

Bishop's Castle Neighbourhood Development Plan

Habitats Regulations Assessment

Bishop's Castle Town Council

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Quality information

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1. Introduction

Scope of Project

- 1.1 AECOM was appointed by Locality on behalf of Bishop's Castle Town Council to undertake a Habitats Regulations Assessment (HRA) for the Bishop's Castle Neighbourhood Development Plan Regulation 14 Draft, January 2021 (hereafter 'the draft NDP'). This HRA has been undertaken to inform the planning group and local councils of the potential effects of policies and development allocated within the draft NDP on internationally designated sites and how any potential effects are being addressed in the draft NDP.
- 1.2 The Regulation 19 Pre-submission Draft Shropshire Local Plan 2016-2038 was subject to HRA in December 2020¹. This identified the potential for adverse effects on internationally designated sites as a result of development within Bishop's Castle Neighbourhood Development Plan area (hereafter 'NDP area'); specifically, on the River Clun Special Area of Conservation (SAC) and The Stiperstones and The Hollies SAC.
- 1.3 The objective of this HRA is to identify if any draft NDP policies and/or allocations have the potential to cause an adverse effect on the integrity of internationally designated sites (Special Areas of Conservation, (SACs), Special Protection Areas (SPAs) and Ramsar sites), either in isolation or in combination with other plans and projects, and to determine whether site-specific or policy mitigation measures are required.

Legislation

- 1.4 The UK left the EU on 31 January 2020 under the terms set out in the European Union (Withdrawal Agreement) Act 2020 ("the Withdrawal Act"). This established a transition period, which ended on 31 December 2020. During this transition period, the Withdrawal Act retained the body of existing EU-derived law within domestic law. During the transition period EU law applied in the UK. From 1 January 2021, the UK is no longer a member of the European Union. However, Habitats Regulations Assessment will continue as set out in the Conservation of Habitats and Species (Amendment) 2019².
- 1.5 The need for HRA is set out within the Conservation of Habitats & Species Regulations 2017 (as amended) and concerns the protection of European sites. Internationally designated sites include Special Areas of Conservation (SAC), Special Protection Areas (SPA) proposed/candidate sites for these designations (i.e. those designated under the Bern Convention Emerald Network) and sites designated under the Convention on Wetlands of International Importance (Ramsar sites).
- 1.6 The HRA process applies the precautionary principle to protected areas³. Plans and projects can only be permitted having ascertained that there will be no adverse effect on the integrity of the site(s) in question. Plans and projects may still be permitted if there are no alternatives to them and there are Imperative Reasons of Overriding Public Interest (IROPI) as to why they should go ahead. In such cases, compensation would be necessary to ensure the overall integrity of the site network.

¹ Available at: <https://shropshire.gov.uk/planning-policy/local-planning/local-plan-review/supporting-assessments/> (accessed 12/02/21).

² these don't replace the 2017 Regulations but are just another set of amendments

³ The Precautionary Principle, which is referenced in Article 191 of the Treaty on the Functioning of the European Union, has been defined by the United Nations Educational, Scientific and Cultural Organisation (UNESCO, 2005) as: "When human activities may lead to morally unacceptable harm [to the environment] that is scientifically plausible but uncertain, actions shall be taken to avoid or diminish that harm. The judgement of plausibility should be grounded in scientific analysis".

Box 1: The legislative basis for HRA Plans

Conservation of Habitats and Species Regulations 2017 (as amended)

The Regulations state that:

"A competent authority, before deciding to ... give any consent for a plan or project which is likely to have a significant effect on a European site ... shall make an appropriate assessment of the implications for the site in view of that sites conservation objectives... The authority shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site".

With specific reference to Neighbourhood Plans, Regulation 106(1) states that:

"A qualifying body which submits a proposal for a neighbourhood development plan must provide such information as the competent authority [the Local Planning Authority] may reasonably require for the purpose of the assessment under regulation 105... [which sets out the formal process for determination of 'likely significant effects' and the appropriate assessment]".

1.7 It is therefore important to note that this report has two purposes:

- To assist the Qualifying Body (Bishop's Castle Town Council) in preparing their plan by recommending (where necessary) any adjustments required to protect internationally designated sites, thus making it more likely their plan will be deemed compliant with the Conservation of Habitats and Species Regulations 2017 (as amended); and
- On behalf of the Qualifying Body, to assist the Local Planning Authority (Shropshire Council) to discharge their duty under Regulation 105 (in their role as 'plan-making authority' within the meaning of that regulation) and Regulation 106 (in their role as 'competent authority').

1.8 As 'Competent Authority', the legal responsibility for ensuring that a decision of 'likely significant effects' is made, for ensuring an 'appropriate assessment' (where required) is undertaken, and for ensuring Natural England are consulted, falls on the Local Planning Authority. However, they are entitled to request from the Qualifying Body the necessary information on which to base their judgment and that is a key purpose of this report.

1.9 Over the years, 'Habitats Regulations Assessment' (HRA) has come into wide currency to describe the overall process set out in the Habitats Regulations, from screening through to identification of IROPI. This has arisen in order to distinguish the overall process from the individual stage of "Appropriate Assessment". Throughout this report the term HRA is used for the overall process and restricts the use of Appropriate Assessment to the specific stage of that name.

2. Methodology

Introduction

- 2.1 Figure 1 below outlines the stages of HRA according to current Ministry of Housing, Communities and Local Government guidance. The stages are essentially iterative, being revisited as necessary in response to more detailed information, recommendations and any relevant changes to the Plan until no significant adverse effects remain.

