

**Bishops Clyst Neighbourhood Development Plan
Strategic Environmental Assessment and Habitat
Regulations Assessment**

Screening Report

Prepared by Officers of East Devon District Council

October 2015

1.0 Introduction

- 1.1 The purpose of this report is to assess the policies contained within the draft Bishops Clyst Neighbourhood Development Plan (hereafter referred to as BCNP) to determine whether it requires a Strategic Environmental Assessment (SEA) in accordance with the European Directive 2001/42/EC and associated Environmental Assessment of Plans and Programmes Regulations 2004. An SEA is required under this legislation for all plans which may have a significant effect on the environment.
- 1.2 This report will also screen to determine whether or not the BCNP requires a Habitats Regulations Assessment (HRA) in accordance with Article 6(3) of the EU Habitats Directive and with Regulation 61 of the Conservation of Habitats and Species Regulations 2010. An HRA is required when it is deemed that the implementation of the plan is likely to cause negative significant effects on protected European Sites (Natura 2000 sites).
- 1.3 The conclusion of the assessment is that the BCNP is unlikely to have a significant effect on the environment so an SEA is not required to accompany the Plan. It is also unlikely to have a negative impact on any Natura 2000 sites so should not be subject to HRA.
- 1.4 This report has been sent to the three statutory consultees designated in the Regulations (Historic England, Environment Agency and Natural England) to elicit their views on the findings. A full list of comments can be found in Appendix 1.

SEA screening

- 2.1 The basis for Strategic Environmental Assessments and Sustainability Appraisal legislation is European Directive 2001/42/EC and was transposed into English law by the Environmental Assessment of Plans and Programmes Regulations 2004, or SEA Regulations. Detailed Guidance of these regulations can be found in the Government publication 'A Practical Guide to the Strategic Environmental Assessment Directive' (ODPM 2005).
- 2.2 The objective of SEA is *'to provide for a high level of protection of the environment and contribute to the integration of environmental considerations into the preparation and adoption of development plans.... with a view to promoting sustainable development'* EU Directive 2001/42/EC (Article 1).
- 2.3 At present, there is no legal requirement for all Neighbourhood Plans to produce an accompanying SEA; however, Local Authorities are legally obliged to advise the plan producers as to whether an SEA is required based on the contents of the plan.
- 2.4 To ascertain if SEA is required, a "screening" exercise will be undertaken by East Devon District Council evaluating the draft BCNP against the criteria set out in the SEA Directive. This criterion is set out in the SEA Directive and can be found in Figure 1.
- 2.5 Should the screening report reach the conclusion that the plan will have a significant impact on the environment; a full SEA should be undertaken.
- 2.6 If the conclusion is that a full SEA is not required, it is important that any significant variations or additions to the draft BCNP are subject to a further screening, as they might include environmental impacts that would otherwise not be assessed.
- 2.7 SEAs have previously been undertaken as part of the adopted East Devon Local Plan 1995 to 2011 and emerging East Devon Local Plan 2013-2031 and have been taken into account whilst undertaking this screening assessment.

