

Strategic Environmental Assessment & Habitats Regulations Assessment: Screening Report

Draft East Keswick Neighbourhood Development Plan



March 2019

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1. Introduction

- 1.1 The purpose of this report is to determine whether the draft East Keswick Neighbourhood Plan (EKNP) requires a Strategic Environmental Assessment (SEA) and/or a Habitats Regulations Assessment (HRA) through a process referred to as SEA/HRA screening.
- 1.2 A Strategic Environmental Assessment is a process for evaluating, at the earliest appropriate stage, the environmental effects of a plan before it is made. The SEA screening determines whether the plan is likely to have significant environmental effects and therefore an environmental report is required.
- 1.3 A Habitats Regulations Assessment identifies whether a plan is likely to have significant effects on a European site (Natura 2000 sites), either alone or in combination with other plans or projects. A HRA is required when it is deemed that likely negative significant effects may occur as a result of the implementation of a plan/project. The HRA screening will determine whether significant effects on a European site are likely.
- 1.4 Leeds City Council has prepared this screening report on behalf of East Keswick Parish Council who are the qualifying body for the EKNP. The Council has a responsibility to advise the Parish Council if there is a need for formal SEA/HRA of the draft plan. One of the basic conditions that will be tested by the independent examiner is whether the making of the neighbourhood development plan will not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.
- 1.5 For the purposes of this assessment the draft version of the plan which was sent to the Local Authority in July 2018 has been screened. This version of the plan is considered to show a firm vision and policy intent. As a consequence the neighbourhood plan is considered to be at an appropriate stage for the screening exercise to be undertaken.

2. Legislative Background

Strategic Environmental Assessment (SEA)

- 2.1 The basis for Strategic Environmental Assessments and Sustainability Appraisal legislation is European Directive 2001/42/EC which was transposed into English law by the Environmental Assessment of Plans and Programmes Regulations 2004, or SEA Regulations. The 2008 Planning Act removed the requirement to undertake a Sustainability Appraisal of development plan documents (DPD's), including neighbourhood plans, however there is still a need for a Strategic Environmental Assessment.
- 2.2 Amendments to the Neighbourhood Plan Regulations in February 2015 introduced the requirement for an environmental report (prepared in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004), or a statement of reasons why an environment assessment is not required to be submitted to the Local Planning Authority. This is to inform the public and to ensure independent examiners have sufficient information to determine whether a neighbourhood plan is likely to have significant environmental effects.
- 2.3 Regulation 9 of the SEA Regulations 2004 advises that draft neighbourhood plan proposals should be screened (assessed) to determine whether the plan is likely to have significant environmental effects, taking into account the criteria specified in schedule 1 and comments from the environmental consultation bodies. A SEA may be required, for example, where the neighbourhood plan allocates sites for development or the neighbourhood area contains sensitive natural or heritage assets that may be affected by proposals in the plan.
- 2.4 Where it is determined that the plan is unlikely to have significant environmental effects, and accordingly, does not require an environmental assessment, the authority is required to prepare a statement for its reasons for the determination. If likely significant environmental effects are identified then an environmental report must be prepared in accordance with paragraphs (2) and (3) of regulation 12 of the SEA Regulations 2004.

Habitat Regulation Assessment (HRA)

- 2.5 Article 6 (3) of the EU Habitats Directive and Regulation 61 of the Conservation of Habitats and Species Regulations 2010 (as amended) require that an appropriate assessment of the implications of the plan or project for European sites is carried out with regard to the Conservation Objectives of the European Sites and with reference to other plans and projects to identify if any significant effect is likely for any European Site. A screening is undertaken to determine whether the plan is likely to have a significant effect on a European site and, if so, an appropriate assessment of the implications must be undertaken against the site's conservation objectives.
- 2.6 The judgement of the European Union Court of Justice in 'People Over Wind' dated 12 April 2018 has implications for the HRA screening process. The judgement considered whether it is possible to take account of "measures intended to avoid or reduce the harmful effects of the plan (or project) on the site" i.e. mitigation, at the screening stage. As the Directive is silent on "mitigation", the Court found it is not possible to take mitigation into account at the screening stage. This screening therefore assesses the risk that the EKNP will have a significant effect on a European site by considering the characteristics and specific environmental conditions of the site along with the proposals of the draft Plan; completed mitigation measures and other conservation, preventative and compensatory measures.
- 2.7 The ruling necessitated a change to the habitat conservation regulations (The Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018) which amended the basic condition. Examiners must now consider whether "The

making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.”

- 2.8 On 25 July 2018 the Court of Justice (Second Chamber) ruled in the case of *Grace, Sweetman and the National Planning Appeals Board Ireland* (ECLI:EU:C2018:593). This Judgement relates to Appropriate Assessments and how conclusions should be interpreted which in turn determines whether Article 6(3) or Article 6(4) of the Directive applies. If a screening concludes an Appropriate Assessment is not required, this Judgement is not applicable.

3. Draft East Keswick Neighbourhood Plan Overview

3.1 Whether a neighbourhood plan requires a SEA/HRA is dependent on what is being proposed within the plan. The draft EKNP contains a set of locally specific planning policies and guidance for the Neighbourhood Area.

3.2 The vision of the draft plan is

“In 2028 East Keswick will be a community with a historic rural character, a good range of high quality homes and community facilities fulfilling local needs. It will maintain and develop local services, with a network of safe pedestrian routes, and support for a variety of locally based employment opportunities. It will be a parish which will continue to improve and extend the protection of wildlife habitats and biodiversity and conserve the green space in and around the parish.”

3.3 The EKNP does not propose any allocations. However, it includes policies to help guide development within the area. It seeks to retain and protect the existing natural and built features and character of the area, to improve services and access, to provide housing to meet local need and to encourage sustainable measures such as sustainable drainage. The neighbourhood plan includes draft policies focussed on the following issues:

- Provision of a mix of housing types to meet local need.
- Protection of the local natural and built environment and character, including setting and views
- Appropriate design
- Provision and improvement of recreational facilities.
- Business support
- Protection of local green spaces
- Protection of trees, hedgerows and verges
- Protection and enhancement of footpath/cycleway/bridleway network and public transport

3.4 Once made the Neighbourhood Plan will become part of the Leeds Local Plan and the policies within the plan will be used, alongside other adopted Development Plan documents in the determination of planning applications within the East Keswick Neighbourhood Area.

