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THE WINTERBOURNES NEIGHBOURHOOD PLAN

HABITATS REGULATIONS ASSESSMENT (HRA)

1 Introduction

- 1.1 This iteration of the HRA relates to The Winterbournes Neighbourhood Plan Pre-Submission Draft dated March 2019 referred to in the document below as the NDP.
- 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 measures¹, the competent authority must undertake an appropriate assessment 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.”²*
- 1.4 Where appropriate assessment is undertaken, the competent authority may go on to authorise the plan or project provided that 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 under the Habitats Regulations for the NDP. Where risks to European Sites are identified, changes are

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

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

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recommended to remove or reduce these 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.

2 Screening Methodology

2.1 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.

2.2 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.

2.3 The effect of each policy has been considered both individually and in combination with other plans and projects (see table in section 4 below). Where potential for likely significant effects have been identified, an appropriate assessment is undertaken in subsequent sections.

3 Higher Level HRAs

3.1 The Wiltshire Core Strategy HRA (October 2009, February 2012³, March 2013⁴, February 2014⁵ and April 2014⁶) identified general parameters to determine the likelihood of potential impacts on Natura 2000 (European protected) sites. The following parameters were identified and assessed for the following Natura 2000 sites.

Recreation – Natura 2000 sites within 5km of the plan area, or where Salisbury Plain SPA/SAC is within 15km of the plan area:

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

⁴ Wiltshire Core Strategy – Assessment under the Habitats Regulations, Wiltshire Council, March 2013 (SUS/36)

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

⁶ Wiltshire Core Strategy Updated Habitats Regulations Assessment, April 2014 (Exam/89A)

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- Salisbury Plain SAC and SPA
- River Avon SAC
- New Forest SAC / SPA
- Bath and Bradford on Avon Bats SAC (added post adoption of 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
- 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 Core Strategy)
- Mottisfont

3.2 In terms of recreation impacts, the NDP area lies well beyond the distance from which the majority of day visitors come to the New Forest. Recreational pressure on the River Avon SAC is only recognised to occur in very limited circumstances where significant development lies immediately adjacent to it, which will not occur through this NDP. In relation to Salisbury Plain, the SAC habitat features were screened out of appropriate assessment for the Core Strategy on the advice of Natural England and the SPA can also be screened out for this NDP

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as all three allocations lie outside the 6.4km zone within which the majority of visitors to the plain are expected to live.

- 3.3 In terms of hydrology/hydrogeology, the whole of the NDP lies within the catchment of the River Avon SAC. The Winterbournes discharge to Hurdcott Sewage Treatment Works which drains into the River Bourne, a component of the River Avon SAC. Consequently any development within the NDP will be obliged to demonstrate that it will not detract from the ability of the SAC to achieve its conservation objectives within timescales identified in the River Avon Nutrient Management Plan. The Council is working with the Environment Agency and Natural England to ensure appropriate mitigation is in place for development coming forward under the Core Strategy and Local Plan Review. The implications of this for the NDP are considered further in the Appropriate Assessment below.
- 3.4 The Wiltshire Core Strategy identified that increased traffic would lead to potential effects through an increase in atmospheric pollution and nitrogen deposition upon a range of Natura 2000 sites within 200m of a main road. Such effects were considered to be very small and difficult to predict at the strategic level⁷ (WCS HRA Update February 2014). The allocation in the NDP for 18 dwellings is considered to be a small number in relation to the total for the county. All of the Natura 2000 sites listed above, except Salisbury Plain SAC/SPA, Porton Down SAC/SPA and River Avon SAC are a considerable distance from the NDP area and effects are likely to be negligible. In relation to Salisbury Plain SAC/SPA, Porton Down SAC/SPA and the River Avon SAC, the Wiltshire Core Strategy HRA concluded no likely significant effect where the existing approach to mitigation in Core Policy 55 is implemented. It is concluded that the proposals for housing in this NDP would not have an adverse effect on Natura 2000 sites through nitrogen deposition.
- 3.5 In terms of causing physical damage to features which provide, for example, foraging and breeding habitat or flightlines, the NDP area is too remote to have significant implications for bats at the Bath and Bradford on Avon Bats SAC, Chilmark Quarries SAC or indeed the Mottisfont Bats SAC. Development at the scale and locations proposed is also unlikely to affect stone curlews breeding at Porton Down SPA, or for that matter Salisbury Plain SPA as the areas selected for development are not remote enough to be used by these birds for feeding or nesting.
- 3.6 Since the Core Strategy was adopted, the Council has published a pre-submission draft of the Wiltshire Housing Site Allocations Plan (HSAP) together with a HRA dated 21 June 2017. A schedule of proposed changes was considered by Cabinet supported by an Addendum to the HRA dated May 2018. A final schedule of changes and an Addendum to the HRA incorporating minor factual changes were published in September 2018 for public consultation.
- 3.7 The screening criteria for the HSAP were modified for some European sites from those used for the core strategy following the results of new surveys and in light of advice received from Natural England. The following screening applies the most up to date criteria available from the HSAP.