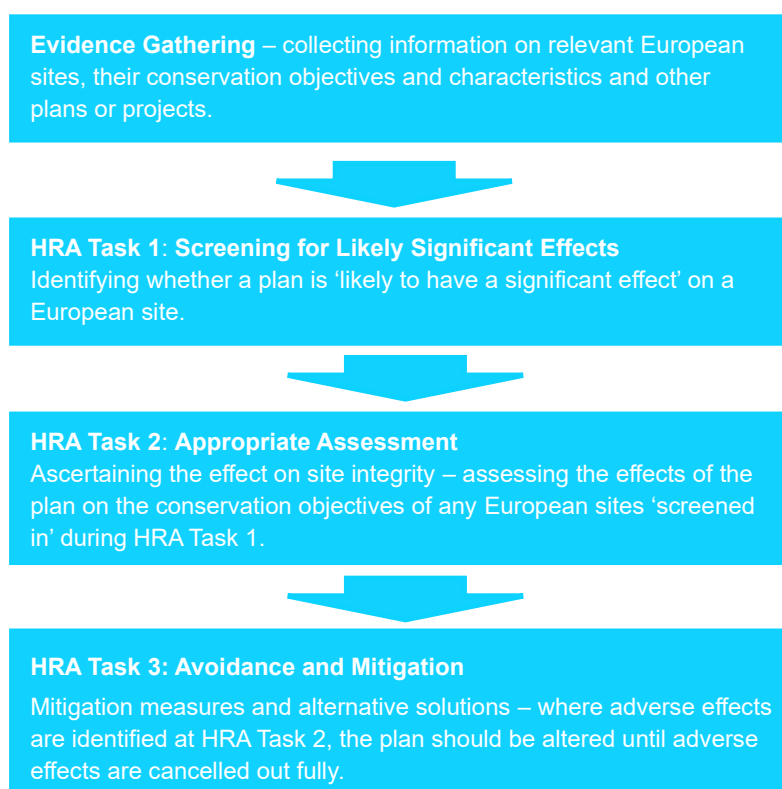


Figure 1. Four Stage Approach to Habitats Regulations Assessment (GOV.UK, 2019)

HRA Task 1: Test of Likely Significant Effects (LSE)

- 2.2 Following evidence gathering, the first stage of any HRA is a Likely Significant Effect (LSE) test; essentially a risk assessment to decide whether the full subsequent stage known as Appropriate Assessment is required. The essential question is:

"Is the project, either alone or in combination with other relevant projects and plans, likely to result in a significant effect upon European sites?"

- 2.3 The objective is to 'screen out' those plans and projects that can, without any detailed appraisal, be said to be unlikely to result in significant adverse effects upon internationally designated sites, usually because there is no mechanism for an adverse interaction with internationally designated sites. This stage is undertaken in Chapter 4 of this report.

HRA Task 2: Appropriate Assessment (AA)

- 2.4 Where it is determined that a conclusion of 'no likely significant effect' cannot be drawn, the analysis has proceeded to the next stage of HRA known as Appropriate Assessment. Case law has clarified that 'Appropriate Assessment' is not a technical term. In other words, there are no particular technical analyses, or level of technical analysis, that are classified by law as belonging to Appropriate Assessment rather than determination of likely significant effects.

- 2.5 During July 2019 the Ministry of Housing, Communities and Local Government published guidance for Appropriate Assessment⁴. Paragraph: 001 Reference ID: 65-001-20190722 explains: *'Where the potential for likely significant effects cannot be excluded, a competent authority must make an appropriate assessment of the implications of the plan or project for that site, in view of the site's conservation objectives. The competent authority may agree to the plan or project only after having ruled out adverse effects on the integrity of the habitats site. Where an adverse effect on the site's integrity cannot be ruled out, and where there are no alternative solutions, the plan or project can only proceed if there are imperative reasons of over-riding public interest and if the necessary compensatory measures can be secured'*.
- 2.6 As this analysis follows on from the screening process, there is a clear implication that the analysis will be more detailed than undertaken at the Screening stage and one of the key considerations during Appropriate Assessment is whether there is available mitigation that would entirely address the potential effect. In practice, the Appropriate Assessment takes any policies or allocations that could not be dismissed following the high-level screening analysis and analyses the potential for an effect in more detail, with a view to concluding whether there would be an adverse effect on integrity (in other words, disruption of the coherent structure and function of the internationally designated site(s)).
- 2.7 A decision by the European Court of Justice⁵ concluded that measures intended to avoid or reduce the harmful effects of a proposed project on a internationally designated site may no longer be taken into account by competent authorities at the Likely Significant Effects or 'screening' stage of HRA.
- 2.8 Also, in 2018 the Holohan ruling⁶ was handed down by the European Court of Justice. Among other provisions, paragraph 39 of the ruling states that *'As regards other habitat types or species, which are present on the site, but for which that site has not been listed, and with respect to habitat types and species located outside that site, ... typical habitats or species must be included in the appropriate assessment, if they are necessary to the conservation of the habitat types and species listed for the protected area'* [emphasis added]. This has been taken into account in the HRA process.
- 2.9 The UK is no longer part of the European Union. However, as a precaution, it is assumed for the purposes of this HRA that EU case law regarding Habitat Regulations Assessment will still be considered informative jurisprudence by the UK courts. That ruling has therefore been considered in producing this HRA.

HRA Task 3: Avoidance and Mitigation

- 2.10 Where necessary, measures are recommended for incorporation into the Plan in order to avoid or mitigate adverse effects on international sites. There is considerable precedent concerning the level of detail that a Neighbourhood Plan document needs to contain regarding mitigation for recreational impacts on international sites. The implication of this precedent is that it is not necessary for all measures that will be deployed to be fully developed prior to adoption of the Plan, but the Plan must provide an adequate policy framework within which these measures can be delivered.
- 2.11 In evaluating significance, AECOM has relied on professional judgement and utilised the 2020 HRA of the Regulation 19 Pre-submission Draft Shropshire Local Plan 2016-2038 when assessing development impacts on the international designated sites considered within this assessment.
- 2.12 When discussing 'mitigation' for a Neighbourhood Development Plan document, one is concerned primarily with the policy framework to enable the delivery of such mitigation rather than the details of the mitigation measures themselves since the Local Development Plan document is a high-level policy document. A Neighbourhood Plan is a lower level constituent of a Local Development Plan.

⁴<https://www.gov.uk/guidance/appropriate-assessment#what-are-the-implications-of-the-people-over-wind-judgment-for-habitats-regulations-assessments> (accessed: 07/01/2020).

⁵ People Over Wind and Sweetman v Coillte Teoranta (C-3.23/17).

⁶ Case C-461/17.

