



**COTSWOLD**  
**DISTRICT COUNCIL**

## **Habitats Regulations Assessment Screening Report**

### **Northleach with Eastington Plan 2018**

7<sup>th</sup> December 2018

#### **Introduction**

- 1.1 This screening report considers whether or not the content of the Northleach with Eastington Neighbourhood Plan (*Draft Version Aug 2018*) requires a Habitats Regulation Assessment (HRA) in accordance with Article 6(3) and (4) of the Habitats Directive 92/43/EEC.
- 1.2 Establishing whether a neighbourhood plan requires an environmental assessment is an important legal requirement and forms part of the neighbourhood planning process.
- 1.3 The Northleach with Eastington draft Neighbourhood Plan includes the following;
  - The plan allocates land for public parking
  - It supports proposals for development to improve and expand the Primary School, and an area of land is noted in the supporting text
  - Designates Local Green Spaces
  - It supports the highest design standards for new buildings and alterations and
  - Improvements to Northleach Market Place, and
  - Supports tourism proposals including new hotel or B&B, including employment development and enhancement of the Old Prison Site.
- 1.4 It does not directly allocate land for housing or employment development. It provides local guidance on how applications for development in the plan area should be determined. The Submission version of the Plan and other evidence documents can be found here:  
<https://www.cotswold.gov.uk/residents/communities/neighbourhood-planning/neighbourhood-plans-in-force-or-development/northleach-with-eastington-neighbourhood-plan/>

#### **Legislation**

- 1.5 In order to be 'made' neighbourhood Plans are required to be tested against and meet a number of '*basic conditions*' set out in the Localism Act 2011 (Appendix 1). One of the basic conditions is whether the Neighbourhood Plan is compatible with European Union

obligations, including those under the SEA Directive and Habitats Directive. Neighbourhood Plans in England require SEA if their effects are *likely to be significant*, or if the plan requires appropriate assessment under Habitats Regulations Assessment (HRA).

- 1.6 The **Habitats Directive** 92/43/EEC is a key obligation and requires that any plan or project likely to have a significant effect on a European Site must be subject to an ‘appropriate assessment,’ rather than just screening. The effectiveness of measures to mitigate the impact of the plan, on sites protected by the Habitats Directive, should also be tested through full appropriate assessment, rather than just screening (EU Court of Justice ruling in *People Over Wind and Sweetman v Coillte Teoranta*, April 2018).
- 1.7 The Habitats Directive was transposed into English law by the ‘Conservation of Habitats and Species Regulations (as amended) 2012’ or ‘Habitats Regulations’. The requirement for a screening opinion is in accordance with Regulation 106(1) to either submit information that the competent authority (LPA) might require for, **or** determine whether, an appropriate assessment is required under Regulation 105. The Inspector needs to be satisfied that the SEA/HRA work properly demonstrates the making of the Plan would not have any significant effects and therefore satisfies the basic condition on compatibility with EU Regs.
- 1.8 HRA is the screening assessment of the likely effects, or impacts, of a land use proposal against the conservation objectives of one or more European sites (Appendix 2); and consider whether or not a proposal (alone or in combination) is likely to be significant.
- 1.9 European Sites are also known as Natura 2000 sites. Natura 2000 is a network of nature protection areas in the territory of the European Union. It is made up of Special Areas of Conservation (SAC) and Special Protection Areas (SPA) designated respectively under the Habitats Directive and Birds Directive. The internationally designated Ramsar Sites (for wetland habitats) are included within this collective term.
- 1.10 The HRA submitted alongside the Local Plan to Examination can be found here: <https://wwwF.cotswold.gov.uk/media/1500069/Updated-HRA-Report-for-Local-Plan-Focussed-Changes.pdf> and following Main Modifications, <https://www.cotswold.gov.uk/media/1584757/ED082b-Feb-2018-HRA-letter.pdf>

