

**Regulation 14  
Draft The Arches Neighbourhood Plan**

**April 2021**

**Strategic Environment Assessment and Habitats  
Regulations Assessment  
Screening Report**

**Statement of Reasons**

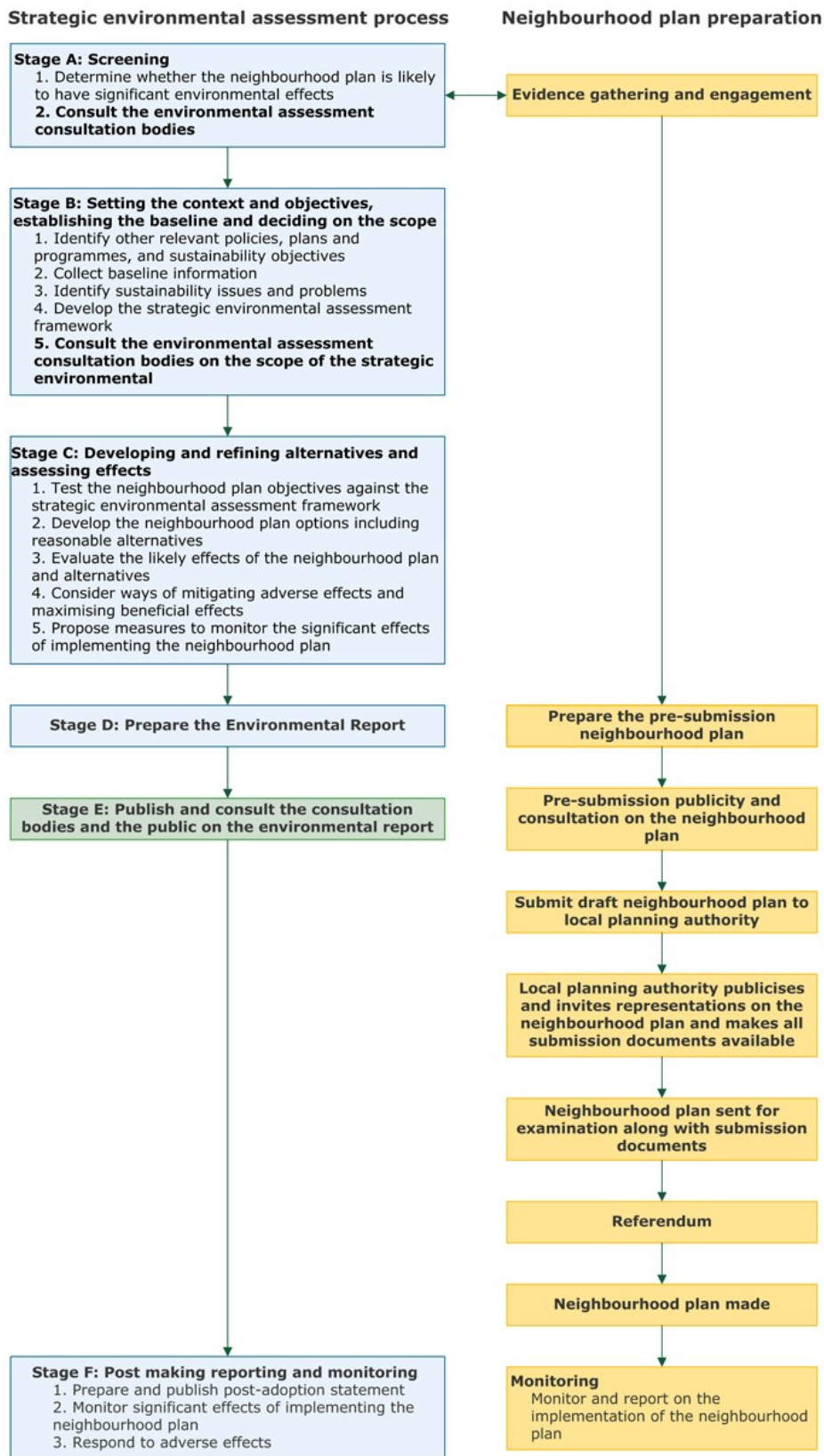
# 1. Introduction

- 1.1. The need for environmental assessment of plans is set out in the EU Directive 2001/42/EC – known as the SEA Directive. Under this Directive, Neighbourhood Plans (NPs) may require an SEA – but this will depend on the content of each NP. Similarly, the need for Habitats Regulations Assessment is set out within Article 6 of the EC Habitats Directive 1992, and interpreted into British law by the Conservation of Habitats and Species Regulations 2010.
- 1.2. One of the basic conditions that will be tested by the independent examiner of a NP is whether the making of the plan is compatible with European Union obligations such as the Habitats Directive. Where an NP could have significant environmental effects on a European Site, it may fall within the scope of the Habitats Directive and therefore require full appropriate assessment to ascertain the effect on those sites' integrity. Where effects are assessed, mitigation measures and alternative solutions would then be required to be identified.
- 1.3. The ultimate aim of the Directive is to “maintain or restore, at favourable conservation status, natural habitats and species of wild fauna and flora of Community interest” (Habitats Directive, Article 2(2)). This aim relates to habitats and species, not the European sites themselves, although the sites have a significant role in delivering favourable conservation status. The Habitats Directive applies the precautionary principle to European sites. Plans and projects can only be permitted having ascertained that there will be no adverse effect on the integrity of the site(s) in question. Plans and projects with predicted adverse impacts on European sites may still be permitted if there are no alternatives to them and there are Imperative Reasons of Overriding Public Interest (IROPI) as to why they should go ahead. In such cases, compensation would be necessary to ensure the overall integrity of the site network. In order to ascertain whether or not site integrity will be affected, a Habitats Regulations Assessment should be undertaken of the plan or project in question.
- 1.4. Whether an NP requires a Habitat Regulations Assessment, and (if so) the level of detail needed, will depend on what is proposed in the draft NP. An HRA may be required, for example, where:
  - the NP allocates sites for development
