

Wiltshire Council

Strategic Environmental Assessment

**Screening determination for the Draft Revised Malmesbury
Neighbourhood Plan**

May 2022

Wiltshire Council
The logo for Wiltshire Council, featuring a green wavy line underneath the text.

Contents	Page
1. Introduction	3
2. Legislative requirements	3
3. The Draft Revised Malmesbury Neighbourhood Plan	5
4. SEA Screening assessment	6
5. SEA Screening decision	10
6. Consultation on SEA screening decision	10
Appendix 1 – Consultation comments from ‘consultation bodies’	

1. Introduction

- 1.1 This document provides a screening determination of the need to carry out a Strategic Environmental Assessment (SEA) of the Draft Revised Malmesbury Neighbourhood Plan (hereafter 'Draft Revised MNP').
- 1.2 Wiltshire Council, as the 'Responsible Authority'¹ under the SEA Regulations², is responsible for undertaking this screening process. It will determine if the Draft Revised MNP is likely to have significant environmental effects, and hence whether SEA is required.
- 1.3 This process has been carried out in accordance with the requirements of European Directive 2001/42/EC³, often known as the Strategic Environmental Assessment (SEA) Directive, which has been transposed into English law by the SEA Regulations.

2. Legislative requirements

- 2.1 The Localism Act 2011 requires neighbourhood plans to comply with EU legislation. The screening procedure outlined in this report meets the requirements of the SEA Directive and Regulations, as introduced in Section 1 of this document.

- 2.2 Regulation 5 of the SEA Regulations requires an environmental assessment of plans which:

1. *are prepared for agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use (Regulation 5, para. (2)(a), and which set the framework for future development consent of projects listed in Annex I or II to Council Directive 85/337/EEC (EIA Directive) on the assessment of the effects of certain public and private projects on the environment (Reg. 5, para. (2)(b)*
2. *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) (Reg. 5, para. (3)*
3. *set the framework for future development consent of projects⁴ (Reg. 5, para. (4)(b)*
4. *are determined to be likely to have significant environmental effects as determined under regulation 9(1) (Reg. 5, para. (4)(c)*

An environmental assessment need not be carried out for:

- a) *plans which determine the use of a small area⁵ at local level (Regulation 5, para. (6)(a); or*
 - b) *plans which are a minor modification⁶ to a plan or programme (Regulation 5, para. (6)(b)*
- unless it has been determined under regulation 9(1) that the plan is likely to have significant environmental effects.

¹ The organisation which adopts the neighbourhood plan (this is described in Wiltshire Council's guide *Neighbourhood planning – a guide for Wiltshire's parish and town councils* (June 2012) as 'makes the plan').