Confirming Other Plans and Projects That May Act 'In Combination'

- 2.13 It is a requirement of the Regulations that the impacts of any land use plan being assessed are not considered in isolation but in combination with other plans and projects that may also be affecting the international site(s) in question.
- 2.14 In considering the potential for combined regional housing development to impact on international sites the impacts resulting from increased population growth require consideration; these include: impacts such as recreational pressure, air quality and water quality.
- 2.15 When undertaking this part of the assessment it is essential to bear in mind the principal intention behind the legislation i.e. to ensure that those projects or plans (which in themselves may have minor impacts) are not simply dismissed on that basis but are evaluated for any cumulative contribution they may make to an overall significant effect. In practice, in-combination assessment is therefore of greatest relevance when the plan or policy would otherwise be screened out because its individual contribution is inconsequential.
- 2.16 Plans and projects that may act in combination with development within the draft NDP are as follows:
- Emerging Shropshire Local Plan (Regulation 19 Pre-submission Draft, 2020)⁷ ('the emerging Local Plan');
 - Herefordshire Local Plan (adopted 2015)⁸; and
 - Powys Local Development Plan (adopted 2018)⁹.
 - Severn Trent Water Resource Management Plan (2019)¹⁰

⁷ Available at: <https://shropshire.gov.uk/planning-policy/local-planning/local-plan-review/> (accessed 12/02/21).

⁸ Available at: <https://www.herefordshire.gov.uk/local-plan-1/hereford-area-plan-hap> (accessed 12/02/21).

⁹ Available at: <https://en.powys.gov.uk/article/4898/Adopted-LDP-2018> (accessed 12/02/21).

¹⁰ Available at: [Water resources management plan | Our other plans | About Us | Severn Trent Water \(stwater.co.uk\)](#) [accessed 12/03/2021]

3. Internationally Designated Sites

- 3.1 Two internationally designated sites have been identified as being relevant to this HRA: The Stiperstones and The Hollies SAC (located approximately 5.2km north of the NDP area) and River Clun SAC (located approximately 11.7km south-east of the NDP area). The features, vulnerabilities and conservation objectives for these designated sites are summarised below.
- 3.2 The location of these designated sites is illustrated in Appendix A, Figure A1.
- 3.3 Another international site, Downton Gorge SAC, is located approximately 16.8km south-east of the NDP boundary. Considering the distance between the NDP and this designated site, and the features for which Downton Gorge SAC is designated (Tilio-Acerion forests of slopes, screes and ravines), there is no potential for impact pathways on this designated site as a result of draft NDP policies or allocations. This designated site is not discussed further in this report. No other internationally designated sites are relevant to this HRA.

The Stiperstones and The Hollies SAC

Introduction

- 3.4 An example of European dry heaths in central Britain, containing features transitional between lowland heathland and upland heather moorland. Extensive H12 *Calluna vulgaris-Vaccinium myrtillus* dry heath is present, with south-facing slopes supporting stands of H8 *Calluna vulgaris-Ulex gallii* heath¹¹. Also contains elements of old sessile oak (*Quercus robur*) woods.

Reasons for Designation

- 3.5 Annex I habitats that are a primary reason for selection of this site:
- 4030 European dry heaths.
- 3.6 Annex I habitats that are present as a qualifying feature but not a primary reason for selection of this site:
- 910A Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles.

Current Threats and Pressures

- 3.7 According to Natural England's Site Improvement Plan for the site, The Stiperstones and The Hollies SAC currently faces the following threats/pressures and required management actions relevant to this HRA¹²:
- Habitat connectivity: heathland and related habitats within the site have become reduced in extent and fragmented. Actions to extend, buffer and join these habitats have therefore been identified; and
 - Air pollution: nitrogen deposition exceeds site relevant critical loads, with surveys suggesting this is having an effect on lichen communities.
- 3.8 Notwithstanding the Site Improvement Plan, it is noted that within the HRA of the emerging Shropshire Local Plan, recreational pressure on this site is also considered. As such for consistency with the overarching authority, recreational pressure is considered as a potentially linking impact pathway.

Conservation Objectives

- 3.9 The conservation objectives for the site are to ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring¹³:

¹¹ JNCC. (2015) Natura 2000 Standard Data Form – UK0012810 The Stiperstones and The Hollies SAC. [Available at: <https://sac.jncc.gov.uk/site/UK0012810> - accessed 12/02/2021].

¹² Natural England. (2015) Site Improvement Plan: The Stiperstones and The Hollies (SIP243). [Available at: <://publications.naturalengland.org.uk/publication/5959861602877440> - accessed 12/02/2021].

¹³ Natural England. (2018) European Site Conservation Objectives for The Stiperstones and The Hollies SAC: site code UK0012810. [Available at: <http://publications.naturalengland.org.uk/publication/6420421159157760> - accessed 12/02/2021].

- The extent and distribution of qualifying natural habitats;
- The structure and function (including typical species) of qualifying natural habitats; and
- The supporting processes on which qualifying natural habitats rely.

River Clun SAC

Introduction

3.10 One of only three rivers in the UK designated for its important population of freshwater pearl mussel (*Margaritifera margaritifera*)¹⁴. This species is known to require rivers with a very high water quality. The site is also used by various other protected and notable species including otter (*Lutra lutra*).

Reasons for Designation

3.11 Annex II species that are present as a qualifying feature but not a primary reason for selection of this site:

- 1029 Freshwater pearl mussel (*Margaritifera margaritifera*).

Current Threats and Pressures

3.12 According to Natural England's Site Improvement Plan for the site, River Clun SAC currently faces the following threats/pressures and required management actions relevant to this HRA¹⁵:

- Siltation: increased siltation directly affects adult mussels and prevents juvenile recruitment through a range of mechanisms including surface siltation, concretion of riverbeds and infilling of substrate interstices; and
- Water pollution: water quality is important to the freshwater pearl mussel at all life stages. Nutrient enrichment from increased phosphorus and nitrogen levels contributes to eutrophication characterised by increased filamentous algae and macrophyte growth. Agriculture has been identified as a significant contributor of nitrogen and phosphorus to the River Clun, although sewage treatment plants contribute 35% of current phosphorus levels.

Conservation Objectives

3.13 The conservation objectives for the site are to ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring¹⁶:

- The extent and distribution of the habitats of the qualifying species;
- The structure and function of the habitats of the qualifying species;
- The supporting processes on which the habitats of the qualifying species rely;
- The populations of the qualifying species; and
- The distributions of the qualifying species within the site.

¹⁴ JNCC. (2015) Natura 2000 Standard Data Form – UK0030250 River Clun SAC. [Available at: <https://jncc.gov.uk/jncc-assets/SAC-N2K/UK0030250.pdf> - accessed 12/02/2021].

¹⁵ Natural England. (2015) Site Improvement Plan: River Clun (SIP188). [Available at <http://publications.naturalengland.org.uk/publication/6216527934128128> - accessed 12/02/2021].

