

Broadwas and Cotheridge Neighbourhood Plan

**Strategic Environmental Assessment
(SEA) and Habitats Regulations
Assessment (HRA) Screening Opinion
and Addendum**



January 2019

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1. INTRODUCTION

1.1 BACKGROUND

This screening report is designed to determine whether or not the content of the draft Broadwas and Cotheridge Neighbourhood Plan requires a Strategic Environmental Assessment (SEA) in accordance with the European Directive 2001/42/EC and associated Environmental Assessment of Plans and Programmes Regulations 2004.

Whether a Neighbourhood Plan requires a SEA, and if so the level of detail needed, will depend on what is proposed in the draft Neighbourhood Plan. The National Planning Practice Guidance (NPPG) states that a SEA may be required, for example, where:

- the Neighbourhood Plan allocates sites for development;
- the Neighbourhood Plan 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 the SEA of the Local Plan in the area.

The screening report also examines the potential impact of the draft Broadwas and Cotheridge Neighbourhood Plan on internationally designated wildlife sites and determines if the plan requires a Habitats Regulations Assessment (HRA).

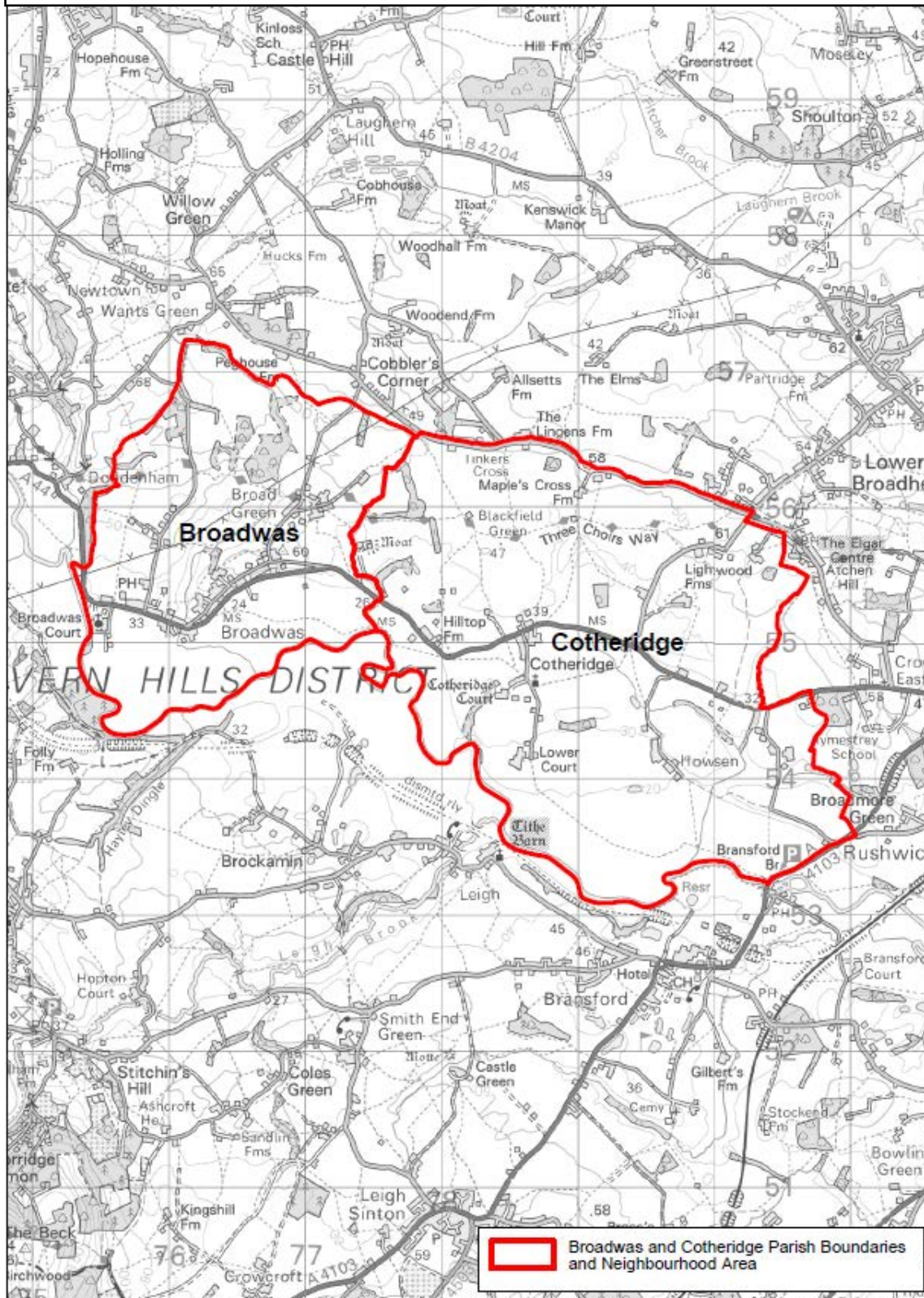
When deciding on whether the proposals are likely to have significant effects, the local authority is required to consult Historic England, Natural England and the Environment Agency. Where the local planning authority determines that the plan is unlikely to have significant environmental effects (and, accordingly, does not require an environmental assessment) it should prepare a statement of its reasons for the determination.

