

## **CHIRTON AND CONOCK NEIGHBOURHOOD PLAN HABITATS REGULATIONS ASSESSMENT (HRA)**

### **1. Introduction**

- 1.1. This iteration of the HRA relates to the Chirton and Conock Neighbourhood Plan Submission Draft May 2018.
- 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 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 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 for the Chirton and Conock Neighbourhood Plan (NP). Where risks to European Sites are identified, changes are 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;

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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

- 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).

### 3. Higher Level HRAs

3.1 The Wiltshire Core Strategy HRA (October 2009, February 2012<sup>3</sup>, March 2013<sup>4</sup>, and April 2014<sup>5</sup>) identified general parameters to determine the likelihood of potential impact 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:*
  - Salisbury Plain SAC and SPA
  - River Avon SAC
  - New Forest SAC / SPA
- *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

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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> Wiltshire Core Strategy Updated Habitats Regulations Assessment, April 2014

- 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
- 3.2 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.
- 3.3 The screening criteria for the HSAP were modified for some European sites from those used in 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.

#### **4. Screening of Policies in Chirton and Conock Neighbourhood Plan Submission Draft May 2018**

- 4.1 The Chirton and Conock Neighbourhood Plan comprises 4 planning policies and several informal community actions.
- 4.2 Taking into consideration the location, scale and nature of proposals in the NP, the two European Sites where there is a mechanism for effects are:
- Salisbury Plain SPA, as the NP area lies within 6.4km of the SPA and, and;
  - The River Avon SAC, as the NP area lies within the catchment of this SAC.
- 4.3 One policy has potential to give rise to significant effects and is therefore taken forward to appropriate assessment in sections 5 and 6 below.
- 4.4 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.

**TABLE: Habitats Regulations Assessment Screening of the Chirton and Conock Neighbourhood Plan**

Categories A / B (Green) – Screened out

Categories C / D (Red) – Screened in

Policy Area	Policy	Categorisation in initial screening	Comments and recommendations
1. Housing	1a. New homes will be permitted in Chirton and Conock in accordance with Wiltshire Core Strategy Policies 1, 2 and 18. It is anticipated that this will amount to an indicative quantity of 1-10 new homes by 2026, by 'infill development'.	D	Screened in for AA for the River Avon SAC and Salisbury Plain SPA.
	1b. Developments of 2 or more homes must include a proportion of 1 and /or 2 bedroom homes to meet local need and the aspirations of the community.	A1	
	1c. Affordable housing should be provided in accordance with Wiltshire Core Strategy Policy 43 but with such homes being provided when the lower threshold of 6 dwellings is met.	A1	
	1d. Self-build housing projects will be considered favourably subject to compliance with other policies of this plan.	A1	
	1e. The community is keen to encourage innovative designs which involve low environmental impact such as renewable energy and sustainable drainage and sewerage providing this can be achieved without unacceptable harm to heritage, landscape and neighbouring properties.	A1	
	1f. The conversion of farm buildings and development of farms and farmyards to housing is acceptable providing it complies with policies of the Wiltshire Core Strategy, in particular relating to appropriate scale in a small village.	A1	
2. Developer Contributions	2 Developer contributions will be sought in accordance with Wiltshire Core Strategy Core Policy 3 and Wiltshire Planning Obligations SPD (May 2015) to Contribute towards the following local infrastructure priorities. <ul style="list-style-type: none"> <li>i. The creation of a new village hall or meeting place for the community</li> <li>ii. Sustainable transport improvements such as new pavements for pedestrian safety, improved footpaths network, and a new bus shelter.</li> <li>iii. Off-road parking for the school to reduce congestion and improve safety.</li> <li>iv. improved recreational facilities.</li> </ul>	A1	
3. Design	3 The sensitive landscape setting and high	A1	

Policy Area	Policy	Categorisation in initial screening	Comments and recommendations
	quality historic townscape of Chirton and Conock must be respected by the design of any new development especially in relation to the Conservation Area, the recorded Park and Garden at Conock Manor and the AONB.		
4. Local Green Space	The School recreation area as defined on the Local Green Space Policy Map is designated as Local Green Space. Development, with the exception of any development to extend, expand, alter or improve the school and its facilities, may only take place on this site in accordance with National Local Green Space Policy.	A1	
5 Informal community actions	Informal Policies 1. <b>Nature, Landscape and Habitat</b> 2. <b>Village Maintenance</b> 3. <b>Road Safety and Sustainable Transport</b> 4. <b>Village Hall</b>	A1	

## 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; 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. Draft Supplementary Advice on conserving and restoring site features was published by Natural England on 5 December 2018<sup>6</sup> (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 none sewage related pollution, such as runoff during construction operations. These matters are generally site specific and best considered during the planning application stages.

