

MARLBOROUGH AREA NEIGHBOURHOOD PLAN HABITATS REGULATIONS ASSESSMENT (HRA)

1. Introduction

- 1.1. This Habitats Regulations Assessment (HRA) is the second iteration relating to the Marlborough Area Neighbourhood Plan 2021 – 2036: Pre-Submission Plan (November 2020), hereafter referred to as the NP. The first version, dated 3rd March 2021, was produced to inform the Regulation 14 consultation response from Wiltshire Council to the NP.
- 1.2. This iteration of the HRA has been undertaken at the request of the Neighbourhood Plan Steering Group (NPSG). It presents a revised screening assessment taking account of information obtained from Thames Water Utilities Ltd and the Environment Agency (EA) by the NPSG and Wiltshire Council in accordance with the recommendations stipulated in the first version of the HRA.
- 1.3. The HRA has been carried out to comply with Regulation 105 of the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019¹, hereafter referred to as the Habitats Regulations. Under these Regulations, a competent authority must consider whether a relevant plan is likely to have a significant effect on any European sites before deciding to give any consent, permission or other authorisation. If the screening exercise demonstrates significant effects are likely, whether or not these are addressed through mitigation measures², the competent authority must undertake an appropriate assessment (AA) to examine the effects of the plan on the conservation objectives of the European sites in question, consult the appropriate nature conservation body and have regard to its representations. Both the screening, and any subsequent AA must consider the impacts of the plan alone and in combination with other plans or projects.
- 1.4. It is usually the case that a plan of this nature does not go into the detailed aspects of development proposals and therefore the full effects of potential development cannot be accurately assessed at the plan making stage. Those details will typically be identified through a planning application which would be subject to further, more detailed HRA. The principle that a HRA need only consider the effects of a proposal or policy in as much detail as is specified by the plan was explained by Advocate General Kokott in a judgement brought against the UK government in 2005:
*“Many details are regularly not settled until the time of the final permission. It would also hardly be proper to require a greater level of detail in preceding plans or the abolition of multi-stage planning and approval procedures so that the assessment of implications can be concentrated on one point in the procedure. Rather, adverse effects on areas of conservation must be assessed at every relevant stage of the procedure to the extent possible on the basis of the precision of the plan. This assessment is to be updated with increasing specificity in subsequent stages of the procedure.”*³
- 1.5. Where AA is undertaken, the competent authority may go on to authorise the plan provided that it will not adversely affect the integrity of any European sites. Where an **adverse effect on the integrity (AEol)** of any European sites cannot be ruled out, and where there are no alternative solutions, the plan can

¹ On 1st January 2021 the Conservation of Habitats and Species Regulations 2017 were amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019. Most of these changes involved transferring functions from the European Commission to the appropriate authorities in England and Wales. All other processes or terms in the 2017 Regulations remain unchanged and existing guidance is still relevant. The obligations of a competent authority in the 2017 Regulations for the protection of sites or species do not change [Changes to the Habitats Regulations 2017 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/534242/changes-to-the-habitats-regulations-2017-gov-uk.pdf)

² Court of Justice of the European Union, Case C 323/17 “People Over Wind”/P. Sweetman v Coillte Teoranta

³ Commission of the European Communities v UK and NI, opinion of Advocate General Kokott, 9 June 2005, Case C-6/04

only be authorised and proceed if there are **imperative reasons of over-riding public interest (IROPI)** and if the necessary compensatory measures can be secured.

- 1.6. Wiltshire Council has conducted the following HRA as competent authority for the Marlborough Area NP. Where risks to European sites are identified, changes are recommended to remove or reduce the risks, and these should be incorporated into the plan before it is made. Likewise, if the policies or planning context change after the HRA is completed, the HRA process must be repeated before the final plan is considered by a referendum and adopted.

2. Screening Methodology

- 2.1. Each element of the plan has been categorised against screening criteria developed by Natural England (NE) to provide a clear audit trail for the screening assessment.

- 2.2. The screening criteria used are as follows:

- Category A1: The policy will not itself lead to development e.g., because it relates to design or other qualitative criteria for development.
- Category A2: The policy is intended to protect the natural environment.
- Category A3: The policy is intended to conserve or enhance the natural, built or historic environment.
- Category A4: The policy would positively steer development away from European sites and associated sensitive areas.
- Category A5: The policy would have no effect because no development could occur through the policy itself, the development being implemented through other policies in the same plan, which are more specific and therefore more appropriate to assess for their effects on European Sites and associated sensitive areas.
- Category B: No significant effect.
- Category C: Likely significant effect alone.
- Category D: Likely significant effects in combination.

- 2.3. The effect of each policy has been considered both individually and in combination with other plans and projects (see Table 1 in Section 4 below). Where potential for likely significant effects have been identified, an appropriate assessment is presented in subsequent sections.

3. Higher Level HRAs

Wiltshire Core Strategy

- 3.1 The Wiltshire Core Strategy (WCS) HRA (October 2009, February 2012⁴, March 2013⁵, February 2014⁶ and April 2014⁷) identified general parameters to determine the likelihood of potential impacts on European sites/Natura 2000 sites (now known as the national site network⁸). The following potential impact pathways and associated parameters were identified and assessed for the European sites stipulated below.

⁴ Wiltshire Core Strategy Submission Draft – Assessment under the Habitats Regulations, Wiltshire Council, February 2012

⁵ Wiltshire Core Strategy – Assessment under the Habitats Regulations, Wiltshire Council, March 2013

⁶ Update to the Wiltshire Core Strategy habitats Regulations Assessment, February 2014 (Exam/89)

⁷ Wiltshire Core Strategy Updated Habitats Regulations Assessment, April 2014

⁸ On 1st January 2021 the Conservation of Habitats and Species Regulations 2017 (as amended) were amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019

- *Recreation – European sites within 5km of the plan area, or where the New Forest SPA/SAC is within 8km of the plan area or where Salisbury Plain SPA/SAC is within 15km (it should be noted that the relevant parameter for the latter has since been revised on the basis of data obtained by means of visitor surveys and is now 6.4km):*
 - Salisbury Plain SPA / SAC
 - River Avon SAC
 - New Forest SAC / SPA
 - Bath and Bradford on Avon Bats SAC (added post adoption of Wiltshire Core Strategy)
- *Hydrology / Hydrogeology – European sites that fall wholly or partly within the Wessex Water Resource Zone may be susceptible to impact:*
 - Salisbury Plain SAC / SPA
 - Bath and Bradford on Avon Bats SAC
 - Pewsey Downs SAC
 - North Meadow and Clattinger Farm SAC
 - River Avon SAC
 - River Lambourn SAC
 - Kennet & Lambourn Floodplain SAC
- *Air Pollution / Nitrogen Deposition – European sites within 200m of a main road*
 - Porton Down SPA
 - Salisbury Plain SAC / SPA
 - Southampton Water SPA
 - North Meadow and Clattinger Farm SAC
 - River Avon SAC
 - Rodborough Common SAC
 - Cotswolds Beechwoods SAC
- *Physical Damage / Interruption of Flight Lines / Disturbance*
 - Bath and Bradford on Avon Bats SAC
 - Porton Down SPA
 - Chilmark Quarries SAC (added post adoption of Wiltshire Core Strategy)
 - Mottisfont Bats SAC (added post adoption of Wiltshire Core Strategy)

Wiltshire Housing Site Allocations Plan

- 3.2 Since the WCS was adopted, the Council published a pre-submission draft of the Wiltshire Housing Site Allocations Plan (WHSAP) together with a HRA dated 21 June 2017. A schedule of proposed changes was considered by Cabinet supported by an Addendum to the HRA dated May 2018. A further schedule of changes and an Addendum to the HRA incorporating minor factual changes were published in September 2018 for public consultation. Subsequently, the WHSAP (Council Version, February 2020)

was adopted by Full Council on 25th February 2020, and this was accompanied by the final WHSAP Assessment under the Habitats Regulations (Wiltshire Council, February 2020).

