

**Regulation 14
Marden Neighbourhood Plan
Pre-submission version**

June 2018

**DRAFT Strategic Environmental
Assessment and Habitats Regulations
Assessment
Screening Report**

Prepared by Maidstone Borough Council

1 Introduction

The need for environmental assessment of plans is set out in the EU Directive 2001/42/EC – known as the SEA Directive. Under this Directive, Neighbourhood Plans may require an SEA – but this will depend on the content of each Neighbourhood Plan.

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

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

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

- the neighbourhood plan allocates sites for development
- the neighbourhood area contains sensitive natural or heritage assets that may be affected by the proposals in the plan
- the neighbourhood plan may have significant environmental effects that have not already been considered and dealt with through a sustainability appraisal of the Local Plan

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

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

2 Legislative Background

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

Schedule 2 of the Neighbourhood Planning (General) Regulations 2012 makes provision in relation to the Habitats Directive. The Directive requires that any plan or project likely to have a significant effect on a European site must be subject to an Appropriate Assessment. To achieve this, paragraph 1 of Schedule 2 prescribes a basic condition that the making of a neighbourhood plan is not likely to have a significant effect on a European site. Paragraphs 2 to 5 of the Schedule amend the Conservation of Habitats and Species Regulations 2010 so as to apply its provisions to neighbourhood development orders and neighbourhood plans. In particular, paragraph 3 inserts new regulation 78A which provides that a neighbourhood development order may not grant planning permission for development which is likely to have a significant effect on a European site. These changes have been reflected in the Conservation of Habitats and Species Regulations 2017.

This report focuses on screening for an SEA and the criteria for establishing whether a full assessment is needed.

3 Screening Process

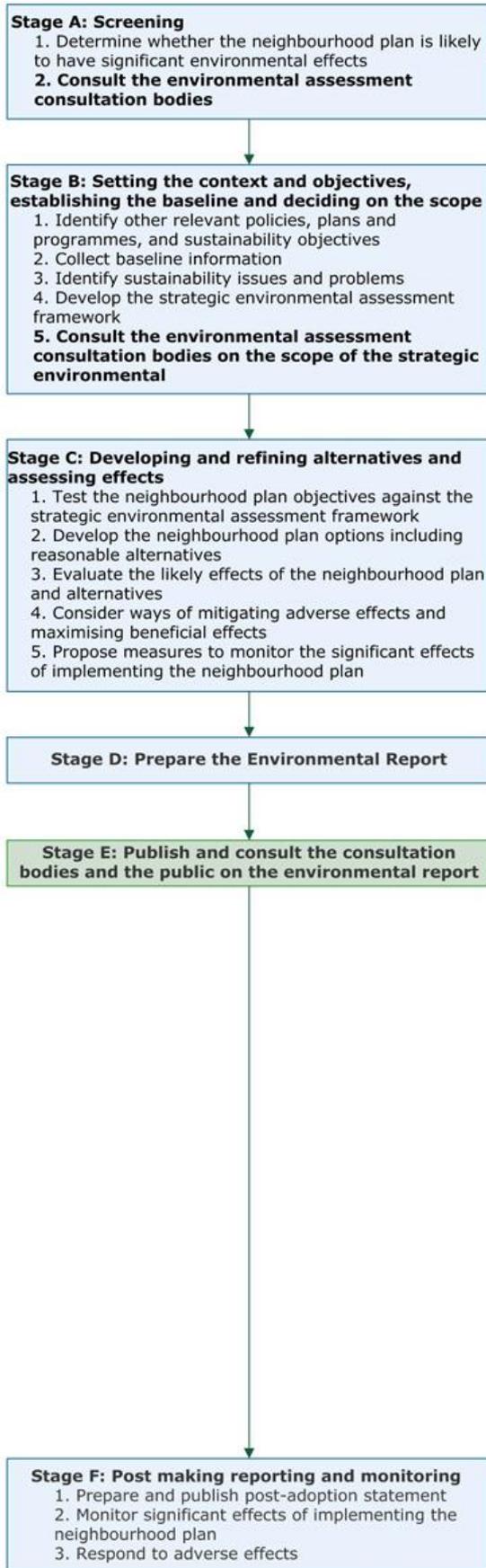
Marden Parish Council requested an SEA screening opinion of its pre-submission Marden Neighbourhood Plan on 8th June 2018. It is Maidstone Borough Council's responsibility to assess whether the policies and proposals in the Draft Regulation 14 Neighbourhood Plan are likely to have 'significant environmental effects'.