### Plans and projects to be considered in combination

<sup>6</sup> Draft Supplementary Advice on Conserving and Restoring Site Features: River Avon Special Area of Conservation (SAC). Site Code UK0013016

- 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)<sup>7</sup> to demonstrate there would be no adverse effect on the SAC.
- 5.5 The principle behind the plan 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. This enabled the Council to conclude, that provided development was within the headroom of individual sewage treatment works, there would be no likely significant effects of housing proposed by the Core Strategy.
- 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 and the Environment Agency<sup>8</sup>. 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. Partners recognise that in the long term the most efficient mechanism to control water usage and quality is through measures delivered by the water company, including increased phosphate removal at sewage treatment works. Accordingly, it is anticipated improvements will be delivered by Wessex Water under the next Water Industry Asset Management Plan 2025 – 2030.
- 5.8 The MoU signatories have formed a Working Party and are currently finalising an Interim Delivery Plan (IDP) which Wiltshire Council will use to support the HRA of its HSAP through examination in early 2019. In Wiltshire, mitigation and management measures will be funded through the Community Infrastructure Levy (CIL) as the NMP is listed on Wiltshire’s Regulation 123 list. Where measures would not come under the definition of ‘relevant infrastructure’ the Council may pool s106 developer contributions for 4 or fewer developments.
- 5.9 The IDP has quantified the additional phosphorus load that will be generated by residential development, (both sewered and unsewered), and non-residential development in the period 2018 to 2025. A proportion of this will be off-set by the land taken out of production for development sites and higher water efficiency conditions for new dwellings. The majority of offsetting for 2018 and 2019 will be achieved through installing wetlands, funding changes from intensive grazing to extensive grass production and collaborating with Wessex Water to bring forward initiatives with private sector funding through the Landscape Enterprise Network. These measures will also be used to off-set unsewered development throughout the 2018-2025 period.
- 5.10 Offsetting for sewered development during the period 2020-2025 currently relies on Wessex Water being able to deliver a “Outcome Delivery Incentive” which it has put forward for the current Price Review (PR19). This would effectively do all that is needed to offset development throughout the period 2020-2025. The ODI is not mandatory and needs to be approved by Ofwat (approval deadline late 2019). In the absence of the ODI, developer contributions would be required to achieve the necessary

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<sup>7</sup> River Avon Special Area of Conservation Nutrient Management Plan for Phosphorus (David Tyldesley Associates, 30 April 2015)

<sup>8</sup> Memorandum of Understanding, River Avon Special Area of Conservation, Phosphate Neutral Development – Interim Mitigation, 29 May 2018

improvements to the treatment works. The Council is currently engaging a project officer to manage the delivery of the IDP.

#### **Analysis of policy 1 in the NP screened into appropriate assessment**

- 5.11 Policy 1 identifies that 1-10 new homes will come forward by 2026 and it anticipates these will be within the Chirton and Conock village both of which are sewered. If the ODI is confirmed by Ofwat and delivered by Wessex Water, it can be assumed these dwellings will be phosphate neutral. If the ODI is not delivered, the phosphate loading of any new dwellings constructed in the River Avon catchment will be taken account of through the Council's annual housing survey. Annual phosphate accruals will need to be offset by measures delivered through CIL as identified in the IDP and subsequent feasibility studies.
- 5.12 The IDP will be reviewed by the working party annually to ensure that the MoU is being complied with. Where NE and EA notify the Council that phosphate neutrality is not being achieved, the Council will be unable to conclude appropriate assessments favourably, and therefore unable to permit further development in the catchment, until a new agreement is reached.
- 5.13 For the time being, until the IDP is agreed, the MoU enables the Council to conclude appropriate assessments favourably for all planned growth i.e. allocations in adopted plans and windfall development to meet the broad quantum of development proposed for housing market areas.

