North Loose Neighbourhood Plan

SEA and Habitat Regulation Assessment Screening Report

Prepared on behalf of Maidstone Borough Council
1 Introduction

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 may require SEA – but this will depend on the content of each Neighbourhood Plan.

In some circumstances, where a neighbourhood plan could have significant environmental effects, it may fall within the scope of the Environmental Assessment of Plans and Programmes Regulations 2004 and so require a strategic environmental assessment.

One of the basic conditions that will be tested by the independent examiner of a Neighbourhood Plan is whether the making of the plan is compatible with European Union obligations (including under the Strategic Environmental Assessment Directive).

Whether a neighbourhood plan requires a strategic environmental assessment, and (if so) the level of detail needed, will depend on what is proposed in the draft neighbourhood plan. A strategic environmental assessment may be required, for example, where:

- the 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

The main determining factor as to whether SEA is required on a Neighbourhood Plan is if it is likely to have a significant effect on the environment. Those Neighbourhood Plans containing land allocations for development, whose impacts have not been tested in the local authority’s plan, may require SEA. Neighbourhood Plans which do not contain such allocations (or simply reflect allocations already identified as part of a local authority plan) are less likely to require SEA.

Maidstone Borough Council is legally required to determine whether the North Loose Neighbourhood Plan will require SEA. However, if it is concluded that an SEA is required, those preparing the plan responsible for its production and it must form part of the material that is consulted on once the formal consultation stage is reached.
2 Legislative Background

The basis for Strategic Environmental Assessments and Sustainability Appraisal is the European Directive 2001/42/EC which has subsequently been transposed into English law by the Environmental Assessment of Plans and Programmes Regulations 2004, or SEA Regulations. The Government has produced National Planning Practice Guidance in relation to strategic environmental assessments and sustainability appraisals to provide clarity on the need for them in relation to plan development.

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. Paragraphs 2 to 5 of the Schedule amend the Conservation of Habitats and Species Regulations 2010 so as to apply its provisions to neighbourhood development orders and neighbourhood plans. In particular, paragraph 4 inserts new regulation 78A which provides that a neighbourhood development order may not grant planning permission for development which is likely to have a significant effect on a European site.

This report focuses on screening for SEA and the criteria for establishing whether a full assessment is needed in light of the Habitat Regulations Assessment of the Maidstone LDF Core Strategy Screening Report, 2007 (Stage 1 Screening) and Sustainability Appraisal (incorporating Strategic Environmental Assessment) of the Maidstone Local Plan 2014 (including SEA).
3 Screening Process

A draft Sustainability Report was produced for the North Loose Neighbourhood Development Plan: First Draft and dated July 2014. The report tests 3 alternatives: 1 - No NLNDP; 2 - Moderate Intervention proposed through NLNDP and 3 – Maximum intervention with NLNDP and a sustainable Maidstone. The alternatives are not tested against a series of specific sustainability objectives nor are the North Loose Neighbourhood Development Plan’s policies tested against the sustainability objectives. No specific monitoring targets are included.

The North Loose Residents Association has requested a SEA screening opinion of its Regulation 15 Submission Neighbourhood Plan. At a meeting on 4 July 2014 the Residents Association was given an informal opinion by a Borough Council officer that a SEA was not necessary but no rigorous formal screening was carried out to inform this opinion and statutory consultees were not consulted. It is Maidstone Borough Council’s responsibility to assess whether the policies and proposals in the Publication Neighbourhood Plan are likely to have ‘significant environmental effects’.

The National Planning Practice Guidance in relation to strategic environmental assessments sets out the approach to producing a SEA Figure 1 (below). This guidance recommends that an assessment be undertaken in the early stages of plan making. The request for screening has come towards the latter stages of the plan making process. Nevertheless, an assessment of the Neighbourhood Plan has been made prior to the Examination.

If the screening process concludes that the North Loose Neighbourhood Plan requires SEA, it will be necessary for the Residents Association to prepare a SEA with a Scoping Report (Stage A in Figure 1 below) subject to a 5 week consultation with the statutory consultees. The next stages (Stages B and C in Figure 1 below) would then need to include consideration of reasonable alternatives, particularly as the plan allocates sites, to inform the selection and refinement of the preferred options. The preparation of the Environmental Report (Stage C) would need to identify, describe and evaluate the likely significant effects on the environment of implementing the policies in the neighbourhood plan and of the reasonable alternatives taking into account the objectives and geographical scope of the plan. Finally, a non technical summary would be required.
Figure 1