The National Planning Practice Guidance in relation to strategic environmental assessments sets out the approach to producing an SEA Figure 1 (below). This guidance recommends that an assessment be undertaken in the early stages of plan making.

The first stage is the screening process (Stage A in Figure 1 below) to determine whether the neighbourhood plan is likely to have significant environmental effects. The screening process includes a 5 week consultation with the statutory consultees. If the screening process concludes that the Marden Neighbourhood Plan requires an environmental report, the Parish Council is responsible for preparing the scoping report (Stage B) and must consult the statutory consultees. Stages B and C would need to include consideration of reasonable alternatives, to inform the selection and refinement of the preferred options. The preparation of the Environmental Report (Stage D) would need to identify, describe and evaluate the likely significant effects on the environment of implementing the policies in the neighbourhood plan and of the reasonable alternatives taking into account the objectives and geographical scope of the plan.

Figure 1 – SEA Process

Strategic environmental assessment process



Neighbourhood plan preparation

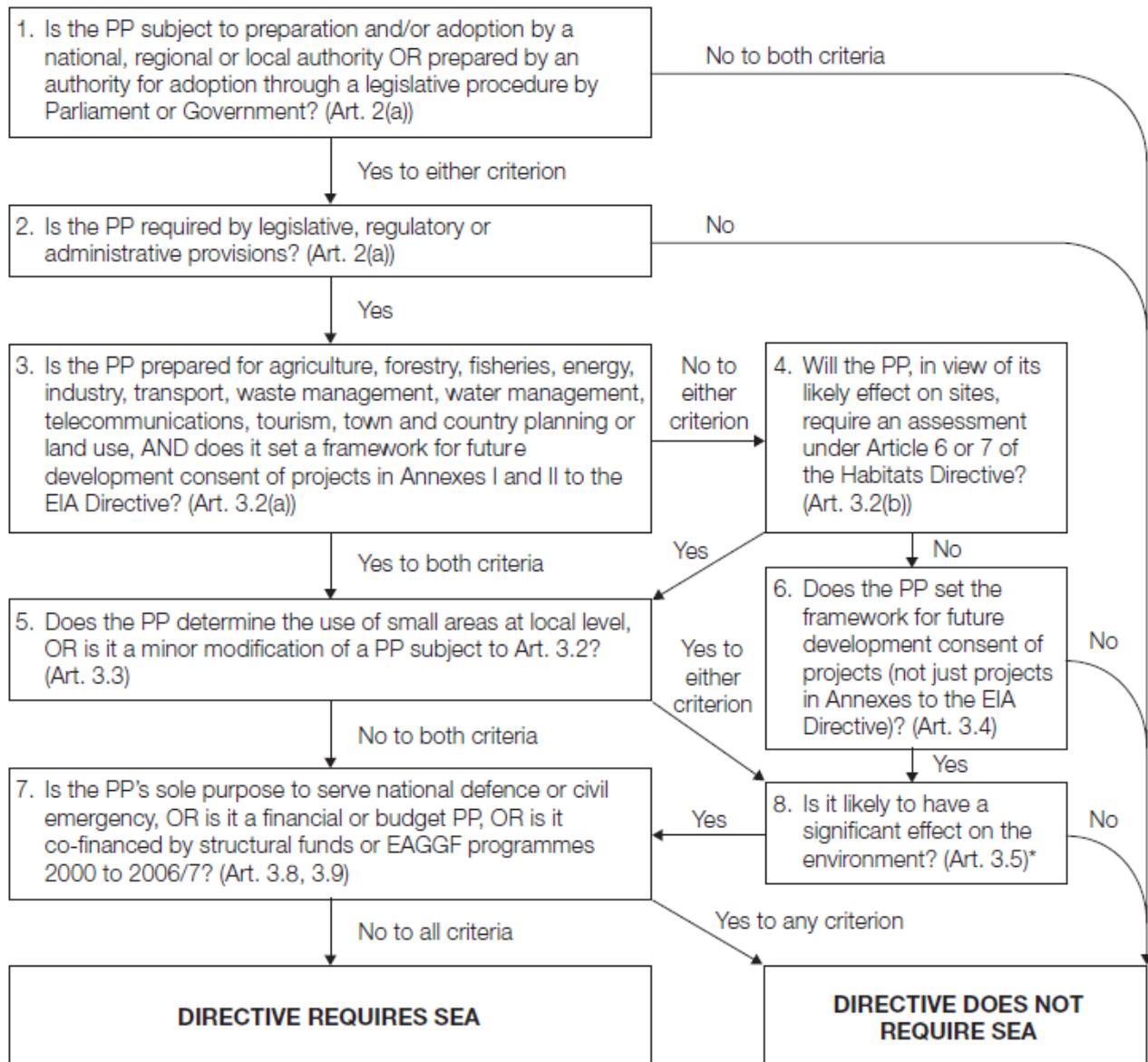


4 Screening Assessment

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

Figure 2 – Application of the SEA Directive to plans and programmes

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



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

The screening opinion assessment set out below is undertaken in two parts: the first part assesses whether the plan requires an SEA (following the process stipulated in the flow chart below); and the second part of the assessment will

consider whether the Neighbourhood Plan is likely to have a significant effect on the environment, using criteria drawn from Schedule 1 of the EU SEA Directive and the UK Environmental Assessment of Plans and Programmes Regulations 2004.

4.1 Assessment 1: Establishing the Need for SEA

Stage	Yes/ No	Reason
<p>1. Is the Neighbourhood Plan (NP) subject to preparation and/or adoption by a national, regional or local authority, OR prepared by an authority for adoption through a legislative procedure by Parliament or Government? (Art. 2(a))</p>	<p>Yes</p>	<p>The preparation and adoption of the NP is allowed under the Town and Country Planning Act 1990 (as amended). The NP has been prepared by Marden Parish Council (as the 'relevant body') and subject to the outcome of Examination and referendum will be 'made' by Maidstone Borough Council as the local authority. The preparation of NPs is subject to the following regulations: The Neighbourhood Planning (General) Regulations 2012 (as amended) and The Neighbourhood Planning (referendums) Regulations 2012 (as amended). <i>GO TO STAGE 2</i></p>
