

Screening Biddulph Neighbourhood Development Order - Habitats
Regulations Assessment

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Introduction



1 Introduction

1.1 Biddulph Town Council has prepared a draft Neighbourhood Development Order for Biddulph town centre. The Order is a response to the analysis of outcomes from community engagement and gathering of local evidence. The intention is to support the regeneration and economic development of Biddulph town centre.

1.2 The draft Order accompanies a draft Neighbourhood Plan that has been prepared alongside it.

1.3 Following determination as to whether Habitats Regulations Assessment of the draft Order is required, the Neighbourhood Development Order will be subject to a period of "pre-submission" public consultation. Following this consultation, the Town Council will prepare to submit the draft Order to the District Council in order that it might proceed to independent examination and subsequent referendum.

1.4 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" (adopted). The basic conditions are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990.

1.5 The District Council will need to be satisfied that the basic conditions have been met. A Neighbourhood Plan or Order must:

- have regard to national policy and guidance;
- have special regard to listed buildings (this applies only to Orders);
- have special regard to conservation areas (this also applies only to Orders);
- contribute to sustainable development;
- be in general conformity with strategic policies in the development plan;
- not breach EU obligations.
- comply with other prescribed matters.⁽¹⁾

1.6 Biddulph Town Council will be required to prepare a Basic Conditions Statement alongside the submitted Order, in order to demonstrate how the Neighbourhood Development Order meets the basic conditions set out above.

¹ Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) prescribe 2 basic conditions in addition to those set out in the primary legislation. These are (1) that the making of a Neighbourhood Plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017; and (2) having regard to all material considerations, it is appropriate that a Neighbourhood Development Order is made where the development described in an Order is Environmental Impact Assessment development.

Legislative background



2 Legislative background

2.1 Directive 92/43/EEC on the conservation of natural habitats and wild flora and fauna, commonly known as the "Habitats Directive", provides for the protection of habitats and species of European Community importance. Article 2 of the Directive requires the maintenance (or restoration), at favourable conservation status, of habitats and species of European Community interest. This is partly implemented through a network of protected areas referred to as "Natura 2000 sites" (N2K), or "European sites", consisting of:

- Special Areas of Conservation (SACs) - designated under the Habitats Directive⁽²⁾; and
- Special Protection Areas (SPAs) - designated under the Wild Birds Directive⁽³⁾.

2.2 "Ramsar sites", designated under the Ramsar Convention 1971, are treated by UK Government policy as if they were European sites in terms of the protection and management afforded to them. They should be included in assessment, where relevant.

2.3 Article 6(3) of the Habitats Directive requires that:

"Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives."

2.4 This requirement is implemented in domestic English law through: The Conservation of Habitats and Species Regulations 2010, with Regulation 102 setting out the obligations of the Directive's Article 6 placed upon local plan making authorities:

(1) Where a land use plan –

(a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination) with other plans or projects), and

(b) is not directly connected with or necessary to the management of the site,

the plan-making authority must, before the plan is given effect, make an appropriate assessment of the implications for the site in view of that site's conservation objectives.

(4) In the light of the conclusions of the assessment, and subject to regulation 103 (considerations of imperative reasons of overriding public interest), the plan-making authority... must give effect to the land use plan only after having ascertained that it will not adversely affect the integrity of the European site or the offshore European marine site (as the case may be).

2.5 Undertaking of these particular requirements is termed a "Habitats Regulations Assessment" (HRA).

2.6 The purpose of an HRA is to assess the significance of potential impacts of a plan on relevant European sites. The assessment should determine whether the plan would adversely affect the integrity of the site in terms of its nature conservation objectives. Where negative effects are identified, other options should be examined to avoid any potential for damaging effects.

2 Council Directive 94/43/EEC on the conservation of natural habitats and of wild fauna and flora (the Habitats Directive)
3 Council Directive 79/409/EEC on the conservation of wild birds. The "Wild Birds" Directive.