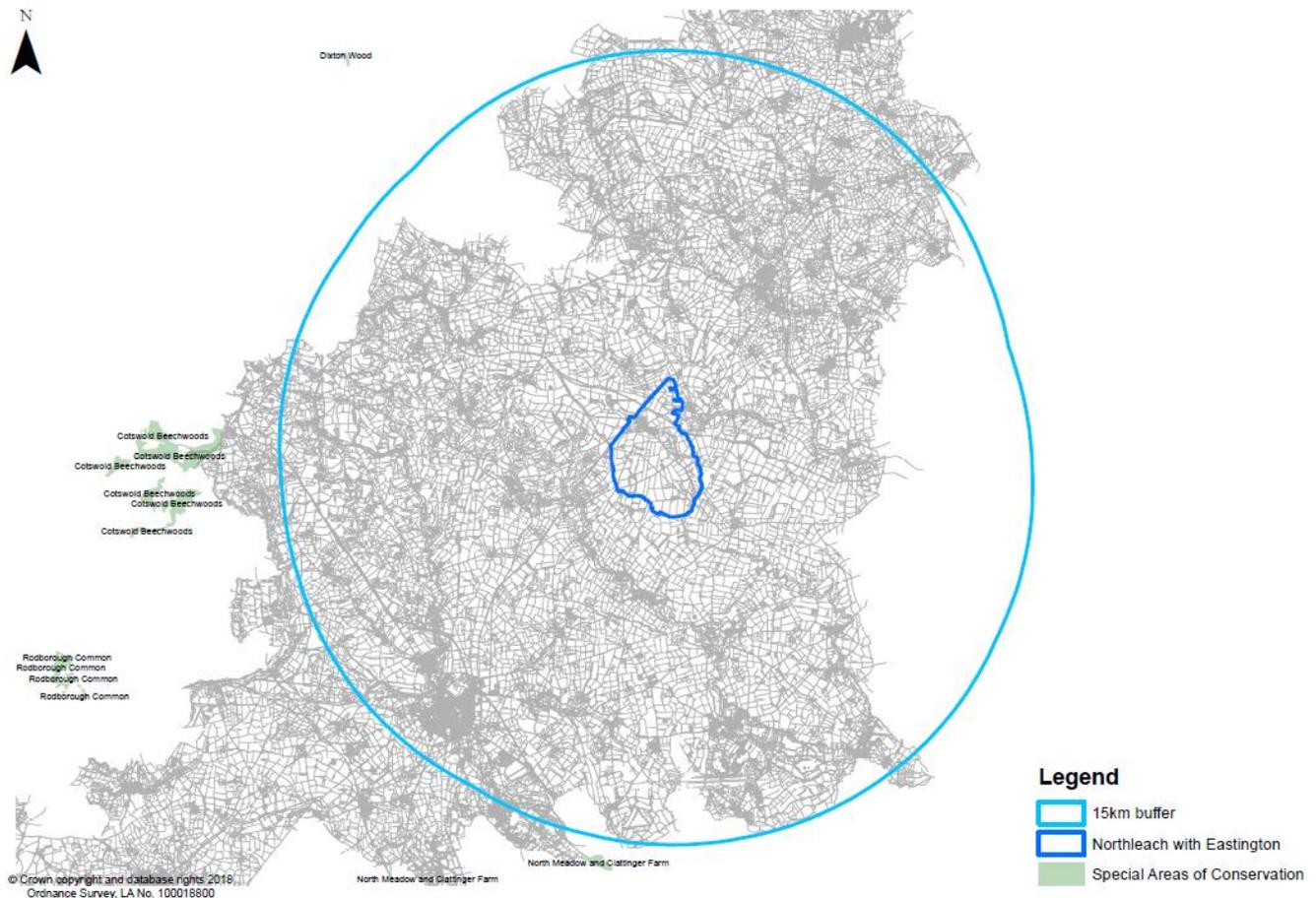
## Methodology

- 1.11 The overall purpose of a HRA is to conclude whether or not a proposal or policy or whole Plan would adversely affect the integrity of the site in question.
- 1.12 Screening is ‘Stage 1’ of the HRA process, followed, if necessary, by an Appropriate Assessment. A HRA screening report is prepared here to demonstrate compliance with the ‘basic conditions’ and EU regulations, and is produced for consultation with Natural England.
- 1.13 Under the Regulations an assessment of the ‘likely significant effects’ of the Plan is the first step to be required. Where a doubt remains an adverse impact should be assumed – HRA’s are thus based on the precautionary principle. Where the effects are ‘unlikely’ it is considered that there is no significant effect, ‘likely’ effects, or if there is a lack of information to prove otherwise, an Appropriate Assessment is required. Where a Neighbourhood Plan is considered to affect a European site(s) over and above the impacts identified in the HRA Report carried out for the Local Plan, this may also require ‘Appropriate Assessment’ if considered significant.

