

# Strategic Environmental Assessment Background Information for Qualifying Bodies

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***NOTE TO QUALIFYING BODY:***

This document should be read in conjunction with the Strategic Environmental Assessment Screening Report/Strategic Environmental Assessment for the relevant Neighbourhood Plan.

# ↑ Environmental Considerations

- 1.1 Strategic Environmental Assessment legislation seeks to provide for a high level of protection of the environment. It contributes to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development.
- 1.2 The plans and programmes which are subject to Article 2(a) of the SEA Directive are those which are:
- subject to preparation and/or adoption by an authority at national, regional or local level or which are prepared by an authority for adoption, through a legislative procedure by Parliament or Government; and
  - required by legislative, regulatory or administrative provisions.
- 1.3 Only a draft neighbourhood Plan that meets each of a set of basic conditions can be put to a referendum and be 'made' (or adopted). The basic conditions are set out in the Town and Country Planning Act 1990 as applied to neighbourhood plans by the Planning and Compulsory Purchase Act 2004. Basic condition 'f' states that a Neighbourhood Plan should not breach, and must be compatible with, European Union obligations in order for it to be legally compliant. There are four obligations that are of particular interest:
- Strategic Environmental Assessment (SEA) Directive;
  - Environmental Impact Assessment (EIA) Directive;
  - Habitats Directive; and
  - Wild Bird Directive.
- 1.4 It should be noted that a requirement to undertake a Habitats Regulations Assessment also triggers the requirement to undertake an SEA.
- 1.5 To demonstrate that the basic condition has been met, the qualifying body needs to provide:
- "a statement of reasons for a determination... that the proposal is unlikely to have significant environmental effects; or
  - an environmental report".

# National Planning Practice Guidance

1.6 The NPPG advises that a Neighbourhood Development Plan:

- would need SEA "...in limited circumstances...";
- should be screened early;
- screening should consult with the consultation bodies;
- if 'screened out', should have a 'statement of reasons' prepared; and
- might require a strategic environmental assessment 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; and
  - the neighbourhood plan is likely to have significant environmental effects that have not already been considered and dealt with through a sustainability appraisal of the Local Plan.

# 2 Legislative Background

## Strategic Environmental Assessment

- 2.1 The basis for Strategic Environmental Assessments and Sustainability Appraisal is the European Directive 2001/42/EC which has subsequently been transferred into English law by the Environmental Assessment of Plans and Programmes Regulations 2004 (or SEA Regulations). The government has produced guidance in relation to these regulations, entitled 'A practical guide to the Strategic Environmental Assessment Directive'.
- 2.2 Under the Regulations the responsible authority (North Lincolnshire Council) shall determine whether or not a plan, programme or modification of a description referred to is likely to have significant environmental effects. Before making a determination the responsible authority shall take into account the criteria specified in Schedule 1 to these Regulations and consult the consultation bodies.
- 2.3 Where the responsible authority determines that the plan, programme or modification is unlikely to have significant environmental effects (and, accordingly, does not require an environmental assessment), it shall prepare a statement of its reasons for the determination.

## Appropriate Assessment

- 2.4 Schedule 2 of the Neighbourhood Planning (General) Regulations 2012 makes provision in relation to the Habitats Directive. The Directive requires that any plan or project likely to have a significant effect on a European site must be subject to an Appropriate Assessment. To achieve this, paragraph 1 prescribes a basic condition that the making of a neighbourhood plan is not likely to have a significant effect on a European site. The Schedule amends the Conservation of Habitats and Species Regulations 2010 so as to apply its provisions to neighbourhood development orders and neighbourhood plans.
- 2.5 A 'European site' includes:
- Candidate Special Areas of Conservation;
  - Sites of Community Importance;
  - Special Areas of Conservation; and
  - Special Protection Areas.

# 3 Strategic Environmental Assessment Screening incorporating Habitats Regulations Assessment Screening

## Significant environmental effects of a draft neighbourhood plan

3.1 To decide whether a Neighbourhood Plan might have significant environmental effects it should be assessed (screened) at an early stage of the plan's preparation according to the requirements set out in the Environmental Assessment of Plans and Programmes Regulations 2004. These include a requirement to consult the environmental assessment consultation bodies: Environment Agency; Historic England; and Natural England.

- The aim of the 'screening' process is to determine whether the Plan is likely to have significant environmental effects. The extract from 'A Practical Guide to the Strategic Environmental Assessment Directive' (Figure 1 opposite) provides a flow diagram to demonstrate the SEA screening process.

**NOTE:**

Where it is determined that the plan is unlikely to have significant environmental effects (and, accordingly, does not require an environmental assessment), a statement of reasons for the determination should be prepared.

- In order to be able to decide whether an environmental assessment will be required the council needs to know about the policies and proposals and, in particular:
- how they might affect the environment, community or economy;
- whether they propose a higher level of development than is already identified in North Lincolnshire Council's planning policies;
- whether any of the proposals are likely to affect a 'sensitive area', for example a Site of Special Scientific Interest, or a European Site for nature conservation;
- whether implementation of policies in the plan might lead to major new development in the future; and

- whether the cumulative impact of the policies and proposals when assessed together may give rise to a likely significant environmental effect - for example, several relatively small housing proposals may cumulatively have a significant effect on a nearby rare wildlife habitat.