Strategic environmental assessment process

**Stage A: Setting the context and objectives, establishing the baseline and deciding on the scope**
1. Identify other relevant policies, plans and programmes, and sustainability objectives
2. Collect baseline information
3. Identify sustainability issues and problems
4. Develop the strategic environmental assessment framework
5. Consult the consultation bodies on the scope of the strategic environmental assessment

**Stage B: Developing and refining alternatives and assessing effects**
1. Test the neighbourhood plan objectives against the strategic environmental assessment framework
2. Develop the neighbourhood plan options including reasonable alternatives
3. Evaluate the likely effects of the neighbourhood plan and alternatives
4. Consider ways of mitigating adverse effects and maximising beneficial effects
5. Propose measures to monitor the significant effects of implementing the neighbourhood plan

**Stage C: Prepare the Environmental Report**

**Stage D: Publish and consult the consultation bodies and the public on the environmental report**

Neighbourhood plan preparation

**Stage C: Prepare the pre-submission neighbourhood plan**

**Stage D: Pre-submission publicity and consultation on the neighbourhood plan**

**Stage E: Post making reporting and monitoring**
1. Prepare and publish post-adoption statement
2. Monitor significant effects of implementing the neighbourhood plan
3. Respond to adverse effects

**Stage F: Submit draft neighbourhood plan to local planning authority**

**Stage G: Local planning authority publicises and invites representations on the neighbourhood plan and makes all submission documents available**

**Stage H: Neighbourhood plan sent for examination along with submission documents**

**Stage I: Referendum**

**Stage J: Neighbourhood plan made**

**Stage K: Monitoring**
Monitor and report on the implementation of the neighbourhood plan
4 Screening Assessment

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:

The screening opinion assessment set out below is undertaken in two parts: the first part assesses whether the plan requires SEA (following the process stipulated in the flow chart below); and the second part of the assessment will consider whether the Neighbourhood Plan is likely to have a significant effect on the environment, using criteria drawn from Schedule 1 of the EU SEA Directive and the UK Environmental Assessment of Plans and Programmes Regulations 2004.
4.1 Assessment 1: Establishing the Need for SEA

<table>
<thead>
<tr>
<th>Stage</th>
<th>Yes/ No</th>
<th>Reason</th>
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<tbody>
<tr>
<td>1. Is the Neighbourhood Plan (NP) subject to preparation and/or adoption by a national, regional or local authority, OR prepared by an authority for adoption through a legislative procedure by Parliament or Government? (Art. 2(a))</td>
<td>Yes</td>
<td>The preparation and adoption of the NP is allowed under the Town and Country Planning Act 1990 as amended by the Localism Act 2011. The NP has been prepared by North Loose Residents Association (as the 'relevant body') and subject to the outcome of Examination and referendum will be 'made' by Maidstone Borough Council as the local authority. The preparation of NPs is subject to the following regulations: The Neighbourhood Planning (General) Regulations 2012 and The Neighbourhood Planning (referendums) Regulations 2012. <strong>GO TO STAGE 2</strong></td>
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<td>2. Is the NP required by legislative, regulatory or administrative provisions? (Art. 2(a))</td>
<td>Yes</td>
<td>Whilst the NP is not a requirement and is optional under the provisions of the Town and Country Planning Act as amended by the Localism Act 2011, it will if 'made', form part of the Development Plan for the Borough and the NPPF states that it is highly desirable that local planning authorities should have an up-to-date plan in place. The NPPF also 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. <strong>GO TO STAGE 3</strong></td>
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<td>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))</td>
<td>Yes</td>
<td>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). <strong>GO TO STAGE 5</strong></td>
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<td>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)</td>
<td>Yes</td>
<td>The NP is expected to determine the use of small sites at a local level. <strong>GO TO STAGE 8.</strong></td>
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8. Is it likely to have a significant effect on the environment? (Art 3.5) | No | See Assessment 2: Likely significant effects on the environment:

**Summary:**
The North Loose NP is a relatively self-contained planning unit and considers development only at a local level. Given the geographic area and population of the plan area, the effects of the plan will be relatively localised. The plan policies aim to reduce air pollution which is a local issue. The plan should not significantly impact on any habitat of European designation. The NP will integrate environmental considerations with a view to promoting sustainable development. Whilst it is inevitable that development will have some impact on the environment, these impacts are not expected to be significant, in so far as they will be localised and minimised.