  - the neighbourhood area contains sensitive natural or heritage assets that may be affected by the proposals in the plan
  - the NP may have significant environmental effects that have not already been considered and dealt with through the HRA of the Local Plan
- 1.5 The main determining factor as to whether an HRA is required on an NP is if the policies and proposals it contains are likely to have a significant effect on the environment. Those NPs containing land allocations for development, whose impacts have not been tested in the local authority's plan, may require an HRA. NPs which do not contain such allocations (or simply reflect allocations already identified as part of a local authority plan) are less likely to require an HRA.
- 1.6 Medway Council is legally required to determine whether The Arches NP will require an HRA. However, if it is concluded that a full appropriate assessment is required, those preparing the plan are responsible for its production and it must form part of the material that is consulted on once the formal consultation stage post-submission to the LPA is reached (Regulation 16 Consultation).

## 2. SEA Screening Process

- 2.1. The Arches 'Chatham' Neighbourhood Forum (ACNF) has requested an SEA and HRA screening opinion of its pre-submission The Arches NP. It is Medway Council's responsibility to assess whether the policies and proposals in the Draft Regulation 14 NP are likely to have 'significant environmental effects'.
- 2.2. The National Planning Practice Guidance in relation to strategic environmental assessments sets out the approach to producing an SEA Figure 1 (below). This guidance recommends that an assessment be undertaken in the early stages of plan making.
- 2.3. The first stage is the screening process (Stage A in Figure 1 below) to determine whether the NP is likely to have significant environmental effects. The screening process includes a 5 week consultation with the statutory consultees. If the screening process concludes that the Arches NP requires an environmental report, the Parish Council is responsible for preparing the scoping report (Stage B) and must consult the statutory consultees. Stages B and C would need to include consideration of reasonable alternatives, to inform the selection and refinement of the preferred options. The preparation of the Environmental Report (Stage D) would need to identify, describe and evaluate the likely significant effects on the environment of implementing the policies in the NP and of the reasonable alternatives taking into account the objectives and geographical scope of the plan.