Methodology



3 Methodology

3.1 An outline of the overall HRA process in accordance with current guidance⁽⁴⁾ is set out below.

Stage 1: Screening for likely significant effects

- Identify European sites that should be considered in the assessment.
- Gather information about the European sites.
- Discretionary consultation with statutory nature conservation body (Natural England for England) on the list of European sites, method and scope of screening.
- Screen the plan for likely significant effects (LSEs) on a European site, including the potential for effects in combination with other plans or programmes.
- Consider potential for the application of mitigation measures, in order to avoid potential effects.
- Re-screen the plan after mitigation measures applied; and
- Prepare a draft record of the HRA (Screening Report).

3.2 If, on the basis of objective information, it can be determined that there will be no significant effects on any European sites, then the HRA process may stop here.

3.3 If significant effects cannot be ruled out (applying the precautionary principle), then the effect must be reported as likely, and the HRA must progress to Stage 2: Appropriate Assessment (AA).

Stage 2: Appropriate Assessment

- Undertake an appropriate assessment in view of the conservation objectives of the European site(s).
- Apply mitigation measures until there is no adverse effect on site integrity.
- Consult Natural England (and other stakeholders and the public if appropriate) on the HRA.
- Screen any amendments for likelihood of significant effects and carry out appropriate assessment if required.
- Re-consult Natural England if necessary on amendments; and
- Complete and publish final HRA Report.

3.4 Should the situation arise where there were no alternative solutions and adverse impacts remain, then the plan could only proceed if it meets the test of Imperative Reasons of Overriding Public Interest (IROPI test), and all necessary compensatory measures are secured. However, it should be noted that the guidance states that this should only be undertaken in exceptional circumstances.

⁴ Habitats Regulations Appraisal of Plans: Guidance for plan-making bodies in Scotland v2.0 (David Tyldesley and Associates; August 2012). Note although this guidance was originally prepared for Scottish Natural Heritage it is recognised as an authoritative source of guidance throughout the UK; and European Commission: 'Assessment of plans and projects significantly affecting Natura 2000 sites: Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC' (European Communities, 2002)

3.5 The HRA process is iterative and should be re-visited as policies develop, in response to consultation, and as more information becomes available.

HRA of the emerging SMDC Local Plan

3.6 The emerging Staffordshire Moorlands Local Plan has been subjected to Habitats Regulations Assessment as part of the plan preparation process. A report of the HRA findings can be found at:

- www.staffsmoorlands.gov.uk/media/2878/Habitats-Regulations-Assessment---Submission-Version-Feb-2018/pdf/HRA_Submission_Version_Local_Plan_February_2018.pdf

3.7 HRA screening of the Local Plan Preferred Options policies in December 2016 and June 2017 identified a number of Likely Significant Effects in relation to the following:

- Effects from increased water demand on the South Pennine Moors Phase 1 Special Protection Area (SPA) and Special Area of Conservation (SAC) and Peak District Dales SAC;
- Effects from increased traffic on air quality on the South Pennine Moors Phase 1 SPA and SAC and Peak District Dales SAC;
- Increased recreational pressure on the South Pennine Moors Phase 1 SPA and SAC and Peak District Dales SAC; and
- Urban effects on the South Pennine Moors Phase 1 SPA and SAC and Peak District Dales SAC.

3.8 The Appropriate Assessment stage of HRA was undertaken to evaluate the potential for the "screened in" Local Plan policies to result in adverse effects on the European sites as listed above. Various mitigation measures were subsequently proposed and these were incorporated into the emerging Local Plan.

3.9 On the basis of the revised Local Plan with mitigation in place, it has been concluded that the Submission Local Plan will not result in adverse effects on European sites, both alone and in combination with growth in neighbouring areas. This conclusion is supported by Natural England as confirmed in the Addendum to the HRA Report, dated June 2018:

- www.staffsmoorlands.gov.uk/media/3327/Habitats-Regulations-Assessment-Local-Plan-Submission-version-Addendum/pdf/7.3_HRA_Report_Submission_Version_Local_Plan_Addendum_June_2018.pdf