**DIRECTIVE DOES NOT REQUIRE SEA**

### 4.2 Assessment 2: Likely Significant Effects on the Environment

<table>
<thead>
<tr>
<th>SEA Directive criteria and Schedule 1 of Environmental Assessment of plans and programmes Regulations 2004</th>
<th>Maidstone Borough Council Assessment</th>
<th>Likely significant environmental effect?</th>
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<tr>
<td><strong>Characteristics of the Neighbourhood Plan, having regard to:</strong></td>
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<tr>
<td>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.</td>
<td>The NP would, if made, form part of the statutory Development Plan and as such does contribute to the framework for future development consent of projects. It does not allocate sites for development but sets a framework within which any allocations or development should be assessed. However, the NP sits within the wider framework of the NPPF and ‘saved’ Local Plan policies (2001) (together with the emerging Local Plan policies). Consequently the projects for which this NP helps to set a framework are localised in nature and will have a geographically restricted local impact on the environment and resource implications.</td>
<td>No</td>
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<td>The degree to which the</td>
<td>The NP must take into account the</td>
<td>No</td>
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<td>Plan influences other plans and programmes including those in a hierarchy.</td>
<td>National Planning Policy Framework and the plan should be in general conformity with the Council’s strategic ‘saved’ Local Plan policies. In addition, the NP is prepared in the context of the emerging Local Plan. The Foreword to the NP states that the plan should be read in conjunction to this strategic planning framework. Whist significant to the North Loose area of Maidstone, the NP should not significantly influence other plans and programmes, but may have a limited degree of influence over the implementation of future strategic policies.</td>
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<td>The relevance of the Plan for the integration of environmental considerations in particular with a view to promoting sustainable development.</td>
<td>The NP seeks to integrate environmental considerations with a view to promoting sustainable development particularly in relation to air quality and sustainable transport options; a Green Living Plan and Code level 4 in association with residential development and the protection and enhancement of green infrastructure. Given the geographic area of the NP and the location of facilities within and close to the plan area, development is likely to be sustainably located in relation to services. It is therefore considered that the NP will integrate environmental considerations with a view to promoting sustainable development.</td>
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<td>Environmental problems relevant to the Plan.</td>
<td>The NP is intended to make a positive impact on mitigating air pollution particularly the Loose Road/ Sutton Road junction which requires a 51% reduction in NO₂ concentrations to meet the annual mean objective. The NP sets no specific targets and it is unclear from the evidence that the measures included within the plan would, on their own, achieve this level of change. The Maidstone Air Quality Action Plan relies on other measures outside the scope of the NP to assist in the reduction of NO₂ levels. Whilst wider reductions in NO₂ would be beneficial, it is only at the Loose Road/ Sutton Road junction that the annual mean NO₂ levels are raised above the national air quality.</td>
<td>No</td>
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The impact of the issue is very localised and it is unclear whether the NP alone would have a significant impact on the junction. For these reasons it is unlikely that the NP alone will have significant impact on air quality.

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, although it will need to take the impact of the Water Framework Directive into account.

**Characteristics of the effects and of the area likely to be affected, having regard, in particular, to:**

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<td>The probability, duration, frequency and reversibility of the effects.</td>
<td>The NP does not allocate development sites, but includes policies by which development proposals would be judged. These policies seek to mitigate the impact of development on air quality; promote sustainable homes and protect and enhance existing facilities and services such as community and retail uses as well as local green infrastructure. It is intended that the positive effects will have a positive cumulative benefit for the local area.</td>
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<tr>
<td>The cumulative nature of the effects of the Plan.</td>
<td>The NP does not allocate development sites, but includes policies by which development proposals would be judged. These policies seek to mitigate the impact of development on air quality; promote sustainable homes and protect and enhance existing facilities and services such as community and retail uses as well as local green infrastructure. It is intended that the positive effects will have a positive cumulative benefit for the local area.</td>
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<td>The trans-boundary nature of the effects of the Plan.</td>
<td>The NP is not expected to have any significant trans-boundary effects.</td>
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<td>The risks to human health or the environment (e.g. due to accidents).</td>
<td>The NO₂ concentrations above the national air quality objective at the Loose Road/ Sutton Road junction are likely to have adverse impact on human health in this location. There is currently no evidence to indicate</td>
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<td>that any other areas within the plan area have NO₂ above the national air quality objective. The human health risks are localised and the NP seeks to mitigate the impact of new development on air pollution.</td>
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<td>The magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected) by the Plan.</td>
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<td>The NP covers North Loose with a population of approximately 6000 (2011) - forming a small proportion of the Maidstone urban area and population. Given the geographic area and population of the plan area, the effects of the plan will be relatively localised.</td>
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<td>The value and vulnerability of the area likely to be affected by the Plan due to:</td>
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<td>- Special natural characteristics or cultural heritage;</td>
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<td>- Exceeded environmental quality standards or limit values; or</td>
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<td>- Intensive land use</td>
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<td>- Special natural characteristics or cultural heritage will not be significantly adversely affected by the NP;</td>
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<tr>
<td>- The NP is not expected to exceed environmental quality standards or limit values;</td>
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<td>- Any development is expected to respond to the local environmental context – but not to intensively use the land for development. The NP contains a specific policy about the use of garden land. Other policies within the NP and saved Local Plan should mitigate against the over-development of land.</td>
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<td>The effects of the Plan on areas or landscapes which have recognised national, community or international protection status.</td>
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<td>Although just over a quarter of the borough is within the Kent Downs Area of Outstanding Natural Beauty located to the north of Maidstone town, the NP area is set some distance away to the south of the town. The NP does not seek to designate Local Green Space and does not impact adversely on a Local Nature Reserve. The NP is not likely to have a significant impact on national or community protection status.</td>
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<tr>
<td>Assessment 2 Conclusion</td>
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<tr>
<td>The North Loose NP is not likely to have a significant effect on the environment.</td>
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5 Habitat Regulation Assessment Screening