- 3.3 The screening criteria for the adopted WHSAP and final HRA were modified for some European sites from those used for the WCS subsequent to the acquisition of results from new surveys, and in light of advice from Natural England. This includes the zone of influence around the Salisbury Plain SPA used to screen for likely significant effects as a result of recreational pressure being revised from 15km to 6.4km on the basis of data obtained by means of visitor surveys.
- 3.4 Furthermore, since the WCS was adopted, Natural England has advised Wiltshire Council of its concerns regarding the growing number of visitors to the North Meadow and Clattinger Farm SAC in recent years which has led to an increase in trampling. NE has advised that this is particularly evident at North Meadow (which is also a National Nature Reserve (NNR)) during April and May when visitors come to see the Snake’s-head fritillaries in flower. Natural England considers that the increase in recreational pressure upon the SAC is primarily as a result of increases in the local population, and that major new housing developments within a short travel distance of North Meadow are likely to add to the existing visitor pressure and trampling effects.
- 3.5 Impacts of development in Wiltshire on the New Forest SPA were considered in the HRA for the South Wiltshire Core Strategy (SWCS) adopted in 2012⁹. The assessment used data from the Tourism South East PROGRESS survey for 2004/05 and census data from 2001 for the former Salisbury District to examine patterns of visitors to the New Forest from across south Wiltshire. That HRA concluded that the development in south Wiltshire would increase visitor pressure by less than 1% and 89% of this would be through additional local day visits from within 8 km of the National Park. The WCS addressed the New Forest’s mitigation requirements through Core Policy 50, identifying that a New Forest Mitigation Strategy would be prepared to address recreational impacts. Since the WCS was adopted, the council has joined a partnership of local authorities seeking to develop a strategic approach to address the impacts of recreational pressure on the New Forest SPA. A Government grant through the Planning Delivery Fund enabled visitor surveys to be conducted across the New Forest in 2018/19. This work was recently published, and the Council is now part of a steering group working to agree a common approach to mitigation including the extent of the zone of influence and how to fairly reflect different visit rates within it. This evidence is informing the preparation of an Interim Recreation Mitigation Strategy and will be further revised to support the Local Plan Review (LPR).
- 3.6 Since the WCS was adopted and on the advice of Natural England, any plan or project that will lead to development within the catchment of the River Avon SAC must be phosphorous neutral and be subject to AA which concludes no adverse effect on the SAC alone or in-combination with other plans or projects in order to be authorised.

Emerging Evidence and Advice from Natural England Subsequent to Adoption of WHSAP

- 3.7 Similarly, it came to light in spring 2020 that any plan or project that will lead to development within the catchment of the River Test must be nitrogen neutral as the Test drains into the Solent and this region is protected by a number of European and international designations including the Solent Maritime SAC, Chichester and Langstone Harbours SPA, Portsmouth Harbour SPA and Solent and Southampton Water SPA and Ramsar site. In 2018 and 2019 Natural England undertook a number of condition assessments of the features of these designated sites around the Solent. These assessments identified that high levels of nitrogen and phosphorus are entering this water environment and that there is sound evidence that nitrogen in particular is causing eutrophication at the aforementioned designated sites and that the resulting excessive growth of green algae and plants, which reduces oxygen and light levels, is leading to negative effects on the special features for which the European

⁹ South Wiltshire Proposed Submission Core Strategy HRA Report, Appendix 13. NPA for Wiltshire Council, July 2009

sites are designated. These nutrient inputs currently mostly come either from agricultural sources or from wastewater from existing housing and other development. These findings were published by Natural England in June 2020 in *Advice on Achieving Nutrient Neutrality for New Development in the Solent Region*. This advice also stipulates that:

“There is uncertainty as to whether new growth will further deteriorate designated sites. This issue has been subject to detailed work commissioned by local planning authorities (LPAs) in association with Natural England, Environment Agency and water companies. This strategic work, which updates early studies, is on-going. Until this work is complete, the uncertainty remains and the potential for future housing developments across the Solent region to exacerbate these impacts creates a risk to their potential future conservation status.

One way to address this uncertainty is for new development to achieve nutrient neutrality. Nutrient neutrality is a means of ensuring that development does not add to existing nutrient burdens and this provides certainty that the whole of the scheme is deliverable in line with the requirements of the Conservation of Habitats and Species Regulations 2017 (as amended).

This report sets out a practical methodology to calculating how nutrient neutrality can be achieved. This methodology is based on best available scientific knowledge, and will be subject to revision as further evidence is obtained. It is our advice to local planning authorities to take a precautionary approach in line with existing legislation and case-law when addressing uncertainty and calculating nutrient budgets.”

- 3.8 In accordance with Natural England’s advice, any plan or project which will lead to development within the catchment of the River Test cannot be approved unless nitrogen neutrality has been demonstrated via quantitative means, and an AA conducted by the competent authority has concluded beyond reasonable scientific doubt that there would be no adverse effects on the integrity of any of the Solent region European sites.

Screening of Marlborough NP Area

Recreation

- 3.9 In terms of recreational pressure, the NP area lies beyond the 8km radius around the New Forest SAC/SPA within which the majority of day visitors to the New Forest originate¹⁰.
- 3.10 Recreational pressure on the River Avon SAC is recognised to occur in limited circumstances predominately where significant development lies immediately adjacent or in close proximity to the river, which will not occur as a result of this NP as the River Avon SAC lies approximately 2.5km south of the NP area at its closest point.
- 3.11 In relation to Salisbury Plain, the SAC habitat features were screened out of appropriate assessment for the Core Strategy on the advice of Natural England. The Salisbury Plain SPA can also be screened out of appropriate assessment with respect of this NP as the plan area is beyond the 6.4km zone around the SPA within which the majority (75%) of visitors to the Plain are expected to live. This is based on the data collated by means of a visitor survey commissioned by Wiltshire Council in 2015.
- 3.12 In addition, the North Meadow and Clattinger Farm SAC is situated approximately 24.3km northwest of the NP area at its closest point and as such appropriate assessment with respect of this European site can be screened out.

¹⁰ Wiltshire Core Strategy Updated Habitats Regulations Assessment, April 2014

Hydrology / Hydrogeology

- 3.13 In terms of hydrology/hydrogeology, with the exception of a very small area within the south of the NP area, the whole of the Marlborough NP area lies within the catchment of the River Kennet and tributaries, within the River Thames Basin District. This is within the Thames Water Swindon and Oxfordshire Water Resource Zones (WRZ).
- 3.14 The Kennet and Lambourn Floodplain SAC lies approximately 7.4km east of the Marlborough NP area and the River Kennet flows east through the town of Marlborough. The screening assessment detailed in the HRA of the Wiltshire Core Strategy Submission Draft (2012)¹¹ identified the potential for significant hydrological/hydrogeological effects on the Kennet and Lambourn Floodplain SAC as a result of Core Policy 14: Marlborough as the SAC and settlement of Marlborough are within the Thames Water Swindon and Oxford WRZ, and as such an appropriate assessment was undertaken.
- 3.15 Paragraph 3.2.38 of the HRA to the Wiltshire Core Strategy (2012) specified that the HRA screening assessment¹² of schemes that were included in the preferred programmes for the Thames Water Swindon and Oxford WRZ in the final draft of the Thames Water Utilities Ltd Water Resource Management Plan (WRMP)¹³ concluded that, with mitigation taken into account, they are not likely to have a significant effect on the integrity of any European sites, and that in the context of Wiltshire, this is relevant to European sites associated with the River Kennet, namely the Kennet and Lambourn Floodplain SAC, Kennet Valley Alderwoods SAC and Lambourn Floodplain SAC.
- 3.16 The assessment in Appendix D of the HRA to the Core Strategy (2012) considered the potential significant effect of water abstraction upon the Kennet and Lambourn Floodplain SAC and its qualifying features as a result of the additional housing and employment development proposed by Core Policy 14, as this would lead to an increase in the consumption of water, which could in turn impact on the hydrological regime of the SAC through increased abstraction of water from rivers/groundwater. The assessment specified that the additional water consumption had been planned for within the WRMP which itself had been subject to an HRA, and also listed policies in the Core Strategy that it specified *'will contribute the achievement of demand management measures in the WRMP area.'* It recommends no amendments to the Core Strategy or other parts of the LDF in order to avoid the potential effect and concluded that there would be no residual significant adverse effect on the integrity of the SAC.
- 3.17 The assessment detailed in the HRA to the Wiltshire Core Strategy (March 2013)¹⁴ in respect of the Kennet and Lambourn Floodplain SAC stipulated: *'Site lies within the Thames Water Swindon and Oxfordshire Water Resource Zone and additional water consumption is planned for within the Water Resource Management Plan, which has itself been subjected to Habitats Regulations Assessment and concluded that additional housing would have no likely effects upon the site.'* It goes on to state: *'HRA for the WRMP notes that Kennet and Lambourn Floodplain SAC was potentially impacted on by groundwater abstraction from the Chalk aquifer at Speen. Licensed abstraction from the aquifer was reduced as part of the SWMP.'*
- 3.18 As per the 2012 HRA of the Core Strategy, the 2013 HRA likewise did not recommend any amendments to the Core Strategy or other parts of the LDF in order to avoid the potential effect and concluded that there would be no residual significant adverse effect on the integrity of the SAC.
- 3.19 The Updated HRA of the Wiltshire Core Strategy (April 2014) reviewed the findings of the March 2013 HRA in light of all modifications proposed since that assessment and included an in-combination assessment which identified any plans or projects which had been subject to HRA since March 2013.
- 3.20 The appropriate assessment of the proposed modifications in respect of water abstraction and the Kennet and Lambourn Floodplain SAC states: *'Proposed modifications to the Marlborough Community Area policy (CP14) could have LSE upon the Kennet and Lambourn Floodplain SAC through increased water abstraction. The proposed modifications would result in approximately 70 additional dwellings at*