1.2 DRAFT BROADWAS AND COTHERIDGE NEIGHBOURHOOD PLAN SUMMARY

The Broadwas and Cotheridge Neighbourhood Plan is essentially a community-led framework for guiding future development and growth of the parishes to the year 2030. Nine draft policies have been proposed, focusing on topics including housing, employment, green spaces, key views, design, community facilities and renewable energy.

1.3 BROADWAS AND COTHERIDGE DESIGNATED NEIGHBOURHOOD AREA

Figure 1 – Designated Broadwas and Cotheridge Neighbourhood Area



1.4 DRAFT BROADWAS AND COTHERIDGE NEIGHBOURHOOD PLAN POLICY SUMMARIES

Nine policies are proposed in the draft Broadwas and Cotheridge Neighbourhood Plan; they are summarised below.

DRAFT POLICY	SUMMARY
P1 Broadwas Development Boundary	Policy P1 defines the Broadwas Development Boundary, in line with that defined under the SWDP.
P2 Open Countryside in Broadwas and Cotheridge	Policy P2 defines the open countryside as land which falls outside of the Broadwas Development Boundary, and seeks to strictly control development within the open countryside.
P3 Amenity Green Spaces in Broadwas	Policy P3 identifies five areas of land as Amenity Green Spaces, within which development should not be permitted unless it is in accordance with SWDP5 (Green Infrastructure), SWDP6 (Historic Environment) and SWDP38 (Green Space).
P4 Recreational Green Spaces	Policy P4 affords Berryfields Children's Play Area and Sports Ground and Stoney Ley Sports Ground protection under SWDP38 Green Space, and also encourages proposals for the enhancement of existing facilities on the sites.
P5 Key Views	Policy P5 identifies a number of sites and key views which are to be protected against inappropriate development which would detract from the landscape quality, requiring proposals which would affect the setting of the listed sites to demonstrate how careful consideration has been given to ensure that any adverse visual impacts are minimised.
P6 Design of Development	Policy P6 lists a number of design considerations which must be taken in to account, aiming to reinforce local distinctiveness, promote the use natural materials, minimise residential amenity impacts, incorporate adequate parking and include the provision of relevant landscaping.
P7 Employment Uses and Farm Diversification	Policy P7 echoes SWDP12's support for employment in rural areas, subject to the development not having undue negative environmental and amenity effects. Policy P7 also supports Homeworking proposals providing residential amenity is not negatively impacted by way of changes to the appearance of the building, noise disturbance and unsociable working hours.
P8 Built Community	Policy P8 identifies eight built community facilities to be

DRAFT POLICY	SUMMARY
Facilities	protected, and also supports the provision of new/improved community infrastructure and facilities.
P9 Renewable Energy	Policy P9 encourages small-scale renewable energy proposals which will benefit the community, providing they respect the rural character of the area, would not adversely impact a local heritage asset, would not adversely affect biodiversity, and the local and residential amenity is protected.

1.5 STRATEGIC ENVIRONMENTAL ASSESSMENT (SEA) PROCESS

The basis for Strategic Environmental Assessment (SEA) legislation is European Directive 2001/42/EC which was transposed into English law by the Environmental Assessment of Plans and Programmes Regulations 2004, or SEA Regulations. Detailed guidance on these regulations can be found in the Government publication “A Practical Guide to the Strategic Environmental Assessment Directive” (OPDM 2005).

The SEA process aims to ensure that likely significant environmental effects arising from a Plan are identified, assessed, mitigated, communicated and monitored, and that opportunities for public involvement are provided. It enables environmental considerations to be accounted for in decision-making throughout the production of a Plan in an integrated manner.

Figure 2 sets out the screening procedure and how a plan should be assessed against the SEA Directive criteria. This outline procedure has then been applied to the emerging draft Broadwas and Cotheridge Neighbourhood Plan in Table 1.

