

## **CRUDWELL NEIGHBOURHOOD PLAN HABITATS REGULATIONS ASSESSMENT (HRA)**

### **1. INTRODUCTION**

- 1.1. This Habitats Regulations Assessment (HRA) has been undertaken to inform a Regulation 16 consultation response from Wiltshire Council to the Crudwell Neighbourhood Plan Draft for Submission to Wiltshire Council May 2020, hereafter referred to as the NP.
- 1.2. The HRA has been carried out to comply with Regulation 105 of the Habitats Regulations 2017. Under these Regulations, a competent authority must consider whether a relevant plan is likely to have a significant effect on any European sites before deciding to give any consent, permission or other authorisation. If the screening exercise demonstrates significant effects are likely, whether or not these are addressed through mitigation measures<sup>1</sup>, the competent authority must undertake an appropriate assessment (AA) to examine the effects of the plan on the conservation objectives of the European Sites in question, consult the appropriate nature conservation body and have regard to its representations. Both the screening, and any subsequent appropriate assessment, must consider the impacts of the plan alone and in combination with other plans or projects.
- 1.3. It is usually the case that a plan of this nature does not go into the detailed aspects of development proposals and therefore the full effects of potential development cannot be accurately assessed at the plan making stage. Those details will typically be identified through a planning application which would be subject to further, more detailed HRA. The principle that a HRA need only consider the effects of a proposal or policy in as much detail as is specified by the plan was explained by Advocate General Kokott in a judgement brought against the UK government in 2005:  
  
*“Many details are regularly not settled until the time of the final permission. It would also hardly be proper to require a greater level of detail in preceding plans or the abolition of multi-stage planning and approval procedures so that the assessment of implications can be concentrated on one point in the procedure. Rather, adverse effects on areas of conservation must be assessed at every relevant stage of the procedure to the extent possible on the basis of the precision of the plan. This assessment is to be updated with increasing specificity in subsequent stages of the procedure.”<sup>2</sup>*
- 1.4. Where appropriate assessment is undertaken, the competent authority may go on to authorise the plan or project provided it will not adversely affect the integrity of any European sites. Otherwise the plan cannot be authorised unless it meets specific statutory tests.
- 1.5. Wiltshire Council has conducted the following HRA as competent authority for the Crudwell NP. Where risks to European Sites are identified changes are recommended to remove or reduce the risks, and these should be incorporated into the plan before it is made. Likewise, if the policies or planning context change after the HRA is completed, the HRA process must be repeated before the final plan is considered by a referendum and adopted.

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<sup>1</sup> Court of Justice of the European Union, Case C 323/17 “People Over Wind”/P. Sweetman v Coillte Teoranta

<sup>2</sup> Commission of the European Communities v UK and NI, opinion of Advocate General KoKott, 9 June 2005, Case C-6/04

## 2. SCREENING METHODOLOGY FOR APPROPRIATE ASSESSMENT

### 2.1 Screening Methodology

2.1.1 Each element of the plan has been categorised against screening criteria developed by Natural England to provide a clear audit trail for the screening assessment.

2.1.2 The screening criteria used are as follows:

- Category A1: The policy will not itself lead to development e.g. because it relates to design or other qualitative criteria for development;
- Category A2: The policy is intended to protect the natural environment;
- Category A3: The policy is intended to conserve or enhance the natural, built or historic environment;
- Category A4: The policy would positively steer development away from European sites and associated sensitive areas;
- Category A5: The policy would have no effect because no development could occur through the policy itself, the development being implemented through later policies in the same plan, which are more specific and therefore more appropriate to assess for their effects on European Sites and associated sensitive areas.
- Category B: No significant effect;
- Category C: Likely significant effect alone; and
- Category D: Likely significant effects in combination.

2.1.3 The effect of each policy has been considered both individually and in combination with other plans and projects (see table below). Where potential for likely significant effects have been identified, an appropriate assessment has been undertaken.