⁷ Update to the Wiltshire Core Strategy habitats Regulations Assessment, February 2014 (Exam/89)

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4. Screening of Policies in The Winterbournes Neighbourhood Plan Pre-Submission Draft March 2019

- 4.1 The NDP comprises 9 planning policies.
- 4.2 Taking into consideration the location, scale and nature of proposals in the NDP, there is a mechanism for effect on one European Site, the River Avon SAC. All parts of the draft plan have been screened for potential impacts which may arise from the plan alone or in combination with other plans and projects. Three policies have the potential to give rise to significant effects and are therefore taken forward to appropriate assessment in sections below.
- 4.3 Other policies would either not lead directly to development or would have no significant effects either alone or in combination with other plans and projects due to the scale and nature of the proposals in the plan.
- 4.4 Any changes (other than those recommended here) made to the plan as a result of the examination in public should be rescreened before the Council adopts the plan.

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TABLE: Habitats Regulations Assessment Screening of the The Winterbournes Neighbourhood Plan

Policy	Screening Categorisation	Summary of policy wording highlighting any conflict with the Habitats Regulations	Other Non HRA comments
Policy 1 – Separation between the Winterbournes and Hurdcott	A3	The existing separation will be maintained with physical and visual breaks.	
Policy 2 – Site allocation for Land between Glebe Hall and Winterbourne Primary School	D for River Avon SAC	The site is allocated for 13 dwellings and development should conform to design principles in Policy 3. Further consideration is required as to whether this policy can rely on mitigation proposals for the River Avon SAC being developed by the Council as part of the River Avon SAC Working group and the mitigation proposals in place for Salisbury Plain SPA.	
Policy 3 – Design for Policy 2	A1	Design to conform with the following principles: <ul style="list-style-type: none"> a) Work with the contours of the site b) Dwellings predominantly single story to avoid appearing overly dominant in relation to existing development c) Utilise materials to compliment the Conservation Area d) Incorporate landscaping to compliment and reinforce rural character e) Provide safe pedestrian crossing point at the top of Earls Rise 	The use of trees, shrubs and hedgerows as identified in Policy 3 d) is likely to be necessary to ensure compliance with policy CP50. Note however, that applications will need to demonstrate it will be feasible to retain both existing and proposed boundary features by ensuring that sufficient space is allocated for their protection and long term maintenance. It is rarely acceptable to incorporate such

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Policy	Screening Categorisation	Summary of policy wording highlighting any conflict with the Habitats Regulations	Other Non HRA comments
			features into private gardens and the design should therefore ensure they are incorporated into shared space. These requirements will affect the layout / capacity of this allocation.
Policy 4 – Site allocation for Land at The Portway	D for River Avon SAC	The site is allocated for 3 dwellings and development should conform to design principles in Policy 5. Further consideration is required as to whether this policy can rely on mitigation proposals for the River Avon SAC being developed by the Council as part of the River Avon SAC Working group and the mitigation proposals in place for Salisbury Plain SPA.	
Policy 5	A1	Design to conform with the following principles: a) Follow a similar building line, not closer to the road than existing dwellings b) Replicate narrow plot widths of existing dwellings in the row	
Policy 6 – Land adjacent Rose Farm	D for River Avon SAC	The site is allocated for 2 dwellings and development should conform to design principles in Policy 7. Further consideration is required as to whether this policy can rely on mitigation proposals for the River Avon SAC being developed by the Council as part of the River Avon SAC Working group and the mitigation proposals in place for Salisbury Plain SPA.	
Policy 7	A1	Design to conform with the following principles: a) Follow a similar building line, not closer to the road than existing dwellings	

