



## Habitats Regulations Assessment Screening Report

November 2018

### Somerford Keynes Plan 2018

#### Introduction

- 1.1 This screening report considers whether or not the content of the Somerford Keynes 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 Between June 2016 (pre-submission version) and August 2018 there have been changes to the Plan. In policy terms the main changes relate to the deletion of policies, however this has altered the Plan that previously went for consultation and therefore another pre-submission consultation will be undertaken. It is not considered necessary however to update the SEA previously consulted upon, as the latest draft NDP removes previous requirements rather than adds new proposals, and as such is not considered in conflict with the existing SEA screening (AECOM, June 2016).
- 1.4 The Somerford Keynes draft Neighbourhood Plan includes the following;
  - Support small scale residential development within Somerford Keynes village and for the local community
  - Improve and enhance footpaths and cycleways, traffic safety and local community facilities
  - Designate Local Green Spaces
  - Support improved telecommunications and flooding/drainage infrastructure sensitive to the environment and landscape
  - Enhance and conserve the characteristics /key views of rural settlements, local heritage 'sites' assets and environment including habitats, woodland and hedgerows.
  - Support small scale businesses, including tourism and recreational activities, on former gravel extraction sites
- 1.5 The Plan does not directly allocate land for development. It provides local guidance on how applications for development in the plan area should be determined.

#### Legislation

- 1.6 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).

- 1.7 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).
- 1.8 The Habitats Directive was transposed into English law by the ‘Conservation of Habitats and Species Regulations (as amended) 2012’ or ‘Habitats Regulations’.
- 1.9 HRA is the screening assessment of the likely effects, or impacts, of a land use proposal against the conservation objectives of European sites (Appendix 2); and considers whether or not a proposal (alone or in combination) is likely to be significant. European Sites are also known as Natura 2000 sites.
- 1.10 The HRA submitted alongside the Local Plan to Examination can be found here: <https://www.cotswold.gov.uk/media/1500069/Updated-HRA-Report-for-Local-Plan-Focussed-Changes.pdf>