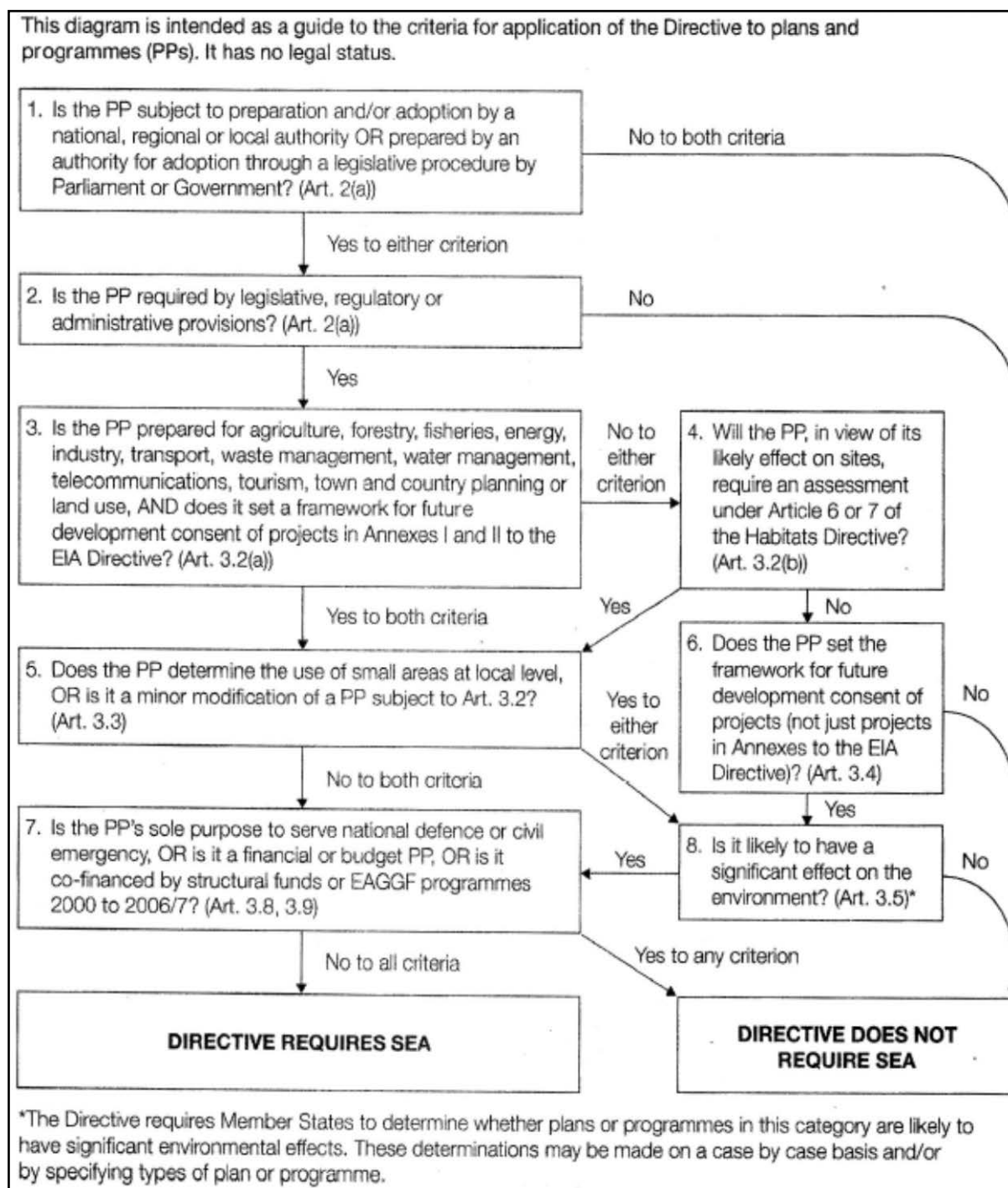


Figure 2 – Application of the SEA Directive to Plans and Programmes

Table 1: Assessment of the draft Broadwas and Cotheridge Neighbourhood Plan using SEA Directive Criteria

Stage	Y/N	Reason
1. Is the Broadwas and Cotheridge Neighbourhood Plan subject to preparation and/or adoption by a national, regional or local authority OR prepared by an authority for adoption through a legislative procedure by Parliament or Government? (Art. 2(a))	Y	This is a Neighbourhood Plan that is being prepared by a qualifying body the Localism Act 2011. If the Plan is passed by means of an Examination and Referendum, it will be formally adopted by the Local Planning Authority. It will then form part of the local development framework and be afforded significant weight in planning decisions.
2. Is the Broadwas and Cotheridge Neighbourhood Plan required by legislative, regulatory or administrative provisions? (Art. 2(a))	N	Neighbourhood Plans are not mandatory requirements, and the Broadwas and Cotheridge Neighbourhood Plan is being prepared voluntarily by the local qualifying body in line with the provisions of the Localism Act. If the Plan is adopted however it will form part of the statutory development plan, and it is therefore considered necessary to answer the following questions to determine if an SEA is required.
3. Is the Broadwas and Cotheridge Neighbourhood Plan prepared for agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use, AND does it set a framework for future development consent of projects in Annexes I and II to the EIA Directive? (Art 3.2(a))	N	The Plan is prepared for town and country planning and sets out a framework for future development consent of projects, however the draft Broadwas and Cotheridge Neighbourhood Plan does not allocate any specific areas of land for development.
4. Will the Broadwas and Cotheridge Neighbourhood Plan, in view of its likely effect on sites, require an assessment for future development under Article 6 or 7 of the Habitats Directive? (Art. 3.2 (b))	N	See Screening Opinion for HRA in Section 3 of this report.