### 2.2 Strategic HRAs

#### Wiltshire Core Strategy HRA

2.2.1 The Wiltshire Core Strategy HRA (October 2009, February 2012<sup>3</sup>, March 2013<sup>4</sup>, February 2014<sup>5</sup> and April 2014<sup>6</sup>) identified general parameters to determine the likelihood of potential impacts on Natura 2000 (European protected) sites. The following potential impact pathways and associated parameters were identified and assessed for the Natura 2000 sites stipulated below.

- *Recreation – Natura 2000 sites within 5km, or where Salisbury Plain SPA/SAC is within 15km (it should be noted that the relevant parameter for the latter has since been revised on the basis of data obtained by means of visitor surveys and is now 6.4km):*
  - Salisbury Plain SPA / SAC
  - River Avon SAC
  - New Forest SAC / SPA

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<sup>3</sup> Wiltshire Core Strategy Submission Draft – Assessment under the Habitats Regulations, Wiltshire Council, February 2012

<sup>4</sup> Wiltshire Core Strategy – Assessment under the Habitats Regulations, Wiltshire Council, March 2013

<sup>5</sup> Update to the Wiltshire Core Strategy habitats Regulations Assessment, February 2014 (Exam/89)

<sup>6</sup> Wiltshire Core Strategy Updated Habitats Regulations Assessment, April 2014

- Bath and Bradford on Avon Bats SAC (added post adoption of Wiltshire Core Strategy)
- *Hydrology / Hydrogeology - Sites that fall wholly or partly within the Wessex Water Resource Zone may be susceptible to impact:*
  - Salisbury Plain SAC / SPA
  - Bath and Bradford on Avon Bats SAC
  - Pewsey Downs SAC
  - North Meadow and Clattinger Farm SAC
  - River Avon SAC
  - River Lambourn SAC
  - Kennet & Lambourn Floodplain SAC
- *Air Pollution / Nitrogen Deposition – Natura 2000 sites within 200m of a main road*
  - Porton Down SPA
  - Salisbury Plain SAC / SPA
  - Southampton Water SPA
  - North Meadow and Clattinger Farm SAC
  - River Avon SAC
  - Rodborough Common SAC
  - Cotswolds Beechwoods SAC
- *Physical Damage / Interruption of Flight Lines / Disturbance*
  - Bath and Bradford on Avon Bats SAC
  - Porton Down SPA
  - Chilmark Quarries SAC (added post adoption of Wiltshire Core Strategy)
  - Mottisfont Bats SAC (added post adoption of Wiltshire Core Strategy)

### **Wiltshire Housing Site Allocations Plan**

- 2.2.2 Since the Core Strategy was adopted, the Council has published a pre-submission draft of the Wiltshire Housing Site Allocations Plan (WHSAP) together with a HRA dated 21 June 2017. A schedule of proposed changes was considered by Cabinet supported by an Addendum to the HRA published 4<sup>th</sup> May 2018. A schedule of changes and an Addendum to the HRA incorporating minor factual changes were published in September 2018 for public consultation. Subsequently, the WHSAP (Council Version, February 2020) was adopted by Full Council on 25<sup>th</sup> February 2020 and this was accompanied by the final WHSAP Assessment under the Habitats Regulations (Wiltshire Council, February 2020).
- 2.2.3 The screening criteria for the adopted WHSAP and final HRA were modified for some European sites from those used for the Core Strategy subsequent to the acquisition of results from new surveys, and in light of advice from Natural England. The following screening applies the most up to date criteria available from the WHSAP and HRA.

- 2.2.4 Furthermore, since the Core Strategy was adopted and the HRA screening of the Regulation 14 draft of Crudwell NP was undertaken, Natural England has advised that it is necessary to assess the potential for recreational/visitor pressure upon North Meadow and Clattinger Farm SAC, although a zone of influence had not been established at the time of their initial advice. It has come to light in July 2020 that Natural England are requiring a 15km zone of influence to be used when assessing the potential for new residential development (likely those of more than a few houses) to increase visitor pressure upon the aforementioned SAC.