4. Summary of consultee responses (Environmental assessment consultation bodies)

- 4.1 It is a requirement of the SEA screening process to consult the environmental assessment consultation bodies when forming a view on whether a SEA is required. Regulation 4 of the Environmental Assessment of Plans and Programmes Regulations 2004 defines these consultation bodies as Historic England, the Environment Agency and Natural England.
- 4.2 A previous version of the draft EKNP was sent to the environmental assessment consultation bodies in 2016, however this revised version was sent in August 2018. All of the consultation bodies provided comments, full details of which can be found in Appendix 1 however a summary of their responses is provided below:

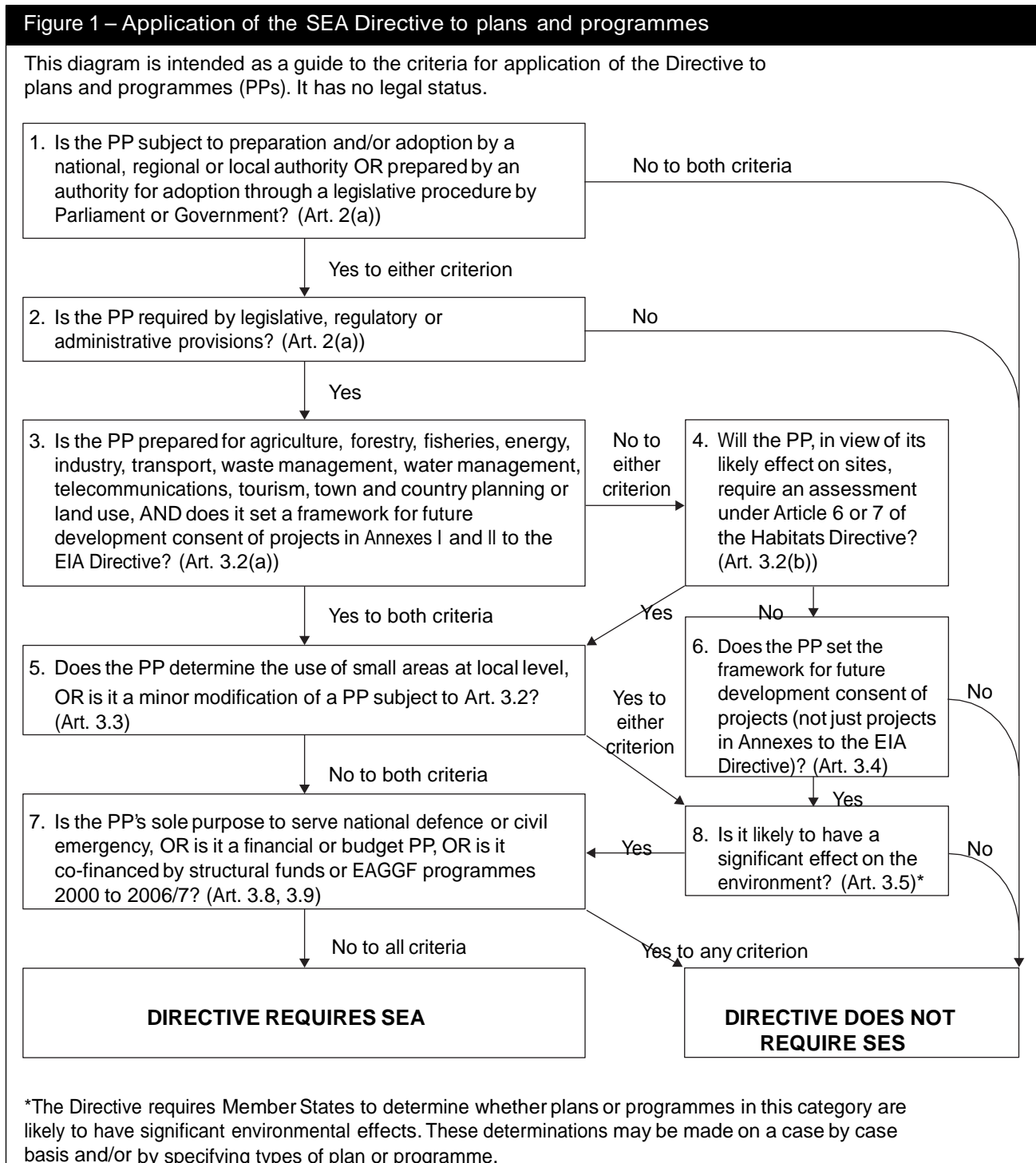
Consultation Body	Summary of comments
Historic England	...Historic England remains of the view that the preparation of a Strategic Environmental Assessment is <u>not</u> required.
Environment Agency	Having considered the nature of the policies in the Plan, we consider that it is unlikely that significant negative impacts on environmental characteristics that fall within our remit and interest will result through the implementation of the plan.
Natural England	...there are unlikely to be significant environmental effects from the proposed plan.we can confirm that in our view the proposals contained within the plan will not have significant effects on sensitive sites that Natural England has a statutory duty to protect.

- 4.3 These consultation responses will be used to help determine whether the plan is likely to have significant environmental effects and have informed the conclusions of this screening report.

5. SEA Screening Assessment

- 5.1 The flowchart below illustrates the process for screening a planning document to ascertain whether a full SEA is required:

FIGURE 1: APPLICATION OF THE SEA DIRECTIVE TO PLANS AND PROGRAMMES



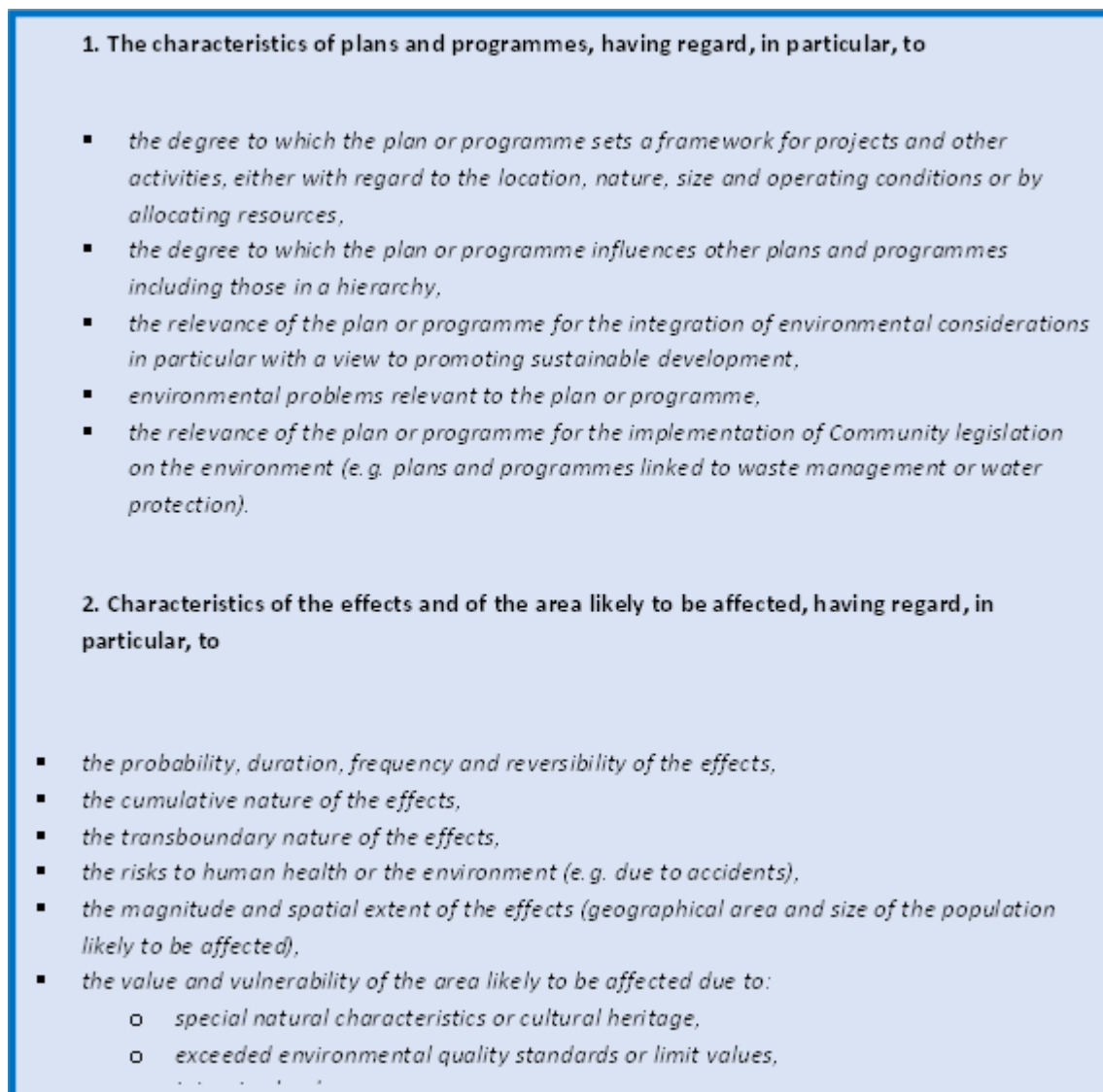
- 5.2 Table 1 (below) helps to apply the Directive by running the draft plan through the questions outlined in Figure 1.