5. Does the Broadwas and Cotheridge Neighbourhood Plan determine the use of small areas at local level, OR is it a minor modification of a PP subject to Art. 3.2? (Art. 3.3)	Y	The Broadwas and Cotheridge Neighbourhood Plan is made up of a number of policies which, when adopted, will form part of the Local Development Framework and so will have significant weight in planning decisions.
6. Does the Broadwas and Cotheridge Neighbourhood Plan set the framework for future development consent of projects (not just projects in annexes to the EIA Directive)? (Art 3.4)	Y	When adopted, the Broadwas and Cotheridge Neighbourhood Plan will be a statutory planning document. It will form part of the Local Development Framework and so will have significant weight in planning decisions. The responsibility for issuing development consent will remain with the Local Authority.
7. Is the Broadwas and Cotheridge Neighbourhood Plan's sole purpose to serve the national defence or civil emergency, OR is it a financial or budget PP, OR is it co-financed by structural funds or EAGGF programmes 2000 to 2006/7? (Art 3.8, 3.9)	N	Not Applicable
8. Is it likely to have a significant effect on the environment? (Art. 3.5)	N	The Broadwas and Cotheridge Neighbourhood Plan is unlikely to have a significant effect on the environment. To investigate the likelihood of potential impacts further a case-by-case assessment has been conducted, the full results of which can be found in Table 2.

Based upon the initial screening carried out against the criteria in Table 1 above, the emerging draft Broadwas and Cotheridge Neighbourhood Plan is unlikely to have a significant effect on the environment. To explore these potential effects further, a case-by-case assessment has been conducted. The criteria used in the undertaking of such an assessment are drawn from Article 3.5 (Annex II) of the SEA directive, and the results are shown in Table 2.

1.5 HABITATS REGULATIONS ASSESSMENT (HRA) PROCESS

The Habitats Regulations Assessment (HRA) refers to the assessment required for any plan or project to assess the potential implications for European wildlife sites. The HRA therefore looks at whether the implementation of the plan or project would harm the habitats or species for which European wildlife sites are designated. The relevant European wildlife site designations are Special Protection Areas (SPAs) and Special Areas of Conservation (SACs), which together form part of the Natura 2000 network.

In addition to SPAs and SACs, Ramsar sites are also designated areas which, as a matter of government policy, are to be treated in the same way as European wildlife sites (although they are not covered by the Habitats Regulations). European wildlife sites and Ramsar sites are collectively known as internationally designated wildlife sites.

The legislation sets out a process to assess the potential implications of a plan on internationally designated wildlife sites. The first stage of this process is a screening exercise where the details of nearby internationally designated sites are assessed to see if there is the potential for the implementation of the plan to have an impact.

2. SEA SCREENING

2.1 SEA SCREENING ASSESSMENT

European Directive 2001/42/EC requires a full Strategic Environmental Assessment to be undertaken for certain types of plans and programmes that would have a significant environmental effect.

Table 2 below provides the screening determination of the need to carry out a full Strategic Environmental Assessment for the draft Broadwas and Cotheridge Neighbourhood Plan. This has been made in accordance with the Regulations and will be subject to consultation with the strategic environmental bodies before Malvern Hills District Council makes its determination on the necessity for a full Strategic Environmental Assessment.

Table 2 – The Environmental Assessment of Plans and Programmes Regulations 2004: Schedule 1 - Criteria for determining the likely significance of effects on the environment.

Criteria for determining the likely significance of effects (SEA Directive, Annex II)	Likely to have significant environmental effects?	Summary of significant events
1(a) the degree to which the draft Broadwas and Cotheridge Neighbourhood Plan sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources;	NO	The Broadwas and Cotheridge Neighbourhood Plan would, if adopted, form part of the statutory Development Plan and as such would contribute to the framework for future development consent of projects.
1(b) the degree to which the draft Broadwas and Cotheridge Neighbourhood Plan influences other plans and programmes including those in a hierarchy;	NO	The policies contained within the draft Broadwas and Cotheridge Neighbourhood Plan are considered to be in general conformity with the SWDP, and will be used alongside this document in the determination of planning applications when formally 'made' (adopted).
1(c) the relevance of the draft Broadwas and Cotheridge Neighbourhood Plan for the integration of environmental	NO	The policies of the draft Broadwas and Cotheridge Neighbourhood Plan are not considered to have a significant impact on the integration