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Policy	Screening Categorisation	Summary of policy wording highlighting any conflict with the Habitats Regulations	Other Non HRA comments
		b) Replicate narrow plot widths of existing dwellings in the row c) Individually designed so development does not appear uniform d) Modest and simple appearance	
Policy 8 – Local green space designations	B	Sites shown on map 4 are designated as Local Open Spaces. Presumption against development on these sites.	
Policy 9 – Expansion of Winterbourne Primary School	B	Development which would increase pupil and/or staff numbers at the school will be supported by a travel plan to demonstrate how parking issues will be addressed to ensure that street parking will not be exacerbated.	

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5. Appropriate Assessment – River Avon SAC

Background to the River Avon SAC

- 5.1 The qualifying features of the River Avon Special Area of Conservation are; the river habitat, categorised as a water course of plain to montane levels containing *Ranunculus* vegetation; Desmoulin's whorl snail which occurs on emergent vegetation in the floodplain, and; four species of fish, Atlantic salmon, sea lamprey, brook lamprey and bullhead. The conservation objectives are available at <http://publications.naturalengland.org.uk/publication/6048472272732160>, the current version (V3) is dated 27 November 2018.
- 5.2 In brief these require that the integrity of the site is maintained or restored as appropriate and that the site contributes to achieving the favourable conservation status of its qualifying features. Supplementary Advice on conserving and restoring site features was published by Natural England on 11 March 2019⁸ (available through the weblink above). This discusses the need to restore the natural nutrient regime, by limiting anthropogenic enrichment to levels at which adverse effects on characteristic biodiversity are unlikely. In relation to planning, the main concern is the contribution that development makes to river phosphorus levels through inputs from sewage treatment works and package treatment plants. To this effect, specific targets have been identified for phosphorus for the individual waterbodies which make up the SAC.
- 5.3 Development may also affect the river directly, if works are undertaken on the banks or within the river channel and indirectly through non-sewage related pollution, such as runoff during construction operations. These matters are generally site specific and best considered during the planning application process.

Plans and projects to be considered in combination

- 5.4 The HRA for the Wiltshire Core Strategy considered the in-combination effect of all development proposed in the River Avon catchment, relying on the River Avon Nutrient Management Plan (NMP)⁹ to demonstrate there would be no adverse effect on the SAC.
- 5.5 The principle behind the NMP was that planned increases in development related sewage would be more than offset by the reductions in agricultural phosphate being secured by catchment sensitive farming. For the Core Strategy 2016-2026 this enabled the Council to conclude that, provided development was within the headroom of individual sewage

⁸ Supplementary Advice on Conserving and Restoring Site Features: River Avon Special Area of Conservation (SAC). Site Code UK0013016 (published 11 March 2019)

⁹ River Avon Special Area of Conservation Nutrient Management Plan for Phosphorus (David Tyldesley Associates, 30 April 2015)

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treatment works, there would be no likely significant effects of housing allocations proposed within the River Avon catchment.