¹¹ Wiltshire Core Strategy Submission Draft – Assessment under the Habitats Regulations, Wiltshire Council, February 2012

¹² Thames Water Utilities Ltd Habitats Regulations Assessment, December 2011

¹³ Water – Planning for the Future. Draft Final Water Resource Management Plan, Thames Water Utilities Ltd, December 2011

¹⁴ Wiltshire Core Strategy – Assessment under the Habitats Regulations, Wiltshire Council, March 2013

Marlborough which will increase the demand for water and contribute towards additional abstraction across the catchment. As with the River Avon SAC, there is potential for the Kennet and Lambourn Floodplain SAC to be adversely affected low flows, which could be exacerbated by over abstraction. Abstraction licenses in the River Kennet have been subject to the same RoC process as those within the River Avon SAC catchment and all such licences are now understood to have been found Habitats Regulations compliant by the EA.'

- 3.21 The HRA then states: *'Thames water has confirmed that the water demand from the increased number of proposed dwellings at Marlborough can be accommodated within the existing Marlborough groundwater abstraction licence and the future Axford groundwater abstraction licence. **The council therefore concludes that the additional water demand from the proposed WCS housing figures (including the additional 70 dwellings) would not have an adverse effect upon the integrity of the Kennet and Lambourn Floodplain SAC.'***
- 3.22 The settlement level screening assessment undertaken in accordance with the Habitats Regulations and presented in the Wiltshire Housing Site Allocations Plan Assessment under the Habitats Regulations (Wiltshire Council, February 2020) states in respect of water abstraction and the likely significant effects on the Kennet and Lambourn Floodplain SAC:
- 'The Kennet and Lambourn Floodplain SAC and Lambourne River SAC area relatively unmodified river and wetland area (sic) which supports an extensive population of the Annex II species Desmoulin's whorl snail in association with chalk stream habitat.*
- There is known to be limited water available for abstraction in both the Upper Kennet and the Og rivers, and therefore the EA has declared a water resource status of 'Water not available for licensing' for much of these catchments in Wiltshire⁴¹. Both rivers flow into the Kennet and Lambourne Floodplain SAC, several components of which have been assessed as being in unfavourable condition as they fail to meet target moisture levels, which has been attributed to water abstraction.'*
- 3.23 However, the WHSAP did not allocate any sites wholly or partly within the catchment of the River Kennet and therefore appropriate assessment in respect of the Kennet and Lambourn Floodplain SAC was not required.
- 3.24 The Marlborough NP includes policy MARL1 which allocates five sites for residential development, equating to 180 dwellings, as well as policies MARL2 to MARL6 which support and promote further residential, employment and commercial development. Given that the NP area lies within the catchment of the River Kennet and tributaries, within the Thames Water Swindon and Oxfordshire WRZ, and that the considerable number of residential properties allocated in the NP is additional to the quantity assessed in the HRA to the Core Strategy, which was found to be Habitats Regulations compliant, a mechanism for a likely significant effect on the Kennet and Lambourn Floodplain SAC exists. This is on account of the increase in water abstraction that would be necessitated by the delivery of the residential development allocated in, and other development supported by, the NP. Nonetheless, information acquired from Thames Water Utilities Ltd and the EA since the production of the first iteration of the HRA has been used to revise the policy level screening assessment presented in Section 4 and Table 1.
- 3.25 A very small section of the southern extent of the NP area lies within the catchment of the River Avon SAC. Consequently, any proposals for development within that section of the NP area will need to be phosphate neutral and demonstrate that it will not diminish the ability of the SAC to achieve its conservation objectives within timescales identified in the River Avon Nutrient Management Plan (NMP). The Council is working with the Environment Agency and Natural England to ensure appropriate mitigation is in place for development coming forward under the Core Strategy and Local Plan Review. Nevertheless, none of the policies in the NP allocate sites for development within the catchment of the River Avon SAC.

Air Pollution / Nitrogen Deposition

- 3.26 The Wiltshire Core Strategy HRA identified that increased traffic would lead to potential effects through an increase in atmospheric pollution and nitrogen deposition upon a range of European sites within 200m of a main road. Such effects were considered to be very small and difficult to predict at the strategic level¹⁵. Although the allocations in the NP for approximately 180 dwellings constitutes a considerable quantity of housing, none of the allocated sites lie within 200m or close proximity of any of the European sites listed above; the closest being the River Avon SAC and Pewsey Downs SAC, located approximately 2.44km south and 4.17km west-southwest of the NP area respectively, at its nearest point. These two European sites are a considerable distance from the NP area and effects are likely to be negligible.
- 3.27 In relation to the River Avon SAC, the Wiltshire Core Strategy HRA concluded no likely significant effect where the existing approach to mitigation in Core Policy 55 is implemented. It is therefore concluded that the proposals for housing in this NP would not have an adverse effect on European sites or the integrity of its qualifying features as a result of nitrogen or particulate matter deposition.

Physical Damage / Interruption of Flight Lines / Disturbance

- 3.28 In terms of the potential to cause physical damage to features that which provide habitat for bats, such as breeding, roosting and foraging habitat, and the potential to interrupt or fragment/sever bat flight lines, or to cause disturbance to such features, it is deemed that the NP area is too remote to have implications for bats at the Bath and Bradford on Avon Bats SAC, the Mottisfont Bats SAC or indeed Chilmark Quarries SAC.
- 3.29 The NP area is also beyond the potential zone of influence with respect of stone curlews breeding at Porton Down SPA and Salisbury Plain SPA and will not result in physical damage to the habitats within the European sites; nor will it result in the interruption of flight lines or disturbance to breeding stone curlew, such as by means of the introduction of visual stimuli or noise.

4. Screening of Policies in Marlborough Area Neighbourhood Plan 2021 – 2036: Pre-Submission Plan (November 2020)

- 4.1 The Pre-Submission draft of the Marlborough Area NP comprises 21 draft policies; these are detailed and assessed in Table 1 below.
- 4.2 All parts of the NP have been screened for potential impacts which may arise from the plan alone or in combination with other plans and projects. Taking into consideration the location, scale and nature of proposals in the NP, there is a mechanism for effect on one European site, the Kennet and Lambourn Floodplain SAC. This is on account of policy MARL1 allocating five sites for the development of a total of approximately 180 dwellings, as well as the support for further residential, business and commercial development proffered by virtue of Policies MARL2 to MARL6. The majority of the NP area lies within the catchment of the River Kennet and tributaries and is within the Thames Water Swindon and Oxfordshire WRZ, and policy MARL1 in particular, as well as policies MARL2 to MARL6, have the potential to give rise to significant effects on the aforementioned European site due to an increase in water abstraction which could lead to water resources issues and an impact upon the hydrological regime of the River Kennet and the Kennet and Lambourn Floodplain SAC.
- 4.3 The allocation of approximately 180 dwellings proposed by way of policy MARL1 in the Marlborough NP substantially exceeds the projected number of new dwellings in Marlborough that was assessed in the HRA of the Core Strategy and found to be compliant with the Habitats Regulations. However, information acquired from Thames Water Utilities Ltd and the EA since the production of the first

¹⁵ Update to the Wiltshire Core Strategy Habitats Regulations Assessment, February 2014 (Exam/89)

iteration of the HRA has been used to revise the policy level screening assessment presented in Section 4 and Table 1, and it has been determined that policies MARL1 to MARL6 will not need to be taken forward to appropriate assessment under Regulation 105 of the Habitats Regulations 2019. A detailed rationale is provided in Section 5.

- 4.4 The other policies within the NP would either not lead directly to development; are intended to protect or enhance the natural, built or historic environment; or relate to design or other qualitative criteria for development and as such would have no significant effects on European sites either alone or in combination with other plans and projects.
- 4.5 Any further iterations of, or changes to the NP as a result of the examination in public should be subject to a rescreening assessment before the Council adopts the plan.

