

Wiltshire Council

Neighbourhood planning and Strategic Environmental Assessment

Guidance note for link officers and neighbourhood planning steering groups

July 2018

This short guidance note has been produced to explain why and how Strategic Environmental Assessment (SEA) should be considered at an early stage in the preparation of neighbourhood plans. It is intended to inform both Wiltshire Council link officers and steering groups engaged in producing plans.

Wiltshire Council has produced a full guide to SEA which is available to view or download from the Council's neighbourhood planning webpage at:

<http://www.wiltshire.gov.uk/npguidancenotes.htm>

Further information on considering SEA as part of the preparation of neighbourhood plans, which should be read alongside Wiltshire Councils' guidance, can be found on the government's Planning Practice Guidance pages at

<http://planningguidance.communities.gov.uk/blog/guidance/strategic-environmental-assessment-and-sustainability-appraisal/>

What is Strategic Environmental Assessment (SEA)?

SEA is a European Union (EU) requirement that seeks to provide a high level of protection of the environment by integrating environmental considerations into the process of preparing certain plans, including neighbourhood plans. An SEA will not be required for all neighbourhood plans – only when the proposals in a neighbourhood plan are considered likely to have significant environmental effects will an SEA be required.

It is important that your neighbourhood plan meets the prescribed 'basic conditions'. One of the 'basic conditions' that will be tested by the independent examiner is whether the making of a neighbourhood plan is compatible with EU obligations – one of these is the EU Directive¹ on SEA. It is therefore imperative that the neighbourhood plan Qualifying Body has discussed this with their link officer at an early stage and it has been confirmed by Wiltshire Council whether or not the Plan requires SEA, before a draft Plan has been produced. This is because if an SEA is required, it should be undertaken through an iterative process, influencing the proposals in the Plan. It cannot be undertaken retrospectively.

Will our neighbourhood plan require an SEA?

In some circumstances, where a neighbourhood plan is likely to have significant environmental effects, it may require an SEA. This will depend on what the neighbourhood plan is proposing. At the earliest stage when a Plan's emerging proposals are known, the steering group should ask their link officer for an assessment to determine whether the Plan is likely to have significant environmental effects. This process is commonly referred to as a "screening" and is undertaken by Wiltshire Council. If likely significant environmental effects are identified, an environmental report must be prepared by the Qualifying Body alongside the emerging neighbourhood plan.

¹ Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment (SEA Directive)

When is a neighbourhood plan likely to have significant environmental effects?

A neighbourhood plan is most likely to have significant environmental effects, and therefore to need an SEA, where:

1. it allocates sites for development
2. the neighbourhood area contains sensitive natural or heritage assets that may be affected by the proposals in the plan
3. the neighbourhood plan is likely to have significant environmental effects that have not already been considered and dealt with through an SEA of the Local Plan

How will Wiltshire Council decide whether a neighbourhood plan requires an SEA?

Wiltshire Council has a process in place to determine whether a proposed neighbourhood plan will require an SEA. A Qualifying Body should liaise with their link officer to ensure that Wiltshire Council has the information it needs to make this decision. If a neighbourhood plan is proposing to allocate sites for development, a robust site assessment will need to have been undertaken that has considered the likely impacts of developing each site on the natural and built environment. This information should be supplied to the Council at the earliest possible stage to inform their SEA screening decision.

Information to be provided by the Qualifying Body to Wiltshire Council, via their link officer, to inform the screening decision should include:

- a) details of emerging draft policies and development sites with sites shown on a map
- b) details² of any natural³ or heritage⁴ assets, and their settings, that may be affected by policies or development sites
- c) details of how any such assets, and their settings, would be impacted by any policies or development sites, how this has been assessed and what the consequences of these impacts would be on those assets
- d) details of any measures which could be included, either within policy or at site level, that could reduce (mitigate) any adverse impacts

Wiltshire Council is required to consult Natural England, Historic England and the Environment Agency on its screening decision, for a period of 5 weeks. These bodies will be able to advise on particular issues relevant to their specific area of expertise and responsibility. They will want to be sure that any Plan proposals will not have significant environmental effects on their areas of interest and to see evidence of how any effects have been assessed. Wiltshire Council will need to take their comments into account when making their final decision.

² This should include details of each asset and its significance

³ To include landscape, biodiversity, water and flood risk

⁴ To include designated and undesignated heritage assets, and their settings

Where it is determined that a neighbourhood plan is unlikely to have significant environmental effects (and, accordingly, does not require an SEA) Wiltshire Council will provide a statement of reasons for the determination. A copy of the statement must be submitted with the neighbourhood plan and made available to the independent examiner. Where it is determined that a neighbourhood plan will need an SEA, an environmental report should be submitted by the Qualifying Body alongside the neighbourhood plan and made available to the examiner.

Should an SEA screening decision be reviewed by Wiltshire Council if modifications are made to a draft neighbourhood plan or other changes occur?

Yes, because an SEA screening decision is made based upon knowledge of emerging Plan proposals at a point in time. If Plan proposals are subsequently amended significantly i.e. changes that substantially alter the draft plan e.g. adding, amending or removing site allocations or policies, or other changes that are likely to give rise to significant environmental effects, the SEA screening must be reviewed. In this instance, the Qualifying Body should request a revised SEA screening assessment from Wiltshire Council.