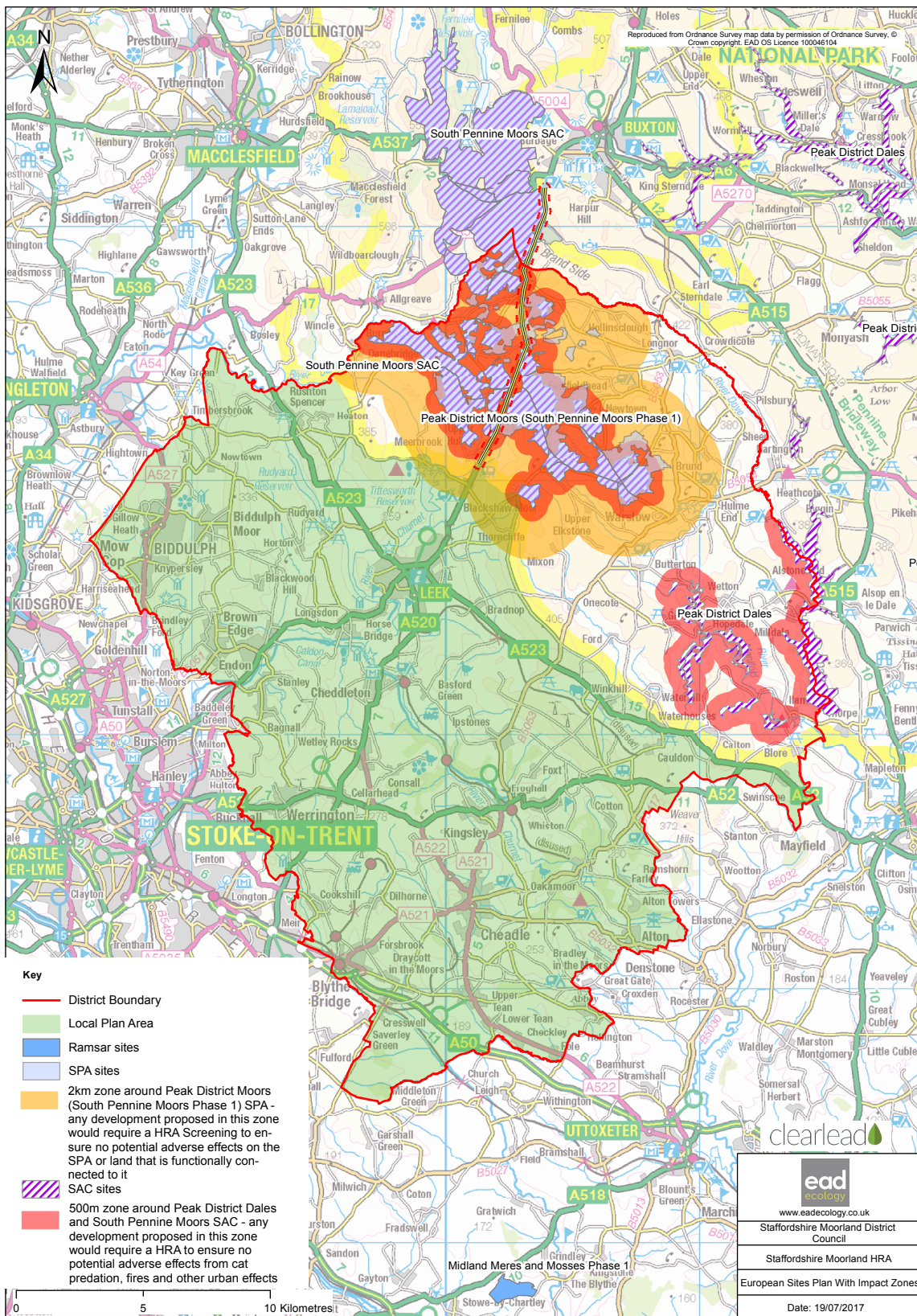
Zones of influence

3.10 The HRA of the emerging SMDC Local Plan provides guidance as to when a development proposal may require project level HRA because of the risk of impact on a European site.

3.11 This guidance states that any proposed development within a 2km zone around the South Pennine Moors Phase 1 SPA should be expected to undertake a project-level HRA to ensure no potential adverse effects on the SPA or land that is functionally connected to it. This zone of influence is mapped and illustrated at Map 1 below.