TABLE 1: Habitats Regulations Assessment Screening of the Marlborough Area Neighbourhood Plan

A / B (Green) – Screened out			
C / D (Red) – Screened in			
Policy	Policy Summary and Assessment under Habitats Regulations	Screening Category	Comments and Recommendations
MARL1 Delivering Affordable Homes in Marlborough	<p>This policy allocates five sites in Marlborough for residential development provided they accord with the respective site-specific requirements and with other relevant policies of the development plan. The five sites and accompanying description as stipulated in the policy are as follows:</p> <ol style="list-style-type: none"> 1. Land off Elcot Lane - shall comprise approx. 50 homes on a developable area of approx. 2 ha. 2. Land Rear of Salisbury Road - shall comprise approx. 50 homes on a developable area of approx. 2 ha. 3. Land at Barton Dene - shall comprise approx. 40 homes on a developable area of no more than 1.5 ha with sufficient land made available for the provision of a new medical centre to serve the town. 4. Land off Cherry Orchard - shall comprise up to 30 homes on a developable area of approx. 1.0 ha. 5. Land at Kelham Gardens - shall comprise a flatted scheme of approx. 10 homes on a developable area of approx. 0.1 Ha. <p>This policy would lead to development; and the proposed allocated sites, and indeed most of the NP area, lie within the catchment of the River Kennet and tributaries and is within the Thames Water Swindon and Oxfordshire WRZ. Therefore, Policy MARL1 gives rise to a potential mechanism for a likely significant effect on the Kennet and Lambourn Floodplain SAC due to a probable increase in water abstraction necessitated by the development of the allocated sites. In turn, this could impact water resource availability and the hydrological regime of the River Kennet and the aforementioned SAC. However, for the reasons detailed in Section 5, this policy is screened out of appropriate assessment.</p>	B	<p>The first iteration of the HRA (dated 3rd March 2021) of the Pre-Submission draft of the NP (November 2020), assigned screening categories C and D to this policy on account of a mechanism for a likely significant effect on the Kennet and Lambourn Floodplain SAC. For the reasons detailed in Section 5, this policy has been re-screened with the outcome being that the policy will not need to be taken forward to appropriate assessment (Stage 2 HRA).</p>

Policy	Policy Summary and Assessment under Habitats Regulations	Screening Category	Comments and Recommendations
	<p>Nevertheless, it will be necessary for any proposals for development of the allocated sites listed in the policy to be assessed under the Habitats Regulations at the planning application stage. Development proposals must also comply with other Development Plan policies including Core Policies 50 (Biodiversity and Geodiversity), 51 (Landscape) and 52 (Green Infrastructure) of the Wiltshire Core Strategy (WCS)(Adopted January 2015), and the National Planning Policy Framework (NPPF) 2019.</p>		
<p>MARL2 Managing Change at George Lane, Marlborough</p>	<p>This policy supports the change of use and redevelopment of an existing community facility site on George Lane to the south of the town centre. It states:</p> <p><i>‘Development proposals for the change of use of the Health Centre site on George Lane, as shown on the Policies Map, to a residential use will be supported in principle, provided planning permission has been granted for an alternative site in the town. Proposals to redevelop the site will be supported provided the scheme is of a density and building height that reflect the suburban character of George Lane.’</i></p> <p>The likely number of houses that would be accommodated on the site at George Lane is not specified, however, the site lies within the catchment of the River Kennet and tributaries which is within the Thames Water Swindon and Oxfordshire WRZ. Therefore, the change of land use to residential development at the site which is supported by means of this policy has the potential to give rise to a significant effect on the Kennet and Lambourn Floodplain SAC due to an increase in water abstraction which could impact the hydrological regime of the River Kennet and the aforementioned SAC. For the reasons presented in Section 5, however, this policy is screened out of appropriate assessment.</p> <p>Irrespective of this screening exercise, it will be necessary for any proposals for residential development at George Lane to be assessed in accordance with the Habitats Regulations at the planning application stage, and to comply with other Development Plan policies including Core Policies 50 (Biodiversity and Geodiversity), 51 (Landscape) and 52 (Green Infrastructure) of the WCS and the NPPF.</p>	<p>B</p>	<p>The first iteration of the HRA of the Pre-Submission draft of the NP, assigned screening categories C and D to this policy due to the potential for a likely significant effect on the Kennet and Lambourn Floodplain SAC. This policy has been re-screened, the rationale for which is detailed in Section 5, and the outcome is that it is deemed the policy will not need to be subject to appropriate assessment.</p>

Policy	Policy Summary and Assessment under Habitats Regulations	Screening Category	Comments and Recommendations
<p>MARL3 Encouraging Affordable Homes in Mildenhall</p>	<p>This policy encourages and supports the delivery of a <i>Rural Exception Site affordable housing scheme in Mildenhall, providing that four criteria are met. In summary, these criteria are that the scheme would comprise no more than ten units; all units will be affordable homes; the scheme will sustain and enhance the significance of the Mildenhall Conservation Area and the setting of other heritage assets; and the layout and form of housing shall be designed to conserve the landscape and scenic beauty of the AONB and, where appropriate to the location, shall include the provision of a landscape scheme.</i></p> <p>This policy supports residential development that would lie in the catchment of the River Kennet and tributaries; within the Thames Water Swindon and Oxfordshire WRZ. As such, the residential development supported by means of this policy, albeit for a maximum of ten houses, would have the potential to lead to a likely significant effect on the Kennet and Lambourn Floodplain SAC due to an increase in water abstraction which could impact the hydrological regime of the River Kennet and the aforementioned SAC. Nonetheless, this policy will not be taken forward to appropriate assessment, and the associated rationale is presented in Section 5.</p> <p>Any proposals for an affordable housing scheme in Mildenhall, will, however, need to be assessed with regard to the Habitats Regulations at the planning application stage. Compliance with other Development Plan policies will also be required, including Core Policies 50 (Biodiversity and Geodiversity), 51 (Landscape) and 52 (Green Infrastructure) of the WCS and the NPPF.</p>	<p>B</p>	<p>The first version of the HRA relating to the Pre-Submission draft of the NP, assigned screening categories C and D to this policy on account of the potential for a likely significant effect on the Kennet and Lambourn Floodplain SAC. Policy MARL3 has been re-screened in this version of the HRA, and the trigger for this is detailed in Section 5. The re-screening of the policy, conducted with regard to the additional information discussed and presented in Section 5 and the appendices, has concluded that appropriate assessment is not required.</p>
<p>MARL4 Meeting Local Housing Needs</p>	<p>This policy specifies: <i>‘Proposals for windfall housing development within the defined Marlborough development boundary will only be supported if they will deliver homes of a two or three bedroom type. Proposals for single tenure, specialist accommodation schemes or other housing schemes intended for older people will be resisted.’</i></p> <p>This policy does not stipulate a threshold in terms of the quantity of windfall housing it would support. Nonetheless, any new windfall residential development that comes forward and is supported by this policy would lie in the catchment of the River Kennet and tributaries and would have potential to</p>	<p>B</p>	<p>The first version of the HRA relating to the Pre-Submission draft of the NP, assigned screening categories C and D to this policy due to the potential for a likely significant effect on the Kennet and Lambourn Floodplain SAC. Policy MARL4 has been re-screened in this version of the HRA, and the trigger for this is detailed in Section 5. As a result of the re-screening exercise, which has taken into consideration the information discussed and presented in</p>

Policy	Policy Summary and Assessment under Habitats Regulations	Screening Category	Comments and Recommendations
	<p>give rise to a likely significant effect on the Kennet and Lambourn Floodplain SAC. This is due to an increase in water abstraction which may be necessitated by further residential development which in turn could impact the hydrological regime of the River Kennet and the aforementioned SAC. This policy is screened out of appropriate assessment, however, and the rationale is provided in Section 5.</p> <p>Any proposals for windfall housing development will need to be assessed in line with the Habitats Regulations at the planning application stage. Development proposals must also adhere to other Development Plan policies including Core Policies 50 (Biodiversity and Geodiversity), 51 (Landscape) and 52 (Green Infrastructure) of the WCS and the NPPF.</p>		<p>Section 5 and the appendices, this policy is not subject to appropriate assessment.</p>
<p>MARL5 Supporting a Thriving Town Centre</p>	<p>The policy states: <i>'The Neighbourhood Plan identifies the Marlborough Town Centre on the Policies Map. Located within the Town Centre boundary, the Primary Shopping Area comprises the Primary and Secondary shopping frontages.'</i></p> <p>The policy details the types of development proposals that would be supported within the town centre and the primary shopping area. This includes proposals for new residential development on upper floors subject to compliance with a suite of criteria detailed in the policy.</p> <p>Any new residential development that comes forward within the town centre as an indirect result of this policy would be located within the existing settlement boundary. Such development would also lie in the catchment of the River Kennet and tributaries and as such could lead to an increase in water abstraction which could impact the hydrological regime of the River Kennet and the Kennet and Lambourn Floodplain SAC. Thus, a mechanism for likely significant effects on the Kennet and Lambourn Floodplain SAC exists as a result of this policy. However, this policy is not taken forward to appropriate assessment for the reasons set out in Section 5.</p> <p>Regardless of the screening assessment of Policy MARL5 at the plan-making stage, forthcoming proposals for residential development within the Town</p>	<p>B</p>	<p>The first version of the HRA relating to the Pre-Submission draft of the NP, assigned screening categories C and D to this policy due to the potential for a likely significant effect on the Kennet and Lambourn Floodplain SAC. Policy MARL5 has been subject to a re-screening assessment in this version of the HRA; the trigger for this is detailed in Section 5. The assessment has taken account of the information discussed and presented in Section 5 and the appendices, with the outcome being that the policy is not deemed to require appropriate assessment.</p>