Criteria for determining the likely significance of effects (SEA Directive, Annex II)	Likely to have significant environmental effects?	Summary of significant events
considerations in particular with a view to promoting sustainable development;		of environmental considerations.
1(d) environmental problems relevant to the draft Broadwas and Cotheridge Neighbourhood Plan;	NO	The draft Broadwas and Cotheridge Neighbourhood Plan is more likely to promote environmental sustainability than create any environmental problems.
1(e) the relevance of the draft Broadwas and Cotheridge Neighbourhood Plan for the implementation of community legislation on the environment (for example, plans and programmes linked to waste management and water protection);	NO	The policies of the draft Broadwas and Cotheridge Neighbourhood Plan are not considered to be relevant to the implementation of EC legislation.
2(a) the probability, duration, frequency and reversibility of the draft Broadwas and Cotheridge Neighbourhood Plan;	NO	It is considered unlikely that there will be any irreversible damaging environmental impacts associated with the draft Broadwas and Cotheridge Neighbourhood Plan. The plan features policies which seek to protect and enhance the natural, built and historic environment, and the plan is therefore likely to result in beneficial rather than damaging effects.
2(b) the cumulative nature of the effects of the draft Broadwas and Cotheridge Neighbourhood Plan;	NO	The policies of the draft Broadwas and Cotheridge Neighbourhood Plan are unlikely to have any significant cumulative negative environmental impacts.
2(c) the transboundary nature of effects of the draft Broadwas and	NO	The draft Broadwas and Cotheridge Neighbourhood Plan is unlikely to have any significant negative

Criteria for determining the likely significance of effects (SEA Directive, Annex II)	Likely to have significant environmental effects?	Summary of significant events
Cotheridge Neighbourhood Plan;		environmental impacts on adjoining Parishes.
2(d) the risks to human health or the environment (for example, due to accidents) due to the draft Broadwas and Cotheridge Neighbourhood Plan;	NO	It is considered that there will be no risk to human health or the environment as a result of the draft Broadwas and Cotheridge Neighbourhood Plan.
2(e) the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected);	NO	The draft Broadwas and Cotheridge Neighbourhood Plan applies to an area of 1,290 hectares and has a resident population of 539 (2011 census). The policies of the Neighbourhood Plan apply to the entirety of this area, and are unlikely to significantly affect areas beyond the Neighbourhood Area boundary.
2(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	NO	The draft Broadwas and Cotheridge Neighbourhood Plan will not have any substantial impact on these factors.
2(g) the effects on areas or landscapes which have a recognised national, community or international protection status.	NO	The policies of the draft Broadwas and Cotheridge Neighbourhood Plan are unlikely to have a negative impact on any environmental designations in the Neighbourhood Area.

2.2 SEA SCREENING OPINION

The assessment shown in Table 2 above identifies no potential significant negative effects arising from the draft Broadwas and Cotheridge Neighbourhood Plan, and as such it is considered that it will not require a full SEA to be undertaken.

3. HRA SCREENING

3.1 HRA SCREENING ASSESSMENT

There are no internationally designated wildlife sites located within the Broadwas and Cotheridge Neighbourhood Area. For the purposes of this screening assessment however, sites that fall within a 20km radius are considered. There is one site identified within this range – Lyppard Grange Ponds SAC which is approximately 10km east of the Broadwas and Cotheridge Neighbourhood Area.

Lyppard Grange Ponds SAC is located on the eastern outskirts of Worcester, situated amongst a recent housing development on former pastoral farmland. The site comprises two ponds in an area of grassland and scrub (public open space). The site provides habitat for Great Crested Newts *Triturus Cristatus*, which are dependant on both the existing terrestrial habitat (to provide foraging areas and refuge) and on the aquatic habitat (for breeding).

The potential impact of development on Lyppard Grange Ponds SAC was examined by a HRA Appropriate Assessment (AA) as part of the production of the South Worcestershire Development Plan (SWDP). The HRA Screening of the SWDP concluded that there was uncertainty with regard to the potential for significant effects on the two sites as a result of increased disturbance, in particular due to the increased recreational activity. Concerns were raised specifically relating to Lyppard Grange Ponds SAC and the potential impact of proposed development on water levels and quality.

As a result of concerns raised, a HRA AA was conducted (which can be viewed on the SWDP website). The HRA AA concluded that the policies and land allocations of the SWDP were not likely to have adverse effects on the integrity of the Lyppard Grange Ponds SAC. In addressing concerns relating to possible increased disturbance at the SACs, it was concluded that the location of the sites in relation to the proposed developments and also the availability of more suitable areas of open space for recreation in close proximity would keep potential impacts to a minimum. It was also considered that the policies of the SWDP would sufficiently mitigate the potential impact of proposed developments on the water environment, leading to minimal effect on the SAC sites.