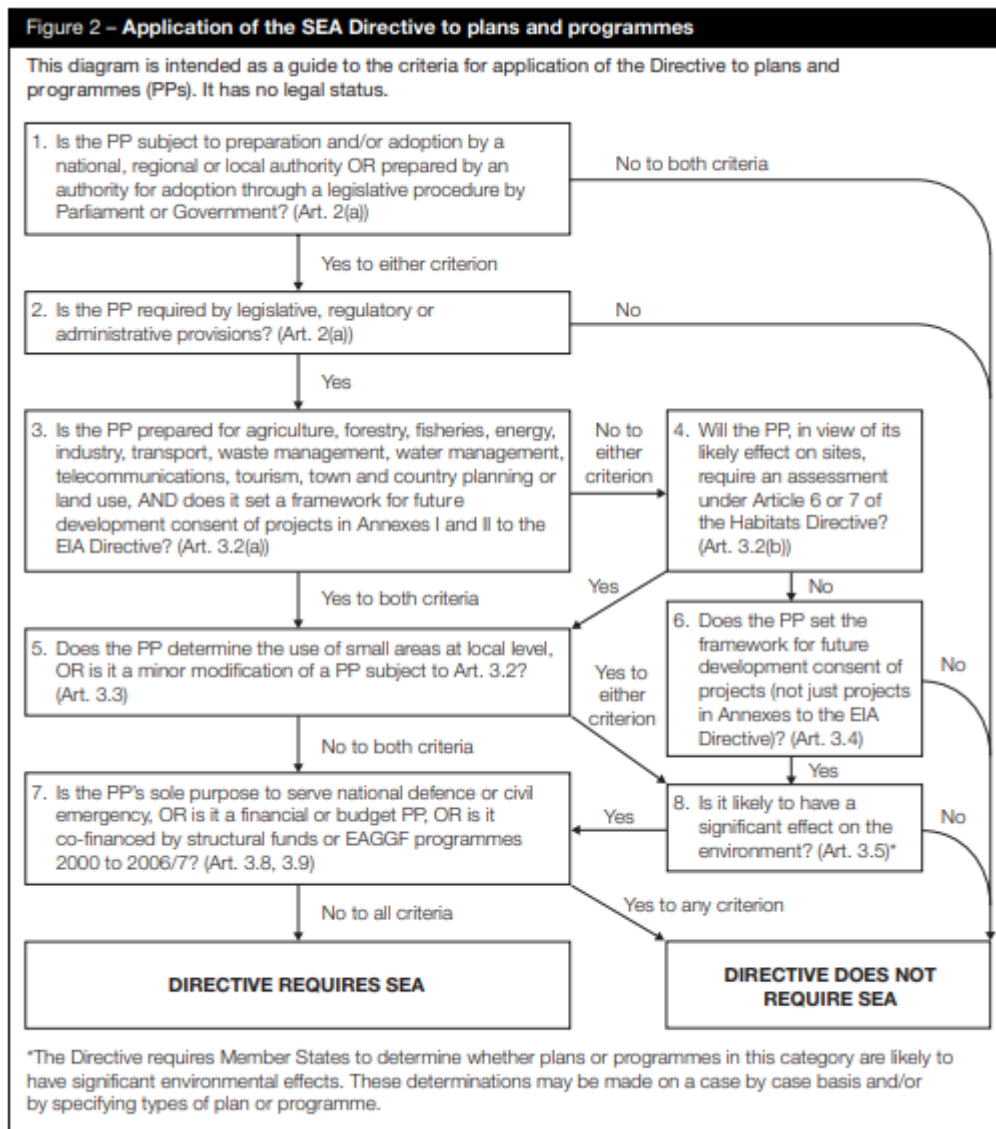
**Figure 1: SEA Process for NPs**



Source: Planning Practice Guidance

2.4. The SEA Directive aims to integrate environmental considerations into the preparation of plans and secure a high level of protection for the environment as well as promoting sustainable development. This Screening Report seeks to determine whether or not a Strategic Environmental Assessment (SEA) is required for the Arches NP in accordance with European and National legislation. To establish if an NP needs to be accompanied by a full SEA, a “screening” assessment is required against a series of criteria set out in the SEA Directive. A Practical Guide to the Strategic Environmental Assessment Directive sets out in a diagrammatic form the series of criteria, reproduced in Figure 2 below.