² The Environmental Assessment of Plans and Programmes Regulations 2004

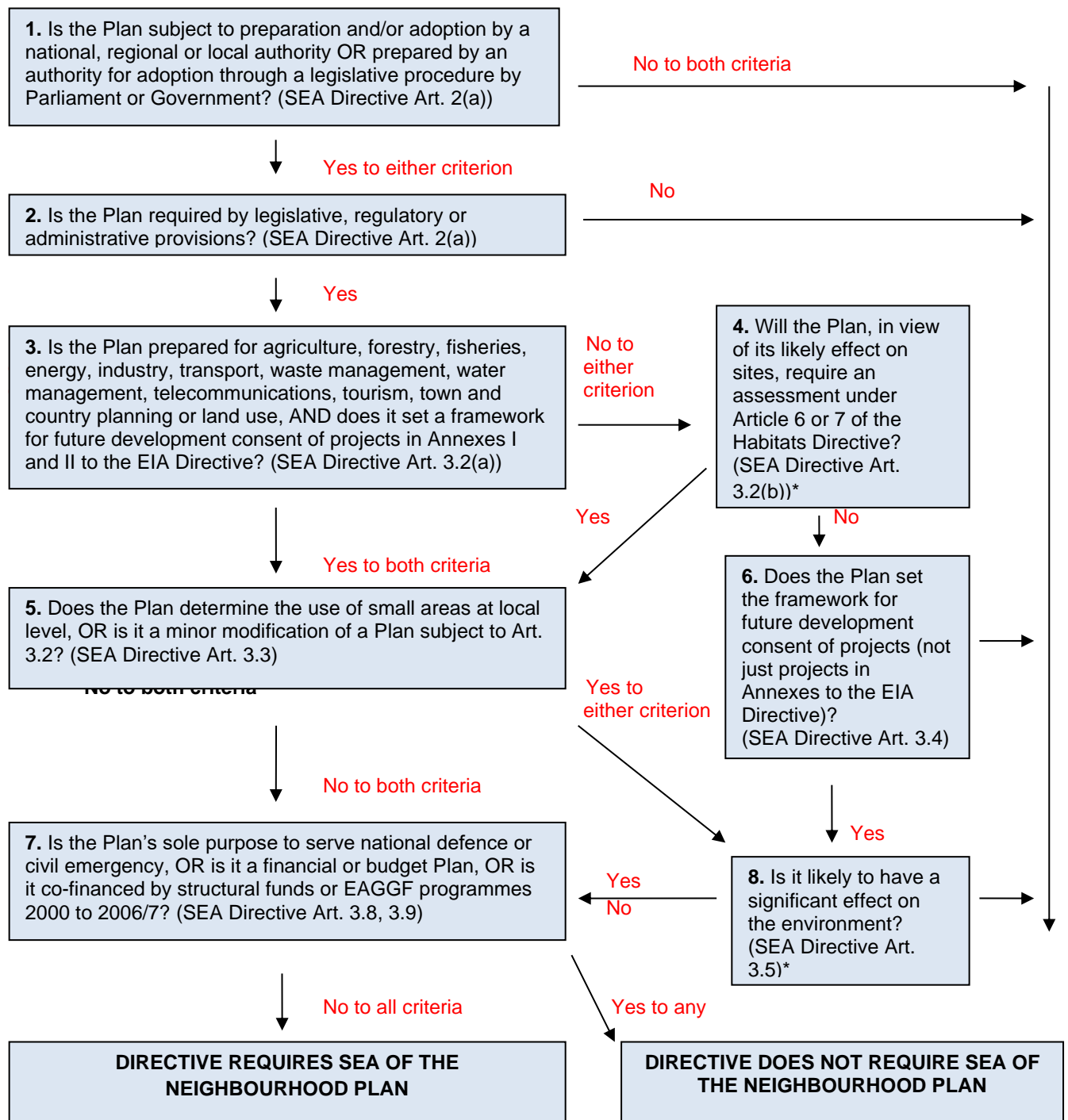
³ European Directive 2001/42/EC "on the assessment of the effects of certain plans and programmes on the environment"

⁴ European Commission guidance states that plans and programmes which set the framework for future development consent of projects would normally contain 'criteria or conditions which guide the way a consenting authority decides an application for development consent'. Development consent is defined in the EIA Directive as "the decision of the competent authority or authorities which entitled the developer to proceed with the project" (Article 1(2) of the EIA Directive).

⁵ European Commission guidance suggests that plans which determine the use of small areas at local level might include "a building plan which, for a particular, limited area, outlines details of how buildings must be constructed, determining, for example, their height, width or design"

⁶ 'Minor modifications' should be considered in the context of the plan or programme which is being modified and of the likelihood of their having significant environmental effects. A modification may be of such small order that it is unlikely to have significant environmental effects.