¹⁶ Natural England. (2018) European Site Conservation Objectives for River Clun SAC: site code UK0030250. [Available at: <http://publications.naturalengland.org.uk/publication/6453431740923904> - accessed 12/02/2021].

4. Test of Likely Significant Effects

- 4.1 Bishop's Castle is a small town and a civil parish located towards the south-west of Shropshire. The town has a population of fewer than 2,000 people and lies within a remote rural area.
- 4.2 The emerging Shropshire Local Plan identifies the need for 40 additional dwellings within the NDP area to meet local housing need. This was identified in the emerging Local Plan as to be delivered through windfall development within the NDP area. However, due to limited scope for windfall development within the NDP area, the draft NDP formally allocates these 40 dwellings under Policy BC1. The process by which these allocations were selected is detailed in Appendix 5 Bishop's Castle Site Assessments to the draft NDP.

Scope of the Test of Likely Significant Effects

- 4.3 Two internationally designated sites have been identified as requiring consideration within this HRA (see Chapter 3):
- The Stiperstones and The Hollies SAC (located approximately 5.2km north of the NDP area)
 - River Clun SAC (located approximately 11.7km south-east of the NDP area)
- 4.4 Based upon Natural England's Site Improvement Plans for these designates sites and the 2020 HRA of the emerging Shropshire Local Plan, the following impact pathways require analysis regarding policies and allocations within the draft NDP and said internationally designated sites. These impact pathways are:
- Air quality (in relation to The Stiperstones and The Hollies SAC)
 - Recreational pressure (in relation to The Stiperstones and The Hollies SAC)
 - Water quality (in relation to River Clun SAC)
- 4.5 Context on these impact pathways is provided in Table 1 below.

Table 1. Description of potential impact pathways from new development near to The Stiperstones and The Hollies SAC and River Clun SAC

Impact pathway	Description
Air quality (relevant to The Stiperstones and The Hollies SAC)	<p>Increased development within the NDP will lead to a greater number of vehicles on roads within and connecting with the NDP. As such, increased air pollution could arise relative to a situation of no growth. Pollutants from vehicles may be carried directly by wind currents and deposited within designated sites, or pollutants may become soluble and be taken-up during evaporation and deposited within designated sites as precipitation.</p> <p>There are two measures of primary relevance regarding air quality impacts from vehicle exhausts. The first is the concentration of oxides of nitrogen (known as NO_x) in the atmosphere. In extreme cases NO_x can be directly toxic to vegetation, but its main importance is as a source of nitrogen which is deposited on adjacent habitats. The guideline atmospheric concentration (the 'Critical Level') advocated by Government for the protection of vegetation is 30 micrograms per cubic metre (µg_m⁻³), above which growth effects on vegetation occur.</p> <p>The second important metric is a measure of the rate of the resulting nitrogen deposition. The addition of nitrogen is a form of fertilization, which can have a negative effect on heathlands, woodlands and other habitats over time by encouraging more competitive plant species that can force out the less competitive species that are characteristic of the existing habitat. Unlike NO_x in atmosphere, the nitrogen deposition rate below which we are confident effects would not arise is different for each habitat. This rate (known as the 'Critical Load') is provided on the Air Pollution Information System (APIS) website.</p> <p>Another route of effect is through nitrogen acidification, in which soil pH can become too acidic for specialised plant communities to thrive, leading to decreased species richness¹⁷. Acidification tends to be</p>

¹⁷ Maskell, L.C., Smart, S.M., Bullock, J.M., Thompson, K.E.N. and Stevens, C.J., (2010). Nitrogen deposition causes widespread loss of species richness in British habitats. *Global Change Biology*, 16(2), pp.671-679.

more of an issue for acid substrates, which have poor buffering capacity (i.e. heathland), than neutral or calcareous substrates.

Guidance from the Institute of Air Quality Management and Highways England both set an impact zone of 200m from the roadside for potential significant air quality effects to vegetation from road traffic. In addition, the Department for Transport reported in the National Travel Survey (2018) that the average trip undertaken by car is 10.6km¹⁸.

Recreational pressure (relevant to The Stiperstones and The Hollies SAC)	Increased development within the NDP could lead to higher numbers of visitors to nearby designated sites, potentially resulting in increased recreational pressure. Different designated sites are subject to different types of recreational pressures and have different vulnerabilities. Studies across a range of species have shown that the effects from recreation can be complex. HRAs of Plans tend to focus on recreational sources of disturbance as a result of new residents.
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Impacts on woodland and heathland habitats from increased recreational pressure include increased soil erosion, compaction of tree root zones, nutrient enrichment from dog faeces (due to increased use by dog-walkers) and removal of dead wood.

Recreational pressure is widely considered to be of concern where development is proposed within c.5-6km of inland terrestrial designated sites (supported by various surveys, including surveys of Burnham Beeches SAC, Folkestone to Etchinghill Escarpment SAC and Epping Forest SAC). With the exception of major regional sites (e.g. The New Forest SAC/SPA), these surveys indicate that approximately 75% of regular visitors to inland designated sites live within 5-6km of those sites.

It should be emphasised that recreational use is not inevitably a problem. Many internationally designated sites contain nature reserves managed for conservation and public appreciation of nature. At these sites, access is encouraged and resources are available to ensure that recreational use is managed appropriately. HRA of the emerging Local Plan indicates that the desired state of access is described as 'open' rather than 'managed', 'restricted' or 'excluded'.

Water quality (relevant to River Clun SAC)	The quality of the water that feeds designated sites is an important determinant of the nature of their habitats and species. Poor water quality can have a range of environmental impacts. At high levels, toxic chemicals and metals can result in immediate death of aquatic life and have detrimental effects even at lower levels, including increased vulnerability to disease and changes in wildlife behaviour. Freshwater pearl mussel (for which River Clun SAC is designated) is known to be highly sensitive to water quality.
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Eutrophication, the enrichment of plant nutrients in water, increases plant growth and consequently results in oxygen depletion. Algal blooms, which commonly occur due to eutrophication, increase turbidity and decrease light penetration. The decomposition of organic wastes that often accompanies eutrophication deoxygenates water further.

Sewage and industrial effluent discharges contribute to increased nutrients levels in designated sites; particularly to phosphate levels in watercourses. Greater pressure on water treatment services due to new development (especially housing) may increase the risk of effluent escape into aquatic environments. Diffuse pollution, including that from urban run-off, is considered to be a major factor in the unfavourable condition of designated sites.