Table 1 Establishing the Need for SEA

Stage	Y/N	Reason
1. Is the PP (plan or programme) 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))	Y	Neighbourhood Plans are made by a 'qualifying body' (Parish/Town Council or designated Neighbourhood Forum) under the provisions of the Town and Country Planning Act 1990 as amended by the Localism Act 2011. A neighbourhood plan is subject to an examination and referendum. If it receives 50% or more 'yes' votes at referendum, it will be 'made' by Leeds City Council as the Local Planning Authority.
2. Is the PP required by legislative, regulatory or administrative provisions? (Art. 2(a))	N	Communities have a right to be able to produce a neighbourhood plan but they are not required by legislative, regulatory or administrative purposes to produce a neighbourhood plan. This plan, however, if adopted, would form part of the statutory development plan, therefore it is considered necessary to answer the following questions to determine further if an SEA is required.
3. Is the PP prepared for agriculture, forestry, fisheries, energy, industry, transport, waste management, water 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))	N	The draft plan is being prepared for 'town and country planning and land use...' (Article 3(2) and, once adopted, will be part of the planning policy framework determining future development within the East Keswick Neighbourhood Area. Developments that fall within Annex I are 'excluded' developments for Neighbourhood Plans (as set out in Section 61(k) of the Town and Country Planning Act 1990 (as amended)). It is not anticipated that the EKNP would be the tool to manage development of the scale and nature envisaged by Annex I and Annex II of the EIA Directive.
4. Will the PP, in view of its likely effect on sites, require an assessment for future development under Article 6 or 7 of the Habitats Directive? (Art. 3.2 (b))		See screening assessment for HRA in following section of this report.
5. Does the PP Determine the use of small areas at local level, OR is it a minor modification of a PP subject to Art. 3.2? (Art. 3.3)	Y	Once made the EKNP will be part of the land use framework for the area and will help to determine the use of small areas at a local level. The draft plan seeks to designate and protect local green spaces, protect the local natural and built environment and encourage design that respects and reflects the local character. GO TO STEP 8
6. Does the PP set the framework for future development consent of projects (not just projects in annexes to the EIA Directive)? (Art 3.4)	Y	The Neighbourhood Plan will provide a framework for the consent of any future development projects in the Neighbourhood Plan area. GO TO STEP 8
7. Is the PP's sole purpose to serve the national defence or civil emergency, OR is it a financial or budget PP, OR is it co-financed by structural funds or EAGGF programmes 2000 to 2006/7? (Art 3.8, 3.9)	N	The EKNPP do not deal with these issues
8. Is it likely to have a significant effect on the environment? (Art. 3.5)		See section below and conclusions.

- 5.3 The criteria for determining the likely significance of effects referred to in Article 3(5) of Directive 2001/42/EC are set out below in Figure 2.

FIGURE 2: CRITERIA FOR DETERMINING LIKELY SIGNIFICANT EFFECTS



- 5.4 An assessment of the likely significant effects resulting from the Neighbourhood Plan has been carried out in Table 2:

Table 2 – Assessment of likely significant effects

Criteria	Comments
1. The characteristics of plans and programmes, having regard, in particular, to	
The degree to which the NP sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources	<i>The NP will set a policy framework for the determination of planning applications for future development projects within the East Keswick Neighbourhood Area. Once made the NP will form part of the Leeds Local Plan.</i>
The degree to which the NP influences other plans and programmes including those in a hierarchy	<i>The NP must be in general conformity with the Leeds Local Development Plan and national planning policy, i.e. National Planning Policy Framework. It does not have any influence over other plans. Once made, the EKNP will form part of the planning policy framework for the designated East Keswick Neighbourhood Area and will be used in conjunction with the Leeds Core Strategy, saved UDP policies, Site Allocations Plan (once adopted), Natural Resources and Waste DPD and other relevant policy and material considerations to determine planning applications.</i>
The relevance of the NP for the integration of environmental considerations in particular with a view to promoting sustainable development	<i>The achievement of sustainable development in one of the basic conditions that the NP must meet. The draft plan includes themes and policies regarding the environment, wildlife habitats and drainage with the overall aim of creating sustainable communities.</i>
Environmental problems relevant to the NP	<i>It is not considered that there are any particular environmental problems relevant to the EKNP.</i>
The relevance of the NP for the implementation of Community legislation on the environment (e.g. plans and programmes linked to waste management or water protection)	<i>This criterion is unlikely to be directly relevant in regard to the EKNP as there are no policies which relate to these issues.</i>
2. Characteristics of the effects and of the area likely to be affected, having regard, in particular, to	
The probability, duration, frequency and reversibility of the effects	<i>Although no specific developments are proposed within the EKNP, the Plan encourages development and provides a framework for guiding any such development. It is likely that some development will occur during the duration of the Plan within the area therefore an element of environmental change will take place. However, the Plan policies are designed to shape new development that is sustainable and to minimise negative and maximise positive environmental impacts.</i>
The cumulative nature of the effects	<i>The cumulative effects of proposals within the EKNP are unlikely to be significant on the local environment as the policies are mainly protectionist and the Plan does not allocate any sites for development. The effects of the EKNP also need to be considered alongside the Leeds Core Strategy, Submission Draft Site Allocations Plan and the Natural Resources and Waste DPD. The Sustainability Appraisal (including a SEA assessment) of the Core Strategy concluded that the implementation of the Core Strategy would not result in any likely significant environmental effects. It is not considered that the EKNP introduces significant additional effects over and above those already considered in the SA/SEA for the Core Strategy, SAP and NRWDPD.</i>