3.2 HRA SCREENING OPINION

As a result of the above assessment, it is considered that the policies of the draft Broadwas and Cotheridge Neighbourhood Plan are in general conformity with those contained in the SWDP. With this in mind, alongside the SWDP AA and the fact that the draft Broadwas and Cotheridge Neighbourhood Plan does not deviate from the land allocations contained within the SWDP, it is concluded that the draft Broadwas and Cotheridge Neighbourhood Plan is unlikely to have a negative impact on any internationally designated wildlife sites and as such, the recommendation is made that a full AA is not required.

4. REPRESENTATIONS FROM CONSULTATION BODIES

The three statutory consultation bodies (Natural England, Historic England and the Environment Agency) were consulted under Regulation 9 (2)(b) to determine whether they agree with the conclusion of this screening opinion. A summary of their responses are presented below. Full responses can be found in Appendix 1.

Natural England concurred with the screening opinion that no SEA is required. Natural England also agreed with the District Council's conclusion of no likely significant effect upon the named European designated site - Lyppard Grange SAC.

Historic England concurred with the District Council's view that the preparation of a SEA is not required for the Broadwas and Cotheridge Neighbourhood Plan.

The Environment Agency noted that the Draft Broadwas and Cotheridge Neighbourhood Plan is not proposing to allocate any new sites for development and would therefore not have any significant effects on any aspects of the environment within their remit, and therefore a full SEA would not be required.

5. CONCLUSIONS

The preceding assessment exercises have examined whether the Draft Broadwas and Cotheridge Neighbourhood Plan is likely to require a full Strategic Environmental Assessment or a Habitats Regulation Assessment Appropriate Assessment.

The SEA screening exercise featured in Section 2 concludes that the Draft Broadwas and Cotheridge Neighbourhood Plan does not require a full Strategic Environmental Assessment to be undertaken. This is because the Neighbourhood Plan does not propose any policies or allocate land for development which departs from the strategy of the South Worcestershire Development Plan, and the potential environmental impacts of this strategy have already been examined and addressed through means of a Sustainability Appraisal incorporating Strategic Environmental Assessment. The conclusions of the Sustainability Appraisal for the SWDP are therefore applicable to the Draft Broadwas and Cotheridge Neighbourhood Plan.

The HRA screening exercise featured in Section 3 concludes that the Draft Broadwas and Cotheridge Neighbourhood Plan does not require a full Habitats Regulation Assessment Appropriate Assessment to be undertaken. There are no internationally designated wildlife sites within the Broadwas and Cotheridge Neighbourhood Area, with the one identified within a 20km radius (Lyppard Grange Ponds SAC) having been assessed in the SWDP HRA AA. As the Draft Broadwas and Cotheridge Neighbourhood Plan is considered to be in general conformity with the SWDP, it is concluded that a HRA AA is not required.

Both of the above mentioned recommendations were subject to consultation with the statutory environmental bodies (Natural England, Historic England and Environment Agency) between 20th April 2018 and 25th May 2018.

In light of the screening exercises and in line with the views of the statutory consultation bodies, it is the conclusion of this screening opinion that the Draft Broadwas and Cotheridge Neighbourhood Plan does not require a full Strategic Environmental Assessment or Habitats Regulation Assessment Appropriate Assessment to be undertaken.

6. ADDENDUM

The Draft Broadwas and Cotheridge Neighbourhood Plan has now been prepared. This addendum provides an update on whether there is a need for a full Habitats Regulation Assessment Appropriate Assessment to be undertaken in light of the EU Court of Justice ruling in *People Over Wind and Sweetman v Coillte Teoranta* (Judgement of the Court Seventh Chamber 12 April 2018) and the Court of Justice (Second Chamber) judgement of 25 July 2018 *Grace, Sweetman, and National Planning Appeals Board Ireland* (ECLI:EU:C2018:593).

The original Screening Opinion was prepared prior to the “People over Wind” judgements mentioned above. Malvern Hills District Council has therefore reviewed the HRA Screening Opinion in light of the judgements.

The District Council consider that the HRA Screening Opinion for the Broadwas & Cotheridge Neighbourhood Plan remains valid and that a HRA Appropriate Assessment is not required for the following reasons:

- (i) The distance of the Neighbourhood Area from internationally designated wildlife sites. There are no internationally designated wildlife sites located within the Broadwas & Cotheridge Neighbourhood Area. For the purposes of the HRA screening assessment, internationally designated wildlife sites that fall within 20km were considered. There is one site identified within this range – Lyppard Grange Ponds SAC which is approximately 10km east of the Broadwas & Cotheridge Neighbourhood Area.
- (ii) The HRA screening assessment does not seek to take account of any measures intended to reduce or avoid any harmful effects of the Plan on any European site, in part due to the fact that the Neighbourhood Plan does not propose any development sites.

In December 2018 the District Council wrote to Natural England seeking their advice on whether any further action would be required as a result of the People over Wind judgements in relation to the Broadwas & Cotheridge Neighbourhood Plan.