- 1.14 Case law helps interpret when effects are considered likely to be significant (the Waddenzee case ECJ ruling translated Article 6(3) of the Habitats Directive into Reg. 102 of the Habitats Regulations) – including ‘*if it cannot be excluded on the basis of objective information*’ or if ‘*it undermines the conservation objectives.*’ (Cotswold Local Plan HRA, Jan 2017, para 3.10)
- 1.15 The first step is to consider which European site or sites could be affected by the Plan. Then consider the policies within the NDP and screen using assumptions from the Local Plan HRA, both in relation to *how* likely significant effects may result from the NDP, and on a *proximity* basis, on how far such impacts may travel; looking at physical damage, pollution, recreational pressure, water quantity and quality. These comments are summarised in the final table. The SAC conservation objectives are in Appendix 2. If there are likely significant effects subsequent stages of HRA will be required.

## Assessment

- 1.16 The European designated ‘Natura 2000’ sites are included within an area of search of 15km for HRA purposes<sup>1</sup>. The plan below shows those sites within 15km of the neighbourhood plan boundary.
- 1.17 The relevant site is;
- **North Meadow and Clattinger Farm Special Area of Conservation (SAC)**



<sup>1</sup> ‘With respect to Cotswold District the potential for significant effects on European Sites beyond the 15km distance is considered unlikely’ (Cotswold Local Plan HRA, Jan 2017, para 3.4)

- I.18 The closest Natura site, known as the North Meadow and Clattinger Farm Special Area of Conservation (SAC), is '*a fragmented site located immediately adjacent to the southern boundary of Cotswold District*' (CDC HRA Report, page 43. Jan 2017), located approximately **16.2km** south of the Neighbourhood Area, on the Cotswold District boundary. The SAC represents lowland hay meadows and contains rare species characteristic of lowland meadows. It covers some 105ha in area.
- 1.19 The draft Neighbourhood Plan was screened to identify if the Plan would cause activities that could have a potential impact (under the headings below) on North Meadow and Clattinger Farm SAC. It should be noted '***With respect to Cotswold District the potential for significant effects on European Sites beyond the 15km distance is considered unlikely***' (Cotswold Local Plan HRA, Jan 2017, para 3.4).

#### **Impact - Physical damage / loss of habitat**

While there is an allocation for public parking which would develop the land, it is not on or adjacent the SAC, indeed the Neighbourhood Plan Area itself is some distance from the nearest SAC, beyond the 15km 'area of search.' The scale of potential development within the NDP is also considered small and it does not propose more growth than the Local Plan.

Local Plan HRA states for those SAC as '*In all cases the [SAC] sites are not close enough to the District boundary for effects relating to offsite habitat loss to be a concern...*' (Local Plan HRA, Jan 2016 para 3.16)

#### **Impact - Changes in levels pollution**

While some development is possible within the Neighbourhood Plan area it is unlikely to lead to a significant increase in emissions from vehicular traffic or industrial (employment) uses on air quality as there are no direct housing or employment allocations. The allocation for public car parking may draw in and increase some vehicle traffic and/or move existing traffic flow and car parking issues from the centre of Northleach. The NDP supports sustainable transport and improving footpath links and the creation of a Green Infrastructure ring.

Noise and vibration from construction of new housing or employment development, and artificial lighting (such as street lamps, security lighting) as included in the Public Parking allocation, on species such as birds and bats, would need to be within 500m of a site to have an adverse effect. The Local Plan HRA notes those SACs that do lie within 500m of District boundary are, '*habitats not vulnerable to noise, vibration or air pollution*' (para 3.19). This does not include Northleach with Eastington Plan area. The nearest SAC is beyond the 15km 'area of search.'

#### **Impact -Recreational pressures**

While some tourism development is supported including that for a possible hotel within the settlement boundary, along with proposals to enhance The Old Prison Site in the NDP, visitor numbers are thought unlikely to increase significantly.

The SAC lies some distance from the NDP and is located adjacent the District Boundary. In addition to the location of the SAC no new housing and/or associated transport infrastructure, resulting in increased population pressure locally, or via improved access through the District, to cause disturbance and erosion to the site (which is also a managed National Nature Reserve), is therefore considered likely.