The transboundary nature of the effects	<i>The proposals within the EKNP are unlikely to have a significant impact beyond the Neighbourhood Area boundary.</i>
The risks to human health or the environment (e.g. due to accidents)	<i>None identified. Health and safety mitigation measures will be dealt with on a procedural basis by prospective applicants.</i>
The magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected),	<i>The EKNP is concerned with development within the East Keswick Neighbourhood Area only which had a population of 1,146 in 2011. The potential for environmental impacts are likely to be local, limited and minimal.</i>
The value and vulnerability of the area likely to be affected due to: <ul style="list-style-type: none"> ▪ special natural characteristics or cultural heritage, ▪ exceeded environmental quality standards or limit values, ▪ intensive land-use, 	<i>The EKNP is unlikely to adversely affect the value and vulnerability of the area in relation to its special natural characteristics or cultural heritage. The policies within the Plan seek to provide greater protection to the local natural and built environment and specific character of the area and provide design guidance to shape development. There are unlikely to be any intensive land-use concerns.</i>
The effects on areas or landscapes which have a recognised national, Community or international protection status.	<i>It is not considered that the draft policies in the EKNP will adversely affect areas or landscapes which have a recognised national, community or international protection status. The policies do not allocate land for development and the plan seeks to protect some local green spaces and the local landscape character.</i>

SEA Screening Assessment – Draft Policies

5.5 The draft policies contained within the Neighbourhood Plan focus on several key themes:

Housing

5.5.1 **Policies H1 – H2:** The Plan supports the provision of a range of new housing to meet local need providing the local infrastructure has capacity (Policy H1). It would appear that there is an intention to have a policy relating to the increased energy efficiency of new homes. Improved energy efficiency has scope to reduce any negative environmental effects and result in positive effects.

Building and village design

5.5.2 **Policy BVD1 – BVD3:** Development should seek to preserve and enhance East Keswick through a number of measures e.g. retaining positive buildings, utilising appropriate materials, protecting and enhancing the natural environment and protecting views and vistas, (Policy BVD1). Appropriate massing, height, orientation and scale of development should ensure development sits comfortably in its setting and does not compromise the visual quality of the settlement and surrounding landscape (Policy BVD2). Development should respect and maintain the 'dark' nature of the built environment (Policy BVD3). Overall these policies aim to protect the natural and built environment of East Keswick and to ensure any development respects the local character and environment. As such they will help to minimise any negative effects of development and have scope to result in positive effects.

Community services and facilities

5.5.3 **Policy CA1:** The Plan encourages and supports the provision and improvement of leisure, recreation and sport activities for younger people (especially for 11-18 years old).

Employment and local businesses

- 5.5.4 **Policies ELB1 – ELB2:** The Plan supports business activities providing that proposals respect the local environment and protect the local amenity (Policy ELB1). It also supports the diversification of farm businesses subject to effects on landscape and residential areas (ELB2). These policies encourage business but include provision to assess and minimise any negative environmental effects which could result.

Environment

- 5.5.5 **Policies E1 – E9:** These policies primarily seek to protect environmental features and prevent development that would cause harm. They aim to protect and enhance the character, visual quality and habitats of the Special Landscape Area (Policy E1) as well as identify local green corridors and encourage development to enhance their specified functions (Policy E2.) The Plan also designates a number of Local Green Spaces which will be protected from development (Policy E3) and identifies an extended Leeds Habitat Network where development that protects, enhances and creates wildlife areas and linkages will be encouraged (Policy E4). Trees and hedgerows are protected and support is given to replacement and new planting, particularly of native trees and hedgerows (Policy E5). The Plan recognises the importance of verges in the character of East Keswick and in the control of surface water. Development which encroaches on these areas will be resisted (Policy E6). Development should incorporate measures to minimise any resulting harm and environmental measures such as green roofs, rainwater collection systems and permeable surfaces are encouraged (Policy E7). The Plan further seeks to protect private gardens (Policy E8). Finally, the Plan encourages the retention and enhancement of the existing network of footpaths, footways, cycle ways and bridleways and seeks improvements to public transport infrastructure (Policy E9). Collectively these policies are designed to protect the environment of East Keswick, to minimise negative environmental effects and encourage positive effects.

SEA Screening – Conclusions

- 5.6 In conclusion, as a result of the assessment carried out in Table 2 and the analysis carried out above, it is considered that it is unlikely that any significant environmental effects will arise as a result of the draft EKNP. Consequently, the assessment within Table 1 concludes (subject to HRA screening outcome), that an SEA is not required when judged against the application of the SEA Directive criteria.
- 5.7 Notably, the draft neighbourhood plan does not propose any allocations. No sensitive natural or heritage assets will be significantly affected by proposals contained within the plan. The neighbourhood plan's policies seek to guide development within the Neighbourhood Area and are required to be in general conformity with those within the Local Development Plan. Finally, none of the environmental consultation bodies raised any concerns regarding any likely significant environmental effects.

HRA Screening Assessment

- 6.1 The HRA involves an assessment of any plan or project to establish if it has potential implications for European wildlife sites. The HRA will consider if the proposals in the neighbourhood plan have the potential to harm the habitats or species for which European wildlife sites are designated. European wildlife sites are:
- Special Protection Areas (SPA) designated under the Birds Directive (79/409/EEC)
 - Special Areas of Conservation (SAC) designated under the Habitats Directive (92/43/EEC).
- 6.2 Ramsar sites (designated under the Ramsar Convention, Iran 1971 as amended by the Paris Protocol 1992), whilst not covered by the Habitats Regulations, should be treated in the same way as European wildlife sites. European wildlife sites and Ramsar sites are collectively known as Natura 2000 sites.
- 6.3 The initial screening stage of the HRA process determines if there are any likely significant effects possible as a result of the implementation of the plan and if an appropriate assessment is needed. This stage should provide a description of the plan and an identification of the Natura 2000 sites which may be affected by the plan and assess the significance of any possible effects on the identified sites.
- 6.4 The European Union Court of Justice judgement in the ‘People Over Wind’ case ruled that it is not possible to take account of mitigation measures at the screening stage, though this excludes conservation, preventative, or compensatory measures as defined under Articles 6(1), 6(2) and 6(4) and all types of measures, including mitigation, which have already been completed at the date of the screening assessment. This ensures that an assessment is undertaken of the characteristics and specific environmental conditions as they appear at the date of the screening assessment. This screening will be carried out in accordance with this ruling.
- 6.5 It will also consider whether the draft Plan meets the amended Basic Condition¹ and whether an appropriate assessment of implications is required. It will determine whether the plan:
- is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and
 - is not directly connected with or necessary to the management of the site (Regulation 105 (1))
- 6.6 A qualifying body must provide enough information for the competent authority to allow it to assess a neighbourhood plan proposal or to enable it to determine whether an appropriate assessment is required through a screening stage assessment. The land use plan must only be given effect after the plan making authority has “ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site.”

