or SPAs and RAMSAR sites.

61. A 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 scope of the plan draft (non-statutory) version of what will become a neighbourhood plan
62. 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 scope of the plan draft version (non-statutory) version of what will become the neighbourhood plan.

## **People over Wind**

63. The HRA Screening in light of the 2017 'People over Wind' Court of Justice of the European Union (CJEU) case 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
64. The Council considers that in re-applying the criteria in section 8 of this HRA Screening on the likely the screening outcome and considering the 'People over Wind' CJEU case, there are not likely to be likely significant effects. The neighbourhood plan will not be allocating sites for development. It is to contain policies on parish-wide design coding, identifying Local Heritage Assets, Areas of Special Character, important green infrastructure assets,

the sustainable travel network, community facilities and commercial assets to protect and where possible enhance, incentivising Zero Carbon Buildings, and encouraging smaller homes, all limited to the existing planning policy context.

## 8. Stages of HRA

### **Stage 1: Screening (the ‘Significance Test’) that is this current stage**

- 65. Task - Description of the plan. Identification of potential effects on European Sites. Assessing the effects on European Sites.
- 66. Outcome - 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.

### **Stage 2: Appropriate Assessment (the ‘Integrity Test’) – If Screening Outcome says needed**

- 67. Task - Gather information (plan and European Sites). Impact prediction. Evaluation of impacts in view of conservation objectives. Where impacts considered to affect qualifying features, identify alternative options. Assess alternative options. If no alternatives exist, define and evaluate mitigation measures where necessary.
- 68. Outcome - Appropriate assessment report describing the plan, European site baseline conditions, the adverse effects of the plan on the European site, how these effects will be avoided through, firstly, avoidance, and secondly, mitigation including the mechanisms and timescale for these mitigation measures. If effects remain after all alternatives and mitigation measures have been considered proceed to Stage 3.

### **Stage 3: Assessment where no alternatives exist and adverse impacts remain taking into account mitigation**

- 69. Task - Identify ‘imperative reasons of overriding public interest’ (IROPI). Identify potential compensatory measures.
- 70. Outcome - This stage should be avoided if at all possible. The test of IROPI and the requirements for compensation are extremely onerous.

# Potential impacts and activities adversely affecting European sites

## Broad categories and examples of potential impacts on European sites

71. **Physical loss.** Removal (including offsite effects, e.g., foraging habitat), Smothering, Habitat degradation
72. **Physical Damage.** Sedimentation / silting, Prevention of natural processes, Habitat degradation, Erosion, Trampling, Fragmentation, Severance / barrier effect, Edge effects, Fire
73. **Non-physical (and indirect) disturbance.** Noise, Vibration, Visual presence, Human presence, Light pollution
74. **Water table/availability.** Drying, Flooding / storm water, Water level and stability, Water flow (e.g., reduction in velocity of surface water, Barrier effect (on migratory species))
75. **Toxic contamination.** Water pollution, Soil contamination, Air pollution
76. **Non-toxic contamination.** Nutrient enrichment (e.g., of soils and water), Algal blooms, Changes in salinity, Changes in thermal regime, Changes in turbidity, Air pollution (dust)
77. **Biological disturbance,** Direct mortality, Out-competition by non-native species, Selective extraction of species, Introduction of disease, Rapid population fluctuations, Natural succession

## Examples of activities responsible for impacts

(Paragraphs correspond to categories above in bold)

78. 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
79. Flood defences, Dredging, Mineral extraction, Recreation (e.g., motor cycling, cycling, walking, horse riding, water sports, caving), Development (e.g., infrastructure, tourism, adjacent housing etc.), Vandalism, Arson, Cessation of or inappropriate management for nature conservation
  80. Development (e.g., housing, industrial), Recreation (e.g., dog walking, water sports), Industrial activity, Mineral extraction, Navigation, Vehicular traffic, Artificial lighting (e.g., street lighting)
  81. Water abstraction, Drainage interception (e.g., reservoir, dam, infrastructure and other development), Increased discharge (e.g., drainage, runoff)
  82. Agrochemical application and runoff, Navigation, Oil / chemical spills, Tipping, Landfill, Vehicular traffic, Industrial waste / emissions
  83. Agricultural runoff, Sewage discharge, Water abstraction, Industrial activity, Flood defences, Navigation, Construction
  84. 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)

## 9. HRA Screening of the Penn Parish Neighbourhood Plan - Scope

### Background

85. The first stage in carrying out an Appropriate Assessment for the Habitats Directive is screening, by determining whether the plan is likely to have any significant effect on a European site, either alone or in combination with other plans and projects.