In an email dated 19th December 2018, Natural England advised that they do not consider the People over Wind judgements to be relevant to the Broadwas and Cotheridge Neighbourhood Plan because, as far as they are aware, the Neighbourhood Plan will not result in likely significant effects on European sites. The Habitat Regulations Assessment's for the Neighbourhood Plan does not rely on mitigation in order to reach the conclusion of no likely significant effects and therefore the People over Wind judgements do not come into consideration. The full response from Natural England can be found in Appendix 2.

In light of the above, it is considered that the conclusion of the original screening opinion remains valid and that a HRA Appropriate Assessment is not required.

7. APPENDICIES

APPENDIX 1: RESPONSES FROM STATUTORY CONSULTATION BODIES

Response from Natural England

Date: 21 May 2018
Our ref: 245056
Your ref: Broadwas and Cotheridge NDP



Hornbeam House
Crewe Business Park
Electra Way
Crewe
Cheshire
CW1 6GJ

Reiss Sadler
Malvern Hills and Wychavon District Councils

BY EMAIL ONLY

T [REDACTED]

Dear Mr Sadler,

Planning consultation: Broadwas and Cotheridge Draft Neighbourhood Plan – SEA/HRA Screening.

Thank you for your consultation on the above dated 19/04/2018.

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.

Strategic Environmental Assessment Screening

We welcome the production of this SEA Screening report. Natural England notes and concurs with the screening outcome i.e. that no SEA is required.

Further guidance on deciding whether the proposals are likely to have significant environmental effects and the requirements for consulting Natural England on SEA are set out in the [National Planning Practice Guidance](#).

Habitats Regulations Assessment Screening

Natural England notes the screening process applied to this Neighbourhood plan. We agree with the Council's conclusion of no likely significant effect upon the named European designated sites:

- Lyppard Grange SAC.

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

For any queries relating to the specific advice in this letter only please contact Tom Amos on [REDACTED]. For any new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

We really value your feedback to help us improve the service we offer. We have attached a feedback form to this letter and welcome any comments you might have about our service

Yours sincerely

Tom Amos
Planning for a Better Environment
West Midlands Team

Response from Historic England



Historic England

WEST MIDLANDS OFFICE

Mr Reiss Sadler
Wychavon District Council
Civic Centre
Queen Elizabeth House
Pershore
Worcestershire
WR10 1PT

Direct Dial: [REDACTED]

Our ref: PL00379482

22 May 2018

Dear Mr Sadler

BROADWAS AND COTHERIDGE NEIGHBOURHOOD PLAN- SEA AND HRA SCREENING

Thank you for your consultation and the invitation to comment on the SEA and HRA Screening Document for the above Neighbourhood Plan.

For the purposes of consultations on SEA Screening Opinions, Historic England confines its advice to the question, "Is it likely to have a significant effect on the environment?" in respect of our area of concern, cultural heritage.

Our comments are based on the information supplied with the screening request. On the basis of the information supplied and in the context of the criteria set out in Schedule 1 of the Environmental Assessment Regulations [Annex II of the 'SEA' Directive], Historic England concurs with your view that the preparation of a Strategic Environmental Assessment is not required. Regarding HRA Historic England does not disagree with your conclusions but would defer to the opinions of the other statutory consultees.

The views of the other statutory consultation bodies should be taken into account before the overall decision on the need for a SEA is made. If a decision is made to undertake a SEA, please note that Historic England has published guidance on Sustainability Appraisal / Strategic Environmental Assessment and the Historic Environment that is relevant to both local and neighbourhood planning and available at: <https://www.historicengland.org.uk/images-books/publications/sustainability-appraisal-and-strategic-environmental-assessment-advice-note-8/>

I trust the above comments will be of help in taking forward the Neighbourhood Plan.

Yours sincerely,

[REDACTED]

Peter Boland
Historic Places Advisor



THE AXIS 10 HOLLIDAY STREET BIRMINGHAM B1 1TF
Telephone 0121 625 6870
HistoricEngland.org.uk



Historic England is subject to the Freedom of Information Act, 2000 (FOIA) and Environmental Information Regulations 2004 (EIR). All information held by the organisation will be accessible in response to an information request, unless one of the exemptions in the FOIA or EIR applies.

Response from Environment Agency

Reiss Sadler

Planning Officer (Policy)
Malvern Hills and Wychavon District
Councils
Civic Centre
Queen Elizabeth Drive
Pershore
WR10 1PT

Our ref: SV/2010/104075/OR-
05/IS1-L01
Your ref:

Date: 08 June 2018

Consultation - SEA & HRA screening assessment for Broadwas and Cotheridge Neighbourhood Plan.

Thank you for your consultation on the above. We note that Broadwas and Cotheridge Parish are preparing a neighbourhood plan and have undertaken a SEA and HRA screening assessment as part of this process. The SEA & HRA Screening opinion concludes that a SEA & HRA is not necessary.