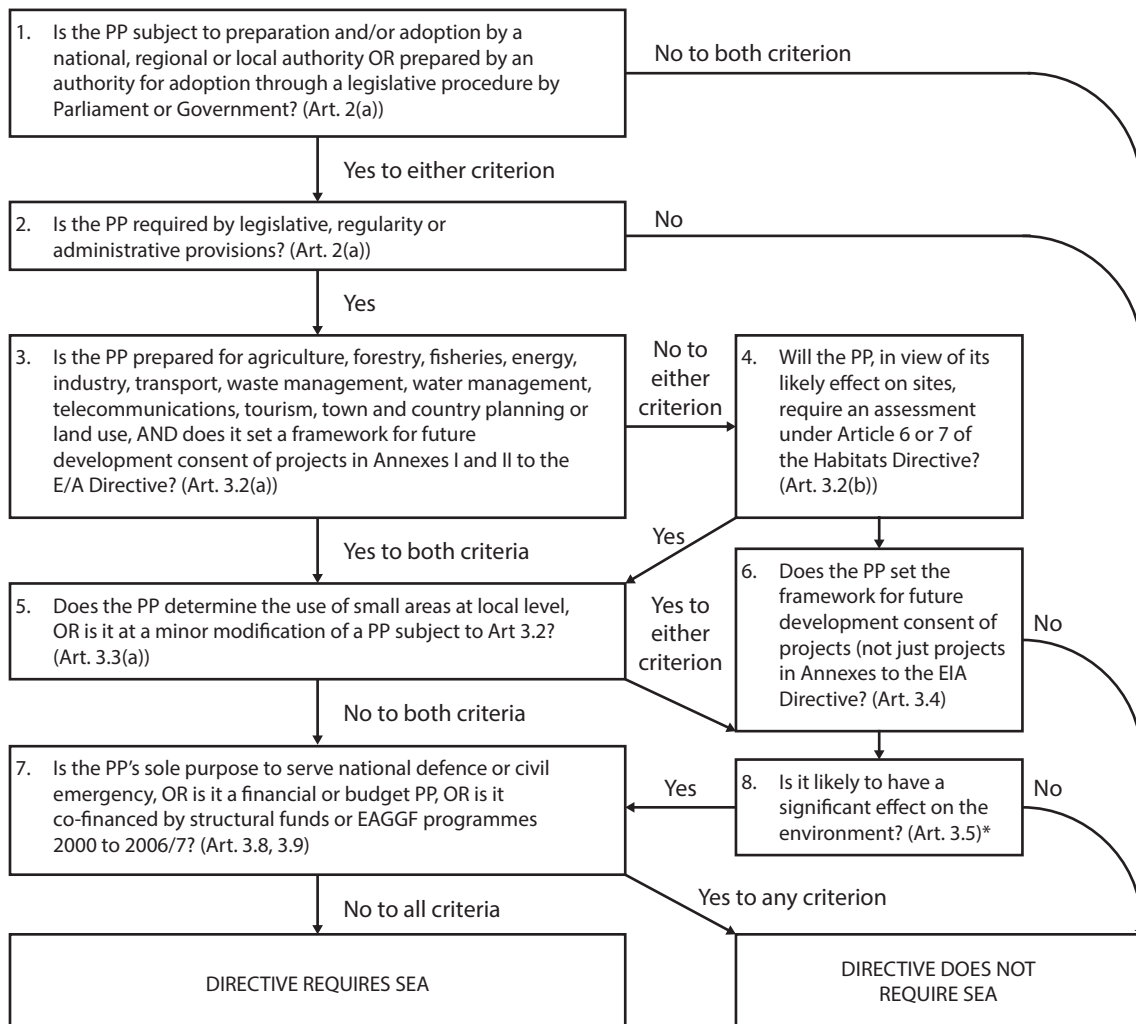
**NOTE:**

Where a neighbourhood plan is likely to have a significant effect on the environment a strategic environmental assessment must be carried out and an environmental report prepared.

Figure 1: The government guidance 'A practical guide to the Strategic Environmental Assessment Directive' sets out the following approach to be taken in determining whether SEA is required:

**Note:**

This diagram is intended as a guide to the criteria for application of the Directive to plans and programmes (PPs). It has no legal status.



\* The Directive requires Member States to determine whether plans or programmes in this category are likely to have significant environmental effects. These determinations may be made on a case by case basis and/or by specifying types of plan or programme.

## Sustainability Appraisal

- 3.2 The Planning and Compulsory Purchase Act 2004 required Local Authorities to produce Sustainability Appraisals (SA) for all local development documents to meet the requirement of the EU Directive on SEA. It is considered best practice to incorporate requirements of the SEA Directive into an SA.
- 3.3 However, the 2008 Planning Act amended the requirement to undertake a Sustainability Appraisal for only development plan documents (DPDs), but did not remove the requirement to produce a Strategic Environmental Assessment. A Neighbourhood Plan is not a development plan document and, therefore, does not legally require a Sustainability Appraisal. However, where appropriate, an SEA still needs to be undertaken in line with the SEA regulations.

### **NOTE:**

A qualifying body must demonstrate how its plan or order will contribute to achieving sustainable development, and sustainability appraisal may be a useful approach for doing this.

## The relationship between Strategic Environmental Assessment and Habitats Regulations Assessment

- 3.4 Strategic environmental assessment is a process for evaluating, at the earliest appropriate stage, the environmental effects of a plan before it is made. A Habitats Regulations Assessment identifies whether a plan is likely to have a significant effect on a European site, either alone or in combination with other plans or projects.
- 3.5 North Lincolnshire Council is the “competent authority” under the Conservation of Habitats and Species Regulations 2010 and seeks to ensure that Neighbourhood Plans have been assessed through the Habitat Regulations process. This looks at the potential for significant impacts on nature conservation sites that are of European importance, also referred to as Natura 2000.
- 3.6 If the conclusion is that the plan is likely to have a significant effect on a European site then an appropriate assessment of the implications of the plan for the site, in view of the site’s conservation objectives, must be undertaken. If a plan is one which has been determined to require an appropriate assessment under the Habitats directive then it will normally also require a Strategic Environmental Assessment.







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