Figure 1: Application of the SEA Directive to plans and programmes

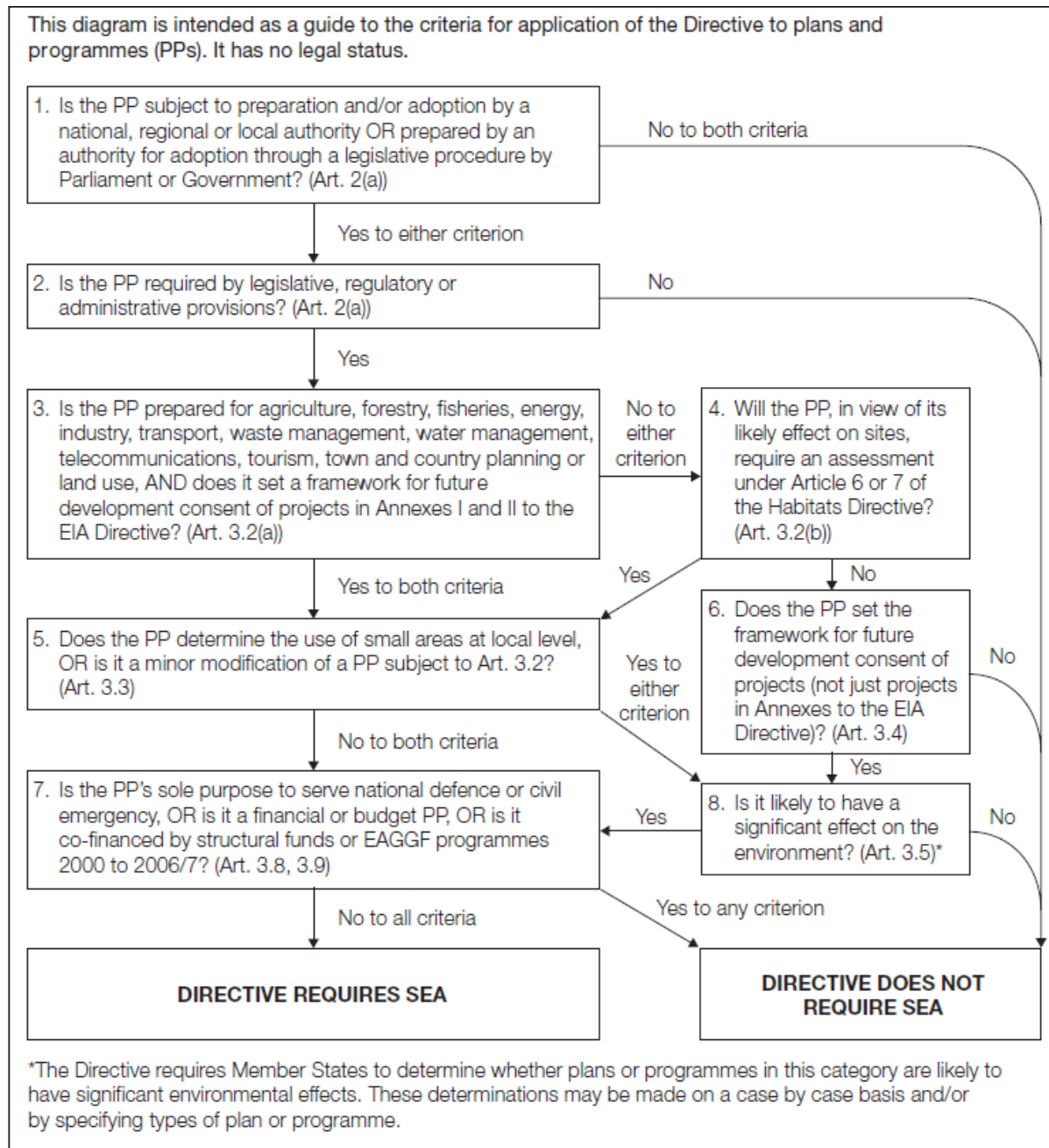
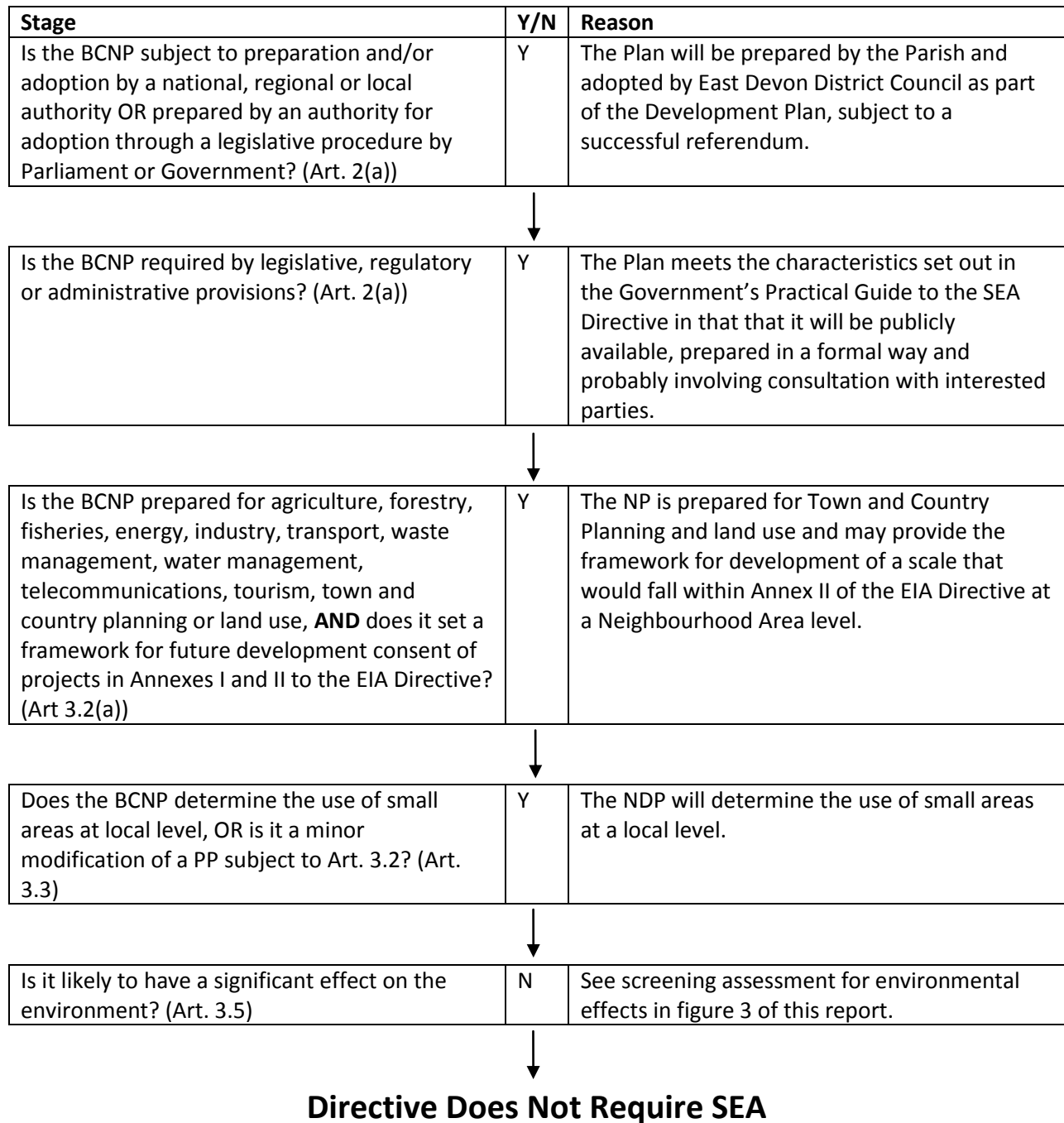