2.3 The diagram⁷ below shows the SEA Directive's requirements and its application to neighbourhood plans:



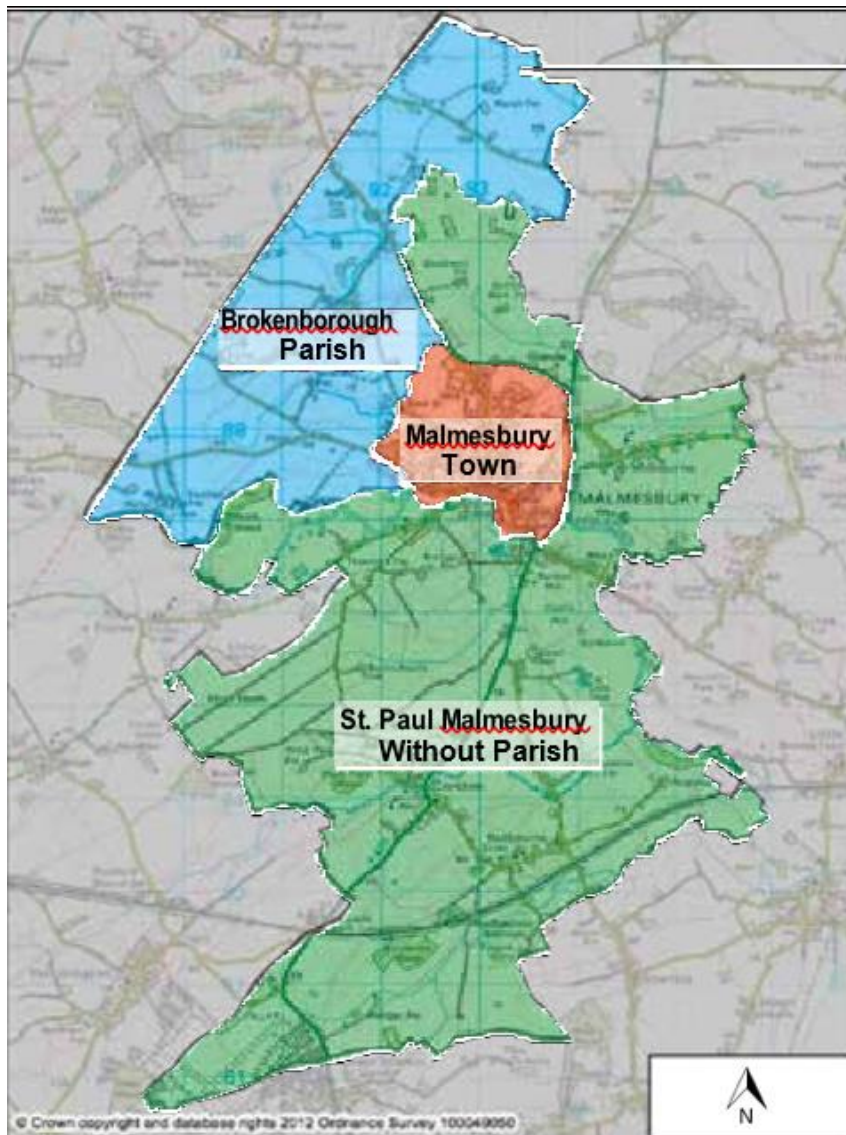
* Plans falling in this category (No.8) will be screened by Wiltshire Council to determine if they are likely to have significant environmental effects. This determination will be made on a case by case basis for neighbourhood plans coming forward in Wiltshire.

NB This diagram is intended as a guide to the criteria for application of the Directive to neighbourhood plans. It has no legal status.

⁷ Taken from *A Practical Guide to the Strategic Environmental Assessment Directive* ODPM, 2005)

3. The Draft Revised Malmesbury Neighbourhood Plan

- 3.1 The parishes of Malmesbury, St Paul Malmesbury Without and Brokenborough are preparing a revision of the neighbourhood plan under the provisions of the Localism Act 2011. The current neighbourhood plan was 'made' on 25th February 2015. The draft revised plan has been updated to reflect previously allocated sites and policies that have now received planning permission. It does not contain any new development site allocations or policies and this SEA screening has been undertaken on that basis.
- 3.2 The designation of the Malmesbury Neighbourhood Area was made on 9th January 2013 (see map of area outlined below). For the designation notice see <http://www.wiltshire.gov.uk/planning-neighbourhood-latest-news>



- 3.3 This SEA screening decision is based on, and accompanied by, a draft of the revised neighbourhood plan dated February 2022. All revisions that have been made to the original plan are shown in tracked changes.

4. SEA Screening assessment

4.1 Wiltshire Council, as the 'Responsible Authority', considers that the Draft Revised MNP falls within the scope of the SEA Regulations on the basis that it is a plan that:

a) is subject to preparation or adoption by an authority at national, regional or local level (Regulation 2);

b) is prepared for town and country planning or land use and it is a plan that sets the framework for future development consent of projects generally (Regulation 5); and

c) will apply to a wider area other than a small area at local level and is not a minor modification to an existing plan or programme (Regulation 5).