### **2.3 Screening of Policies in Crudwell Neighbourhood Plan**

- 2.3.1 The Crudwell NP comprises five planning policies; these are detailed and assessed in the Table 1 below.
- 2.3.2 All parts of the NP have been screened for potential impacts which may arise from the plan alone or in combination with other plans and projects. Taking into consideration the location, scale and nature of proposals in the NP, there is a potential mechanism for effect on one European Site, namely North Meadow and Clattinger Farm SAC. This is on account of Policy DD1 within the NP allocating a site for residential development within the zone of influence within which new residential development may lead to additional visitor pressure upon the aforementioned SAC. As such, Policy DD1 has the potential to give rise to significant effects on the aforementioned European Sites and must therefore be subject to appropriate assessment under Regulation 105 of the Habitats Regulations 2017.
- 2.3.3 The other policies within the NP would either not lead directly to development or relate to design or other qualitative criteria for development.
- 2.3.4 Any changes (other than those recommended herein) made to the NP as a result of the examination in public should be rescreened before the Council adopts the plan.

**TABLE 1: Habitats Regulations Assessment Screening of the Crudwell Neighbourhood Plan**

|                              |
|------------------------------|
| A / B (Green) – Screened out |
| C / D (Red) – Screened in    |

| Policy                  | Initial screening Category                     | Policy summary and description of any conflict with the Habitats Regulations   | Comments   |
|-------------------------|--|--|--|
| Policy DD1: Tuners Lane | C and D (North Meadow and Clattinger Farm SAC) | <p>This policy allocates a site of 1.3 hectares adjacent to Turner Lane for a residential development of 20 to 25 dwellings. The policy sets out a number of requirements and criteria that any proposed development at the site must meet including the following:</p> <p><i>'b) Protect the natural environment, encourage biodiversity and protect green spaces and the rural feel of Crudwell. In particular, demonstrate as much of the hedgerow fronting Tuners Lane is retained as is practicable, in relation to both the location of the access and visibility splays. Where any hedgerow is lost as a result of visibility splays, it must be reprovided immediately outside the splay;...</i></p> <p><i>d) Landscape the outer (i.e. north and west) boundaries of the site with a new native hedgerow incorporating occasional native hedgerow trees;...</i></p> <p><i>j) Incorporate green/sustainable technologies into the design of the development and of individual dwellings, including rainwater harvesting, grey water recycling, solar water heating, pV panels, electric car charging and high U-value insulation; In delivering a residential development at Tuners Lane, the developer must work with a Community Liaison Group to produce a full planning application and to deal with the discharge of conditions.'</i></p> | <p>As it stands and on the basis of recent communication between Wiltshire Council's ecology team and Natural England, and Natural England's recent responses to planning applications for residential development within 15km of the North Meadow and Clattinger Farm SAC, it is deemed unlikely that Natural England will approve an AA of the current draft of the NP without amendments being undertaken to the NP in order to remove or reduce the risks of an adverse effect upon the integrity of the SAC.</p> <p>Possible options for amending the NP so that an AA could be undertaken of the NP that would more likely be approved by Natural England are to either remove Policy DD1 and the allocated site from the NP, or to amend the wording of Policy DD1 to stipulate that any forthcoming planning application for development at the site will be subject to an AA and that mitigation will be required and must be agreed before the application is submitted. This would likely comprise a contribution either to a stand-alone</p> |