<p>2. Is the NP required by legislative, regulatory or administrative provisions? (Art. 2(a))</p>	<p>Yes</p>	<p>Whilst the NP is not a requirement and is optional under the provisions of the Town and Country Planning Act (as amended), it will if 'made', form part of the Development Plan for the Borough and the NPPF states that it is highly desirable that local planning authorities should have an up-to-date plan in place. The NPPF also states that neighbourhoods should develop plans that support the strategic development needs set out in Local Plans, including policies for housing and economic development and plan positively to support local development, shaping and directing development in their area that is outside the strategic elements of the Local Plan. <i>GO TO STAGE 3</i></p>
<p>3. Is the NP prepared for agriculture, forestry, fisheries, energy, industry, transport, waste management, telecommunications, tourism, town and country planning or land use, AND does it set a framework for future development consent of projects in Annexes I and II to the EIA Directive? (Art. 3.2(a))</p>	<p>Yes</p>	<p>The NP is being prepared for town and country planning and land use. The NP will therefore provide a framework for future development consent of development projects in Annex II of the EIA Directive including Infrastructure projects 10(b) Urban-development projects). <i>GO TO STAGE 5</i></p>

<p>5. Does the NP determine the use of small areas at local level OR is it a minor modification of a plan or programme subject to Art. 3.2? (Art. 3.3)</p>	<p>Yes</p>	<p>The NP is expected to determine the use of small sites at a local level.</p> <p><i>GO TO STAGE 8.</i></p>
<p>8. Is it likely to have a significant effect on the environment? (Art 3.5)</p>	<p>No</p>	<p>See Assessment 2: Likely significant effects on the environment: Summary: The Marden NP is a relatively self-contained planning unit and considers development only at a local level. Given the geographic area and population of the plan area, the effects of the plan will be relatively localised. The plan policies aim to mitigate flooding which is a local issue. The plan should not significantly impact on any habitat of European designation. The NP will integrate environmental considerations with a view to promoting sustainable development. The NP does not allocate development sites but sets out a framework by which future development should be assessed. In doing so minimising the impacts of future development.</p> <p><i>DIRECTIVE DOES NOT REQUIRE SEA</i></p>