4.2 A determination under Regulation 9 is therefore required as to whether the Draft Revised MNP is likely to have significant effects on the environment.

4.3 The screening requirements set out in Regulation 9 and Schedule 1 of the SEA Regulations includes two sets of characteristics for determining the likely significance of effects on the environment. These relate to i) the characteristics of the Draft Revised MNP and ii) the characteristics of the effects and of the area likely to be affected by the Draft Revised MNP. In making a determination, Wiltshire Council will take into account the criteria specified in Schedule I of the Regulations which are follows:

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

(a) the degree to which the plan or programme sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources;

(b) the degree to which the plan or programme influences other plans and programmes including those in a hierarchy;

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

(d) environmental problems relevant to the plan or programme; and

(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).

2. Characteristics of the effects and of the area likely to be affected, having regard, in particular, to:

(a) the probability, duration, frequency and reversibility of the effects;

(b) the cumulative nature of the effects;

(c) the transboundary nature of the effects;

(d) the risks to human health or the environment (for example, due to accidents);

(e) the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected);

(f) the value and vulnerability of the area likely to be affected due to—

- (i)** special natural characteristics or cultural heritage;
- (ii)** exceeded environmental quality standards or limit values; or
- (iii)** intensive land-use; and

(g) the effects on areas or landscapes which have a recognised national, Community or international protection status.

The screening assessment of the Draft Revised MNP is set out below:

Criteria (Schedule 1 SEA Regs.)	Significant environmental effects likely?	Justification and evidence
1. The characteristics of plans, having regard, in particular, to:		
(a) the degree to which the plan sets a framework for projects and other activities, either with regards to the location, nature, size and operating conditions or by allocating resources	No	The Draft Revised MNP covers the parishes of Malmesbury, St Paul Malmesbury Without and Brokenborough only. Whilst the Draft Revised MNP does set a framework for projects at the parish level, it does not set a framework for a significant degree of projects or other activities.
(b) the degree to which the plan influences other plans and programmes including those in a hierarchy	No	The Draft Revised MNP is produced by the local community to influence development at the local parish level. The Draft Revised MNP will not have a significant influence on other plans and programmes or those in a hierarchy. All neighbourhood plans must be in general conformity with the strategic policies contained in the development plan for the area, contribute to the achievement of sustainable development and have regard to national policies.
(c) the relevance of the plan for the integration of environmental considerations, in particular with a view to promoting sustainable development	No	The Draft Revised MNP is a land-use plan that promotes sustainable development, in general conformity with the Local Plan and national planning guidance. It is not a Plan specifically relating to the integration of environmental considerations.
(d) environmental problems relevant to the plan	No	There are no known specific environmental problems relevant to this Plan.
(e) the relevance of the plan for the implementation of Community legislation on the environment (for example, plans and programmes linked to waste management or water protection)	No	The neighbourhood plan is not relevant as a plan for implementing community legislation.
2. Characteristics of the effects and of the area likely to be affected, having regard, in particular, to:		
(a) the probability, duration, frequency and reversibility of the effects	No	The Draft Revised MNP has been updated to reflect previously allocated sites and accompanying policies that have now received planning permission. It does not contain any new development site allocations or policies. The current 'made' plan was already subject to SEA and it is not considered that further SEA is required, given the amendments made. Policies that have been updated are as follows:

		<p>Policy 1 – amended from approximately 470 to 201 dwellings of mixed types and tenures and an extension to Malmesbury C of E school. This site has full planning permission for 201 dwellings under application 16/06401/FUL.</p> <p>Policy 2 – amended from approximately 50 to 56 mixed cottage type dwellings. This site has outline planning permission for 59 dwellings under application 16/11603/OUT.</p> <p>Policy 3 – policy amended to include the text '<i>outside the zone of influence around the North Meadow and Clattinger Farm SAC</i>'.</p> <p>Policy 6 – has been removed from the neighbourhood plan as the development of Burnham Court has been built.</p> <p>All other policies remain unchanged.</p> <p>Habitats Regulations Assessment screening has concluded that an appropriate assessment will not be required for this Neighbourhood Plan. Therefore, an SEA is not required based on this decision.</p>
(b) the cumulative nature of the effects	No	No specific cumulative effects of the proposals are considered likely.
(c) the transboundary nature of the effects	No	No transboundary effects with other EU countries are considered likely to be significant.
(d) the risks to human health or the environment (for example, due to accidents)	No	There are no significant environmental effects considered likely to risk human health or the environment.
(e) the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected)	No	No significant effects are considered likely based on the geographical area and size of the population likely to be affected.
(f) the value and vulnerability of the area likely to be affected due to— (i) special natural Characteristics or Cultural heritage; (ii) exceeded environmental quality standards or limit values; or (iii) intensive land-use;	No	<p>Refer to 2a above. The Draft Revised MNP has been updated to reflect previously allocated sites and accompanying policies that have now received planning permission. It does not contain any new development site allocations or policies. The current 'made' plan was already subject to SEA and it is not considered that further SEA is required, given the amendments made.</p> <p>The draft Plan is considered unlikely to have significant environmental effects due to exceeded environmental quality standards or limit values or intensive land-use.</p>
(g) the effects on areas or landscapes which have a recognised national, Community or international protection status.	No	Refer to 2a above. The Draft Revised MNP has been updated to reflect previously allocated sites and accompanying policies that have now received planning permission. It does not contain any new development site allocations or policies. The current 'made' plan was already subject to SEA and it is not considered that further SEA is required, given the amendments made.

5. SEA Screening decision

5.1 Regulation 9 of the SEA Regulations requires that the responsible authority (Wiltshire Council) shall determine whether or not a plan is likely to have significant environmental effects. The responsible authority shall —

- (a) take into account the criteria specified in Schedule 1 to these Regulations; and
- (b) consult the consultation bodies (Historic England, Natural England, Environment Agency).

5.2 Where the responsible authority determines that the plan is unlikely to have significant environmental effects (and, accordingly, does not require an environmental assessment), it shall prepare a statement of its reasons for the determination.

5.3 Wiltshire Council considers that the Draft Revised MNP **is not likely to have significant environmental effects** and accordingly **a Strategic Environmental Assessment is not required**. This decision is made for the following reasons:

Reason 1: The Draft Revised MNP has been updated to reflect previously allocated sites and accompanying policies that have now received planning permission. It does not contain any new development site allocations or policies. The current 'made' plan was already subject to SEA and it is not considered that further SEA is required, given the amendments made.

Reason 2: Habitats Regulations Assessment screening has concluded that an appropriate assessment will not be required for this neighbourhood plan. Therefore, an SEA is not required based on this decision.

5.4 This SEA screening has been undertaken on a revised draft of the neighbourhood plan dated February 2022. It is possible that these proposals may change. If the draft Plan is subsequently amended significantly from these proposals i.e. changes that substantially alter the draft plan and/or are likely to give rise to additional significant environmental effects, or it is subsequently decided that the draft Plan should be subject to an Appropriate Assessment under the Habitats Regulations, this SEA screening must be reviewed. In this instance, the Qualifying Body should request a revised SEA screening assessment from Wiltshire Council.

6. Consultation on SEA screening decision

6.1 This screening decision was sent to Natural England, Environment Agency and Historic England, requesting comments within a 5-week period, from 25th March 2022 to 5pm on 29th April 2022.

6.2 All three consultation bodies responded and agreed with the Council's decision that an SEA is not required. Comments received are presented in Appendix 1.

Appendix 1 – consultation comments received from the consultation bodies

Historic England

From: [REDACTED]

To: [REDACTED]

Subject: Malmesbury St Paul Malmesbury Without and Brokenborough revised neighbourhood plan SEA Scoping Consultation - formal response

Date: Wednesday, April 20, 2022 12:32:07 PM

Dear [REDACTED]

I would like to introduce myself. I have recently joined the Historic England Southwest team as an Historic Places Advisor, working alongside [REDACTED]

Thank you for your email inviting us to comment on the Regulation 14 and SEA scoping consultation for the emerging, revised Malmesbury, St Paul Malmesbury Without and Brokenborough neighbourhood plan.