Policy	Policy Summary and Assessment under Habitats Regulations	Screening Category	Comments and Recommendations
	<p>Centre will most likely require assessment with regard to the Habitats Regulations at the planning application stage. Furthermore, it will be necessary for development proposals to comply with other Development Plan policies including Core Policies 50 (Biodiversity and Geodiversity), 51 (Landscape) and 52 (Green Infrastructure) of the WCS and the NPPF.</p>		
<p>MARL6 Using Scarce Employment Land Efficiently</p>	<p>This policy supports proposals to intensify sites in the Marlborough development boundary and outside the Town Centre that are in established commercial, business and service uses (Class E) provided it can be demonstrated that they can be accommodated without causing significant harm to local amenity. The policy also supports proposals for new commercial, business and service uses on brownfield land in the Marlborough development boundary and outside the Town Centre, provided it can be demonstrated they will achieve a minimum employment density of 1 FTE job per 40 sq.m. net internal area and that they accord with all other relevant development plan policies.</p> <p>This policy will not in itself lead to development, however, it is possible that any commercial, business and service use development that comes forward on brownfield land in the Marlborough development boundary and outside the Town Centre and which is supported by the policy, could lead to an increase in water abstraction. Given that most of the NP area lies within the catchment of the River Kennet and tributaries, further water abstraction could impact the hydrological regime of the River Kennet and the Kennet and Lambourn Floodplain SAC by mean of reducing available water resource. Development supported by this policy therefore has potential to give rise to likely significant effects on the Kennet and Lambourn Floodplain SAC. Nevertheless, it is deemed unnecessary for this policy to be screened into appropriate assessment for the reasons set out in Section 5.</p> <p>Forthcoming development proposals in the catchment of the River Kennet which could result in additional water abstraction will likely require assessment in line with the Habitats Regulations at the planning application stage. In addition, it will be necessary for development proposals to adhere to other Development Plan policies including Core Policies 50 (Biodiversity and</p>	<p>B</p>	<p>The first version of the HRA relating to the Pre-Submission draft of the NP, assigned screening categories C and D to this policy on account of the potential mechanism for a likely significant effect on the Kennet and Lambourn Floodplain SAC. This iteration of the HRA has re-screened Policy MARL6 for the reasons stipulated in Section 5. As a result of the re-screening exercise, which has taken account of the information discussed and presented in Section 5 and the appendices, this policy is not taken forward to appropriate assessment.</p>

Policy	Policy Summary and Assessment under Habitats Regulations	Screening Category	Comments and Recommendations
	Geodiversity), 51 (Landscape) and 52 (Green Infrastructure) of the WCS and the NPPF.		
MARL7 Improving Public Parking	<p>This policy allocates land adjacent to Marlborough Rugby Club for informal public car parking subject to six criteria stipulated within the policy being met. It also encourages proposals to establish additional public car parking spaces to serve the town centre at other suitable locations in the town.</p> <p>The development supported by the policy will not result in a likely significant effect upon any European sites. Details of any development that comes forward would be considered at the planning application stage to ensure acceptability with respect of other Development Plan policies and the NPPF.</p>	B	
MARL8 Delivering New Cemetery Land	<p><i>The policy allocates land at The Common for the purpose of extending the adjoining cemetery and specifies: ‘Proposals for any new buildings ancillary to this use will be supported, provided they make appropriate access provision and avoid any significant harm on the North Wessex Downs AONB.’</i></p> <p>The land use and ancillary development supported by this policy will not result in a likely significant effect upon any European sites. Details of any development that comes forward would be considered at the planning application stage to ensure acceptability with respect of other Development Plan policies and the NPPF.</p>	B	
MARL9 Protecting & Supporting Community Facilities	<p>This policy lists a number of buildings in Marlborough, including the town hall and library, as well as the village halls in Manton and Mildenhall, as community facilities.</p> <p><i>The policy goes on to state: ‘Proposals that will result in either the loss of or cause significant harm to a defined facility will be resisted, unless it can be clearly demonstrated that the operation of the facility, or the on-going delivery of the community value of the facility, is no longer financially viable. Development proposals to sustain or extend the viable use of existing community facilities, and the development of new facilities, will be supported.’</i></p> <p>This policy seeks to conserve key community facilities that form part of the built environment and will not result in a likely significant effect upon any</p>	A3 / B	

Policy	Policy Summary and Assessment under Habitats Regulations	Screening Category	Comments and Recommendations
	<p>European sites. Details of any proposed development to extend existing community facilities or develop new facilities would be considered at the planning application stage to ensure it aligns with this policy, and other Development Plan policies and the NPPF.</p>		
<p>MARL10 Enhancing Marlborough Conservation Area</p>	<p>This policy stipulates: <i>‘Development proposals should sustain and enhance the special architectural and historic significance of the designated Marlborough Conservation Area and its setting. The significance of the Conservation Area and its setting are defined in the design principles and guidance of the Marlborough Conservation Area Statement and the Marlborough Town Character Study, to which all proposals must have full regard.’</i></p> <p>This policy will not itself lead to development as it seeks to conserve and enhance the historic built environment and will not result in a likely significant effect upon any European sites. Details of any proposed development within the Marlborough Conservation Area would be considered at the planning application stage to ensure it aligns with this policy, and other Development Plan policies and the NPPF.</p>	<p>A1 / A3</p>	
<p>MARL11 Enhancing Marlborough Areas of Special Quality</p>	<p>This policy identifies five Areas of Special Quality at Cross Road/Cardigan Road/Leaze Lane/Back Lane (North Side), at St. John’s Close, at The Common/Herd Street, at Back Lane (South Side) and at Salisbury Road/London Road, and these are shown on the Policies Map.</p> <p>The policy goes on to specify that development proposals located within an Area of Special Quality should demonstrate that they have had full regard to the characteristics listed in the policy that contribute to the significance of its local architectural and historic interest.</p> <p>This policy will not itself lead to development as it seeks to conserve and enhance the historic built environment within the landscape setting and will not result in a likely significant effect upon any European sites. Details of any proposed development within the identified Areas of Special Quality and/or Marlborough Conservation Area would be considered at the planning application stage to ensure accordance with this policy, other Development Plan policies and the NPPF.</p>	<p>A3</p>	

Policy	Policy Summary and Assessment under Habitats Regulations	Screening Category	Comments and Recommendations
<p>MARL12 Enhancing Manton Conservation Area</p>	<p>This policy specifies that development proposals within the Manton Conservation Area should demonstrate full regard to the characteristics listed in the policy that contribute to the significance of its special architectural and historic interest.</p> <p>The policy goes on to set out a series of characteristics to which proposals for development outside the Manton Conservation Area should demonstrate regard has been paid.</p> <p>This policy will not itself lead to development as it seeks to conserve and enhance the historic built environment and landscape setting of the Manton Conservation Area as well as areas beyond, and to set out design/qualitative criteria for development. The policy will not result in a likely significant effect upon any European sites. Details of any proposed development within or outside the Manton Conservation Area would be considered at the planning application stage to ensure alignment with this policy, other Development Plan policies and the NPPF.</p>	<p>A1 / A3</p>	
<p>MARL13 Enhancing Mildenhall Conservation Area</p>	<p>This policy specifies that development proposals within the Mildenhall Conservation Area should have full regard to the series of characteristics, design principles and heritage features detailed in the policy.</p> <p>The policy then sets out a list of design principles and states that proposals for development outside the Mildenhall Conservation Area should demonstrate regard has been paid to these principles.</p> <p>This policy will not itself lead to development as it seeks to conserve and enhance the historic built environment and landscape setting of the Mildenhall Conservation Area as well as areas beyond, and to set out design/qualitative criteria for development. The policy will not result in a likely significant effect upon any European sites. Details of any proposed development within or outside the Mildenhall Conservation Area would be considered at the planning application stage to ensure adherence to this policy, as well as other Development Plan policies and the NPPF.</p>	<p>A1 / A3</p>	