3.12 In addition, any development proposed within a 500m zone of the Peak District Dales SAC, the South Pennine Moors SAC and the South Pennine Moors Phase 1 SPA should be subject to a project-level HRA to ensure no potential adverse effects occur from cat predation, fires or other urban effects. The 500m zone of influence is also mapped and illustrated at Map 1.

3.13 The Biddulph Neighbourhood Plan Area, including the area of application of the Biddulph Neighbourhood Development Order, is approximately 10 km beyond the zones of influence.



Map 3.1 Zones of influence around European sites where proposals require HRA

Assessment



4 Assessment

4.1 The table below presents a Habitat Regulations Assessment Screening for the provisions of the draft Neighbourhood Development Order - Biddulph Town Centre.

Part of Order	Development permitted	Comment	In accordance with emerging Staffordshire Moorlands Local Plan?	Likely significant effect on European site
Part 1: Use of Upper Floors for Business Purposes	Subject to conditions and limitations being met, change of use of the upper floors of commercial properties to any purpose falling within Use Class B1 (Business).	This will support efficient use of resources by re-using existing units and buildings and will help to support sustainable development of the town centre.	Yes	No significant effect
Part 2: Replacement of shopfronts	The replacement of a shopfront in an existing opening on the ground floor frontage of commercial premises, providing the new shopfront meets specified design parameters.	This will help to support regeneration of the town centre.	Yes	No significant effect

Table 4.1 HRA Screening Assessment for the draft Neighbourhood Development Order - Biddulph Town Centre

Conclusions



5 Conclusions

5.1 Emerging Staffordshire Moorlands Local Plan Policy NE 1 Biodiversity and Geological Resources provides protection for European sites. The Policy includes the following provision:

The biodiversity and geological resources of the District and neighbouring areas will be conserved and enhanced by positive management and strict control of development (and having regard to relevant ecological evidence) by:

1. Resisting any proposed development that could have an adverse effect on the integrity of a European site (or successor designation) alone or in combination with other plans or projects unless it can be demonstrated that the legislative provisions to protect such sites can be fully met. Any development with a potential to adversely affect a European site/s through construction activities should ensure that Ciria construction guidelines are followed including environmental good practice on control of dust and water pollution.

5.2 The HRA undertaken of the emerging Staffordshire Moorlands Local Plan concluded that the Submission Local Plan will not result in adverse effects on European sites, both alone and in combination with growth in neighbouring areas.

5.3 As a result of the assessment set out in section 4 of this report, it is considered unlikely that any significant environmental effects will occur as a result of the implementation of proposals set out in the draft Neighbourhood Development Order - Biddulph Town Centre.

HRA Stage 1 Screening Outcome

5.4 The draft Neighbourhood Development Order - Biddulph Town Centre does not require further HRA work to be undertaken.

Consultation



6 Consultation

6.1 Prior to a determination being made, this screening report has been sent to Natural England to seek their opinion.

6.2 Natural England's screening opinion has been added to this screening report, before a statement of reasons for the determination is prepared and published.

Date: 22 July 2019
Our ref: 289316
Your ref: Biddulph SEA and HRA Screening



Joanna Bagnall
Regeneration Service

BY EMAIL ONLY
Joanna.bagnall@staffsmoorlands.gov.uk

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

T 0300 060 3900

Dear Ms Bagnall,

**SEA and HRA Screening:
Draft Biddulph Neighbourhood Plan
Draft Neighbourhood Development Order – Biddulph Town Centre**

Thank you for your consultation on the above dated 4th July 2019 which was received by Natural England on the same day.

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 the SEA Screening reports. Natural England notes and concurs with the screening outcome of both the Neighbourhood plan and the Neighbourhood Development Order that significant effects on the environment are considered to be unlikely to occur. Therefore no further environmental assessment 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 welcomes the consideration given to the Habitats Regulations. We are satisfied that the conclusion of the Local Planning Authority (as competent authority) that there are no likely significant effects on European sites is appropriate, and therefore advise that further Habitats Regulations Assessment is not required for both the Neighbourhood Plan and the Neighbourhood Development Order.

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

Yours sincerely

Victoria Kirkham
Consultations Team