#### **Impact -Water quantity and quality**

No direct allocations for housing or employment uses suggest there would be no significant increase in water demand from development or to impact on groundwater water quality as a result of

potential development, and increased impermeable surfaces for example. The allocation for public parking supports the use of permeable/porous surfaces. The NDP also supports the limitation of flood risk.

1.20 Based on the HRA screening matrix for the Cotswold District Local Plan, the table below summarises whether the NDP is likely to have any significant effect on European sites:

<b>Neighbourhood Plan - <u>Northleach with Eastington</u></b>	<b>Likely activities (operations) to result as a consequence of the proposal</b>	<b>Likely effects if proposal implemented</b> <i>e.g. increased air pollution, erosion trampling and general disturbance from recreation pressure, and physical loss or damage to habitat<sup>2</sup></i>	<b>European site</b> potentially affected	<b>Possible effects in combination with other plans</b>	<b>Could the proposal have likely significant effects?</b>
Public Parking site allocation	Minimal activities- No significant increase in population, vehicle traffic, or recreational activities	Minimal effects - no direct housing or employment allocations, small scale development unlikely to lead to additional pressures on the SAC.	North Meadow and Clattinger Farm SAC	The NDP proposes small scale development including the allocation of public parking. It is unlikely any effects with other Plans may combine with the NDP to have adverse effect.	Unlikely The NDP does not allocate (growth) development. Located some 16km from the nearest SAC.
Proposals for tourism and employment development at Old Prison Site		The SAC lies beyond the 15km 'area of search'.		The SAC lies adjacent the District boundary, therefore development planned elsewhere can be an important consideration. No such effects were identified by the HRA and	
Support Tourism and high quality design development		Activities unlikely to cause air or other pollution, cause disturbance and/or physical loss or damage to habitat.		Appropriate Assessment, (which looked at other Authorities Plans),	
Primary school expansion					
Improvements to the Town Centre					
Designates Local Green Spaces					

<sup>2</sup> Types of effects as based on Local Plan HRA, Table 3.2.

for the District Local  
Plan.

- 1.21 The Cotswold District Local Plan was subject to HRA which looked at designated sites which could be impacted by development within Cotswold District. Appropriate Assessment concluded that adverse effects on any European Sites were ruled out in relation to physical loss, damage to habitat, air pollution, or increased recreation pressure; and that there were no likely significant in-combination effects with other authorities' development plans.

### **Conclusion**

- 1.22 The table below is taken from the flow diagram of the 'Application of SEA Directive to plans and programmes' (A practical Guide to the SEA Directive, ODPM Sept 2005). Stage 4 (below) of this process formally questions the requirement for a HRA.

Stage	Y/N	Reason
<p><b>4 Will the PP, in view of its likely effect on sites, require an assessment under Article 6 or 7 of the Habitats Directive? (Art. 3.2(b))</b></p>	<p>N</p>	<p>A District wide HRA Report for Cotswold District was prepared for the Local Plan process. The HRA Screening conclusions for the Local Plan were that a number of policies may result in significant effects on European Sites. These were considered further in Appropriate Assessment in 2017. This concluded that adverse effects on the integrity of any of the sites could be ruled out in relation to physical loss, damage to habitat, air pollution, increased recreation pressure, or in-combination effects with other development plans. It is not considered that the NDP proposals will affect a European site over and above the impacts identified in the HRA for the Local Plan.</p> <p>Of the 8 Natura Sites looked at in the HRA Report, North Meadow and Clattinger Farm SAC (one of two areas) are the closest to Northleach with Eastington Neighbourhood area, lying some 16km away to the south adjacent the District boundary.</p> <p>In light of a recent ECJ<sup>3</sup> ruling proximity or presence to a European site may trigger SEA if there is a potential impact, where mitigation measures <i>cannot</i> be used to conclude there is ‘no significant effect’.</p> <p>As the NDP does not allocate housing or employment sites for development (only public parking) and no mitigation policies are included in the Plan proximity (within 15km buffer<sup>4</sup>) of the SAC it is unlikely to have a significant effect and require Appropriate Assessment.</p> <p><u>It is considered that the NDP will not affect the specified Natura 2000 site over and above the impacts identified in the HRA Report carried out for the Local Plan. Therefore a full Appropriate Assessment is not considered to be required for the NDP.</u></p> <p>The HRA submitted alongside the Local Plan to Examination can be found here:  <a href="https://www.cotswold.gov.uk/media/1500069/Updated-HRA-Report-for-Local-Plan-Focussed-Changes.pdf">https://www.cotswold.gov.uk/media/1500069/Updated-HRA-Report-for-Local-Plan-Focussed-Changes.pdf</a></p>