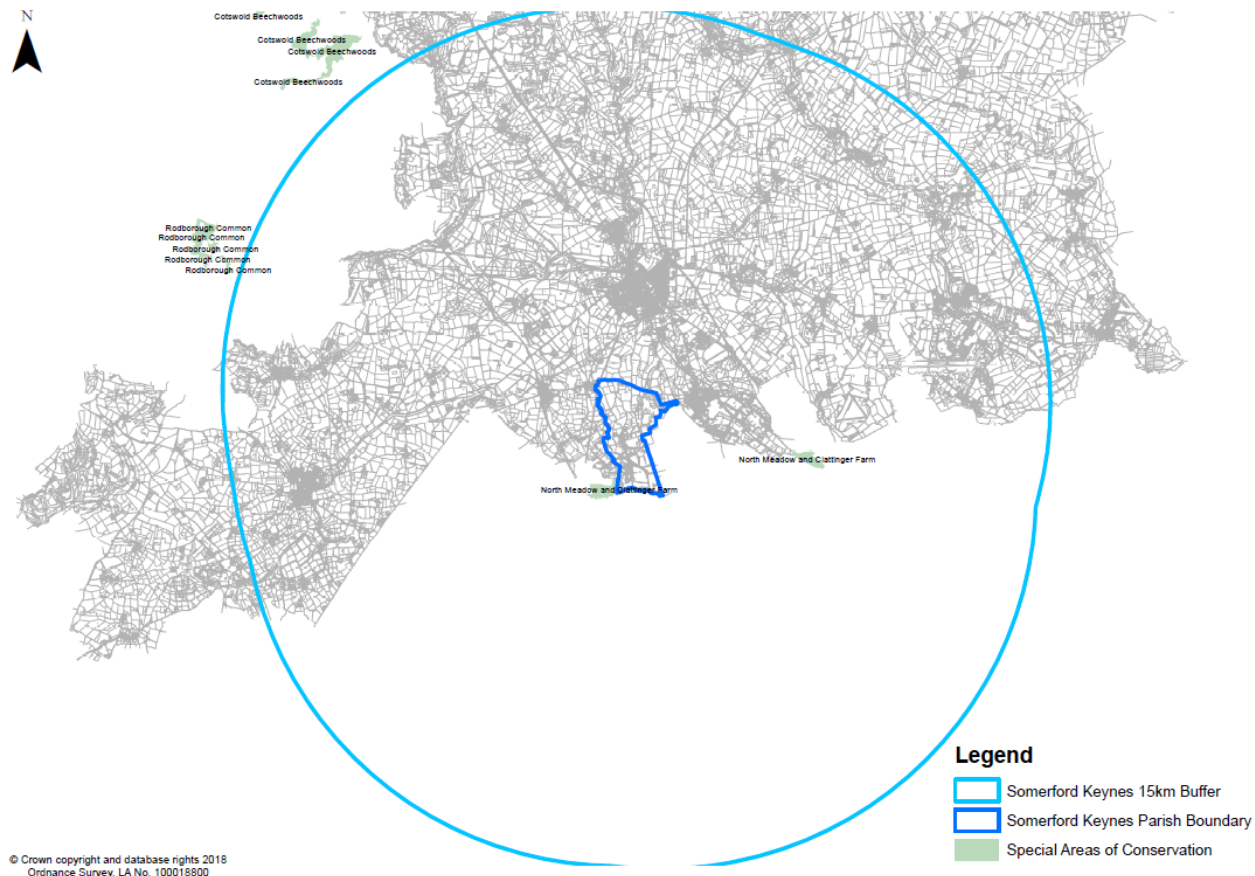
## Methodology

- 1.11 The HRA refers to the assessment of the potential effects of a Plan on one or more European Sites. The internationally designated Ramsar Sites (for wetland habitats) are also included within this collective term. 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.
- 1.12 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.
- 1.13 Screening is ‘Stage 1’ or the ‘Significance Test’ of the HRA process, followed, if necessary, by an Appropriate Assessment ‘Stage 2’ or the ‘Integrity Test’ in accordance with Regulation 102 of the Conservation of Habitats and Species Regulations 2010. A HRA screening report is prepared here to ensure compliance with the ‘basic conditions’ and EU regulations, and requires consultation with Natural England.
- 1.14 Under the Regulation 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.
- 1.15 Case law helps interpret when effects are considered likely to be significant – ‘*if it cannot be excluded on the basis of objective information*’ or ‘*it undermines the conservation objectives.*’ (Cotswold Local Plan HRA para 3.10)

## 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. The relevant site is;

- **North Meadow and Clattinger Farm Special Area of Conservation (SAC)**



1.17 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 on the south western boundary of the Neighbourhood Area. The SAC represents lowland hay meadows and contains rare species characteristic of lowland meadows. It covers some 105ha in area.

1.18 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.

<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 2016, para 3.4)

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

No loss of land or change of land use as no allocations for development. The NDP supports small scale development and housing for local people but within settlement 'stop points' with Somerford Keynes village itself, approximately 930m north east of the SAC.

While some development is possible within the Neighbourhood Plan area, which could have a potential impact on 'transient species' i.e. those which travel beyond the SAC area to roost or forage, 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**

Small scale development and lack of allocations suggests unlikely lead to an increase in emissions from increased traffic or industrial (employment) uses on air quality. In addition the NDP supports sustainable transport and enhanced walking and cycling routes.

Noise and vibration from construction of new housing or employment development, and artificial lighting (such as street lamps, security lighting) on species would need to be within 500m of a site to have an adverse effect (HRA). However, the Local Plan HRA notes those SACs that lie within 500m of District boundary are, '*habitats not vulnerable to noise, vibration or air pollution*' (para 3.19).

### **Impact -Recreational pressures**

No new housing and/or transport infrastructure, resulting in increased local population pressure and/or improved access, to cause disturbance and erosion to the site which is also a National Nature Reserve. While some small scale tourism and recreational activities in the NDP are supported, visitor numbers are also unlikely to significantly increase.