Policy	Policy Summary and Assessment under Habitats Regulations	Screening Category	Comments and Recommendations
MARL14 Protecting Local Heritage Assets	<p>This policy identifies Local Heritage Assets and these are listed in Appendix A. The policy stipulates:</p> <p><i>‘Proposals that will result in harm to, or unnecessary loss of, a Local Heritage Asset, will be resisted, unless it can be demonstrated that there is a public benefit that outweighs the harm or loss.</i></p> <p><i>Development will be supported which demonstrates that any potential impacts upon the World Heritage Site and its setting has been fully assessed in accordance with existing development plan policies.’</i></p> <p>This policy will not itself lead to development as it seeks to conserve and protect Local Heritage Assets and the Stonehenge, Avebury and Associated Sites World Heritage Site. The policy will not result in a likely significant effect upon any European sites. Details of any proposed development within proximity of, or which could have an effect on, Local Heritage Assets and/or the World Heritage Site would be considered at the planning application stage to ensure adherence to this policy, as well as other Development Plan policies and the NPPF.</p>	A1 / A3	
MARL15 Protecting and Improving Green Infrastructure	<p>The supporting text to this policy states: <i>‘This policy supports Core Policy 50 on Biodiversity and Core Policy 52 on Green Infrastructure by defining a network of green infrastructure assets in and around the neighbourhood plan area as a means of promoting walking, cycling and recreation, of improving local biodiversity through connecting habitats and in places of sequestering carbon through woodland planting.’</i></p> <p>The policy designates a Green Infrastructure Network, shown on the Policies Map, for the purpose of promoting sustainable movement and ecological connectivity through the town and neighbouring parishes and for mitigating climate change. The policy specifies that the Network comprises The Common, the water meadows at Marlborough College, the River Kennet, Local Green Spaces, Valued Community Open Spaces, informal open spaces, allotments, playing fields, off-street footpaths/cycleways, children’s play areas, woodland and land of biodiversity value.</p>	A1 / A3	

Policy	Policy Summary and Assessment under Habitats Regulations	Screening Category	Comments and Recommendations
	<p>The policy states: <i>‘Development proposals that lie within or adjoining the Network are required to have full regard (sic) maintaining and improving the Network, including delivering a net gain to general biodiversity assets, in the design of their layouts, landscaping schemes and public open space provisions. In that part of the Network that forms the southern setting to the Marlborough Conservation Area, proposals must also have regard to the contribution that its open character makes to the significance of the Conservation Area.’</i></p> <p>It also stipulates: <i>‘Proposals that will lead to the loss of land lying within the Network and that will undermine its integrity will be resisted. Development proposals that will lead to the extension of the Network will be supported, provided they are consistent with all other relevant policies of the development plan.’</i></p> <p>The policy will not result in development itself but instead seeks to conserve and enhance the natural environment and sets out criteria that development must meet with the objective of protecting and enhancing the GI network within the NP area. Furthermore, the policy will not result in a likely significant effect upon any European sites. Details of any development that comes forward would be considered at the planning application stage to ensure acceptability with respect of other Development Plan policies including Core Policy 50 (Biodiversity and Geodiversity), 51 (Landscape) and 52 (Green Infrastructure) of the WCS and the NPPF.</p>		
MARL16 Protecting Local Green Spaces	<p>This policy designates eight Local Green Spaces, which are shown on the Policies Map and listed in the policy. The policy specifies: <i>‘Proposals for inappropriate development in a Local Green Space will only be supported in very special circumstances.’</i></p> <p>The policy will not result in development itself but instead seeks to conserve and protect Local Green Spaces and would only support development within these designated areas in exceptional circumstances. The policy will not result in a likely significant effect upon any European sites. Proposals for development within any of the designated Local Green Spaces would be</p>	A3	

Policy	Policy Summary and Assessment under Habitats Regulations	Screening Category	Comments and Recommendations
	<p>considered at the planning application stage to ensure acceptability with respect of other Development Plan policies including Core Policy 50 (Biodiversity and Geodiversity), 51 (Landscape) and 52 (Green Infrastructure) of the WCS and the NPPF.</p>		
<p>MARL17 Protecting Valued Community Open Spaces</p>	<p>This policy identifies and lists twenty Valued Community Open Spaces, which are also shown on the Policies Map. The policy states: <i>'Development within a Valued Community Open Space will only be supported if it preserves and where possible enhances their contribution to the health and well-being of visitors and residents, public access and if it is ancillary to its community use. Any loss of a Space will only be permitted where alternative better provision can be secured, and an assessment has determined that the space is surplus to requirements.'</i></p> <p>The policy seeks to protect open spaces of importance to the local community and will neither lead to development itself nor result in a likely significant effect upon any European sites. In the event that proposals for development within any of the twenty Valued Community Open Spaces identified by means of the policy come forward, these would be considered at the planning application stage to ensure acceptability with respect of other Development Plan policies of the WCS and the NPPF.</p>	<p>A1 / A3</p>	
<p>MARL18 Conserving the Scenic Beauty of the AONB</p>	<p>This policy states that development proposals outside the defined Marlborough development boundary and built up areas of Manton and Mildenhall will only be supported if it can be demonstrated that the landscape and special scenic beauty of the Area of Outstanding Natural Beauty would not be undermined, and that full regard is paid to the specific characteristics listed in the policy associated with the following landscapes:</p> <ul style="list-style-type: none"> • Marlborough Downs and Common • Kennet Valley • Savernake Forest and Plateau <p>The policy goes on to stipulate: <i>'Proposals to build an isolated home outside the development boundary will be refused as there is no part of the AONB in the designated area that has a character that will be enhanced by such a scheme, there is no evidence to suggest that design standards in this countryside require raising and there is no architectural innovation that is necessary.'</i></p>	<p>A2</p>	

Policy	Policy Summary and Assessment under Habitats Regulations	Screening Category	Comments and Recommendations
	<p>The policy will not result in development itself as it seeks to conserve the natural environment, specifically the North Wessex Downs AONB.</p> <p>Furthermore, the policy will not result in a likely significant effect upon any European sites. Details of any development that comes forward within the AONB would be considered at the planning application stage to ensure acceptability with respect of other Development Plan policies including Core Policy 51 (Landscape) and 52 (Green Infrastructure) of the WCS and the NPPF.</p>		
<p>MARL19 Achieving Dark Skies</p>	<p>This policy specifies: <i>‘Where development proposals are considered otherwise appropriate within or outside of the Marlborough development boundary, special attention should be paid to ensuring any external lighting is essential only and is located and designed in such a way to conserve the dark skies of the AONB.’</i></p> <p>The policy will not result in development itself as it seeks to conserve the natural environment, specifically the preservation of dark skies within the North Wessex Downs AONB, and to ensure that any external lighting within the AONB is appropriately designed. The policy will not result in a likely significant effect upon any European sites. Details of any development that comes forward within the AONB would be considered at the planning application stage to ensure acceptability with respect of other Development Plan policies including Core Policy 50 (Biodiversity and Geodiversity), 51 (Landscape) and 52 (Green Infrastructure) of the WCS and the NPPF.</p>	<p>A1 / A2</p>	
<p>MARL20 Mitigating Climate Change: New Buildings</p>	<p>In Clause A, this policy sets out a list of measures that development schemes which will comprise at least 50% of the building units certified to a PassivHaus standard will not be required to comply with. It specifies that schemes which will deliver dwellings certified to a PassivHaus standard, may comprise terraced and/or apartment building forms of a higher density than the density of the character area within which the proposal is located, provided the scheme will have a less than substantial effect on the character area.</p> <p>It goes on to state that all planning permissions granted for new dwellings will include a planning condition to require the provision of a Post Occupancy Evaluation Report to the local planning authority within a specified period,</p>	<p>A1</p>	

Policy	Policy Summary and Assessment under Habitats Regulations	Screening Category	Comments and Recommendations
	<p>unless exempted by Clause A, and that where poor energy performance is recorded, reasonable corrective action must be taken before the condition can be discharged. Lastly, the policy states that unless exempted by Clause A, all planning applications for non-householder development are required to be accompanied by a Whole Life-Cycle Carbon Emission Assessment.</p> <p>The policy itself will not result in development; instead, the policy sets out design and other qualitative criteria to ensure that development schemes will incorporate measures to mitigate climate change. The policy itself will not give rise to a likely significant effect upon any European sites. Details of any development that comes forward would be considered at the planning application stage to ensure acceptability with respect of other Development Plan policies and the NPPF.</p>		
<p>MARL21 Mitigating Climate Change: Carbon Sinking</p>	<p><i>This policy states:</i></p> <p><i>'A. For schemes of a gross site area of more than 2 Ha, and where practical, development proposals are required to incorporate woodland planting within their on-site proposals to a standard verified by the Woodland Carbon Code.</i></p> <p><i>B. For schemes of a gross site area less than 2 Ha or for schemes of a gross site area of more than 2 Ha but where on site provision is not practical, development proposals are required to make a financial contribution to the Marlborough Area Carbon Sink Fund, which will be used to invest in the improvement, extension and maintenance of those existing and new woodlands of the Green Infrastructure Network of Policy MARL15 that function as a carbon sink.</i></p> <p>The policy itself will not result in development; instead, the policy sets out qualitative criteria to ensure that development schemes will incorporate measures to mitigate climate change. The policy itself will not give rise to a likely significant effect upon any European sites. Details of any development that comes forward would be considered at the planning application stage to ensure acceptability with respect of other Development Plan policies including</p>	<p>A1</p>	

Policy	Policy Summary and Assessment under Habitats Regulations	Screening Category	Comments and Recommendations
	Core Policy 50 (Biodiversity and Geodiversity), 51 (Landscape) and 52 (Green Infrastructure) of the WCS and the NPPF.		