<sup>3</sup> The People Over Wind and Sweetman vs. Coillte Teoranta

<sup>4</sup> Para 3.4, HRA Report, January 2017

- 1.23 As a result of the above assessment it is considered unlikely that there will be any significant environmental effects arising from the Northleach with Eastington Neighbourhood Plan as submitted at the date of this assessment, that were not covered in the Appropriate Assessment of the Local Plan.
- 1.24 The Screening Report was provided to Natural England for their opinion. The 5 week consultation period ended on 6<sup>th</sup> December 2018, with no comments being raised. (See their response Appendix 3).
- 1.25 Based on the Screening Report and taking into account the response from Natural England, it is **determined** in accordance with Regulation 106(1) of the Habitats Regulations by Cotswold District Council as the 'competent authority,' that an 'appropriate assessment' under Regulation 105 is not required.
- 1.26 If issues and proposals in the Neighbourhood Plan should change then a new screening may need to be undertaken. New development proposals in Northleach with Eastington will be determined in line with the Local and Neighbourhood Plans, and may individually require screening for Environmental Impact Assessment (EIA) based on their type, scale and location.

## Appendix I

### **What are the basic conditions that a draft neighbourhood plan or Order must meet if it is to proceed to referendum?**

Only a draft neighbourhood Plan or Order that meets each of a set of basic conditions can be put to a referendum and be made. The basic conditions are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004. The basic conditions are:

- a. having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the order (or neighbourhood plan). Read more details.
- b. having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses, it is appropriate to make the order. This applies only to Orders. Read more details.
- c. having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the order. This applies only to Orders. Read more details.
- d. the making of the order (or neighbourhood plan) contributes to the achievement of sustainable development. Read more details.
- e. the making of the order (or neighbourhood plan) is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area). Read more details.
- f. the making of the order (or neighbourhood plan) does not breach, and is otherwise compatible with, EU obligations. Read more details.
- g. prescribed conditions are met in relation to the Order (or plan) and prescribed matters have been complied with in connection with the proposal for the order (or neighbourhood plan). Read more details.

## Appendix 2

The conservation objectives of North Meadow and Clattinger Farm SAC can be found in full here: <http://publications.naturalengland.org.uk/publication/6299293463871488?category=5374002071601152>



### **European Site Conservation Objectives for North Meadow and Clattinger Farm Special Area of Conservation Site Code: UK0016372**

With regard to the SAC and the natural habitats and/or species for which the site has been designated (the 'Qualifying Features' listed below), and subject to natural change;

**Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;**

- **The extent and distribution of qualifying natural habitats**
- **The structure and function (including typical species) of qualifying natural habitats, and**
- **The supporting processes on which qualifying natural habitats rely**

This document should be read in conjunction with the accompanying *Supplementary Advice* document, which provides more detailed advice and information to enable the application and achievement of the Objectives set out above.

#### **Qualifying Features:**

H6510. Lowland hay meadows (*Alopecurus pratensis*, *Sanguisorba officinalis*)

**Appendix 3**  
**Natural England Response**

Date: 06 December 2018  
Our ref: 264969

Dear Mr Walker

**Northleach with Eastington Neighbourhood Development Plan – Final version of SA/SEA**

Thank you for your consultation on the above dated 1st November 2018 which was received by Natural England on the same date.

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.

**Sustainability Appraisal / 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 are concerned (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 SEA Directive 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.

### **Habitats Regulations Assessment**

Natural England notes that your authority, as competent authority under the provisions of the Habitats Regulations, has screened this neighbourhood plan to check for the likelihood of significant effects.

Your assessment concludes that the proposal can be screened out from further stages of assessment because significant effects are unlikely to occur, either alone or in combination. On the basis of information provided, Natural England concurs with this view.

For any new consultations, or to provide further information on this consultation please send your correspondences to [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk).

Yours sincerely

Victoria Kirkham  
Consultations Team