**Figure 2: Application of the SEA directive to plans and programmes**



Source: A Practical Guide to the Strategic Environmental Assessment Directive

### 3. 3 Screening Opinion

#### 3.1. Assessment 1: Establishing the Need for SEA

Stage	Yes/ No	Reason
1. Is the Neighbourhood Plan (NP) subject to preparation and/or adoption by a national,	Yes	The preparation and adoption of the NP is allowed under the Town and Country Planning Act 1990 (as amended). The

<p>regional or local authority, OR prepared by an authority for adoption through a legislative procedure by Parliament or Government? (Art. 2(a))</p>		<p>Arches Neighbourhood Plan will be put up for consultation and adopted, under the Localism Act 2011. The plan has been prepared by the ACNF, which is a recognized body, and will be adopted by Medway Council is successful at referendum. <i>GO TO STAGE 2</i></p>
<p>2. Is the NP required by legislative, regulatory or administrative provisions? (Art. 2(a))</p>	<p>No</p>	<p>Whilst the NP is not a requirement and is optional under the provisions of the Town and Country Planning Act (as amended), it will if 'made', form part of the Development Plan for the Borough. The NPPF states that neighbourhoods should develop plans that support the strategic development needs set out in Local Plans, including policies for housing and economic development and plan positively to support local development, shaping and directing development in their area that is outside the strategic elements of the Local Plan. <i>GO TO STAGE 3</i></p>
<p>3. Is the NP prepared for agriculture, forestry, fisheries, energy, industry, transport, waste 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))</p>	<p>Yes</p>	<p>The NP is being prepared for town and country planning and land use. The NP will therefore provide a framework for future development consent of development projects in Annex II of the EIA Directive including Infrastructure projects 10(b) Urban-development projects).</p>
<p>4. Will the NP, 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))</p>	<p>No</p>	<p>A Habitats Regulations Assessment Screening of the Arches Neighbourhood Plan is included below</p>
<p>5. Does the NP determine the use of small areas at local level OR is it a minor modification of a plan or programme subject to Art. 3.2? (Art. 3.3)</p>	<p>Yes</p>	<p>The Arches Neighbourhood Plan determines the use of small areas at the local level as it includes 15 site allocations for up to 211 homes and site-specific policies related to sustainable development.</p>
<p>6. Does the Neighbourhood Plan set the framework for future development consent of projects (not just projects in annexes to the EIA Directive)? (Art 3.4)</p>	<p>Yes</p>	<p>The Arches Neighbourhood Plan sets a framework for development of the neighbourhood area as it will be used in the determination of planning applications in the area.</p>

7. Is the Neighbourhood Plan's sole purpose to serve the national defence or civil emergency, OR is it a financial or budget plan, OR is it co-financed by structural funds or EAGGF (European Agricultural Guarantee Fund) programmes 2000 to 2006/7? (Art 3.8, 3.9)	No	The Arches Neighbourhood Plan does not deal with these issues.
8. Is it likely to have a significant effect on the environment? (Art 3.5)	Yes	<p>See Assessment 2: Likely significant effects on the environment:</p> <p>Summary: The Arches Neighbourhood Plan has allocated a number of sites for housing or public space development. It also contains guiding policies which call for net-neutral impact where possible, and for medium density development that respects the surrounding context. For this reason, it is considered that the plan would not have a significant effect on heritage assets, landscape or biodiversity interests.</p> <p><i>DIRECTIVE REQUIRES SEA</i></p>