5. Conclusion

Background and First Version of the HRA

- 5.1 The first iteration of the HRA, dated 3rd March 2021, pertaining to the Pre-Submission draft of the Marlborough Area NP (November 2020) which was undertaken at the Regulation 14 consultation stage, concluded that the NP and six of the policies therein had potential to lead to a likely significant effect on the Kennet and Lambourn Floodplain SAC, and its qualifying features alone and/or in-combination with other plans and projects.
- 5.2 This conclusion was due to the allocation of five sites for residential development, totalling approximately 180 dwellings, proposed by way of policy MARL1, and on account of all the sites being situated within the catchment of the River Kennet and tributaries, within the Thames Water Swindon and Oxfordshire WRZ. It was considered that policy MARL1 had the potential to lead to significant effects on the aforementioned European site as the proposed development sites within the catchment of the River Kennet and tributaries would likely necessitate an increase in water abstraction resulting in additional water resource pressures and an impact upon the hydrological regime of the River Kennet and the Kennet and Lambourn Floodplain SAC.
- 5.3 Similarly, the additional residential, business/commercial and employment development promoted by means of policies MARL2 to MARL6 inclusive, was considered to have potential to lead to a likely significant effect on the Kennet and Lambourn Floodplain SAC due to a likely increase in water abstraction which would occur within the catchment of the River Kennet and tributaries as a result of developments supported by the policies.
- 5.4 Therefore, the first version of the HRA stipulated that an appropriate assessment of Policies MARL1 to MARL6 would be required in accordance with Regulation 105 of the Habitats Regulations, and that further information would need to be obtained by the NP Steering Group (NPSG) and submitted to Wiltshire Council (the 'competent authority') to inform and facilitate Stage 2 of the HRA.
- 5.5 It was recommended that the NPSG contacts Thames Water and preferably also the Environment Agency (EA), with the objective of acquiring the following information:
- Details of the water/groundwater/aquifer abstraction points that would serve the proposed development sites.
 - Confirmation regarding whether Thames Water's existing water/groundwater abstraction licence(s) has headroom/capacity to allow for the additional quantum of housing proposed within the catchment of the River Kennet and tributaries by policy MARL1 of the Marlborough NP, as well as the other development supported by the NP; or whether the dwellings allocated in the NP would exceed the quantum of housing/development allowed for by the existing licence(s).
 - Confirmation regarding whether Thames Water's Water Resources Management Plan (WRMP) (this document is discussed further below) has been subject to an updated HRA and whether the development allocated and supported by the NP could be accommodated within the projected increase set out in the WRMP, as well as confirmation as to whether the projected increase in demand set out in the 2019 WRMP was assessed as compliant with the Habitats Regulations.
 - Confirmation regarding whether the development allocated and supported by the NP can be covered by the existing water/groundwater abstraction licence(s) and still be compliant with the HRA which would have been conducted by the EA before issuing of the licence.
- 5.6 The first version of the HRA stipulated that if Thames Water confirm that the existing water/groundwater abstraction licence(s) can accommodate the additional quantum of housing allocated by policy MARL1, as well as the development supported by policies MARL2 to MARL6 inclusive, and that the HRA(s) conducted by Thames Water and/or the EA were found to be Habitats

Regulations compliant, then it should be possible to screen these policies out and full appropriate assessment would not be required.

- 5.7 The HRA highlighted that Thames Water has published its Final WRMP 2019 and Executive Summary (April 2020) since the last update to the HRA of the Wiltshire Core Strategy was prepared and that therefore, it would be necessary to establish whether the HRA of the WRMP has been updated by Thames Water and whether the residential development proposed in the Marlborough NP can be accommodated by the existing water/groundwater abstraction licence(s) and still be compliant with the HRA conducted by the EA. It also recommended that this matter is queried with the EA.
- 5.8 The first version of the HRA concluded that if full appropriate assessment proves necessary, a suitably robust mitigation strategy would need to be formulated by the NPSG and submitted to the council for consideration as part of the appropriate assessment. It specified that the mitigation strategy would need to demonstrate that development of the allocated sites, and other development supported by the NP, would not result in a significant adverse effect on the Kennet and Lambourn Floodplain SAC and that once completed, the appropriate assessment would be submitted to Natural England for review. The HRA stated that the NP can lawfully be 'made' if appropriate assessment is able to conclude that there would be no adverse effects on the integrity of the SAC or its qualifying features as it will have been found to be compliant with the Habitats Regulations.

Further Information Submitted to Wiltshire Council and Conclusion of Updated HRA Screening

- 5.9 On 23rd June 2021 Wiltshire Council's ecology team was issued with information obtained by the NPSG comprising a letter from Thames Water Utilities Ltd (included in Appendix A) and an email from the EA (refer to Appendix B).
- 5.10 The key extracts from the letter provided by Thames Water Utilities Ltd which have a bearing on the HRA are as follows:

"Confirmation regarding whether Thames Water's existing water/groundwater abstraction licence(s) has headroom/capacity to allow for the additional quantum of housing proposed within the catchment of the River Kennet and tributaries by policy MARL1 of the Marlborough NP, as well as the other development supported by the NP; or whether the dwellings allocated in the NP would exceed the quantum of housing/development allowed for by the existing licence(s). We can confirm that, although this development was not specifically included in our WRMP19, from a supply and demand balance point of view we would not consider the demand associated with this development to be material. This is because the local plans for the area which our WRMP19 forecasts were based on contained high levels of growth, and we also include target headroom to cater for uncertainty in total growth, so this accommodates additional demand of the scale proposed here.

Confirmation regarding whether Thames Water's Water Resources Management Plan (WRMP) (this document is discussed further below) has been subject to an updated HRA and whether the development allocated and supported by the NP could be accommodated within the projected increase set out in the WRMP, as well as confirmation as to whether the projected increase in demand set out in the 2019 WRMP was assessed as compliant with the Habitats Regulations. Our final WRMP19 was accompanied by an updated HRA; to accommodate demand in this geographic area only demand management measures were proposed over the planning period; these were assessed within our WRMP19 HRA and found to pose no likely significant effects on any designated sites.

Confirmation regarding whether the development allocated and supported by the NP can be covered by the existing water/groundwater abstraction licence(s) and still be compliant with the

HRA which would have been conducted by the EA before issuing of the licence. Given the above responses we consider this to be the case.”

- 5.11 A critical point stated in the letter is as follows:

“I apologise for the delay, but provide a response to your request for points of confirmation below, but firstly the EA are the competent body from a technical perspective in terms of HRAs and therefore you should chase for their response if not yet received.”

- 5.12 The response issued to the NPSG from the EA (included at Appendix B) stipulated:

“We are fine with Thames Water’s response. In a planning sense, we leave it to water companies to say whether or not they can supply/serve new developments.”

- 5.13 Taking into consideration the response from Thames Water Utilities Ltd which highlights the need for a technical response from the EA in terms of the HRA of the current water abstraction licence, and the fact that this was also highlighted by the council in the first version of the HRA, it was deemed by Wiltshire Council’s ecology team that more comprehensive information was required from the EA in respect of the HRA of the water abstraction licence in order to inform an updated HRA screening of the NP.

- 5.14 Therefore, the council’s ecology officer had discussions and email correspondence with the EA with the result that the necessary further information was acquired on behalf of the NPSG on 15th July 2021 (see Appendix C). The response from the EA stated:

“Marlborough and Clatford are the key water company (Thames Water) abstractions (within and just outside the mapped area respectively).

All the SACs and SPAs within the Kennet (and elsewhere) have been reviewed under the Habitats Directive over the last ~15 years to ensure existing consents are not causing an adverse impact on the protected area. All licences that would potentially impact the protected areas were assessed (including Marlborough and Clatford), and a handful required licence changes over the last ~10 years to ensure potential adverse impacts were addressed. Marlborough and Clatford were both ruled out from needing licence changes as part of this process as no adverse impact was concluded.