The majority of the NDP area (including the town of Bishop's Castle) is located within the hydrological catchment of the River Clun. It is anticipated that new housing within the draft NDP will be serviced by Bishop's Castle Sewage Treatment Works (STW) which discharges into the River Clun SAC catchment.

Natural England and the Environment Agency published the River Clun SAC Nutrient Management Plan¹⁹, which identifies the need to reduce phosphate and nitrogen concentrations in order to meet the Favourable Condition Targets (FCTs) for freshwater pearl mussel.

¹⁸ GOV.UK. (2019) *Average number of trips made and distance travelled*. [Available at: <https://www.gov.uk/government/statistical-data-sets/nts01-average-number-of-trips-made-and-distance-travelled> - accessed 13/03/2020].

¹⁹ Environment Agency and Natural England. (2014) *River Clun SAC Nutrient Management Plan – Final: Part 1 evidence Base and Part 2 Options Appraisal*. [Available at: <https://shropshire.gov.uk/media/8265/ev110-river-clun-nmp-final.pdf> - accessed 16/02/2021].

Results of the Test of Likely Significant Effects

- 4.6 Screening of policies and allocations within the draft NDP with the potential for likely significant effects on internationally designated sites (either in isolation, or in combination with other development) is detailed in Table 2 below. For full wording of each policy refer to the draft NDP.
- 4.7 In Table 2 below, green shading in the 'Screening outcome' column indicates that the draft NDP policy has been determined not to lead to a likely significant effect on any internationally designated sites. Orange shading indicates that a likely significant effect on one or more internationally designated sites cannot be screened out at this stage of HRA, in which case further examination is therefore required.
- 4.8 Figure 2 indicates the locations of draft NDP allocations in relation to relevant internationally designated sites

Table 2. Screening assessment (Test of Likely Significant Effects) of the Bishop's Castle Neighbourhood Development Plan

Policy	Summary of policy	Screening outcome
BC1: Housing Allocation and change to the development boundary	<p>A. Land is allocated at School House Lane for 40 houses shown in the Figure 3 subject to policies in the draft NDP and the following provisions:</p> <ul style="list-style-type: none"> i. Impacts upon the River Clun SAC will be managed to an acceptable level. ii. The scheme's design will accord with the policies in this NDP. <p>B. The Bishop's Castle Development Boundary will be modified to include the allocated land (see Figure 3 of the draft NDP).</p>	<p>Likely Significant Effect. Screened in.</p> <p>The allocation for 40 dwellings at School House Lane is located within the hydrological catchment of River Clun SAC. There is therefore potential for water quality impacts on this designated site. This allocation is also approximately 6.0km south of The Stiperstones and The Hollies SAC. There is therefore potential for recreational impacts on this designated site. As such, Appropriate Assessment is required.</p> <p>Based on the quantity of development (40 new dwellings) and the distance between the allocation and The Stiperstones and The Hollies SAC (approximately 6.0km), and the fact that there are no affected roads within 200m of the SAC, there is no potential for air quality impacts on this designated site alone or in combination with other development. This impact pathway can therefore be screened out.</p>
BC2: Development affecting the Bishop's Castle Conservation Area	<p>A. Heritage Assessments</p> <p>Any Heritage Assessment should take account of the Bishop's Castle Conservation Area Character Assessment. All applications for development within the Conservation Area must reflect the relevant characteristic features of the Conservation Area in general and the zone in which the site is located. This must include the following:</p> <ul style="list-style-type: none"> i. The characteristic materials, footprints, intricate building lines, and decorative facias etc. as referenced in the section 'Common architectural features' and within the list of 'the most commonly cited positive characteristics' which references zones in which they are described. ii. The nature of the footprints of both the spaces and the buildings in the area adjoining the site and the proposed links to it. iii. The opportunity to include soft landscaping to enhance the ambience of the site, reflect Bishop's Castle's connection to the surrounding landscape and provide opportunities for wildlife. iv. Where possible, maximise any potential views to the surrounding rural landscape. v. Evidence that existing views of the surrounding landscape from the adjacent locality are, as far as possible, protected. 	<p>No Likely Significant Effect. Screened out.</p> <p>This policy relates to the maintenance of the features of the Bishop's Castle Conservation Area. There are no HRA implications.</p>

	<p>B. The Old Market Place Development proposals that might affect the setting or function of the Old Market Place, and the adjoining space which covers the confluence of Bull Street/Salop Street/ Market Square, will be expected to make a contribution (financial or in kind) to the emerging master plan that will be prepared by the Town Council and Local Planning Authority.</p> <p>C. Sensitive Sites Proposals for sites listed in Table 1 and Figure 4 must ensure that any adverse impact on the Conservation Area as a whole is minimized and the Bishop's Castle Conservation Area Character Assessment has been used as the basis of design decisions.</p> <p>D. Motorised Traffic Major development proposals will be expected to demonstrate how they will avoid further harmful traffic-related impacts in the Conservation Area. All Transport Assessments or Statements will be required to demonstrate and deliver effective methods of managing traffic so that an increase of traffic on the routes identified in Figure 5 will not result from the proposed development.</p>	
<p>BC3: Development outside the Bishop's Castle Conservation Area</p>	<p>Development Proposals should demonstrate that they will deliver the design principles set out in Table 2: Bishop's Castle Design Principles.</p>	<p>No Likely Significant Effect. Screened out. This policy relates to the design of new buildings/modifications to existing buildings. There are no HRA implications.</p>
<p>BC4: Non-designated heritage assets and non-traditional design features</p>	<p>A. Development should seek to contribute to Bishop's Castle's local character by incorporating innovative approaches to design and public art, even in the Conservation Area where this does not cause harm.</p> <p>B. Proposals that incorporate public art will be supported.</p> <p>C. Non-designated heritage assets and features that have been identified in Appendix 3: Non-designated Heritage Assets should be preserved where possible. Appendix 3 includes those premises not currently included in the Shropshire Council Local List of non-designated heritage assets but which provide a significant contribution to the unique character of Bishop's Castle.</p>	<p>No Likely Significant Effect. Screened out. This policy relates to the conservation of local character and culture. There are no HRA implications.</p>
<p>BC5: Local Green Spaces</p>	<p>The sites identified in Figure 6 and Table 3 are designated as Local Green Spaces where development will be managed in a way that is consistent with Shropshire's Green Belts.</p>	<p>No Likely Significant Effect. Screened out. This policy sets out areas to be managed as local green spaces; the nearest of which (Wintles Woods) is approximately 170m west of housing allocation BC1. This is therefore a positive policy that has the potential to divert recreational pressure away from The Stiperstones and The Hollies SAC. There are no impact pathways to any designated sites.</p>
<p>BC6: Sustainable Transport</p>	<p>A. Major development should provide an attractive alternative to private motorised vehicles for short journeys, particularly to the town centre and schools, by providing linking routes to the existing network and upgrading routes where this is necessary to encourage more walking and cycling. The routes identified in Figure 15 will be prioritised.</p> <p>B. New employment and commercial uses should make provision for cycle parking such as cycle stands or sheds in accordance with the demand they generate.</p>	<p>No Likely Significant Effect. Screened out. By definition sustainable transport would not result in a likely significant effect. This is a positive policy that could result in potential air quality improvements/ reduce any potential increase in traffic related atmospheric emissions. There are no impact pathways to any designated sites.</p>
<p>BC7: Housing Mix</p>	<p>A. For all residential developments over 5 dwellings, at least 50% of open market dwellings will reflect the profile indicated in Appendix 4: Bishop's Castle Right Homes in the Right Place Survey.</p> <p>B. On sites of more than 10 dwellings, a 33% affordable housing contribution will be sought reflecting local needs.</p> <p>C. When considering viability, greater weight will be given to meeting the need for affordable housing rather than dwelling size and proposals</p>	<p>No Likely Significant Effect. Screened out. This is a development management policy. There are no HRA implications.</p>