Relevant Natura 2000 Sites

- 6.7 As a general ‘rule of thumb’ it is identified that sites with pathways of 10-15km of the plan/project boundary should be included within a HRA. Kirk Deighton Special Area of Conservation (SAC) is the only internationally-designated site within a 15km radius of the East Keswick Neighbourhood Area boundary.
- 6.8 The Kirk Deighton SAC is approximately 4ha in size and is located to the north of Wetherby within the administrative area of Harrogate Borough (North Yorkshire). The site lies about 500m north of the northern boundary of the Leeds City Council administrative boundary. The SAC is situated approximately 5km away from the East Keswick Neighbourhood Area at its nearest point. A location plan is attached within Appendix 2 along with the Natural 2000 Data Form for

¹ The making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017

Kirk Deighton.

- 6.9 In order to assess the potential impacts it is important to understand the conservation objectives for which the site was classified. The primary reason for the protection of this site is the presence of Great Crested Newts (*Triturus Cristatus*) which breed in a large pond set in a depression in grazed pasture. This main breeding pond has a water level that fluctuates widely, sometimes leading to pond desiccation. As a result, there is relatively little aquatic vegetation but egg-laying occurs and recruitment is successful intermittently; however, a large population is present, demonstrating this species' ability to thrive in temporary pond sites. Newts range across an area comprising pasture with old hedgerows.

Consderation of the Likely Effect of the Draft East Keswick Neighbourhood Plan

- 6.10 The following questions will help to establish whether an Appropriate Assessment is required for the emerging East Keswick Neighbourhood Plan:
- a) **Is the Draft East Keswick Neighbourhood Plan directly connected with, or necessary to the management of a European site for nature conservation?**
- 6.11 No. The Kirk Deighton SAC does not lie within the East Keswick Neighbourhood Area; therefore the draft EKNP does not relate nor is directly connected with the management of the SAC. The Kirk Deighton SAC is not within the administrative boundary of the Leeds Metropolitan District. The policies in the EKNP can only apply within the designated Neighbourhood Area, not outside.
- b) **Does the Draft East Keswick Neighbourhood Plan propose new development or allocate sites for development?**
- 6.12 No. The draft EKNP does not propose new development or allocate sites for development, it seeks to shape development that will come forward in the Neighbourhood Area. It includes policies covering housing, building and village design, community services and facilities, employment and local businesses and environment
- c) **Are there any other projects or plans that together with the Draft East Keswick Neighbourhood Plan could impact on the integrity of a European site, the 'in combination' impact?**

Leeds Site Allocations Plan

- 6.13 The Site Allocations Plan is at an advanced stage and the Inspectors Main Modifications were recently subject to consultation (21 January – 4 March 2019). On 21 December 2018, the Council wrote to the SAP Inspectors to provide a [HRA Screening & Appropriate Assessment](#) of the SAP.
- 6.14 In order to consider the "in combination" effect of the draft EKNP and other plans and programmes, it is appropriate to refer to the Screening & Appropriate Assessment of the SAP which assesses the in combination effect of the Site Allocations Plan with other plans and projects.
- 6.15 Para 4.2 of the SAP Screening & Appropriate Assessment of the SAP states:

With regard to the Kirk Deighton SAC (which occurs 500 metres north of the Leeds MD and is situated with the administrative area of Harrogate Borough Council), the proposed housing, employment and green space SAP allocations are identified on Plan 2 for information, showing the nearest allocation being 1.01km away.

- 6.16 Para 4.5 states:

Advice from Natural England dated 24th August 2016 stated that the distance normally considered for acid and nitrogen deposition is 200 metres, and that specifically in the

case of Kirk Deighton SAC because allocations are to the east of the SAC emissions will normally go in the opposite direction (from predominantly westerly UK winds). Therefore consideration is only required of roads within 200m of European Sites that are expected to experience an increase in traffic. Appendix 11 shows the nearest road that is likely to receive any increase in traffic being 382.5 metres away.

- 6.17 Using the Site Improvement Plan for Kirk Deighton SAC, the Appropriate Assessment concludes for each environmental consideration related to the site, the SAP does not give rise to any potential LSE and therefore the SAP is screened out. Para 1.6 of the Screening & Appropriate Assessment states:

It is confirmed also that this HRA Screening and subsequent Appropriate Assessment has been undertaken with due regard to the judgment of the Court of Justice of the European Union (CJEU) C-323/17 dated 12 April 2018 in People over Wind, Peter Sweetman v Coillite Teoranta.

- 6.18 In their response of November 2018, Natural England confirmed that they were satisfied that the Appropriate Assessment of the SAP utilised the 200m threshold as set out in the Department for Transport's Design Manual for Roads and Bridges and providing that the traffic assessment was correct, the SAP does not impact on any roads within 200m of the European site and no further assessment of the SAP will be needed.
- 6.19 As the EKNP does not propose to allocate land for new development, it is not likely that it will impact on any roads within the 200m buffer of the Kirk Deighton SAC. Indeed, the Site Allocations Plan does not allocate any new development sites within the East Keswick Neighbourhood Area.

Harrogate District Local Plan Submission Draft - Habitat Regulations Assessment August 2018 (submitted for examination 31/08/2018)

- 6.20 Harrogate BC revisited the HRA of the Submission Draft Local Plan following the ruling by the Court of Justice of the European Union to ensure that no mitigation was included in the screening process. Consequently, an Appropriate Assessment was undertaken which considered the significant effects of three elements of the draft Local Plan – Growth Strategy, Draft Development Policies and Draft Allocations - under the following issues:
- Loss of land
 - Urban disturbance
 - Recreational pressure
 - Water quantity and quality
 - Pollution levels
- 6.21 For all but one of the above issues the assessment concluded that, due to certain policies in the draft Local Plan, the policies alone or in-combination with other projects or plans would not have a significant impact on European Sites. It does, however, identify that there could be an impact on the air quality at Kirk Deighton therefore further air dispersion modelling (December 2018) was undertaken to understand the impact of the increase in traffic on the SAC. This showed that there would not be a significant increase, therefore the emerging Local Plan would not have significant air quality impacts on the Kirk Deighton SAC / SSSI, and that mitigation measures are not required.. Natural England were satisfied with the Appropriate Assessment (August 2018) and the further modelling.

East Keswick Neighbourhood Plan

- 6.22 The EKNP does not propose any development sites and the policies proposed will shape new development within the area in a way that will reduce the likelihood of significant environmental effects. There are no likely significant effects on the Kirk Deighton SAC identified as a result of the Neighbourhood Plan therefore no mitigation measures are required. The 'in combination'

effect is properly addressed through the Council's conclusions in the Site Allocations Plan HRA Screening and Harrogate Borough Council's revised Appropriate Assessment (August 2018).

- 6.23 The policies within the plan are required to be in general conformity with those of the development plan and the Council considers that the EKNP meets this Basic Condition. The neighbourhood plan does not promote a greater amount of development than the Local Plan.