Figure 2: Screening assessment against the criteria for whether the BCNP requires n SEA.



Assessment of Environmental effects

- 2.8 Under step 8 of the Application of the SEA directive (Figure 1), in order to establish whether a plan requires an SEA, it was necessary to conduct a thorough assessment of whether the plan is likely to have a significant effect on the environment.
- 2.9 The table below sets out the criteria on which the impact of the BCNP will be judged, as outlined in Article 3.5 of the SEA Directive.

Figure 3: Environmental impact screening assesment

Criteria for determining the likely significance of effects (Schedule 1 of SEA regulations)	Is the BCNP likely to have a significant environmental effect?	Justification for Screening Assessment
The degree to which the plan or programme sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources.	N	The BCNP sets a framework for developments within the neighbourhood area but does not allocate specific sites for development. It will be in general conformity with the existing and emerging policies within the East Devon Local Plans, both of which have been subject to SEA.
The degree to which the plan or programme influences other plans and programmes including those in a hierarchy.	N	The BCNP must be in general conformity with the adopted East Devon Local Plan and have regard to national guidance. It must also be compatible with EU law and the ECHR obligations. It is not considered to have an influence on other plans besides than individual planning applications that may come forward in the area.
The relevance of the plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development.	N	The plan will contribute towards the achievement of sustainable development, as required by the “basic conditions” on which the plan will be judged by at examination. The plan producers are also planning to prepare a sustainability appraisal, in which the objective of sustainable development will be considered throughout.
Environmental problems relevant to the plan or programme.	N	The plan is not intending to propose sites for development so there will be no environmental impact related to the allocation of land.