4.2 Assessment 2: Likely Significant Effects on the Environment

SEA Directive criteria and Schedule 1 of Environmental Assessment of plans and programmes Regulations 2004	Maidstone Borough Council Assessment	Likely significant environmental effect?
Characteristics of the Neighbourhood Plan, having regard to:		
The degree to which the Plan sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources.	The NP would, if made, form part of the statutory Development Plan and as such does contribute to the framework for future development consent of projects. It does not allocate sites for development but sets a framework within which any allocations or development should be assessed. The NP sits within the wider framework of the NPPF and the Maidstone Borough Local Plan. Consequently the projects for which this NP helps to set a framework are localised in nature and will have a geographically restricted local impact on the environment and resource implications.	No
The degree to which the Plan influences other plans and programmes including those in a hierarchy.	The NP must take into account the National Planning Policy Framework and the plan should be in general conformity with the strategic policies of the Maidstone Borough Local Plan. Whilst significant to the Marden area of Maidstone, the NP should not significantly influence other plans and programmes, but may have a limited degree of influence over the implementation of future strategic policies.	No

<p>The relevance of the Plan for the integration of environmental considerations in particular with a view to promoting sustainable development.</p>	<p>The NP seeks to integrate environmental considerations with a view to promoting sustainable development particularly in relation to flooding and water quality; sustainable construction and the protection and enhancement of green infrastructure and biodiversity. Given the geographic area of the NP and the location of facilities within and close to the plan area, development is likely to be sustainably located in relation to services. It is therefore considered that the NP will integrate environmental considerations with a view to promoting sustainable development.</p>	<p>No</p>
<p>Environmental problems relevant to the Plan.</p>	<p>The Neighbourhood Plan area suffers flood incidents due to inadequate drainage systems. The NP is intended to make a positive impact on mitigating the impact of flooding and water quality.</p>	<p>No</p>
<p>The relevance of the Plan for the implementation of Community legislation on the environment (for example, plans and programmes linked to waste management or water protection).</p>	<p>The NP is not directly relevant to the implementation of European legislation, although it will need to take the impact of the Water Framework Directive into account.</p>	<p>No</p>
<p>Characteristics of the effects and of the area likely to be affected, having regard, in particular, to:</p>		
<p>The probability, duration, frequency and reversibility of the effects.</p>	<p>The NP does not allocate development sites, but includes policies by which development proposals would be judged. There may also be longer-term irreversible effects relevant to changes in land use though the scale and siting of change will mean that the environmental</p>	<p>No</p>

	effects are not likely to be significant.	
The cumulative nature of the effects of the Plan.	The NP does not allocate development sites, but includes policies by which development proposals would be judged. These policies seek to mitigate the impact of development on the water cycle; promote sustainable homes and protect and enhance existing facilities and services such as community uses as well as local green infrastructure. It is intended that the positive effects will have a positive cumulative benefit for the local area.	No
The trans-boundary nature of the effects of the Plan.	The NP is not expected to have any significant trans-boundary effects.	No
The risks to human health or the environment (e.g. due to accidents).	There are no significant risks to human health.	No
The magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected) by the Plan.	Given the geographic area and population of the plan area, the effects of the plan will be relatively localised.	No
The value and vulnerability of the area likely to be affected by the Plan due to: (i) Special natural characteristics or cultural heritage; (ii) Exceeded environmental quality standards or limit values; or (iii) Intensive land use	(i) Special natural characteristics or cultural heritage will not be significantly adversely affected by the NP; (ii) The NP is not expected to exceed environmental quality standards or limit values; (iii) Any development is expected to respond to the local environmental context – but not to intensively use the land for development. Policies within the NP and Local Plan should mitigate against the over-development of land.	No
The effects of the Plan on areas or landscapes which have recognised national,	Although just over a quarter of the borough is within the Kent Downs Area of Outstanding	No