The Habitat Regulation Assessment (HRA) screening tests whether the North Loose Neighbourhood Plan, in view of its likely effect on sites, will require an assessment for future development under Article 6 or 7 of the Habitats Directive (Article 3.2(b)).

Maidstone Borough contains two sites of European importance: North Downs Woodlands to the west of the district is a Special Area of Conservation (SAC) and Queendown Warren SAC which lies on the northern border of Maidstone Borough.

New development that is delivered within the Borough over the next two decades is likely to place additional pressure on these areas, particularly through increased recreational pressure on the Boxley Warren SAC. However, in this respect the Habitats Regulations Assessment Screening Report (2007) for the Core Strategy Preferred Options (2007) tested the impact of the anticipated 8,200 – 10,080 dwellings primarily concentrated in the Maidstone Urban Area.

The Screening Report determined that although such growth could lead to significant recreational activity, the Core Strategy was unlikely to have an adverse effect on the North Downs Woodlands or Queendown Warren SAC or other sites of European value further afield, either alone, or in combination with other projects and plans as a result of urbanisation. This conclusion was reached in part because of measures that were incorporated within the Core Strategy and the Open Space DPD. This is the most up to date Habitats Regulations Assessment Screening Report available at the time of preparing the assessment of the Neighbourhood Plan.

Whilst the number of dwellings now under consideration for the Borough is significantly higher, visitor survey data obtained during 2012 identified that visitor numbers to the nearest part of the North Downs Woodlands SAC (Boxley Warren) were fairly low.

The North Loose Neighbourhood Plan allocates no specific sites for residential development (though it includes some policies by which development would be appraised) and is to be read in conjunction with the emerging Maidstone Local Plan.

The NP also proposes to maintain and enhance recreation and open space provision which will tend to mitigate impacts of recreational pressure on other sites.

Finally, North Loose is located to the south of Maidstone urban area and the additional population generated by the Neighbourhood Plan is therefore less likely to place recreational pressure on the two sites of European importance to the north of the town.

On balance, the North Loose NP is not likely to cause a significant effect on a European site will not require an assessment for future development under Article 6 or 7 of the Habitats Directive (Art. 3.2(b)).
6 Consultations with Statutory Consultees

The three statutory consultation bodies (English Heritage, Environment Agency and Natural England) have been consulted to determine whether they agree with the conclusion of this screening opinion, in establishing whether the North Loose Neighbourhood Plan requires SEA and whether it may have a ‘significant environmental effect’.

Summary of Consultations

English Heritage

No comment

Environment Agency

We have no comments to make.

Natural England

Thank you for your consultation. On the basis of your draft screening report, I agree that a Habitats Regulations Assessment and a Strategic Environmental Assessment are not needed for the Neighbourhood Plan.
7 Screening Conclusion

As a result of the Screening Assessment, it is concluded that parts of the Regulations would require the preparation of a SEA if there is the potential for significant environmental effects to arise as a result of the Submission North Loose Neighbourhood Plan. However, the assessment concludes that the Neighbourhood Plan is not likely to have a significant effect on the environment. It is important to remember that this screening opinion is based on the North Loose Neighbourhood Development Plan Regulation 15 Submission Plan and that if the Neighbourhood Plan should materially change then a new screening process will need to be undertaken to determine whether an SEA will be required.

In addition, the North Loose NP is not considered likely to cause a significant effect on a European site and will not therefore require an assessment for future development under Article 6 or 7 of the Habitats Directive (Art. 3.2(b)).

This screening opinion concludes that SEA and HRA is not required for the Submission North Loose Neighbourhood Plan.