### 3.2. Assessment 2: Likely Significant Effects on the environment

SEA Directive criteria and Schedule 1 of Environmental Assessment of plans and programmes Regulations 2004	Medway Council assessment	Likely significant environmental effect?
<b>Characteristics of the Neighbourhood Plan, having regard to:</b>		
The degree to which the Plan sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources.	The Arches Neighbourhood Plan sets a framework that will inform decision-making for development proposals in the neighbourhood area. This includes site allocations and project proposals for future development in The Arches, which could have an effect on the environment.	Yes
The degree to which the Plan influences other plans and programmes including those in a hierarchy.	The Arches Neighbourhood Plan is in line with the draft Medway Local Plan and National Planning Policy Framework (NPPF). Its influence on these plans is limited.	No
The relevance of the Plan for the integration of environmental considerations in	The policies of the Arches Neighbourhood Plan are designed to promote sustainable development through its focus on active transport, re-greening and the promotion of net-	No

particular with a view to promoting sustainable development.	neutral development. It also calls for these principles to be integrated in the development of the sites that have been allocated by the plan.	
Environmental problems relevant to the Plan.	The Plan area covers portions of the Central Medway AQMA. The plan seeks to address this through the greening of streets and addition of trees, however these changes will be the subject of planning applications as necessary should they come forwards. Portions of the plan area are also subject to Flood Zone 3. The plan could mitigate the risk of flooding through its promotion of sustainable urban drainage, again subject to planning permission. The plan area is within 6km of a designated SPA/RAMSAR site. There are a number of other environmental problems that the plan seeks to address and resolve, including noise pollution generated by traffic, reduced car use through its promotion of sustainable transport modes, and improved biodiversity through its promotion of street trees and green spaces. The plan could potentially have effects on the environment.	Yes
The relevance of the Plan for the implementation of Community legislation on the environment (for example, plans and programmes linked to waste management or water protection).	The NP is not directly relevant to the implementation of European legislation, albeit it will seek to address environmental, economic and social issues in the neighbourhood area and is linked to issues such as environmental protection.	No
<b>Characteristics of the effects and of the area likely to be affected, having regard, in particular, to:</b>		
The probability, duration, frequency and reversibility of the effects.	There is a possibility of environmental affects arising from development proposed within the plan.	Yes
The cumulative nature of the effects of the Plan.	As above	No
The trans-boundary nature of the effects of the Plan.	Any potential environmental effects could have effects on the neighbouring areas.	Yes
The risks to human health or the environment (e.g. due to accidents).	There is no expected risk to human health or the environment as a result of the Arches Neighbourhood Plan. The plan seeks to minimise the adverse effects on human health caused by the current context.	No
The magnitude and spatial extent of the effects (geographical area and size of the	The Arches Neighbourhood Plan only covers the Arches Neighbourhood Area, however, there is the potential for effects outside of this area.	Yes



population likely to be affected) by the Plan.		
The value and vulnerability of the area likely to be affected by the Plan due to: (i) Special natural characteristics or cultural heritage; (ii) Exceeded environmental quality standards or limit values; or (iii) Intensive land use	Luton Millenium Green lies partially within the Arches Neighbourhood Area and has village green status. The Arches Neighbourhood Plan recognises this designation and also designates an additional number of green spaces in the area for protection and enhancement.  The Arches Neighbourhood Plan could potentially have any adverse effects on the cultural heritage or environmental quality of the area, although the policies within the plan seek to protect and enhance the character of the area and minimise negative impacts.	No
The effects of the Plan on areas or landscapes which have recognised national, community or international protection status.	The Neighbourhood Plan could impact adversely on the Thames Estuary and Marshes SPA and Ramsar site, the South Thames Estuary and Marshes SSSI or the Chattenden Woods and Lodge Hill SSSI or Great Chattenden Wood Ancient & Semi-Natural Woodland. It cannot be ruled out that the NP will have a significant impact on any sites, area or landscapes with national or community protection status. Section 4 below discusses the potential for significant effects on European Sites.	Yes
<b>Assessment 2 Conclusion</b>	<b>The Arches NP is likely to have a significant effect on the environment and therefore further assessments under HRA and SEA are required.</b>	