The protected areas in the Kennet that were assessed in this process included the River Kennet and Lambourn Floodplains, The River Lambourn SAC, and Kennet Valley Alderwood.

All new licences that are applied for and considered to have an adverse impact on a protected area will need to go through the HRA process to rule out an adverse impact or address this potential impact.

So I think in short, the answer to the query is: existing licences have had their impacts on protected areas assessed and addressed as necessary. All new licences (or licence changes) will be assessed for their impacts on protected areas through the HRA process.”

- 5.15 The second response from the EA provides assurance that the existing abstraction licence, which Thames Water advised would accommodate the proposed development in the Marlborough NP, has been subject to thorough assessment by the EA under the Habitats Regulations with the conclusion of no adverse impact on the European sites associated with the River Kennet.

- 5.16 The NPSG requested that Wiltshire Council repeat the HRA screening of the NP ahead of formal submission of a Regulation 15 draft of the NP to the council, in order to take account of the information obtained from Thames Water and the EA. The second, more detailed response from the EA acquired by the council was needed to inform a meaningful re-screening of the NP under the Habitats Regulations. The updated HRA screening presented in this second version of the HRA (refer to Section 4 and Table 1)

therefore, likewise pertains to the Pre-Submission draft of the NP (November 2020) given that the Regulation 15 draft of the NP had not been made available to the council at the time the re-screening was requested.

- 5.17 As detailed in Table 1, the potential physical mechanism for likely significant effect on the Kennet and Lambourn Floodplain SAC as a result of policies MARL1 to MARL6 inclusive, still exists despite the information obtained from Thames Water and the EA as new development within the catchment of the River Kennet will necessitate the supply of additional water and utilise additional water resources.
- 5.18 Nonetheless, the response provided by Thames Water confirms that the additional quantum of housing and development that could come forward as a result of the Marlborough Area NP has already been accounted for within water usage projections covered by the current water abstraction consent. Moreover, the second response provided by the EA confirms that existing consents have been subject to HRA over the last 15 years to ensure they are not resulting in adverse effects on European sites, and that as part of the review of consents, Marlborough and Clatford were ruled out of needing any changes to the existing consents due to adverse effects.
- 5.19 Wiltshire Council is not aware of any plans for the existing water abstraction consents to be reviewed again in the near future by the EA, or of any planned revisions to the existing consents. In addition, the council is not aware of any communication from Natural England regarding the need for the existing consent to be reviewed and/or revised such that less water abstraction should be permitted. It should be noted that this HRA has been produced on the basis of the present situation and using currently available evidence and information, including the recent correspondence from Thames Water Utilities Ltd and the EA. Furthermore, as detailed in Section 1.4, the principle has been established through case law¹⁶ that an HRA need only consider the effects of a proposal or policy in as much detail as is specified by the plan.
- 5.20 On the basis of the findings and information discussed above, the updated HRA screening exercise presented in this document comprising the second version of the HRA, has enabled the conclusion, beyond all reasonable scientific doubt, that the Pre-Submission draft (November 2020) of the Marlborough NP will not result in a significant adverse effect on any European sites or their qualifying features either alone or in-combination with other plans and projects. Therefore, it has not been necessary to subject the NP to an appropriate assessment under the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019.
- 5.21 It should, nevertheless, be acknowledged that as specified in Table 1, any planning applications for development of sites allocated by policy MARL1 and/or development supported by policies MARL2 to MARL6 inclusive, will require assessment in accordance with Regulation 63 of the Habitat Regulations. This is especially pertinent given the probable delay between the plan being ‘made’ and the submission of planning applications for allocated sites and/or developments supported by the plan, and the possibility that new evidence may come to light which could require consideration with regard to the Habitats Regulations.

Prepared by Emma Fisher, Ecologist, Wiltshire Council, 20th August 2021

¹⁶ Commission of the European Communities v UK and NI, opinion of Advocate General Kokott, 9 June 2005, Case C-6/04

Appendix A: Letter from Thames Water Utilities Ltd to NP Steering Group



Sent by email to: [REDACTED]@marlborough-tc.gov.uk

 thameswaterplanningpolicy@savills.com

 0118 9520 500

22nd June 2021

Marlborough Neighbourhood Plan - Habitat Regulations Assessment

Dear Sir/Madam,

Thank you for your letter dated 26th March regarding the above. I apologise for the delay, but provide a response to your request for points of confirmation below, but firstly the EA are the competent body from a technical perspective in terms of HRAs and therefore you should chase for their response if not yet received.

Confirmation regarding whether Thames Water's existing water/groundwater abstraction licence(s) has headroom/capacity to allow for the additional quantum of housing proposed within the catchment of the River Kennet and tributaries by policy MARL1 of the Marlborough NP, as well as the other development supported by the NP; or whether the dwellings allocated in the NP would exceed the quantum of housing/development allowed for by the existing licence(s). We can confirm that, although this development was not specifically included in our WRMP19, from a supply and demand balance point of view we would not consider the demand associated with this development to be material. This is because the local plans for the area which our WRMP19 forecasts were based on contained high levels of growth, and we also include target headroom to cater for uncertainty in total growth, so this accommodates additional demand of the scale proposed here.

Confirmation regarding whether Thames Water's Water Resources Management Plan (WRMP) (this document is discussed further below) has been subject to an updated HRA and whether the development allocated and supported by the NP could be accommodated within the projected increase set out in the WRMP, as well as confirmation as to whether the projected increase in demand set out in the 2019 WRMP was assessed as compliant with the Habitats Regulations. Our final WRMP19 was accompanied by an updated HRA; to accommodate demand in this geographic area only demand management measures were proposed over the planning period; these were assessed within our WRMP19 HRA and found to pose no likely significant effects on any designated sites.

Confirmation regarding whether the development allocated and supported by the NP can be covered by the existing water/groundwater abstraction licence(s) and still be compliant with the HRA which would have been conducted by the EA before issuing of the licence. Given the above responses we consider this to be the case.

We trust the above is satisfactory, but please do not hesitate to contact David Wilson on the number above if you have any queries.

Yours faithfully

Thames Water Utilities Ltd

CC: [REDACTED]@environment-agency.gov.uk
[REDACTED]@wiltshire.gov.uk

Appendix B: Email from the Environment Agency to the NP Steering Group

From: [REDACTED] <[REDACTED]@environment-agency.gov.uk>
Sent: 22 June 2021 14:11
To: [REDACTED] <[REDACTED]@marlborough-tc.gov.uk>
Cc: Thames Water Planning Policy <[REDACTED]>
Subject: RE: Marlborough Neighbourhood Plan - Habitat Regulations Assessment - RESPONSE ON BEHALF OF THAMES WATER UTILITIES LTD

Hi [REDACTED]

Thanks for checking!

We are fine with Thames Water's response. In a planning sense, we leave it to water companies to say whether or not they can supply/serve new developments.

Kind regards, [REDACTED]

[REDACTED]

Planning Lead – Salisbury River Park Scheme – Environment Agency

Rivers House, Sunrise Business Park, Higher Shaftesbury Road, Blandford, Dorset, DT11 8ST

02030 259311

Working days: Tuesday 9-5, Thursday 9-2, Friday 9-5

Appendix C: Email from the Environment Agency to Wiltshire Council

From: [REDACTED]
Sent: 13 July 2021 19:02
To: [REDACTED] <[REDACTED]@environment-agency.gov.uk>
Subject: RE: Marlborough Area Neighbourhood Plan

Hi [REDACTED]

Marlborough and Clatford are the key water company (Thames Water) abstractions (within and just outside the mapped area respectively).

All the SACs and SPAs within the Kennet (and elsewhere) have been reviewed under the Habitats Directive over the last ~15 years to ensure existing consents are not causing an adverse impact on the protected area. All licences that would potentially impact the protected areas were assessed (including Marlborough and Clatford), and a handful required licence changes over the last ~10 years to ensure potential adverse impacts were addressed. Marlborough and Clatford were both ruled out from needing licence changes as part of this process as no adverse impact was concluded.

The protected areas in the Kennet that were assessed in this process included the River Kennet and Lambourn Floodplains, The River Lambourn SAC, and Kennet Valley Alderwood.

All new licences that are applied for and considered to have an adverse impact on a protected area will need to go through the HRA process to rule out an adverse impact or address this potential impact.

So I think in short, the answer to the query is: existing licences have had their impacts on protected areas assessed and addressed as necessary. All new licences (or licence changes) will be assessed for their impacts on protected areas through the HRA process.

Hopefully that helps, but please let me know if you need any more info.

Thanks [REDACTED]

[REDACTED]