for semi-detached and terraced affordable housing that are 2-3 bedrooms will be supported.

D. The provision of 2-3 bedroom bungalows will be supported.

E. Affordable housing should be made available first to people who can prove a local connection to Bishop's Castle. Design and Access Statements should specify how this provision has been met in individual proposals.

**MC8:
Sustainable
Construction**

The design and standard of any new development should aim to meet a high level of sustainable design and construction and be optimised for energy efficiency, targeting zero carbon emissions. This includes:

- a. Siting and orientation to optimise passive solar gain.
- b. The use of high quality, thermally efficient building materials.
- c. Installation of energy efficiency measures such as loft and wall insulation and double glazing.
- d. Non-residential developments should aim to meet the Buildings Research Establishment BREEAM building standard 'excellent'.
- e. Any new development to incorporate on-site energy generation from renewable sources such as solar panels.
- f. The retrofit of heritage properties/assets is encouraged to reduce energy demand and to generate renewable energy where appropriate, providing it safeguards historic characteristics and development is done with engagement and permissions of relevant stakeholders.
- g. Alterations to existing buildings must be designed with energy reduction in mind and comply with sustainable design and construction standards set out in the Development Plan.

No Likely Significant Effect. Screened out.

This is a construction management policy which includes measures to increase energy efficiency and target zero carbon emissions. There are no impact pathways to any designated sites.

5. Appropriate Assessment

Introduction

- 5.1 The law does not prescribe how an appropriate assessment should be undertaken or presented but the appropriate assessment must consider all impact pathways that have been screened in, whether they are due to policies alone or to impact pathways that arise in combination with other projects and plans. That analysis is the purpose of this section. The law does not require the 'alone' and 'in combination' effects to be examined separately provided all effects are discussed.
- 5.2 One draft NDP policy could not be screened out during the Test of Likely Significant Effects undertaken in Chapter 4. This policy is as follows:
- **BC1: Housing Allocation and change to the development boundary.** Allocates 40 houses at a single allocation. It is noted that this quantum of delivery is outlined within the emerging Shropshire Local Plan.
- 5.3 By virtue of the small amount of housing growth specified for the NDP area within the draft NDP, the impact pathways of concern to this HRA are inherently 'in combination' with other growth in the emerging Local Plan and neighbouring plans and projects..
- 5.4 The HRA Test of Likely Significant Effects undertaken in Chapter 4 identified potentially linking impact pathways to two internationally designated sites which required Appropriate Assessment in relation to draft NDP Policy BC1:
- **Potential recreational pressure impacts on The Stiperstones and The Hollies SAC; and**
 - **Potential water quality and water flow impacts on River Clun SAC.**

Appropriate Assessment of Potential Recreational Pressure Impacts on The Stiperstones and The Hollies SAC

- 5.5 Background information on the issue of recreational pressure on The Stiperstones and The Hollies SAC is provided in Chapter 3.
- 5.6 Draft NDP Policy BC1 allocates 40 new dwellings at School House Lane, approximately 6.0km south of the Stiperstones and The Hollies SAC.
- 5.7 As stated in Chapter 4 (Table 1), recreational pressure is generally considered to be of concern where development is proposed within c.5-6km of inland terrestrial internationally designated sites. Development under Policy BC1 is therefore towards the upper end of the distances at which development typically leads to an increase in visitor numbers; however, it should be noted that, as stated within the emerging Local Plan HRA, the Stiperstones and The Hollies SAC has a large recreational 'draw' for residents both within Shropshire and further afield, with over 90% of visitors stating they had travelled to the site from outside of local postcode areas during the 2013 Shropshire Hills and Ludlow visitor survey. The Shropshire Local Plan HRA uses a recreational core catchment zone for the Stiperstones & Hollies SAC of 10-15km. This was as derived *"from mountain bike use on Cannock Chase with major settlements within the buffer zone – in the DLP area only half of Shrewsbury lies in the buffer zone of the Stiperstones. Stiperstones is part of a much wider area of Shropshire Hills, much of which are accessible, including the Long Mynd. The evidence suggests increased housing proposed in the LP is not a significant issue at present, but specific policy wording is required for the life of the plan."*
- 5.8 It is therefore possible that new housing allocated within Policy BC1 could lead to increased visitor numbers at The Stiperstones and The Hollies SAC. Considering the scale of development (40 new dwellings), there is considered to be potential for recreational pressure impacts in combination with other development within the emerging Local Plan and neighbouring plans and projects. The quantity of new housing is considered to be too small for Policy BC1 alone to result in recreational pressure impacts on The Stiperstones and The Hollies SAC in isolation, none the less, in combination assessment is required.