		<p>Policy HO3 of the draft plan provides minimum car parking standards for new development, stipulating at least 2 off-road spaces for 1 or 2 bedroom homes and 3 spaces for 3+ homes. Although this could potentially have an environmental impact through encouraging car use and increased surface water flooding, on balance any impact of this policy is likely to be insignificant due to the number of new properties it would likely affect. The neighbourhood plan does not propose any development sites and although it is likely that future windfall sites may come in within the built-up area boundary of the village, any of these would likely be small in nature.</p> <p>A considerable focus has been made on the continued protection and enhancement of the natural assets and biodiversity in the parish. This is illustrated in particular through Policy EN1 which states that development proposals will have to demonstrate how they have protected and enhanced biodiversity and wildlife.</p>
The relevance of the plan or programme for the implementation of Community legislation on the environment (e.g. plans and programmes linked to waste management or water protection).	N	These community legislation types are not relevant to the BCNP and will not need to be considered.
The probability, duration, frequency and reversibility of the effects.	N	Although the BCNP does not allocate sites, it is probable that the parameters set in the plan will result in development within the plan's lifespan. However, this will only be in the form of development predominantly within the built-up area boundary and will be assessed via the standard application process. The policies on the whole promote sustainable development and are not expected to have a significant

		environmental impact.
The cumulative nature of the effects.	N	The cumulative effects of the BCNP are not considered to have a significant effect on the environment.
The trans-boundary nature of the effects.	N	The BCNP will set a framework for development within the Neighbourhood Area. The scale of development it will impact upon is unlikely to have an effect on neighbouring areas.
The risks to human health or the environment (e.g. due to accidents).	N	There are no risks to human health identified.
The magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected).	N	The BCNP is concerned only with development within the Parishes of Clyst St Mary and Sowton, which have a combined resident population of 1,231. If there are any effects they are not considered to be wide ranging.
The value and vulnerability of the area likely to be affected due to: special natural characteristics or cultural heritage; exceeded environmental quality standards or limit values; intensive land-use; the effects on areas or landscapes which have a recognised national, Community or international protection status.	N	<p>Bishop's Clyst is not situated within one of the AONBs that cover two thirds of the district. A County Wildlife site is present in the south west corner of Clyst St Mary parish. 51 listed buildings are scattered across the two Parishes, 20 of these being situated within the Sowton village conservation area.</p> <p>The BCNP is unlikely to adversely affect these and there is a considerable focus on the protection of the natural and built environment, including the appropriate use of materials, preserving local historic building and protecting bio-diversity and wildlife.</p>

Conclusion

2.10 Taking the above assessment into consideration, The BCNP is unlikely to have a significant environmental impact. It does not allocate sites for development and taken as a whole, the impact of the policies in the plan is not considered to be significant enough to warrant further analysis through the SEA process.

2.11 The Bishops Clyst Neighbourhood Plan does not require a Strategic Environmental Assessment.

- 2.12 When seeking comments from the statutory consultees on this conclusion, Natural England advised that they should the Neighbourhood Plan be adopted before the East Devon Local Plan, then it would require SEA as there is no current SEA in place. On this basis we would advise the group to delay formally submitting the Neighbourhood Plan until we receive further word from the Local Plan Inspector on the soundness of the plan. This is expected around or shortly after the New Year.