#### **Conclusion for the River Avon SAC**

- 5.14 Growth in the order anticipated by policy 1 will have no adverse effects on the integrity of the River Avon SAC either alone or in-combination with other plans and projects.

## **6 Appropriate Assessment – Salisbury Plain SPA**

### **Background to the Salisbury Plain SPA**

- 6.1 Salisbury Plain SPA encompasses a plateau of chalk grassland, which supports the following SPA features: breeding common quail, Eurasian hobby, stone-curlew and non-breeding hen harrier. Details of the conservation objectives are available online <http://publications.naturalengland.org.uk/publication/5745803545018368>. The current version is dated 30 June 2014. More recently Natural England has published Supplementary Advice on conserving and restoring the site features<sup>9</sup> and this is available from the same weblink. This recognises that often active and ongoing conservation management is needed to protect, maintain and restore the function of supporting habitat both within and outside the SPA in order to sustain the stone curlew population. The MoD estate and other landowners through Environmental Stewardship are actively involved in delivering these measures.
- 6.2 Evidence from research has demonstrated that the stone-curlew is particularly susceptible to recreational pressure. Mitigation for the impacts of the Core Strategy was agreed with Natural England in 2012 and comprised Council funding for monitoring breeding bird numbers and liaising with farm managers to maximise breeding success. As a consequence, the HRA for the Core Strategy which was supported by a strategic HRA for housing development<sup>10</sup> was able to conclude no adverse effect.

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<sup>9</sup> Supplementary Advice on Conserving and Restoring Site Features: Salisbury Plain Special Protection Area (SPA) Site Code UK9011102

<sup>10</sup> HRA and Mitigation Strategy for Salisbury Plain SPA (in relation to recreational pressure from redevelopment), Wiltshire Council, 30 March 2012

### **Plans and projects to be considered in combination**

6.1 The screening Assessment in section 4 above found that Chirton and Conock NP would not lead to significant effects on the Salisbury Plain SPA alone. Impacts would only occur in combination with other plans and projects. The following plans and projects have been taken into consideration:

- Wiltshire Core Strategy (Adopted January 2015)
- Wiltshire Housing Site Allocations Plan submission document May 2018 with proposed schedule of changes dated September 2018
- Army basing Programme delivering 917 dwellings at 4 sites in close proximity to the Plain

### **HRA for the Wiltshire Housing Site Allocations Plan pre-submission draft**

6.3 Evidence from a visitor survey commissioned by the Council in 2015 demonstrated that 75% of visitors accessing the plan lived within 6.4km of the SPA boundary and 1% of the population within that distance would be expected to visit on a regular basis. Using these findings the HSAP HRA<sup>11</sup> calculated that the housing sites plan would increase visitor numbers to the Plain by 1% above the estimates calculated for the Core Strategy. This figure incorporated a number of precautionary assumptions to counteract any constraints of the data used. Taking the favourable condition of the SPA into account, it was considered that existing mitigation measures in place for the Core Strategy would continue to provide an effective, timely and reliable means of mitigating any additional effects from the HSAP should they arise.

### **Analysis of policy 1 in the NP screened into appropriate assessment**

6.4 The policy anticipates a small amount of windfall growth amounting to 1-10 dwellings up to 2026. Such growth, is within the broad estimates anticipated by the Core Strategy and as such it is considered that the current mitigation scheme will be adequate to ensure no effects.

### **Conclusion for the Salisbury Plain SPA**

6.2 Growth in the order anticipated by policy 1 will have no adverse effects on the integrity of Salisbury Plain SPA either alone or in-combination with other plans and projects.

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Supersedes HRA of the Draft Chirton and Conock Neighbourhood Plan prepared by Fiona Elphick, Senior Ecologist, Wiltshire Council dated 3 October 2017

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<sup>11</sup> HRA and Mitigation Strategy for Salisbury Plain SPA (in relation to recreational pressure from residential development), Wiltshire Council, reviewed in May 2018