- 5.9 The draft NDP recognises (within paragraph 51) that Policy BC1 has the potential to increase recreational pressure on The Stiperstones and The Hollies SAC and therefore triggers relevant emerging Local Plan policies (see below). In addition, Policy BC5: Local Green Spaces of the draft NDP identifies sites that are designated as Local Green Spaces, at which development will be managed in a way that is consistent with Shropshire's Green Belts. The nearest of these, Wintles Woods, is approximately 170m west of housing allocation BC1.
- 5.10 The emerging Shropshire Local Plan includes policies that will reduce recreational pressure on The Stiperstones and The Hollies SAC and/or require the avoidance of impacts on The Stiperstones and The Hollies SAC. The HRA of the Shropshire Local Plan states that the Plan is likely to provide sufficient policy framework to mitigate for the increase in recreational pressure at Striperstone and Hollies SAC. This mitigation framework includes the provision of precautionary measures such as additional on-site open space for dog walking at sites (include at the School Lane allocation), linking open space on the development site to the existing public footpath or green infrastructure network to form publicised circular walks locally. In addition, developer contributions may be required towards visitor management measures if an evidence-based site management plan requires this to protect the qualifying features of the SAC. Overarching Shropshire Local Plan policies that provide for its protection are as follows:

- **DP12: The Natural Environment**

- *The avoidance of harm to Shropshire's natural assets and their conservation, enhancement and restoration will be achieved by:*

- **Designated sites and priority species and habitats**

1. *Requiring a project-level Habitats Regulations Assessment (HRA) for all proposals where the Local Planning Authority identifies a likely significant effect on an internationally designated site. Permission will be refused where such a HRA indicates an adverse effect on the integrity of a designated site which cannot be avoided or fully mitigated. Where mitigation can remove an adverse effect, including that identified by the HRA for the Plan, measures will be required in accordance with the Plan HRA and supporting documents and/or as set out in the relevant settlement strategies (policies S1 -21); and/or remedial actions identified in the management plan for the internationally designated site as appropriate; and/or policies DP14, DP15, DP19, DP22 and DP25...*

- **DP14: Green Infrastructure**

- *1. Development in Shropshire will be accompanied by an improved and expanded green infrastructure network as an integral part of open space provision. This will be achieved by ensuring that all new development:*

- *a. Avoids the loss of, or harm to, existing green infrastructure assets in accordance with Policy DP12 and the disruption or fragmentation of the existing green infrastructure network (which includes the Shropshire environmental and ecological networks) Proposals should be accompanied by a proportionate assessment (a Green Infrastructure Assessment) of existing green infrastructure assets and the green infrastructure network on and in the vicinity of the site and address the quality and quantity of such features;*
- *b. Enhances existing green infrastructure assets and extends the green infrastructure network in accordance with the Shropshire Green Infrastructure Strategy...*
- *c. Delivers good quality new green infrastructure on site....*

- *2. Where on site green infrastructure provision is demonstrably not possible or practical, there will be an onus on the delivery of good quality open space in line with the requirements of Policy DP15...*

- *3. For significant new development, including the strategic sites and the settlements identified in Policies S1-21²⁰, green infrastructure should be an integral part of a masterplan showing good quality and appropriate on-site provision...*

- **DP15: Open Space and Recreation**

²⁰ The School Lane allocation is provided in Shropshire Local Plan S2.

- 3. *There is an expectation that new housing developments provides on-site open space provision equivalent to 30sqm per person, assuming one person per bedroom. However, consideration will be given to reducing this level of provision in instances where the development is able to provide a particularly high quality of open space on site which meets the needs of all residents.*
 - 4. *For developments where an adverse effect on the integrity of an internationally or nationally designated wildlife site due to recreational impacts has been identified (in accordance with Policy DP12 or the HRA for this Plan) particular consideration will be given to the need for semi-natural open space provision in excess of 30sqm per person.*
- **S2.1: Development Strategy: Bishop's Castle Key Centre**
 - 2. *The [emerging Local] Plan HRA identifies that...Mitigation measures will be also required to remove any adverse effect from increased recreational pressure arising from development in Bishop's Castle on the integrity of the Stiperstones and Hollies SAC in accordance with Policies DP12, DP14 and DP15.*
- 5.11 Whilst the NDP does not in itself contain any policy that provides for the protection of internationally designated sites, supporting text does acknowledge the overarching Shropshire Local Plan policies that require consideration when assessing a planning application (such as the strategic School Lane site), in accordance with the Habitats Regulations.
- 5.12 There is considered to be adequate policy wording within the draft NDP and the emerging Local Plan to ensure that there are no impacts on the integrity of The Stiperstones and The Hollies SAC as a result of increased recreational pressure stemming from the new housing to be delivered under draft NDP Policy BC1 in combination with other housing to be delivered within the emerging Local Plan and neighbouring plans and projects. This is consistent with the findings of the emerging Local Plan HRA.

Appropriate Assessment of Potential Water Quality Impacts on River Clun SAC

- 5.13 Background information on the issue of water quality in relation to River Clun SAC is provided in Chapter 3.
- 5.14 Draft NDP Policy BC1 allocates for 40 new dwellings at School House Lane within the hydrological catchment of River Clun SAC.
- 5.15 New housing allocated within Policy BC1 would result in increased sewage production which could therefore lead to increased nutrient levels within the River Clun SAC. Whilst the quantity of new housing detailed within the draft NDP is modest in itself (i.e. 40 new dwellings), impacts could potentially arise 'in combination' with other existing and future development within the River Clun catchment.
- 5.16 The Shropshire Local Plan HRA identifies that improvements to the Bishops Castle WwTW have been made to reduce orthophosphate at the SAC to 0.01 mg/l P, Total Oxidized Nitrogen to 1.5 mg/l and suspended solids to 10mg/l by 2027. However, following case law (Cooperatie Mobilisation for the Environment UA and Vereniging Leefmilieu v College van gedeputeerde staten van Limburg and College van gedeputeerde staten van Gelderland C-293/17 C394/17 – 'Dutch Nitrogen Case') and recent legal interpretation, this can no-longer be relied on. The existing NMP does not provide enough certainty to ensure that favourable conservation status will be achieved at the SAC. Until an updated NMP, with predictable and definite outcomes, is drawn up in partnership with stakeholders, and can be enforced, only limited development can pass an Appropriate Assessment and hence be granted planning permission. The HRA of the Shropshire Local Plan concluded that all new allocations within the Clun catchment could, in combination, result in an adverse effect on the integrity of the Clun SAC.
- 5.17 To support this NP HRA nutrient neutrality calculations have been undertaken by AECOM (provided in Appendix B) in relation to nitrogen and phosphorous for the 40 net new dwellings provided at School Lane. This identified that an excess of both nitrogen and phosphorous would be produced by the residential allocation and as such the development could result in a likely significant effect on the SAC in combination. The rough calculations identify that approximately 13ha of lowland grazing would need to be removed from the Clun catchment to ensure nitrogen neutrality, and approximately 25ha of lowland grazing would need to be removed from the Clun catchment to ensure phosphorus neutrality, and thus ensure that the allocation does not result in an adverse effect on the integrity of the Clun SAC in combination with other projects and

plans. Other solutions potentially exist to offset phosphorus and nitrogen discharge, such as the delivery of wetlands which not only remove land from agricultural production but will also treat runoff from the surrounding catchment to remove additional phosphorus and nitrogen. This has the benefit of requiring smaller areas of agricultural land than other solutions. Any detailed solutions will need exploring alongside nutrient neutrality calculations for any planning application.