HRA Screening Conclusions

- 6.24 Kirk Deighton SAC is protected due to the presence of Great Crested Newts which have a limited distance of movement of normally up to 500m. None of the East Keswick Neighbourhood Area lies within 500m of the site. Furthermore, Natural England has stated within their consultation response that '...there are unlikely to be significant environmental effects from the proposed plan.'
- 6.25 It is considered that none of the policies in the Draft EKNP are likely to have a significant effect on the Kirk Deighton SAC, whether alone or in combination with other projects and programmes. Furthermore, the policies within the plan are required to be in general conformity with those of the Local Development Plan (inc. Biodiversity policies) which have been subject to HRA assessments.
- 6.26 The Council has considered the European Court Judgement, the HRA Screenings & Assessments of the Leeds SAP and the Harrogate Local Plan and has not relied on measures intended to avoid or reduce the harmful effects of the plan in order to screen out the neighbourhood plan under the Conservation of Habitats and Species Regulations 2018. An Appropriate Assessment is not required therefore the Court of Justice (Second Chamber) judgement in the case of Grace, Sweetman and the National Planning Appeals Board Ireland (ECLI:EU:C2018:593) is not applicable.

Overall Screening Conclusions

- 7.1 A SEA and HRA screening exercise has been undertaken for the draft EKNP. The assessments have concluded that the neighbourhood plan is unlikely to give rise to any significant environmental effects or have significant effects on a European site therefore the EKNP is screened out under the Conservation of Habitats and Species Regulations 2018. These conclusions are supported by comments from the environmental consultation bodies. Accordingly it is considered that an SEA or HRA assessment is not required for the draft neighbourhood plan.
- 7.2 It is important to note that this screening opinion is based on a draft version of the East Keswick Neighbourhood Plan (dated 26/6/2018). Consequently if the content of the neighbourhood plan should materially change then the SEA/HRA screening process will need to be re-assessed and updated.

APPENDIX 1

RESPONSES FROM ENVIRONMENTAL ASSESSMENT CONSULTATION BODIES



Historic England

YORKSHIRE

Ms. Heather Suggate,
Policy and Plans
Leeds City Council
Merrion House,
110 Merrion Centre,
Leeds, LS2 8BB

Our ref: PL00031222

Your ref:

Telephone
Mobile

01 October 2018

Dear Ms. Suggate,
**East Keswick Revised Neighbourhood Plan
Strategic Environmental Assessment**

We write in response to your e-mail of Tuesday 11 September 2018, seeking a Screening Opinion for the Revised East Keswick Neighbourhood Plan. For the purposes of this consultation, Historic England will confine its advice to the question, "Is it likely to have a significant effect on the environment?" in respect to our area of concern, cultural heritage. Our comments are based on the information supplied with the draft East Keswick Neighbourhood Plan.

We previously gave advice on the need for an SEA Screening of the East Keswick Neighbourhood Plan, in our letter of 1 August 2016.

The Draft Neighbourhood Plan indicates that within the plan area there is a wide range and number of designated cultural heritage assets. There is also likely to be other features of local historic, architectural or archaeological value, and consideration should also be given to the wider historic landscape.

On the basis of the information supplied, and in the context of the criteria set out in Schedule 1 of the Environmental Assessment Regulations [Annex II of 'SEA' Directive], Historic England remains of the view that the preparation of a Strategic Environmental Assessment is not required.

The views of the other three statutory consultation bodies should be taken into account before the overall decision on the need for an SEA is made.



Historic England, 37 Tanner Row, York YO1 6WP
Telephone 01904 60 1948 HistoricEngland.org.uk

Please note that Historic England operates an access to information policy.
Correspondence or information which you send us may therefore become publicly available.



We should like to stress that this opinion is based on the information provided by you with your e-mail dated 26 July 2016. To avoid any doubt, this does not reflect our obligation to provide further advice on later stages of the SEA process and, potentially, object to specific proposals which may subsequently arise (either as a result of this consultation or in later versions of the plan/guidance) where we consider that, despite the SEA, these would have an adverse effect upon the environment.

We would be pleased if you can send a copy of the determination as required by REG 11 of the Environmental Assessment of Plans and Programmes Regulations 2004.

Historic England strongly advises that the conservation and archaeological staff of the Leeds City Council and the West Yorkshire Archaeological Advisory Service are closely involved throughout the preparation of the plan and its assessment. They are best placed to advise on; local historic environment issues and priorities, including access to data held in the HER (formerly SMR); how the policy or proposal can be tailored to minimise potential adverse impacts on the historic environment; the nature and design of any required mitigation measures; and opportunities for securing wider benefits for the future conservation and management of historic assets.

Yours sincerely

Craig Broadwith
Historic Places Adviser



Historic England, 37 Tanner Row, York YO1 6WP
Telephone 01904 60 1948 HistoricEngland.org.uk

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Correspondence or information which you send us may therefore become publicly available.



Date: 01 October 2018

Our ref: 258632

Your ref: N/A



Heather Suggate
Policy and Plans,
Leeds City Council,
Merrion House,
110 Merrion Centre,
Leeds, LS2 8BB

BY EMAIL ONLY

Customer Services
Hornbeam House
Crewe Business
Park
Electra Way
Crewe
Cheshire
CW1 6GJ

Dear Heather Suggate

Screening consultation: East Keswick Neighbourhood Plan Strategic Environmental Assessment

Location: East Keswick

Thank you for your consultation on the above dated 11 September 2018 which was received by Natural England on the same date.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Screening Request: Strategic Environmental Assessment

It is our advice, on the basis of the material supplied with the consultation, that, in so far as our strategic environmental interests are concerned (including but not limited to statutory designated sites, landscapes and protected species, geology and soils), that there are unlikely to be significant environmental effects from the proposed plan.

Neighbourhood Plan

Guidance on the assessment of Neighbourhood Plans in light of the SEA Directive is contained within the National Planning Practice Guidanceⁱ. The guidance highlights three triggers that may require the production of an SEA, for instance where:

- a neighbourhood plan allocates sites for development

- the neighbourhood area contains sensitive natural or heritage assets that may be affected by the proposals in the plan
- 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.

We have checked our records and based on the information provided, we can confirm that in our view the proposals contained within the plan will not have significant effects on sensitive sites that Natural England has a statutory duty to protect.

We are not aware of significant populations of protected species which are likely to be affected by the policies / proposals within the plan. It remains the case, however, that the responsible authority should provide information supporting this screening decision, sufficient to assess whether protected species are likely to be affected.

Notwithstanding this advice, Natural England does not routinely maintain locally specific data on all potential environmental assets. As a result the responsible authority should raise environmental issues that we have not identified on local or national biodiversity action plan species and/or habitats, local wildlife sites or local landscape character, with its own ecological and/or landscape advisers, local record centre, recording society or wildlife body on the local landscape and biodiversity receptors that may be affected by this plan, before determining whether an SEA is necessary.

Please note that Natural England reserves the right to provide further comments on the environmental assessment of the plan beyond this SEA screening stage, should the responsible authority seek our views on the scoping or environmental report stages. This includes any third party appeal against any screening decision you may make.

If you have any queries relating to the advice in this letter please contact me at hannah.gooch@naturalengland.org.uk or on 02082 258503. For any new consultations, or to provide further information on this consultation please send your correspondence to consultations@naturalengland.org.uk.