## 4. Habitats Regulations Assessment Screening

- 4.1. The Habitats Regulations Assessment (HRA) screening tests whether the Arches Neighbourhood Plan, in view of its likely effect on sites of European Importance, will require an assessment for future development under Article 6 or 7 of the Habitats Directive (Article 3.2(b)).
- 4.2. There are a number of sites both within Medway, and within 10km of the plan area, that are designated for their environmental features as Special Protection Areas and Special Areas of Conservation. These include:
- Medway Estuary and Marshes SPA (and Ramsar\*) site
  - Thames Estuary and Marshes SPA (and Ramsar) site
  - The Swale SPA (and Ramsar) site
  - North Downs Woodland SAC
  - Queendown Warren SAC and Peters Pit SAC (+10km)
- 4.3. The ACNF area sits around 2.9km from the Medway Estuary and Marshes SPA and Ramsar site, and within the 6km buffer of the North Kent Marshes Special Protection Area (SPA) and Ramsar sites (areas of conserved wetland).

- 4.4. New development that is delivered within Medway and in the neighbourhood plan area over the next two decades is likely to place additional pressure on these areas, particularly through increased recreational pressure on European sites in the area.
- 4.5. Medway Council is working in partnership with neighbouring local planning authorities to implement a strategic approach to manage the impact of recreational disturbance on the European sites of the Thames, Medway and Swale Estuary and Marshes SPAs/Ramsar sites. Medway Council works in collaboration with local planning authorities in North Kent to contribute to the delivery of a strategic access mitigation scheme to address potential damage from population increases on the designated habitats of the Thames, Medway and Swale Estuaries and Marshes.
- 4.6. However, in this respect the Habitats Regulations Assessment Screening Report (2017) for the Regulation 18 Local Plan, April 2017, and the Medway Local Plan Development Strategy Interim Consideration of the Implications of Development Strategy Scenarios on European Site tested the impact of four development scenarios for Medway to 2036, including a rural town centred on Hoo St Werburgh. Although this did not screen out impacts, the report provided a full screening assessment in line with Stage 1 of the HRA process.
- 4.7. With respect to the assessment of disturbance impacts due to increased recreational pressure noted above, further bespoke mitigation may be required in future beyond the standard tariff contribution to the Strategic Access Management and Monitoring Strategy (SAMMS) currently administered by Birdwise in Medway and North Kent which acts to mitigate pressures on designated sites. Bespoke measures have been recommended for incorporation within the Development Strategy as part of the Habitats Regulations process, and a further Strategic Environmental Management Scheme is progressing to enable the development of the Hoo rural town, supported by £14m Housing infrastructure funding from Government. It is recognised that these may not be considered for the purposes of this screening assessment in line with the 2018 CJEU ruling regarding mitigation measures at screening stage.
- 4.8. The Arches Plan allocates small sites for residential development within the built up area of Chatham. These sites may create the potential for recreation disturbances, any development that comes forward would be the subject of a planning application and therefore require contributions to Medway's extant SAMMS scheme. On balance, there is insufficient evidence to suggest that the Arches Neighbourhood Plan is not likely to cause a significant effect on any European site, including cumulatively, in combination with other plans or proposals, and therefore it will not require a full appropriate assessment for future development under Article 6 or 7 of the Habitats Directive (Art. 3.2(b)).

*\*Note: The NPPF 2019 internationally designated Ramsar sites should be subject to the same consideration as the European sites.*

## 5. Consultations with Statutory Consultees

Both Natural England and Historic England confirmed the need for further assessments. No response was received from the Environment Agency.

### Historic England

Dear Lachlan,

Thank you for consulting us on the draft SEA screening report in relation to the draft Arches Chatham Neighbourhood Plan.

We note that the most recent version of the Plan proposes to allocate 12 sites for development (and the version on which the draft SEA screening report is based includes 15 site allocations) but we are not aware what other sites may have been assessed and what heritage assets or potential assets they might have effects for. We must consider whether alternative sites that are 'reasonable alternatives' (if any could be considered within the plan area) might have had greater or lesser effects on heritage assets, as well as their other environmental effects. Could you please let us know if any further sites have been considered and assessed?