### Interpretation of ‘likely significant effect’

86. 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. In the Waddenzee case, 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).

87. An opinion delivered to the Court of Justice of the European Union commented that:

“The requirement that an effect in question be ‘significant’ exists in order to lay down a de minimis 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.”

88. 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 minimis; 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’.

## **Assessment of the Penn Parish Neighbourhood Plan Scope**

89. The following is the scope of the plan to be prepared. The Steering Group working to the Parish Council have appointed an Agent who has agreed with the Group a scope for the neighbourhood plan coverage. The following has been provided on 22 December 2022 from the Agent for the purpose of this screening. In order to assist you in providing your opinion I can provide you with the following information on the intended policy scope of the PPNP:

- It will cover the plan period to 2040 to coincide with the emerging Bucks Local Plan
- It will not be allocating sites for development
- It is to contain policies on parish-wide design coding, identifying Local Heritage Assets, Areas of Special Character, important green infrastructure assets, the sustainable travel network, community facilities and commercial assets to protect and where possible enhance, incentivising Zero Carbon Buildings, and encouraging smaller homes, all limited to the existing planning policy context.

90. The parish does not include any area of Special Area of Conservation or Special Protection Area. The Burnham Beeches SAC is the nearest, 4.3km away due south. The nearest area part of the Chiltern Beechwoods SAC is at Naphill, 5.6km to the west of Penn parish boundary. Penn parish is not in the Ashridge Commons and Woods SSSI 12.6km buffer zone. The nearest part of Penn parish is 14.3km to the SAC including its constituent SSSIs (see the recreational pressures issue affecting these SSSIs confirmed in March 2022 Chilterns Beechwoods Special Area of Conservation ([dacorum.gov.uk](http://dacorum.gov.uk))). There

would also be no adverse effects due to the nature of the plan and distance on the Windsor Forest and Great Park SAC or Richmond Park SAC or SPAs and RAMSAR sites.

91. The plan is not looking to allocate any sites or set a housing target for further development. There would just be policies on parish-wide design coding, identifying Local Heritage Assets, Areas of Special Character, important green infrastructure assets, the sustainable travel network, community facilities and commercial assets to protect and where possible enhance, incentivising Zero Carbon Buildings, and encouraging smaller homes, all limited to the existing planning policy context.

92. In terms of 'in combination effects' it is not considered there would be any in-combination effects of the neighbourhood plan when added to local plans in force in Buckinghamshire, adjacent Council areas or neighbourhood plans.

## **HRA screening outcome**

93. The Penn Parish neighbourhood plan will not be allocating sites for development. It is to contain policies on parish-wide design coding, identifying Local Heritage Assets, Areas of Special Character, important green infrastructure assets, the sustainable travel network, community facilities and commercial assets to protect and where possible enhance, incentivising Zero Carbon Buildings, and encouraging smaller homes, all limited to the existing planning policy context.

94. There are no areas of Special Area of Conservation in or in proximity to the neighbourhood area. The Burnham Beeches SAC is the nearest, 4.3km away due south. The nearest area part of the Chiltern Beechwoods SAC is at Naphill, 5.6km to the west of Penn parish boundary. Penn parish is not in the Ashridge Commons and Woods SSSI 12.6km buffer zone. The nearest part of Penn parish is 14.3km to the SAC including its constituent SSSIs (see the recreational pressures issue affecting these SSSIs confirmed in March 2022 Chilterns Beechwoods Special Area of Conservation ([dacorum.gov.uk](http://dacorum.gov.uk)). Other European sites (SAC or SPA) are much further away and there is not considered to be any cumulative impact from adopted local plans in



Buckinghamshire or other council areas, any neighbourhood plans or other programmes. The Neighbourhood Plan is not likely to lead to potential adverse effects on a European site that needs investigating by the preparation of an Appropriate Assessment.

95. Therefore, **no** HRA stage 2 (Appropriate Assessment) is deemed required.

96. The consultation response received from Natural England concurs with the Council's draft HRA screening recommendation for this plan.

## 10. Conclusions

97. Based on the above assessment, the screening outcome is that the Penn Parish Neighbourhood Plan - Scope requires neither a Strategic Environmental Assessment (SEA) or a under HRA any need to proceed to Stage 2 of HRA- an Appropriate Assessment.
98. The consultations received (see Section 11) concur with the Council's draft screening recommendation.

# 11. Consultation Responses

## 11.1. Historic England

**Received 29/03/2023**

Please find below our comments on the above consultation.

