



# **Lawshall Neighbourhood Plan Review 2021 - 2037**

## **Habitats Regulations Screening Determination**

**January 2023**

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# LAWSHALL NEIGHBOURHOOD PLAN REVIEW 2021 - 2037

## HABITATS REGULATIONS DETERMINATION

### 1. Introduction

This assessment relates to the Regulation 14 Pre-submission draft version of the Lawshall Neighbourhood Plan Review 2021 - 2037 [the 'Lawshall NP Review']. A copy of this was made available for screening purposes in October 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 Directive<sup>1</sup>, is required for the Lawshall NP Review. In doing so, it refers to:

- The HRA Screening Report (November 2022) prepared by Land Use Consultants, which can be found online at:  
<https://www.babergh.gov.uk/assets/Neighbourhood-Planning/Lawshall-NP-Review-HRA-Screening-Report-Nov22.pdf>
- 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

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<sup>1</sup> 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>.

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.

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.

The Lawshall NP Review sets out the following vision:

*In 2037 Lawshall will be ... A community where the rural setting of its hamlets has been preserved while new development that has taken place meets identified local needs and has had regard to the natural and historic environment and, where feasible, complemented the facilities and services in Lawshall.*

To deliver the Vision, the Plan sets out 13 objectives and 23 policies (LWL1 to LWL 23) which are grouped under the following themes: Natural Environment, Amenities & Services, Historic Environment, Housing, Infrastructure, and Development Design.

The overall strategy for Lawshall, which is set out in Policy LWL1, is that new development proposals within the settlement boundary[s] will be supported provided that they accord with other provisions in the development plan and that, outside of these boundaries, development will only be permitted where it does not have a detrimental impact. Other policies in the Plan address a wide range of topics including local green spaces, heritage assets, community facilities, employment etc.

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 then goes on to say that:

*“An Appropriate Assessment is not required for the Lawshall Neighbourhood Plan 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 (November 2022) prepared by LUC, and the response to this from the statutory consultee, it is determined that the Lawshall Neighbourhood Plan Review is **‘screened-out’** for further assessment under the Habitats Regulations 2017 and that an Appropriate Assessment is not required.

Date: 06 January 2023  
Our ref: 414925  
Your ref: Lawshall Neighbourhood Plan



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**BY EMAIL ONLY**

Dear Sir or Madam,

**Lawshall Neighbourhood Plan**

Thank you for your consultation on the above dated 06 December 2022 which was received by Natural England on 06 December 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.

**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 SA/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/SA 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 queries relating to the specific advice in this letter only please contact Julian Clarke on 0300 060 3900. 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 faithfully

Julian Clarke  
Consultations Team

**NOTE:** Because the above response did not specifically refer to the HRA screening outcome we contacted Natural England. Our e-mail to them and their response are set out below. The latter confirms that Natural England concur with HRA screening report findings.

**E to:** [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk)

**Date:** 12 January 2023

Dear Julian

Our email addressed to 'consultations@naturalengland.org.uk' dated 6 December 2022 and your reply received on 6 January 2023, together with the attached letter refer.

Thank you for responding to our consultation request on the SEA & HRA screening opinions on the Lawshall Neighbourhood Plan Review 2021-2037 document.

We note that the response does not specifically mention the Habitats Regulations Assessment outcome; which was that *"no likely significant effects are predicted on European Sites, either alone or in combination with other policies and proposals."*, and politely ask if this can be rectified either through a re-issue of the letter or, if acceptable, a short reply to this email that confirms Natural England's acceptance of the following statement:

- Habitat Regulations Assessment: Natural England concurs with the findings of the HRA Screening report

With our thanks in advance for your time.

**E fm:** [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk)

**Date:** 24 January 2023

Dear Paul,

**NE Reference: 414925**

Further to your email dated 12th January 2023 and having checked with our area team I can confirm that with reference to the Habitat Regulations Assessment: Natural England concurs with the findings of the HRA Screening report.

Yours Sincerely,

Julian Clarke  
Consultations Team  
Natural England



[www.gov.uk/natural-england](http://www.gov.uk/natural-england)

We are here to secure a healthy natural environment for people to enjoy, where wildlife is protected and England's traditional landscapes are safeguarded for future generations.

In an effort to reduce Natural England's carbon footprint, I will, wherever possible, avoid travelling to meetings and attend via audio, video or web conferencing.

Natural England offers two chargeable services - the Discretionary Advice Service, which provides pre-application and post-consent advice on planning/licensing proposals to developers and consultants, and the Pre-submission Screening Service for European Protected Species mitigation licence applications. These services help applicants take appropriate account of environmental considerations at an early stage of project development, reduce uncertainty, the risk of delay and added cost at a later stage, whilst securing good results for the natural environment.

For further information on the Discretionary Advice Service see [here](#)  
For further information on the Pre-submission Screening Service see [here](#)