I recall that we commented on an early consultation on the revised plan late year (12-10-21). I am pleased to note that you have accommodated most of David Stuart's previous recommendations; in particular, amending the proposed number of residential units under policies 1 and 2.

However, I have some further comments to make on the emerging, revised plan:

Policy 1

I note that the revised policy now addresses our previous advice on residential numbers, with a maximum of 201 units. However, given that the site now has full planning permission, it raises the question of whether policy 1 is still required at all.

Policy 2

I note that the revised policy now addresses our previous advice on residential numbers, with a maximum of 56 units. However, unlike the above site, at Malmesbury C of E school, this is currently only an outline permission and therefore would still potentially pose a risk of harm to heritage assets. So clearly, there would be a need to justify the amended site allocation, with evidence that proved that there would be no harmful or negative impact. This would certainly be achieved through a full Strategic Environmental Assessment (SEA) exercise; but, given the circumstances of minor amendments to a made plan, this seems an excessive task to undertake. Therefore, we are minded to concur with the local planning authority's recommendation that a full SEA would not be necessary; but, only on the condition that robust evidence-base and justification of the site allocation for policy 2 exists in another form.

The evidence prepared to support the outline planning permission and associated design work could be sufficient to support the amended policy in the Neighbourhood Plan. So, we urge the local planning authority to satisfy themselves that this work demonstrates that it has appropriately taken account of relevant heritage considerations. If not, then the Plan making process itself will need to attend to this evidence requirement to ensure that any additional impact on heritage assets has been correctly determined and is deemed acceptable, using appropriate methodology.

In that respect, we would strongly recommend using our guidance on Site Assessments, Setting, and if appropriate Strategic Environmental Assessments, most of which has either been produced or updated since 2015. This NPPF/PPG best practice guidance can be found at:

<https://historicengland.org.uk/images-books/publications/gpa3-setting-of-heritage-assets/heag180-gpa3-setting-heritage-assets/>

<https://historicengland.org.uk/images-books/publications/historic-environment-and-site-allocations-in-local-plans/heag074-he-and-site-allocation-local-plans/>

<https://historicengland.org.uk/images-books/publications/sustainability-appraisal-and-strategic-environmental-assessment-advice-note-8/>

We hope that our comments have been helpful and wish your community well in revising the Plan. We look forward to the opportunity to comment further at the regulation 16 stage of consultation.

Kind regards

■■■■

■■■■■■■■■■ | Historic Places Adviser

Historic England | South West

1st Floor Fermentation North | Finzels Reach | Hawkins Lane | Bristol | BS1 6WQ

Direct Line: ■■■■■■■■■■ | Mobile: ■■■■■■■■■■

<https://historicengland.org.uk/southwest>

Environment Agency

From: Sustainable Places, SWX <swx.sp@environment-agency.gov.uk>

To: ■■■■■■■■■■

Subject: Draft Revised Malmesbury Neighbourhood Plan - SEA screening decision consultation

Date: Thursday, April 28, 2022 11:46:30 AM

Dear ■■■■■

Thank you for consulting us on the SEA screening decision for the revised Malmesbury Neighbourhood Plan (February 2015), Draft Revisions February 2022.

We agree with your authority's decision that an SEA is not required because the proposed amendments to the plan are not likely to have significant environmental effects.

Kind regards,

■■■■

■■■■■■■■■■

Planning Advisor – Wessex Sustainable Places

Environment Agency, Rivers House, Sunrise Business Park, Higher Shaftesbury Road, Blandford, Dorset, DT11 8ST

Natural England

Date: 26 April 2021
Our ref: 387068
Your ref: Malmesbury Neighbourhood Plan

Hornbeam House
Crewe Business Park
Electra Way
Crewe
CW1 6GJ
T 0300 060 3900

██████████
Wiltshire Council

BY EMAIL ONLY ██████████

Dear ██████████

Draft Revised Malmesbury Neighbourhood Plan - SEA Screening

Thank you for your consultation on the above dated and received by Natural England on 25 March 2022.

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 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.

For any new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk

Yours sincerely



Consultations Team