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

Small scale development and lack of allocations suggest no significant increase in water demand from development or to impact on groundwater water quality as a result of potential development, and impermeable surfaces for example. The NDP supports the limitation of flood risk.

1.19 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 - Somerford Keynes</b>	<b>Likely activities (operations) to result as a consequence of the proposal</b>	<b>Likely effects if proposal implemented</b>	<b>European site potentially affected</b>	<b>Possible effects in combination with other plans</b>	<b>Could the proposal have likely significant effects?</b>
		<i>e.g. increased air pollution, erosion trampling and general disturbance from recreation pressure, and physical loss or damage to</i>			

**habitat<sup>2</sup>**

No housing or employment allocations	Minimal activities- No significant increase in population, vehicle traffic, or recreational activities	Minimal effects - no direct allocations so unlikely to lead to additional pressures on the SAC.	North Meadow and Clattinger Farm SAC	The NDP does not propose development. Therefore unlikely any effects with other Plans may combine with the NDP to have adverse effect.	Unlikely. The NDP does not allocate development.
Support for small scale development and housing for local people		Activities unlikely to cause air or other pollution, cause disturbance and/or physical loss or damage to habitat.		The SAC lies adjacent both the Neighbourhood and District boundary, therefore development planned elsewhere is an important consideration. No such effects were identified by the HRA and Appropriate Assessment, (which looked at other Authorities Plans), for the District Local Plan.	
Support for limitation of flood risk					
Limiting effects of traffic, enhance walking and cycling					
Protection and enhancement of historic environment and villagescape					
Key species and habitat protection and enhancement					

- 1.20 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, increased recreation pressure, and no likely significant in-combination effects with other authorities' development plans.
- 1.21 The adopted Local Plan includes policy (EN9) to safeguard such sites from development that could cause a significant adverse effect on the integrity of the SAC; and Policy INF7: Green Infrastructure promotes protection and enhancement of GI to help relieve recreation pressure.

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

## 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
<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>	N	<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 Somerford Keynes Neighbourhood area, lying adjacent to both the Neighbourhood Plan area and Cotswold District boundary to the southwest.</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 <u>the NDP does not allocate sites</u> for development and in any case 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 Somerford Keynes draft Neighbourhood Plan as submitted at the date of this assessment, that were not covered in the Appropriate Assessment of the Local Plan.
- 1.24 In addition there are no direct allocations proposed in the NDP and the impact of any potential development (in general conformity with the Local Plan) is expected to be localised and minimal and therefore not significant. A lack of activities that could have a potential impact, and therefore have minimal effects, is considered unlikely to lead to additional pressures on the SAC.
- 1.25 The Screening Report was provided to Natural England for their opinion. The 5 week consultation period ended on 16<sup>th</sup> November 2018, with no comments being raised. (See their response Appendix 3).
- 1.26 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.
- 1.27 If issues and proposals in the Neighbourhood Plan should change then a new screening may need to be undertaken. New development proposals in Somerford Keynes 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 1

### 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: 08 November 2018

Our ref: 261518

Dear Mr Walker and Ms Corbett,

Request for HRA Screening Opinion on a Neighbourhood Development Plan for Somerford  
Keynes

Thank you for your consultation on the above dated and received by Natural England on 12th  
October 2018.

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.

Natural England does not consider that this Screening Opinion suggests or poses any likely  
risk or opportunity in relation to our statutory purpose, and so does not wish to comment on  
this consultation.

The lack of comment from Natural England should not be interpreted as a statement that there are  
no impacts on the natural environment. Other bodies and individuals may wish to make comments  
that might help the Local Planning Authority (LPA) to fully take account of any environmental risks  
and opportunities relating to this document.

If you disagree with our assessment of this proposal as low risk, or should the proposal be amended  
in a way which significantly affects its impact on the natural environment, then in accordance with  
Section 4 of the Natural Environment and Rural Communities Act 2006, please consult Natural  
England again.

Yours sincerely

Sharon Jenkins

Consultations Team