<p>community or international protection status.</p>	<p>Natural Beauty located to the north of Maidstone town, the NP area is set some distance away to the south of the town. The NP does not seek to designate Local Green Space and does not impact adversely on a Local Nature Reserve. The Neighbourhood Plan supports national policies for the protection of ancient woodland, SSSIs and local wildlife sites. The NP is not likely to have a significant impact on national or community protection status.</p>	
<p>Assessment 2 Conclusion</p>	<p>The Marden NP is not likely to have a significant effect on the environment.</p>	

5 Habitats Regulations Assessment Screening

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

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

New development that is delivered within the Borough over the next two decades is likely to place additional pressure on these areas, particularly through increased recreational pressure on the North Downs Woodlands SAC. However, in this respect the Habitats Regulations Assessment Screening Report (2016) for the Regulation 19 Local Plan, February 2016 tested the impact of 18,560 new dwellings primarily concentrated in the Maidstone Urban Area but with development in the Marden area.

The Screening Report examined closely the impacts of the consequential recreational pressure and air quality on the North Downs Woodlands SAC and recreational pressure on Queendown Warren SAC and the Medway Estuary and Marshes SPA and Ramsar site. The report concludes that policies within Maidstone Borough's Local Plan – Publication (Regulation 19) February 2016 can be screened out from further consideration from both, alone and in-combination with other projects or plans.

The Marden Neighbourhood Plan allocates no specific sites for residential development (though it includes some policies by which development would be appraised). The Neighbourhood Plan also proposes to enhance recreation and open space provision which will tend to mitigate impacts of recreational pressure on other sites.

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

On balance, the Marden Neighbourhood Plan is not likely to cause a significant effect on a European site will not require an assessment for future development under Article 6 or 7 of the Habitats Directive (Art. 3.2(b)).

6 Consultations with Statutory Consultees

The three statutory consultation bodies (English Heritage, Environment Agency and Natural England) have been consulted to determine whether they agree with the conclusion of this screening opinion, in establishing whether the Regulation 14 Marden Neighbourhood Plan Pre-Submission Consultation Draft requires an SEA and whether it may have a 'significant environmental effect'.

Summary of Consultations

Historic England

The parish contains 129 listed buildings, a conservation area and potentially a number of locally important heritage assets. It is, therefore, a very sensitive historic environment which may be affected by any development promoted or allowed for by the Neighbourhood Plan.

We note that the draft Plan does not allocate any sites for housing or other development. However, Policies A1, E1, HC1, H2, H3, AH1, AH2 and ED1 all support development in certain circumstances i.e. subject to the fulfilment of certain criteria.

As none of those criteria relate to the historic environment, these policies do not contain any protection for heritage assets. Policy HE1 is entitled "Historic Environment" but, as drafted, is really a design policy and does not specifically require development proposals to conserve or enhance the significance of heritage assets.

The consequence of these policies is that the Plan allows, indeed supports, development that could potentially be harmful to the significance of heritage assets, however unintended such a consequence may be.

However, any development proposals in Marden, including that supported by the policies identified above, will also need to satisfy the additional provisions of Policies SP18 and DM4 of the adopted Maidstone Borough Local Plan. We consider that these policies provide sufficient protection for heritage assets such that any significant effects on the historic environment as a consequence of the policies and proposals of the Marden Neighbourhood Plan are unlikely (even bearing in mind that "likelihood" and "significant" are actually quite low thresholds).

Given that situation, we therefore concur with the Council's Opinion that the Marden Neighbourhood Plan need not be subject to Strategic Environmental Assessment.

Environment Agency

We agree with the conclusion that Regulation 14 Marden Neighbourhood Plan Pre-Submission Consultation Draft does not require an SEA.

Natural England

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) are concerned, 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 Guidance¹. 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 SA/SEA is necessary.

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

7 Screening Conclusion

As a result of the Screening Assessment, the Marden Neighbourhood Plan Pre-submission Version is not likely to have a significant effect on the environment.

In addition, the Marden Neighbourhood Plan Pre-submission version is not considered likely to cause a significant effect on a European site and will not therefore require an assessment for future development under Article 6 or 7 of the Habitats Directive (Art. 3.2(b)).