Habitat Regulations Screening Assessment

- 3.1 The draft version of the plan has been used to undertake this initial screening assessment. As the conclusion is that a full Habitat Regulations Screening is not required, any significant variations or additions to Plan will be subject to a further screening. A draft screening report was produced as part of the production of the emerging Local Plan and has been taken into account in undertaking this screening assessment.
- 3.2 The Conservation (Natural Habitats &c.) Regulations 1994 (The Habitats Regulations) transpose the requirements of the European Habitats Directive 92/43/EEC into UK law. The Habitats Directive and Regulations afford protection to plants, animals and habitats that are rare and vulnerable in a European context.
- 3.3 Habitats Regulations Assessment (HRA) is a systematic process through which the performance of a plan or project can be assessed for its likely impact on the integrity of a European Site. European Sites, also referred to as Natura 2000 sites, consist of Special Protection Areas (SPA), Special Areas of Conservation (SAC); Potential Special Protection Areas and candidate Special Areas of Conservation (pSPA and cSAC); and listed or proposed Ramsar sites.
- 3.4 Article 6(3) of the Habitats Directive states:
- ‘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 and projects, shall be subject to appropriate assessment of its implications for the site in view of the site’s conservation objectives’.
- 3.5 The Exe estuary and Pebblebed Heaths Special Areas of Conservation are located outside, but close to, the Parish. This means that the effects of new development will require mitigation measures to reduce the likely impact and provide alternative recreation space. This is potentially relevant to the Bishops Clyst Neighbourhood Plan if new housing development is proposed.
- 3.6 Natural England have been consulted on this document by the District Council.

Screening Criteria Questions

1. Is the Neighbourhood Plan directly connected with, or necessary to the management of a European site for nature conservation?

No

2. Does the Neighbourhood Plan propose new development or allocate sites for development?

The Neighbourhood Plan does not allocate sites, although the objectives indicate that small scale development to meet local needs will be supported.

Bishops Clyst has a Built-up Area Boundary in the adopted and emerging East Devon Local Plans, within which there is a presumption that modest 'in-fill' development may take place and the Neighbourhood Plan allows for this modest growth. There is also an allocation through the Local Plan, on the site of a former employment building (at Winslade House and Clyst House), for around a further 150 houses and an outline planning permission for 80 houses north of the A3052 on the eastern approach to Clyst St Mary but these are not specific Neighbourhood Plan proposals and impacts have been assessed through the Local Plan. Outside of the Built-up Area Boundary there is a presumption against new residential development unless it is very small-scale and is permitted to meet a specific need (eg affordable housing or an agricultural workers dwelling) or to achieve the retention of an historic building. A detailed assessment of potential impacts will be carried out when specific proposals come forward through the planning system.

The existing, adopted Local Plan was not subject to an HRA (it pre-dated the requirement) but, as the type of small scale housing referred to in the Bishops Clyst objectives accords with Local Plan policy, re/development has already been found to be acceptable in principle.

The objectives in the Neighbourhood Plan do also accord with the emerging Local Plan for the District which is subject to an HRA. A screening opinion was provided by Land Use Consultants early in the Plan production process and an HRA was completed by Footprint Ecology before, and informed, the submission version of the Local Plan. It indicated that the Local Plan will have sufficient policy provisions to enable the subsequent delivery of necessary measures to avoid and mitigate adverse effects on the integrity of European Sites.

3. Are there any other projects or plans that together with the Neighbourhood Plan could impact on the integrity of a European Site?

No

Conclusion

3.7 The Bishops Clyst Neighbourhood Plan does not require a Habitat Regulation Assessment.

3.8 The Bishops Clyst Neighbourhood Plan is unlikely to have an adverse effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2010 (d)), alone or in combination with other plans and projects. It does not propose a level of development significantly over and above that in the adopted Local Plan and is in accordance with the emerging Local Plan (which was itself subject to HRA). Should adverse impacts arise, there is an agreed range of mitigation measures which will be implemented.

Appendix 1: Statutory Consultee responses

Environment Agency

From: Devon Cornwall Enquiries [DevonCornwallEnquiries@environment-agency.gov.uk]
Sent: 06 October 2015 16:53
To: Timothy Spurway
Subject: DC/1522: Bishops Clyst Neighbourhood Plan SEA/HRA Screening consultation - reply
Follow Up Flag: Follow up
Flag Status: Flagged

Dear Tim

Enquiry regarding Bishops Clyst Neighbourhood Plan

Thank you for your enquiry which we received on 16 September 2015. We respond to requests under the Freedom of Information Act 2000 and Environmental Information Regulations 2004.