Yours sincerely

Hannah Gooch
Yorkshire and Northern Lincolnshire Team
Natural England

From: [Dennison, Claire](#)
To: [Suggate, Heather](#)
Subject: RE: Strategic Environmental Assessment Screening of revised draft East Keswick Neighbourhood Plan - Amended Comments
Date: 09 April 2019 12:10:55
Attachments: [image001.gif](#)
[image002.gif](#)
[image003.gif](#)
[image004.gif](#)
[image005.gif](#)
[image006.png](#)

Heather

Amended comments as requested.

Thank you for consulting the Environment Agency regarding the above mentioned proposed draft plan. We have reviewed the information submitted and we wish to make the following comments

Strategic Environmental Assessment

We note that the Council has a responsibility to advise the Parish Council if there is a need for formal Strategic Environmental Assessment of the draft Neighbourhood Plan. You are seeking our views in order to inform the Council's decision on this matter.

We have considered the draft plan and its policies against those environmental characteristics of the area that fall within our remit and area of interest.

Having considered the nature of the policies in the Plan, we consider that it is **unlikely that significant negative** impacts on environmental characteristics that fall within our remit and interest will result through the implementation of the plan.

Draft Plan

We have **no objections** to the draft plan.

Flood Risk

I note that the area has Keswick Beck which shows a small amount around these areas to be a risk of flood (within Flood Zone 2.3)

We would like to see flood risk policies and that minimising the impact of flooding referred to in an 'Environmental' section. This is a key sustainability issue and will be exacerbated in the future due to climate change.

In terms of both policy and site selection, flood risk should be a major consideration in your plan. In drafting your flood risk policy, you should:

- Emphasise that inappropriate development will not be considered acceptable in areas of high flood risk.
- Highlight, where necessary, the need to undertake the sequential and exception tests.
- Promote a sequential approach to development layout, to ensure the highest vulnerability development is located in areas at lowest flood risk.
- Address the potential impacts of climate change on flood risk.
- Describe what is expected of developers in terms of surface water run-off rates (for both brownfield and Greenfield sites) and sustainable drainage systems.
- Where possible, expect development to result in a betterment to the existing flood risk

situation.

- Ensure that new development does not increase flood risk to others

A sequential approach to flood risk will also need to be taken when allocating sites.

New development proposals should be encouraged to contribute either financially or through physical works to reduce the flood risk to the wider village. This would require a clear understanding of what the flood risk reduction strategy is. This should be reflected in this section/policy.

Surface Water

The Lead Local Flood Authority is now the responsible authority for commenting on the surface water drainage arrangements. We therefore recommend you consult your LLFA regarding the proposed management of surface water within the Plan.

Water quality

Proper management is important to protect water quality, both for groundwater and surface water resources.

Drainage misconnections can occur in new developments, redevelopments, extensions or through refurbishment. Developers must ensure that they do not connect any foul drainage (including sinks, showers, washing machine/dishwasher outlets and toilets) to a surface water sewer, as this can send polluted water into watercourses. Similarly, developers should ensure that they do not connect surface water drainage (e.g. roof gutter downpipes) into foul sewers as this can cause overloading of the foul sewer during heavy rainfall.

Polluted surface water flows from areas like car parks or service yards should always have sufficient pollution prevention measures in place to ensure the protection of groundwater and watercourses from specific pollutants like petrol (hydrocarbons) and suspended solids. Developers should follow appropriate pollution prevention guidance when designing formal drainage for large areas of hardstanding.

Ideally, applicants should introduce more 'surface' or 'green' drainage solutions to aid improvements in water quality, such as swales along hardstanding boundaries, or a more advanced reed bed system for larger sites. These solutions are easier to access and maintain than engineered solutions like petrol/oil interceptors, which require regular maintenance to ensure they operate correctly. We would welcome a policy which requires a net gain in biodiversity through all development,

River restoration

We would welcome the inclusion of a specific river policy, addressing the following:

- Minimum of 8 metre (m) buffer zones for all watercourses measured from bank top to provide an effective and valuable river corridor and improve habitat connectivity. A 5m buffer zone for ponds would also help to protect their wildlife value and ensure that the value of the adjacent terrestrial habitat is protected.
- Development proposals to help achieve and deliver WFD objectives. Examples of the types of improvements that we may expect developers to make are: removal of obstructions (e.g. weirs), de-culverting, regrading banks to a more natural profile, improving in-channel habitat, reduce levels of shade (e.g. tree thinning) to allow aquatic vegetation to establish, etc. Proposals which fail to take opportunities to restore and improve rivers should be refused. If this is not possible, then financial or land contributions towards the restoration of rivers should be required.
- River corridors are very sensitive to lighting and rivers and their 8m buffer zones (as a minimum) should remain/be designed to be intrinsically dark i.e. Lux levels of 0-2.

It may be useful to include ownership information details for landowners, applicants or developers who have a watercourse running through or adjacent to their site. Many people believe that the Environment Agency own 'main rivers' which is not the case. Whilst we hold permissive powers to

carry out maintenance on main rivers, the site owner is the 'riparian owner' of the stretch of watercourse running through their site (whole channel) or adjacent to their site (up to the centre line of the channel) – and this includes culverted watercourses. Our 'Living on the Edge' publication provides important guidance for riverside owners.

Applicants should remove watercourses from existing culverts where this is feasible. This will help to reduce flood risk from blocked or collapsed culverts, and open channels are significantly easier for the landowner to maintain. Culverts that cause blockages of the watercourse are the responsibility of the owner to repair. Additionally, we will usually object to planning applications that propose new culverts.

Your plan policy should also provide details of 'buffer zones' that are left adjacent to watercourses. We will always ask developers to maintain an undeveloped,

Naturalised, 8 metre buffer zone adjacent to main rivers. We ask that applicants do not include any structures such as fencing or footpaths within the buffer zone as this could increase flood risk - through the inclusion of close-board fencing for example. Any works or structures that applicants intend within 8m of a main river will require a flood defence consent from us, which is separate from and in addition to any planning permission granted.

Sustainable construction

You could also help your community save money through sustainable construction. Neighbourhood planning is an opportunity for communities to encourage efficient water and waste management systems in new buildings, and use locally sourced wood fuel for heating. You could also help to promote the use of sustainable materials in construction, and encourage energy efficiency measures for new builds. These measures will reduce the cost of construction for developers and help to reduce utility bills for those using the building. This will also help the environment by reducing emissions and improving air quality.

We hope this response helps you develop your plan.