| Policy  | Initial screening Category | Policy summary and description of any conflict with the Habitats Regulations   | Comments  |
|---|----------------------------|--|---|
|   |                            | <p>The allocated site put forward in this policy is situated approximately 5.27km west of North Meadow and Clattinger Farm SAC at its closest point. Therefore, the policy is screened into appropriate assessment on account of the potential mechanism for likely significant effect on the SAC as the allocated site lies within the zone of influence within which new residential development may lead to additional visitor pressure upon the aforementioned SAC.</p>  | <p>mitigation scheme or to a strategic scheme, and the advice of Natural England should be sought and taken into consideration.</p> |
| Policy DD2: Design                                | A1                         | <p>This policy specifies that: <i>'Development proposals must be of a design quality that respects the character and distinctive appearance of Crudwell Parish by demonstrating how they meet the Crudwell Design Guide (Appendix 1).'</i></p>   |   |
| Policy IT1: Surface Water and Foul Water Drainage | A1                         | <p>This policy puts forward a number of criteria that any new development must meet in terms of surface water and foul water drainage. These include the provision of <i>'a site-specific flood risk assessment, in line with national and local planning policy, and a drainage strategy that demonstrates how flood risk from all sources will be managed without increasing flood risk elsewhere. This should consider all sources of flooding and take into account the likely effects of climate change.'</i></p> <p>The policy goes on to stipulate: <i>'Where necessary, this should assess the impact of flow rates from the site on the whole catchment, and consider on-site and off-site measures to prevent any increase in flood risk within the site's drainage catchment...Major development and development in areas at risk of flooding should incorporate SuDS (Sustainable Drainage System), unless there is clear evidence that this would be inappropriate.'</i></p> <p>The policy will not result in a likely significant effect to any Natura 2000 sites and the requirements for new development set out within the policy are considered to be positive. Details of</p> |   |

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(EF V1.0 31.07.2020)

| Policy                              | Initial screening Category | Policy summary and description of any conflict with the Habitats Regulations   | Comments |
|-------------------------------------|----------------------------|--|----------|
|                                     |                            | any development(s) would be considered at the planning application stage to ensure acceptability in respect of other Development Plan policies of the Wiltshire Core Strategy and the NPPF.  |          |
| Policy IT2: Highway Safety          | A1                         | <p>This policy specifies: <i>'Proposals for new development must demonstrate how pedestrians and cyclists from the development will safely access the parish's facilities...Developer contributions will be sought to upgrade the footpath network between the development site and the village's facilities where this is necessary.'</i></p> <p>The policy will not result in a likely significant effect to any Natura 2000 sites. Details of any development(s) would be considered at the planning application stage to ensure acceptability in respect of other Development Plan policies of the Wiltshire Core Strategy and the NPPF.</p> |          |
| Policy CL1: Crudwell Primary School | B                          | This policy stipulates: <i>'The Crudwell Primary School site, as identified on the proposals map, is safeguarded for educational use. Any proposals to redevelop any part of the school site for non-educational uses will be resisted.'</i>   |          |

### **3 CONCLUSION**

- 3.1.1 The HRA screening exercise presented in this document has concluded that the Crudwell NP has potential to lead to a likely significant effect on one European Site and its qualifying features alone and in-combination with other plans and projects. This is due to the allocation of a site at Tuner's Lane for the development of 20 to 25 dwellings proposed by Policy DD1, and on account of this site lying within the zone of influence around the North Meadow and Clattinger Farm SAC, within which new residential development may result in additional visitor pressure upon the SAC. Therefore, it is necessary for the NP to be subject to an appropriate assessment under the Conservation of Habitats and Species Regulations 2017.
- 3.1.2 Recommendations are proposed in Table 1 which entail amending the NP such that the risk of an adverse effect upon the integrity of the SAC is removed or reduced. The required AA would then be produced taking into account those amendments or agreed amendments to the NP, thereby rendering it more likely that the AA would be approved by Natural England. Recommendations for amending the NP are as follows:
- Removal of Policy DD1 and the associated site allocation from the NP; or
  - Amending the wording of Policy DD1 to stipulate that any forthcoming planning application for development at the site will be subject to an AA and that mitigation will be required and must be agreed before the application is submitted. This would likely comprise a contribution either to a stand-alone mitigation scheme or to a strategic scheme, and the advice of Natural England should be sought and taken into consideration.

Prepared by [REDACTED] Ecologist, Wiltshire Council, 31<sup>st</sup> July 2020  
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