Our reply is below:

Under Policy EN3 – Improving Flood Defences and Policy EN4 – Minimising Flood Risk, we propose that the following sentence is added under these policies (particularly EN3): *“Any flood defence improvements will not only seek to address flood risk issues within Bishops Clyst but will also look to maximise contribution to Policy EN1 in delivering any flood risk solution.”* The addition of these words (or similar) will strengthen recognition of the ecological and amenity value of the River Clyst and its floodplain, which is clearly important to the Bishops Clyst community.

I have also attached our Standard Notice which explains the permitted use of this information.

Please get in touch if you have any further queries or contact us within two months if you’d like us to review the information we have sent.

Further details about the Environment Agency information supplied can be found on the GOV.UK website: <https://www.gov.uk/browse/environment-countryside>

How did we do? We value your thoughts on how we are doing and where we can improve our service. Please use the link below to complete our survey.

<http://www.smartsurvey.co.uk/s/EnvironmentAgencyCustomerSurvey/?a=DC>

Yours sincerely

Maggie Summerfield

Customer & Engagement, Devon & Cornwall

Sir John Moore House, Victoria Square, Bodmin, Cornwall, PL31 1EB

Direct Dial: 01392 352400

Internal: 724 2400

Email: devoncornwallenquiries@environment-agency.gov.uk

Historic England

From: Stuart, David [David.Stuart@HistoricEngland.org.uk]
Sent: 19 October 2015 15:41
To: Timothy Spurway
Subject: Bishops Clyst Neighbourhood Plan SEA/HRA Screening consultation - UNCLASSIFIED:

Follow Up Flag: Follow up
Flag Status: Completed

Hi Tim

Many thanks for your consultation on this SEA screening.

I can confirm that we have no objection to the conclusion that an SEA will not be required.

Having had a look at the range of likely issues and policies covered by the emerging Plan I can also confirm that it is unlikely that we will wish to comment in detail when a draft Plan becomes available for consultation in due course. The community has admirably identified those historic environment issues of value and concern and used this information to assist in the formulation of its proposals.

One note of precaution. Some neighbourhood plans have been challenged on the basis of including "Local Lists". Although the NPPF indicates that these can be prepared the statutory provision rests with local planning authorities – not neighbourhood fora or plans. The NP process can identify local heritage assets which it would wish to see put on a List but the emerging route to a recognisable regime is for the process to be set up by the lpa and for communities then to identify those assets which conform to pre-determined criteria that they would like to see added.

One way round this – in the absence of a pre-existing lpa Local List regime – could be for the community to identify those assets which they consider worthy of recognition and retention but not to refer to them as a "Local List". I can't advise on what term would have the best chance of success or resisting any challenge but something along the lines of "schedule of locally valued heritage assets" might do it. I know it seems to be just an exercise in semantics but unfortunately the jury is out a bit on this until the next challenge!

Kind regards

David

David Stuart | Historic Places Adviser South West
Direct Line: 0117 975 0680 | Mobile: 0797 924 0316

Historic England | 29 Queen Square | Bristol | BS1 4ND

We have launched four new, paid-for Enhanced Advisory Services, providing enhancements to our existing free planning and listing services. For more information on the new Enhanced Advisory Services as well as our free services go to our website: HistoricEngland.org.uk/EAS

Date: 20 October 2015
Our ref: 165322
Your ref: Bishops Clyst Neighbourhood Plan SEA / HRA Screening



Tim Spurway
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BY EMAIL ONLY

Dear Tim

Planning consultation: Bishops Clyst Neighbourhood Plan (NP) Strategic Environmental Assessment (SEA) and Habitat Regulations Assessment (HRA) – Draft Screening Report
Location: Bishops Clyst Parish, East Devon

Thank you for your consultation on the above dated and received by Natural England on 11 September 2015.

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.

