



Lavenham Neighbourhood Plan 2 2023 Draft

Habitats Regulations Screening Determination

February 2023

Table of Contents

	Page
1. Introduction	2
2. Legislative Background	2
3. Assessment	3
4. Screening Conclusion	3
5. Determination	4
6. Postscript (policy LAV 31)	4
Appendix 1: Response from Natural England	5

LAVENHAM NEIGHBOURHOOD PLAN 2 (2023 DRAFT)

HABITATS REGULATIONS DETERMINATION

1. Introduction

This assessment relates to the 'Lavenham Neighbourhood Plan 2 - 2023 Draft [hereafter referred to as the 'LNP2']. A copy of this was made available for screening purposes in September 2022.

It is a requirement of European Law that a plan or project is subject to an assessment to determine whether it is likely to have a significant effect on the integrity of any 'European Site', in terms of impacting on the site's conservation objectives.

Submitted Neighbourhood Plans need to be accompanied by a statement to explain how the proposed Plan meets the 'basic conditions' set out in Schedule 4B of the 1990 Town and Country Planning Act. These include a requirement to demonstrate how the Plan is compatible with EU obligations, which includes the need to undertake a Habitats Regulations Assessment (HRA). This is one of the matters that will be tested at the independent examination.

The assessment itself and the level of detail needed will depend on what is proposed in the draft Neighbourhood Plan and the potential impacts on Habitats Sites designated for their nature conservation interest.

This report therefore determines whether a HRA under the UK Conservation of Habitats and Species Regulations 2017, which enacts the Habitats Directive¹, is required for the LNP2. In doing so, it refers to:

- The HRA Screening Report (October 2022) prepared by Land Use Consultants, which can be found online at: www.babergh.gov.uk/LavenhamNP
- The response to this from the Statutory Consultee (see Appendix 1).

2. Legislative Background

One of the basic conditions that Neighbourhood Plans must meet is that:

"The making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017"

The Conservation of Habitats and Species Regulations 2017 include regulations on the assessment of plans (including neighbourhood plans) and projects on a Habitats site (European Site or a European offshore marine site). The first stage is to screen the plan to see whether it is likely to have a significant effect on any Habitats sites. If the plan is "screened-in" because likely significant effects cannot be ruled out, the next stage is for an Appropriate Assessment to be carried out considering the impact on the Habitats site's conservation objectives. Consent for the Plan can only be given if it is "screened-out" at the first stage or the Appropriate Assessment concludes the integrity of the Habitats site will not be adversely affected.

¹ Directive 92/43/EEC 'on the conservation of natural habitats and of wild fauna and flora': <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:31992L0043>.

Case law is also relevant, including most notably the ‘People over Wind’ and ‘Holohan’ rulings. The ‘People Over Wind, Peter Sweetman v Collie Teoranta’ judgement ruled that it is not permissible to take account of measures intended to reduce or avoid any harmful effects of a plan or project on a European Site at the screening stage. Any mitigation measures can now only be considered at the appropriate assessment stage. The ‘Holohan and Others v An Bord Pleanála’ judgement also imposes more detailed requirements on the competent authority for any plans or projects at the Appropriate Assessment stage, including, but not limited to cataloguing the entirety of habitat types and species for which a site is protected and being beyond reasonable scientific doubt concerning the effects of the work envisaged on the site concerned.

3. Assessment

In determining whether a proposed development plan or programme is likely to have significant effects, the local authority must incorporate the ‘precautionary principle’ into its decision. This means that if there is uncertainty as to whether the plan or programme would cause significant effects on a Habitats Site, the full Appropriate Assessment would be required.

LNP2 sets out a broad vision for Lavenham based around four key themes: ‘Climate Change’, a ‘Flourishing Village Community’, protecting ‘Heritage and Landscape’, and the ‘Movement of people and vehicles’

To deliver this vision, LNP2 contains 17 objectives and 42 planning policies (LAV1 to LAV42). These policies cover topics such as housing, green spaces, heritage, community facilities and transport. Some of these policies are carried over in full or in part from the made (adopted) 2016 Lavenham Neighbourhood Plan (LNP1). None of the policies in LNP2 allocated land for residential use or other forms of built development, although Policy LAV13: A Spatial Strategy for Lavenham sets out the circumstances in which development will be supported, both within and outside of the settlement boundary

The only European site identified as lying just within 20km of the designated plan area was Breckland SPA.

A full assessment of the likely effects of the Plan are set out in the Screening Report. [See link in section 1 above].

The screening has been prepared in accordance with the relevant CJEU judgements.

4. Screening Conclusion

The Screening Report concludes that: *“At the screening stage of HRA, no likely significant effects are predicted on European {Habitat} sites, either alone or in combination with other policies and proposals”*.

It goes on to say that: *“An Appropriate Assessment is not required for the Lavenham Neighbourhood Plan 2023 as none of the policies will result in development and likely significant effects from the plan can therefore be ruled out.”*

Consultation on the Screening Report was carried out with Natural England. In their responses (see Appendix 1) they agreed with the conclusion reached.

5. Determination

In light of the HRA Screening Report (October 2022) prepared by LUC, and the response to this from the statutory consultee, it is determined that the Lavenham Neighbourhood Plan 2023 is '**screened-out**' for further assessment under the Habitats Regulations 2017 and that an Appropriate Assessment is not required.

6. Postscript (Policy LAV 31)

The Regulation 14 Pre-submission draft version LNP2, which was published shortly after this screening exercise had drawn to a close, contained an additional policy inserted into the Plan as: Policy LAV31 - Land at 47 to 48 Water Street. The policy relates to an existing employment site within the settlement boundary.

As a precautionary measure the District Council asked LUC if this new policy alone altered or changed in any other way their original conclusion, suggesting to them that because it does not specifically allocate the site for development, it was our opinion that it would not trigger the need for full HRA. Responding, LUC confirmed our assumption that the inclusion of this policy would not change their original conclusion. On that basis, the District Council decided that no further action was necessary.

Date: 11 November 2022
 Our ref: 411263
 Your ref: Lavenham NP SEA/HRA Screening



Mr P Bryant
 Babergh & Mid Suffolk District Councils
communityplanning@baberghmidsuffolk.gov.uk

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

T 0300 060 3900

BY EMAIL ONLY

Dear Mr Bryant

Lavenham NP SEA/HRA screening reports

Thank you for your consultation on the above dated and received by Natural England on 31 October 2022

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.

HRA Screening Opinion

Natural England has no detailed comments to make on the HRA

Screening Request: 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 (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 Environmental Assessment of Plans and Programmes Regulations 2004 (as amended), 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.

Notwithstanding this advice, Natural England does not routinely maintain locally specific data on all potential environmental assets. As a result the responsible authority should raise environmental issues that we have not identified on local or national biodiversity action plan species and/or habitats, local wildlife sites or local landscape character, with its own ecological and/or landscape advisers, local record centre, recording society or wildlife body on the local landscape and biodiversity receptors that may be affected by this plan, before determining whether an SEA is necessary.

Please note that Natural England reserves the right to provide further comments on the environmental assessment of the plan beyond this SEA screening stage, should the responsible authority seek our views on the scoping or environmental report stages. This includes any third party appeal against any screening decision you may make.

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

Yours sincerely

Joanne Widgery
Consultations Team