SEA Screening:

Based on our indicative Flood Map for Planning, it appears that the neighbourhood area falls partly within Flood Zones 2&3 of the River Teme.

The document confirms that the Neighbourhood Plan area will not be allocating sites within its area (5.1) – “Consequently there is no need in this NDP to identify significant new allocations of land for residential development”.

Subsequently the conclusions of the screening report recommends that both a SEA & HRA are not required.

Future considerations

We would only make substantive further comments on the plan if you were seeking to allocate sites in flood zone 3 and 2 (the latter being used as the 1% climate change extent perhaps). Where an ‘ordinary watercourse’ is present this would need to be assessed and demonstrated as part of the evidence base within a Strategic Flood Risk Assessment (SFRA) i.e. to inform the sequential testing of sites and appropriate / safe development.

We do not offer detailed bespoke advice on policy but advise you ensure conformity with the adopted local plan and refer to guidance within our area neighbourhood plan ‘**proforma guidance**’ (latest copy attached). This has guidance on flood risk, water quality, including wastewater, and other environmental considerations.

I trust that the above is of assistance.

Yours faithfully

Mr. Alex Thompson

Planning Advisor

Direct dial [REDACTED]

Direct e-mail [REDACTED]

Environment Agency
Hafren House Welshpool Road, Shelton, Shrewsbury, SY3 8BB.
Customer services line: 03708 506 506
www.gov.uk/environment-agency
End

APPENDIX 2: FURTHER RESPONSE FROM NATURAL ENGLAND IN RELATION TO “PEOPLE OVER WIND” JUDGEMENTS

Date: 19 December 2018
Our ref: 267081
Your ref: None

David Clarke
Planning Officer
Malvern Hills District Council
david.clarke@malvern hills.gov.uk

BY EMAIL ONLY



Customer Services
Hornbeam House
Crewe Business Park
Electra Way
Crewe
Cheshire
CW1 6GJ

T [REDACTED]

Dear Mr Clarke

**Review of HRA Screening Assessments in light of the People over Wind judgement:
Malvern Town Neighbourhood Development Plan
Broadwas & Cotheridge Neighbourhood Development Plan**

Thank you for your correspondence, dated 10 December and today.

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.

I am writing to confirm the situation regarding the recent 'People over Wind' judgement and its relevance to the Malvern Town NDP and the Broadwas & Cotheridge NDP. However, should the same question arise in relation to any other NDP's in the District then the advice given here would apply, unless there are any additional considerations of which I am currently unaware.

The People over Wind judgement

In April 2018, a judgment was handed down by the Court of Justice of the European Union ('the CJEU') which provides further authoritative interpretation of the Habitats Directive. People over Wind, Peter Sweetman v Coillte ([Case C-323/17 People Over Wind v Coillte Teoranta](#)).

The CJEU's judgment states that mitigation measures cannot be taken into account when deciding whether a plan or project is likely to have a significant effect on a European site. Rather, a competent authority must take account of measures intended to avoid or reduce the harmful effects of a plan or project as part of the appropriate assessment. Only then can a conclusion be drawn as to whether the plan or project will have an adverse effect on the integrity of the site.

This is particularly pertinent with regard to Neighbourhood Plans, as there is a basic condition in the Neighbourhood Planning Regulations (2012) which states that the making of the neighbourhood plan is not likely to have a significant effect on a European site (paragraph 1, Schedule 2 of the Neighbourhood Planning (General) Regulations 2012). This means that Neighbourhood Plans cannot proceed to the appropriate assessment stage of the Habitat Regulations Assessment process.

Relevance of the People over Wind judgement to Neighbourhood Development Plans in Malvern Hills District

Natural England advises that we do not consider the People over Wind judgement to be relevant to NDP's in the Malvern Hills District. As far as we are aware, none of the NDP's in the Malvern Hills District result in likely significant effects on European sites. The Habitat Regulations Assessment's

for the NDP's do not rely on mitigation in order to reach their conclusion of *no likely significant effects*; therefore the People over Wind judgement does not come into consideration.

Changes to the Neighbourhood Planning Regulations (2012) to allow Neighbourhood Plans to proceed to the Appropriate Assessment stage of the Habitat Regulations Assessment process

For your information, I understand that the Ministry of Housing, Communities and Local Government has received ministerial approval to amend legislation to allow certain development orders, neighbourhood plans and permission in principle to progress to appropriate assessment and allow any mitigation measures needed to be fully considered. These changes will be laid before parliament on 7 December 2018, coming into force on 28 December 2018. Supporting guidance will be made available as part of Planning Practice Guidance.

For any queries relating to the specific advice in this letter only please contact Hayley Fleming on [REDACTED]. For any new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

Yours sincerely

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