WILDLIFE AND COUNTRYSIDE ACT 1981 (AS AMENDED)
ENVIRONMENTAL ASSESSMENT OF PLANS AND PROGRAMMES REGULATIONS 2004
CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2010 (AS AMENDED)
THE NEIGHBOURHOOD PLANNING (GENERAL) REGULATIONS 2012

Natural England welcomes the importance attached to protecting and enhancing the natural environment of Bishops Clyst, as promoted in the Neighbourhood Plan.

Strategic Environmental Assessment – Screening

Where Neighbourhood Plans could have significant environmental effects, they may require a Strategic Environmental Assessment (SEA) under the Environment Assessment of Plans and Programmes Regulations 2004. 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 at:

<http://planningguidance.planningportal.gov.uk/blog/guidance/strategic-environmental-assessment-and-sustainability-appraisal/strategic-environmental-assessment-and-sustainability-appraisal-and-how-does-it-relate-to-strategic-environmental-assessment>

The following designated sites have the potential to be affected by development proposals in Bishops Clyst:

- Exe Estuary Special Protection Area (SPA) / RAMSAR / Site of Special Scientific Interest (SSSI)

- East Devon Pebblebed Heaths Special Area of Conservation (SAC) / SSSI
- East Devon Heaths SPA

We note that the Neighbourhood Plan sets a framework for development within the 'built up area' village boundary of Clyst St Mary, but does not allocate specific sites for development. The East Devon Villages Local Plan Strategy 27 has been subject to a number of changes following the Examination of the Local Plan. These changes were consulted on during the summer of 2015 and are now being considered by the Local Plan Inspector.

Natural England advise that if the Neighbourhood Plan goes ahead before the Local Plan can be adopted, it will require SEA, as there is no current SEA in place.

Habitats Regulations Assessment

Where a neighbourhood plan could potentially affect a European protected site, it will be necessary to screen the plan in relation to the Conservation of Habitats and Species Regulations (2010), as amended (the 'Habitats Regulations'). One of the basic conditions that will be tested at Examination is whether the making of the plan is compatible with European obligations and this includes requirements relating to the Habitats Directive, which is transposed into the Habitats Regulations.

In accordance with Schedule 2 of The Neighbourhood Planning (General) Regulations 2012, a neighbourhood plan cannot be made if the likelihood of significant effects on any European Site, either alone (or in combination with other plans and projects) cannot be ruled out. Therefore, measures may need to be incorporated into the neighbourhood plan to ensure that any likely significant effects are avoided in order to secure compliance with the Regulations. A screening exercise should be undertaken if there is any doubt about the possible effects of the plan on European protected sites. This will be particularly important if a neighbourhood plan is to progress **before** a local plan has been adopted and/or the neighbourhood plan proposes development which has not been assessed and/or included in the Habitats Regulations Assessment for the local plan.

European Designated Sites within 10km of Bishops Clyst:

- Exe Estuary Special Protection Area (SPA) approx. 3km
- East Devon Pebblebed Heaths Special Area of Conservation (SAC) approx. 6km
- East Devon Heaths Special Protection Area (SPA) approx. 6km

We recognise that the level of development proposed is small-scale, purports to meet local needs and does not allocate any development sites. Your assessment notes that the objectives of the NP accord with the emerging Local Plan which is itself subject to HRA. However, the Local Plan has not yet been adopted and Bishops Clyst is within the 10km zone within which impacts of residential development on the aforementioned sites could reasonably be expected to arise in the absence of appropriate mitigation.

Protected Species

We are not aware of significant populations of protected species which are likely to be affected by the 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.

Opportunities through the Neighbourhood Plan

Biodiversity

There may be opportunities through the Neighbourhood Plan to identify suitable areas for the creation and enhancement of Priority Habitats which would demonstrate how planning applications could contribute to and restore the overall biodiversity network within the Parish. We recommend that you make reference to the [Devon Biodiversity Action Plan](#)

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 Moira Manners on 0300 060 0467. For any new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

We really value your feedback to help us improve the service we offer. We have attached a feedback form to this letter and welcome any comments you might have about our service.

Yours sincerely

Moira Manners
Lead Advisor
Sustainable Development – Devon, Cornwall & Isles of Scilly.