Kind regards,

Bozhana

Bozhana Pawlus  
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# Natural England

Date: 12 April 2021  
Our ref: 346766



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## BY EMAIL ONLY

Dear Lachlan Anderson-Frank,

### Draft Neighbourhood Plan SEA/HRA Screening Report Consultation.

Thank you for your email of the 22<sup>nd</sup> February 2021, consulting Natural England on the following documents:

- Regulation 14 - Draft - The Arches Neighbourhood Plan (NP) - January 2021 Strategic Environment Assessment and Habitats Regulations Assessment Screening Report.

Natural England welcomes the opportunity to provide comments on the above document and our general and then more detailed advice, is set out below. Our comments in relation to the Draft NP and Design Code documents, will follow in a separate response.

### Habitats Regulations Assessment – screening and appropriate assessment requirements.

*Where a neighbourhood plan could potentially affect a 'habitats site', it will be necessary to screen the plan in relation to the Conservation of Habitats and Species Regulations (2017), as amended (the 'Habitats Regulations'). Where likely significant effects are identified, it will be necessary to undertake an appropriate assessment of the neighbourhood plan and, if needed, identify and secure appropriate mitigation measures to ensure the plan does not result in an adverse effect on the integrity of the habitats site.*

***In accordance with Schedule 2 of The Neighbourhood Planning (General) Regulations 2012 (as amended), a neighbourhood plan cannot be made if it breaches the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017 (as amended).***

*A screening exercise should be undertaken if there is any doubt about the possible effects of the plan on the habitats site(s). This will be particularly important if a neighbourhood plan is to progress before a local plan and/or the neighbourhood plan proposes development which has not been assessed and/or included in the Habitats Regulations Assessment for the local plan. Where mitigation is necessary to ensure no effects then this will need to be properly assessed via an appropriate assessment.*

The plan area is located within close proximity to the following North Kent Special Protection Areas (SPAs), upon which there is potential for recreational disturbance impacts to result from any new residential development:

- Medway Estuary and Marshes SPA (and Ramsar) site.
- Thames Estuary and Marshes SPA (and Ramsar) site.
- The Swale SPA (and Ramsar) site.

It is noted that The Arches NP allocates fifteen sites for development (including up to 211 residential units). However, although the need for mitigation of such impacts is recognised in section 4 of your screening document, this has been omitted from the assessments of Likely Significant Effects (LSE), set out in the two screening opinion tables. Such reference (and the conclusion of 'yes' in the LSE columns in the second table) needs to be included in at least the following sections:

Table in section 3.1:

'8. Is it likely to have a significant effect on the environment?...'

Table in section 3.2:

'The degree to which the Plan sets a framework for projects and other activities...or by allocating resources.';

'Environmental problems relevant to the Plan':

'The probability, duration, frequency and reversibility of the effects.';

'The trans-boundary nature of the effects of the Plan.';

'The magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected) by the Plan.'; and

'The effects of the Plan on areas...which have recognised...international protection status'.

We therefore advise that the conclusions drawn in relation to the assessment of the need for SEA and for potential LSE should be 'Yes' and that further assessment under HRA and SEA, are required. These assessments, can then go on to consider the mitigation measures referred to in section 4 of your screening document.

*N.B.* There are six erroneous references in the above document, to the 'Cliffe and Cliffe Woods NP', which need to be amended.

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 Rebecca Bishop on 02087 200070 or email [Rebecca.Bishop@naturalengland.org.uk](mailto:Rebecca.Bishop@naturalengland.org.uk). 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 sincerely,

*Rebecca Bishop*

Sustainable Development Adviser – Sussex & Kent Team

## 6. Conclusions

This screening report concludes that further assessment under HRA and SEA of the Arches Neighbourhood Plan is required if the current Regulation 14 plan is progressed.