- 5.18 As acknowledged within the emerging Local Plan HRA, developments proposed within the River Clun catchment must therefore demonstrate that they will not increase loads of phosphorus, nitrogen or sediment within the River Clun.
- 5.19 The draft NDP recognises (within Paragraph 51) that Policy BC1 has the potential for water quality impacts on River Clun SAC and therefore triggers relevant emerging Local Plan policies (see below). In addition, Policy BC1 includes the following specific wording in relation to River Clun SAC:
- *A. Land is allocated at School House Lane for 40 houses shown in the Figure 3 subject to policies in the Development Plan and the following provisions:*
 - *i. Impacts upon the River Clun SAC will be managed to an acceptable level...*
- 5.20 The emerging Local Plan includes Policy DP13 for the avoidance of water quality impacts on River Clun SAC:
- **DP13: Development in the River Clun Catchment**
 - *1. To protect the integrity of the River Clun Special Area of Conservation and to comply with the Habitats Regulations and policy DP12, development within the catchment of the river Clun will only be permitted if it can demonstrate either nutrient neutrality or nutrient betterment.*
 - *2. All measures relied on to deliver either nutrient neutrality or nutrient betterment must demonstrate with sufficient certainty that they:*
 - *a. Meet the required nutrient reduction or improvement; and*
 - *b. They can be secured and funded for the lifetime of the development's effects.*
- 5.21 The emerging Local Plan also includes other policies for the avoidance of impacts on internationally designated sites; specifically, Policy DP12 (see 5.10) and the following policies:
- **DP19: Water Resources and Quality**
 - *Development must not adversely affect the quality, quantity and flow of both ground and surface water and must ensure that there is adequate water infrastructure in place to meet its own needs.*
 - **S2.1: Development Strategy: Bishop's Castle Key Centre**
 - *2. The [emerging Local] Plan HRA identifies that development in Bishop's Castle is likely to have an adverse effect on the River Clun SAC so Policy DP13 applies...*
- 5.22 Considering the above policy wording included within the draft NDP and the emerging Local Plan, the delivery of Policy BC1 would require the development to demonstrate that nutrient neutrality or nutrient betterment will be achieved.
- 5.23 However, it is noted within the Shropshire Local Plan HRA that the "Council is continuing to liaise with Natural England, the Environment Agency and Severn Trent Water as well as other stakeholders to find solutions and to update the Nutrient Management plan together with the underlying evidence base. A revised nutrient management plan or action plan, providing the required certainty that mitigation measures will be implemented, would help to unlock future development. The building industry is also being encouraged to seek innovative solutions for larger developments."
- 5.24 There is considered that an adequate policy framework is present within the draft NDP and the emerging Local Plan to ensure that there are no impacts on the integrity of River Clun SAC as result of new housing to be delivered under draft NDP Policy BC1 in combination with other housing to be delivered within the emerging Local Plan and neighbouring plans and projects. This is consistent with the findings of the emerging Local Plan HRA. However, in the absence of the updated Nutrient Management Plan for the River Clun, and until the time that this is implemented, it cannot be concluded that no adverse effect on the integrity of the River Clun SAC will result in combination as a result of the allocation included within the NDP.

- 5.25 It is recommended that wording is included within the NDP to provide further clarity to developers as to the work required, as follows :
- 5.26 *'To protect the River Clun SAC, applicants may be required to undertake a site-specific nutrient neutrality calculation in accordance with Natural England Guidance, depending on the long term solution identified by the District Council. Where mitigation/ avoidance strategy is required, this must be tested to be technically sound and agreed with the Council'.*
- 5.27 Updated calculations will be required beyond those presented in this HRA because at the planning application level details will have changed, such as more information being available regarding the proposed change in land use as part of the development.
- 5.28 With this wording in place it can be considered that the NDP contains a suitable framework to ensure that the plan will not result in an adverse effect on the integrity of the River Clun SAC.

6. Conclusions

- 6.1 HRA of the Bishops Castle Neighbourhood Development Plan has identified potential for Likely Significant Effects on two internationally designated sites as a result of Policy BC1 for 40 new dwellings within the NDP area through the following impact pathways:
- Potential recreational pressure impacts on The Stiperstones and The Hollies SAC; and
 - Potential water quality impacts on River Clun SAC.
- 6.2 Appropriate assessment in relation to these impact pathways deemed that policy wording within draft NDP Policy BC1 and supporting text within paragraph 51, and within the overarching emerging Shropshire Local Plan Policies DP12, DP13, DP14, DP15, DP19 and S2.1 is sufficient to avoid adverse effects on the integrity of The Stiperstones and The Hollies SAC. Whilst these policies land NDP policy BC1 largely prevent adverse effects on the integrity of the River Clun SAC occurring, recommendations are made to plan wording to ensure robustness of the NDP.
- 6.3 It is recommended that wording is included within the NDP to provide further clarity to developers as to the work required, as follows:
- 6.4 *'To protect the River Clun SAC, applicants may be required to undertake a site-specific nutrient neutrality calculation in accordance with Natural England Guidance, depending on the long term solution identified by the District Council. Where mitigation/ avoidance strategy is required, this must be tested to be technically sound and agreed with the Council'.*
- 6.5 With this wording in place it can be considered that the NDP contains a suitable framework to ensure that the plan will not result in an adverse effect on the integrity of the River Clun SAC.

Appendix A Location of Internationally Designated Sites and Site Allocation

Appendix B Nutrient Neutrality Technical Note