Kind Regards

Claire Dennison
Sustainable Places Planning Advisor

TEAM CONTACT DETAILS:

Tel: 020 302 56862 (Internal 56862)

Email: sp-yorkshire@environment-agency.gov.uk

Environment Agency, Lateral, 8 City Walk, Leeds, LS11 9AT

Charging for planning advice

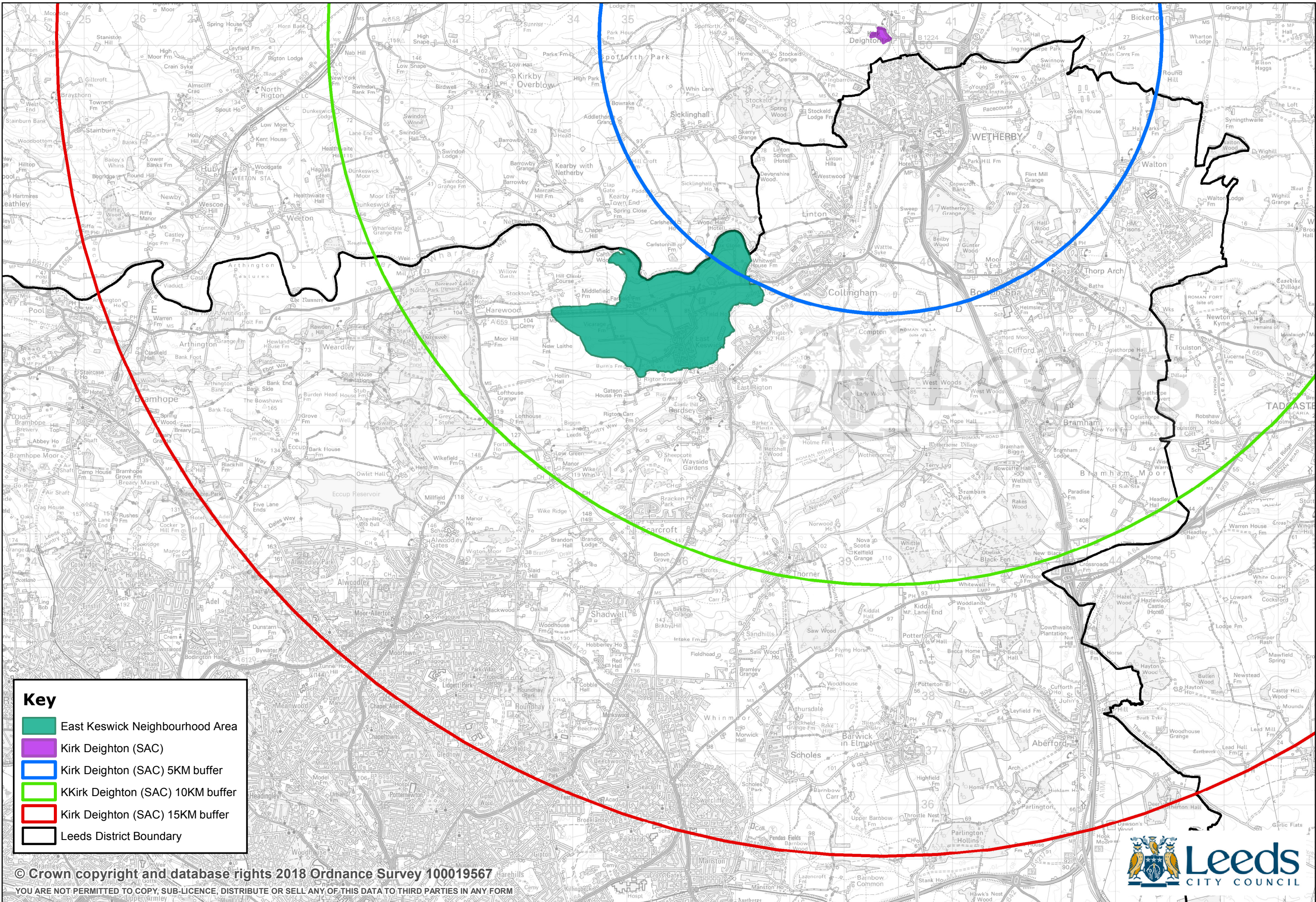
We began charging for some of our planning advice.

For more information please see our web pages at

<https://www.gov.uk/government/publications/planning-advice-environment-agency-standard-terms-and-conditions> or speak to your local Sustainable Places team.

APPENDIX 2

MAP SHOWING KIRK DEIGHTON SPECIAL AREA OF CONSERVATION/EAST KESWICK NEIGHBOURHOOD AREA AND NATURA 2000 DATA FORM



NATURA 2000

STANDARD DATA FORM

FOR SPECIAL PROTECTION AREAS (SPA)
FOR SITES ELIGIBLE FOR IDENTIFICATION AS SITES OF COMMUNITY IMPORTANCE (SCI)
AND
FOR SPECIAL AREAS OF CONSERVATION (SAC)

1. Site identification:

1.1 Type **1.2 Site code**

1.3 Compilation date **1.4 Update**

1.5 Relationship with other Natura 2000 sites

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1.6 Respondent(s)

1.7 Site name

1.8 Site indication and designation classification dates

date site proposed as eligible as SCI	200107
date confirmed as SCI	200412
date site classified as SPA	
date site designated as SAC	200504

2. Site location:**2.1 Site centre location**

longitude	latitude
01 23 47 W	53 56 43 N

2.2 Site area (ha) **2.3 Site length (km)**

2.5 Administrative region

NUTS code	Region name	% cover
UK22	North Yorkshire	100.00%

2.6 Biogeographic region
☐
Alpine

☒
Atlantic

☐
Boreal

☐
Continental

☐
Macaronesia

☐
Mediterranean
3. Ecological information:**3.1 Annex I habitats**

Habitat types present on the site and the site assessment for them:

Annex I habitat	% cover	Representativity	Relative surface	Conservation status	Global assessment

3.2 Annex II species

Species name	Resident	Population			Site assessment			
		Breed	Winter	Stage	Population	Conservation	Isolation	Global
<i>Triturus cristatus</i>	Common	-	-	-	C	C	C	B

4. Site description

4.1 General site character

Habitat classes	% cover
Marine areas. Sea inlets	
Tidal rivers. Estuaries. Mud flats. Sand flats. Lagoons (including saltwork basins)	
Salt marshes. Salt pastures. Salt steppes	
Coastal sand dunes. Sand beaches. Machair	
Shingle. Sea cliffs. Islets	
Inland water bodies (standing water, running water)	3.0
Bogs. Marshes. Water fringed vegetation. Fens	
Heath. Scrub. Maquis and garrigue. Phygrana	
Dry grassland. Steppes	
Humid grassland. Mesophile grassland	
Alpine and sub-alpine grassland	
Improved grassland	95.0
Other arable land	
Broad-leaved deciduous woodland	
Coniferous woodland	
Evergreen woodland	
Mixed woodland	
Non-forest areas cultivated with woody plants (including orchards, groves, vineyards, dehesas)	2.0
Inland rocks. Scree. Sands. Permanent snow and ice	
Other land (including towns, villages, roads, waste places, mines, industrial sites)	
Total habitat cover	100%

4.1 Other site characteristics

Soil & geology:

Clay, Neutral

Geomorphology & landscape:

Lowland

4.2 Quality and importance

Triturus cristatus

- for which this is considered to be one of the best areas in the United Kingdom.

4.3 Vulnerability

Kirk Deighton is subject to variable water levels which means the ponds do not hold water some years. The situation will need to be kept under review. The ponds are situated in a heavily grazed pasture. While this is not a problem in itself the pond edges tend to be heavily poached and there is little aquatic vegetation. An agreement will be sought with the land manager that would involve fencing of the pond and setting aside a small section of the pasture to improve the habitat for newts.

5. Site protection status and relation with CORINE biotopes:

5.1 Designation types at national and regional level

Code	% cover
UK04 (SSSI/ASSI)	100.0