If it has been determined by Wiltshire Council that the neighbourhood plan requires an Appropriate Assessment under the Habitats Regulations, the SEA screening may also need to be reviewed as in this instance, an SEA will be required for the neighbourhood plan. Regulation 5 of the SEA Regulations requires an environmental assessment of plans which *'in view of the likely effect on sites, have been determined to require an assessment pursuant to Article 6 or 7 of the Habitats Directive (92/43/EEC).'*

If a neighbourhood plan requires an SEA, when should the Qualifying Body start producing one?

Where it is determined that a neighbourhood plan will require an SEA, work on this should start at the earliest opportunity. This is so that the processes for gathering evidence for the SEA and for producing the draft neighbourhood plan can be integrated, and to allow the environmental assessment process to inform the choices being made in the plan.

The link officer will be able to advise further on the process that should be followed.

If a neighbourhood plan requires an SEA, what is the process for producing an SEA?

If a neighbourhood plan requires an SEA, the stages set out in the Council's SEA guide at <http://www.wiltshire.gov.uk/npguidancenotes.htm> and within the government's Planning Practice Guidance pages at <http://planningguidance.communities.gov.uk/blog/guidance/strategic-environmental-assessment-and-sustainability-appraisal/> should be followed.

Refer to **Appendix A** of this guidance note for a diagram setting out the key stages of neighbourhood plan preparation and their relationship with the SEA process.

Essentially, when it has been decided that an SEA is required for a neighbourhood plan, there are three key stages to be followed:

1. The Scoping stage - identifies the scope and level of detail of the information to be included in the environmental report.
2. Developing alternatives and assessing their effects – proposals in a draft neighbourhood plan, and reasonable alternatives to those, will be assessed to identify any likely significant environmental effects. This stage should also assess how any likely effects identified could be reduced or mitigated.
3. Producing an environmental report - the environmental report must identify, describe and evaluate the likely significant effects on the environment of implementing the neighbourhood plan policies and of any reasonable alternatives. The report should be submitted to Wiltshire Council alongside the neighbourhood plan.

The stages leading up to the production of an environmental report should be an iterative process and should be undertaken at the same time as developing the proposals within the neighbourhood plan. The environmental report must clearly show how the requirements of the SEA Directive and SEA Regulations⁵ have been met.

The environmental report must also include a non-technical summary of the information within the main report. This summary should be prepared with a range of readers in mind, and provide a clear, accessible overview of the process and findings. It can be produced as a stand-alone document or at the beginning of the environmental report.

What level of detail is required in an SEA?

The SEA should only focus on what is needed to assess the likely significant effects of the neighbourhood plan proposal. It should focus on the environmental impacts which are likely to be significant. It does not need to be done in any more detail than is appropriate for the content and level of detail in the neighbourhood plan.

Who should be consulted on the environmental report?

The environmental report, including the non-technical summary, must be made available alongside the draft neighbourhood plan. Natural England, Historic England and the Environment Agency should be consulted when the Qualifying Body undertakes their pre-submission formal consultation (Reg 14⁶) prior to submitting their Plan to Wiltshire Council.

⁵ <http://www.legislation.gov.uk/ukxi/2004/1633/introduction/made>

⁶ The Neighbourhood Planning (General) Regulations 2012

Should the environmental report be updated if the draft neighbourhood plan is modified following responses to consultation?

The environmental report will not necessarily have to be amended if the neighbourhood plan is modified. Modifications to the environmental report should be considered only where appropriate and proportionate to the level of change being made to the neighbourhood plan. A change is likely to be significant if it substantially alters the draft plan and/ or is likely to give rise to significant environmental effects. Further assessment may be required if the changes have not previously been assessed and are likely to give rise to significant effects.

Changes that are not significant will not require further SEA assessment.

What is the role of the environmental report at the independent examination of the neighbourhood plan?

One of the basic conditions that will be tested by the independent examiner is whether the neighbourhood plan is compatible with EU obligations. The basic condition statement submitted to Wiltshire Council with the neighbourhood plan should set out how the plan meets this basic condition. One of the following documents must be included alongside the neighbourhood plan when it is submitted to Wiltshire Council – this will be made available to the independent examiner:

1. a statement of reasons produced by Wiltshire Council that the neighbourhood plan is unlikely to have significant environmental effects and therefore an SEA is not required OR
2. an environmental report prepared by the Qualifying Body in accordance with the SEA Directive and Regulations

Will the environmental report have to be amended if modifications to the neighbourhood plan are proposed at examination?

The independent examiner of a neighbourhood plan is testing whether the plan meets (or can be modified to meet) the basic conditions and will make recommendations to Wiltshire Council who will then reach its own view, informed by the examiner's report.

If Wiltshire Council assesses that the proposed changes are likely to have significant environmental effects which were not previously assessed, then the SEA should be reviewed and the environment report amended accordingly in consultation with the Qualifying Body.

Appendix A - the key stages of neighbourhood plan preparation and their relationship with the SEA process