- 5.6 In March 2018, the Environment Agency and Natural England advised the Council that catchment sensitive farming targets were not being achieved and therefore the Nutrient Management Plan could not be relied on for appropriate assessments, even for development within headroom. From that time onwards, all new development in the catchment would need to be “phosphate neutral” if it was to comply with the Habitats Regulations.
- 5.7 Subsequently local authorities in the catchment signed a Memorandum of Understanding (MoU) with Natural England, Wessex Water and the Environment Agency¹⁰. Local authorities have undertaken to deploy a range of measures to reduce phosphate inputs to ensure the overall effect of development between March 2018 and March 2025 will be phosphate neutral. After this date the interim phosphate mitigation measures should be replaced by measures secured through the next water industry Price Review (PR24) process and implemented under Wessex Water’s Asset Management Plan and/or additional measures. Beyond this time an approach will take account of Water Company planning, as well as Government policy and legislation. The period may also end sooner as a result of new evidence, an early start on additional measures before PR24 or an alternative approach (such as measures secured through a revised Nutrient Management Plan for the catchment).
- 5.8 After this date also, Local Plans will review development proposals for the catchment taking account of the outcomes from the Price Review and any additional measures.
- 5.9 As part of its business plan under the current price review (PR19), Wessex Water has proposed a performance commitment to support improvements to rivers (outside of other regulated requirements and planned improvements). An Outcome Delivery Incentive (ODI) commits to maintaining levels of phosphate discharge to the SAC to the average level of the last five years. The Company’s commitment will be achieved primarily by greater operating efficiency at Sewage Treatment Works. The ODI would operate over the years 2020-2025. The ODI addresses additional phosphate load arising from new development and is therefore a central measure to ensure phosphate neutral development.
- 5.10 The MoU signatories have formed a Working Party and agreed an Interim Delivery Plan (IDP) for the period to 2025. This sets out projections of growth in the catchment for this period and estimates the associated increase in phosphate load to the SAC. Phosphate neutral development for the catchment would be achieved by reductions in phosphate from mitigation at least balancing the additional load from total forecast development.
- 5.11 The IDP identifies the measures necessary to achieve phosphate neutral development as follows:

¹⁰ Memorandum of Understanding, River Avon Special Area of Conservation, Phosphate Neutral Development – Interim Mitigation, 29 May 2018

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- Although little development permitted will be operational and adding to loads by 2020, it proposes measures to meet the load from growth over the period 2018-2020, as a precautionary approach ahead of the ODI
- It sets out measures that can achieve phosphate neutral development over the period 2020-2025 as a contingency should the ODI fail to deliver some or all the benefit intended
- It sets out measures to achieve phosphate neutrality for unsewered development that is forecast and that will not be encompassed within the ODI

5.12 Main mitigation measures in the IDP are wetland creation, less intensive grazing and there are also positive consequences for P reduction from the loss of farmland to urban development. The IDP includes a framework for monitoring performance and adjusting the measures that may be needed. A project officer will co-ordinate and manage delivery. In addition, all residential developments permitted in the catchment will be conditional on them being built to the highest standards of water efficiency permitted by the building regulations.

5.13 In Wiltshire mitigation and management measures will be funded through the Community Infrastructure Levy (CIL). Where measures would not come under the definition of 'relevant infrastructure' the Council may pool s106 developer contributions for 4 or fewer developments.

Analysis of Policies 2, 4 and 6 in the NDP screened into appropriate assessment

5.14 While the total quantum of development being allocated is small and most unlikely to lead to effects on the River Avon SAC alone, the Habitats Regulations requires competent authorities to consider the in-combination effects of plans and projects. Any constraints arising for development as a result of what is an evolving assessment process for the River Avon SAC, will apply regardless of the scale of development.

5.15 The current position in Wiltshire is that all new development permitted between 2018 and 2025 must be 'phosphate neutral' and this will be achieved by delivering the measures contained in the Interim Development Plan. This requires all new residential development to be built to the highest water efficiency standards provided for by the building regulations which are currently a maximum water use of 110 litres per person per day (G2 of the Building Regulations 2010). For most developments additional measures will be required and these will be funded through CIL payments. In exceptional circumstances, it may be necessary for developers to provide for further measures beyond those funded by CIL.

Conclusion for the River Avon SAC

5.16 Planning applications to deliver policies 2, 4 and 6 are likely to be able to comply with current Council requirements for new development in the River Avon catchment. In particular the Council is unaware of any exceptional circumstances that would need to be addressed by developers of allocations in the NDP outside CIL. I conclude the NDP will have no adverse effects on the integrity of the River Avon SAC either alone or in-combination with other plans and projects.

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5.17 I note that the phosphates issue has not been raised in the NDP or the SEA Environmental Report¹¹ and the Core Strategy is out of date in relation to this matter. For the sake of transparency therefore, I suggest therefore that this subject is covered (briefly) in the SEA, and referred to at an appropriate place in the Plan itself, potentially as an additional bullet point at section 3.2.

Prepared by [REDACTED] Senior Ecologist, Wiltshire Council
16 April 2019

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¹¹ Winterbournes Neighbourhood Plan (WNP) 2026, Strategic Environmental Assessment (SEA) Environmental Report, by Enfusion on behalf of Winterbourne Parish Council, February 2019 V02 Final Draft