Best wishes

Louise

Louise Dandy Grad.Dipl. Cons (AA) FRSA

Historic Places Advisor , Historic England , London and South East Region

Dear David

Thank you for inviting Historic England to comment on this consultation. As the Government's adviser on the historic environment Historic England is keen to ensure that the protection of the historic environment is fully taken into account at all stages and levels of the local planning process. For the purposes of this consultation, Historic England will confine its advice to the question, "Is it (the Penn Neighbourhood Plan) likely to have a significant effect on the historic environment?". Our comments are based on the information supplied.

There are a number of designated heritage assets within the area; the information supplied however indicates that the plan will not have any significant effects on the historic environment. We also note that the plan does not propose to allocate any sites for development.

On the basis of the information supplied, and in the context of the criteria set out in Schedule 1 of the Environmental Assessment Regulations [Annex II of 'SEA' Directive], Historic England concurs with the Council that the preparation of a Strategic Environmental Assessment is not required.

The views of the other two statutory consultation bodies should be taken into account before the overall decision on the need for an SEA is made.

I should be pleased if you can send a copy of the determination as required by REG 11 of the Environmental Assessment of Plans and Programmes Regulations 2004.

We should like to stress that this opinion is based on the information provided by you with your correspondence. To avoid any doubt, this does not reflect our obligation to

provide further advice on later stages of the SEA process and, potentially, object to specific proposals which may subsequently arise (either as a result of this consultation or in later versions of the plan) where we consider that, despite the SEA, these would have an adverse effect upon the environment.

Historic England strongly advises that the conservation and archaeological staff of the relevant local authorities are closely involved throughout the preparation of the plan and its assessment. They are best placed to advise on; local historic environment issues and priorities, including access to data held in the Historic Environment Record (HER), how the allocation, policy or proposal can be tailored to minimise potential adverse impacts on the historic environment; the nature and design of any required mitigation measures; and opportunities for securing wider benefits for the future conservation and management of heritage assets.

Please do contact me, via email if you have any queries.

Yours sincerely

Louise Dandy

Historic Places Adviser

## 11.2. Natural England

**Received 06/04/23**

Please find Natural England's response in relation to the above mentioned consultation attached.

Kind regards,

Sally Wintle

Adviser

Operations Delivery, Consultations Team

Natural England

County Hall

Spetchley Road

Worcester

WR5 2NP

Dear Mr Broadley

### **Penn Neighbourhood Plan – Review SEA & HRA Screening**

Thank you for your consultation on the above dated and received by Natural England on 09 March 2023.

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.

**Screening Request: Strategic Environmental Assessment**

It is our advice, on the basis of the material supplied with the consultation, that, in so far as our strategic environmental interests (including but not limited to statutory designated sites, landscapes and protected species, geology and soils) are concerned, that there are unlikely to be significant environmental effects from the proposed plan.

### **Neighbourhood Plan**

Guidance on the assessment of Neighbourhood Plans, in light of the Environmental Assessment of Plans and Programmes Regulations 2004 (as amended), is contained within the National Planning Practice Guidance. The guidance highlights three triggers that may require the production of an SEA, for instance where:

- a neighbourhood plan allocates sites for development
- the neighbourhood area contains sensitive natural or heritage assets that may be affected by the proposals in the plan
- the neighbourhood plan may have significant environmental effects that have not already been considered and dealt with through a sustainability appraisal of the Local Plan.

We have checked our records and based on the information provided, we can confirm that in our view the proposals contained within the plan will not have significant effects on sensitive sites that Natural England has a statutory duty to protect.

We are not aware of significant populations of protected species which are likely to be affected by the policies / proposals within the plan. It remains the case, however, that the responsible authority should provide information supporting this screening decision, sufficient to assess whether protected species are likely to be affected.

Notwithstanding this advice, Natural England does not routinely maintain locally specific data on all potential environmental assets. As a result the responsible authority should raise environmental issues that we have not identified on local or national biodiversity action plan species and/or habitats, local wildlife sites or local landscape character, with its own ecological and/or landscape advisers, local record centre, recording society or wildlife body on the local landscape and biodiversity receptors that may be affected by this plan, before determining whether an SA/SEA is necessary.

Please note that Natural England reserves the right to provide further comments on the environmental assessment of the plan beyond this SEA/SA screening stage, should the responsible authority seek our views on the scoping or environmental report stages. This includes any third party appeal against any screening decision you may make.

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

Natural England agrees with the report's conclusions that the Penn Neighbourhood Plan would not be likely to result in a significant effect on any European Site, either alone or in combination and therefore no further assessment work would be required.

For any new consultations, or to provide further information on this consultation please send your correspondences to [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk) .

Yours sincerely

Sally Wintle

Consultations Team

### **11.3. Environment Agency**

No response received.