



South  
Derbyshire  
District Council

Local Development Framework

HRA

# Habitat Regulations

Screening Report

Proposed Submission  
Local Green Spaces Plan

Main  
Report

February 2019



People | Place | Progress

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## **Contents**

Executive Summary	1
Introduction	2
Habitat Regulations Assessment and the Local Green Spaces Plan	5
The Habitat Regulations Screening Process	6
Effects Summary – the Plan alone	10
Effects Summary – Plan in Combination	10
Conclusion	10

## **EXECUTIVE SUMMARY**

- 1.1 Habitats Regulations Assessment (HRA) of spatial development plans is a requirement of the Habitats Directive (92/43/EEC) as set out in the Conservation of Habitats and Species Regulations 2017. This report details the Habitats Regulations Assessment for South Derbyshire District Council's Local Green Spaces Plan. This Plan includes 75 local green space designations and two policies to manage development and support potential improvements to access and the management of designated sites. This report sets out the method, findings and conclusions of the HRA screening assessment undertaken by the Council.
- 1.2 The following European Site is within the Influence of the Plan:
  - The River Mease SAC
- 1.3 The screening exercise has reviewed whether the policies and site designations proposed through the Plan have potential to affect the River Mease Special Area of Conservation (SAC), given the site conservation objectives, condition and sensitivities.
- 1.4 The Adopted Local Plan Part 1 (LP1) HRA screening assessment ruled out likely significant effects on any European sites, other than the Mease SAC, owing to the distribution of growth proposed and the significant distances of other European sites from the District Boundary and the nature of the sensitivities of the nearest sites. In respect of the River Mease SAC no development was proposed within that part of the District where either foul or surface water would discharge to the SAC in the LP1 and so likely significant effects (LSE) on the water quality in the SAC were discounted.
- 1.5 The screening assessment for the Local Plan Part 2 (LP2) indicates that none of the draft policies contained in that Plan would have any significant effect on the River Mease SAC given the small scale of growth proposed in the Plan, the dispersed nature of development (most of which is located outside of the Mease catchment) and the existing drainage and water quality policies included in LP1.
- 1.6 The Local Green Spaces (LGS) Plan does not seek to allocate new housing or employment growth but rather seek to protect spaces valued by local communities as local green spaces. Of the 104 sites proposed for designation only a single site is located in the catchment of the River Mease (Linton Orchard, Linton). However there is no development proposed on the site, rather the purpose of the Plan is to identify valued local community spaces and ensure that these are protected from inappropriate forms of development.
- 1.7 This assessment has concluded the following:
  - There is no likely significant impact on any SPAs or SACs located outside of the District as a result of implementing the LGS Plan.
  - There is one local green space located in the catchment of the River Mease. The remainder (103 sites) are located outside of the catchment.

- The site located in the catchment is site 168 (Linton Orchard) and consists of a community orchard located in the southern part of Linton. It lies on the watershed for the catchment and is 4km from the SAC. Given that this LGS Plan seeks to ensure that this site is retained as a community orchard its designation is unlikely to have any effect on the SAC
- The designation of local green spaces will not increase surface water or foul water and would be unlikely to have any effect on water quality within the SAC.
- As the South Derbyshire Local Plan (Parts 1 & 2) have already been identified as having no effect on the SAC, it is unlikely that the adoption of this Plan will act in combination with these, or indeed the plans of neighbouring authorities adopted or under preparation.

1.8 The findings of the Council's Assessment has been subject to consultation with Natural England and other stakeholders as part of the Draft Local Green Spaces Plan Consultation.

## 2.0 INTRODUCTION

2.1 South Derbyshire District Council is currently preparing its Local Green Spaces (LGS) Plan. This document will supplement the Council's existing Local Plan which is comprised of the Adopted Part 1 Local Plan (LP1) and Adopted Part 2 Local Plan (LP2) documents.

### **The Local Plan Part 1**

2.3 LP1 sets out a long-term vision, objectives and strategy for the spatial development of South Derbyshire and provides a framework for promoting and controlling development. Put simply it sets the overall level of future growth and broad locations for development. It includes a target to deliver a minimum of 12,618 homes between 2011-28 and a minimum of 53ha of employment land within the District over the same period.

2.4 Housing allocations are mainly located as urban extensions to Derby City, Burton on Trent and Swadlincote, with some smaller strategic allocations made to villages in Aston on Trent, Etwall, Hatton, Hilton and Repton. Together these sites would deliver more than 11,000 homes within South Derbyshire within the Plan period. Employment Land Allocations are located at Drakelow, Dove Valley Park (Foston), Hilton, Swadlincote and Woodville.

2.5 In addition to allocations a range of further housing policies are included in LP1 including in respect settlement hierarchy affordable housing, housing mix. Further thematic policies in respect of Green Belt, design excellence, heritage, biodiversity, landscape character and local distinctiveness, flood risk, sustainable drainage, the National Forest and infrastructure (including green infrastructure) are also included in LP1.

2.6 The LP1 also set out a requirement for a further 600 homes to be delivered on non-strategic sites through a further Local Plan (LP2).

2.7 The HRA screening report was consulted upon in March 2014. This assessed the potential for the Plan to affect a number of European sites as follows:

- River Mease (within District)
- West Midlands Mosses (12km from nearest part of District)
- Bees Nests and Green Clay Pits (17km from nearest part of District)
- Peak District Dales (17km from nearest part of District)
- Gang Mine (17km from nearest part of District)
- Pasturefields Salt Marsh (18.5km from nearest part of District)
- Cannock Chase (20km from nearest part of District)

2.8 Due to the location of strategic housing sites proposed and the distance between development allocations included in LP1 and having reviewed the conservation objectives for the European sites and the issues affecting site condition the Council screened out likely significant effects on all sites located outside of the District. The HRA Screening Report for the LP1 can be viewed on the Council's [website](#).

## **The Local Plan Part 2**

- 2.9 LP2 sets out a requirement for 600 homes to be delivered on non-strategic sites within the Plan period. It defines non - strategic sites as being those with less than 100 dwellings. LP2 identified a total of 14 non-strategic housing allocations, which cumulatively will deliver around 700 homes.
- 2.10 In addition to the allocations the Council updated the settlement boundaries around Swadlincote and Key and Local Service Villages as well as more nucleated rural villages and drafted a range of development management policies on issues including:
- replacement dwellings in the countryside,
  - rural workers dwellings,
  - residential extensions and householder development,
  - residential conversions,
  - development in the countryside,
  - Agricultural development,
  - Trees, Woodland and Hedgerows
  - Local Green Space,
  - Heritage,
  - Swadlincote Town Centre
  - Local Centres and Villages (retail policy)
  - Telecommunications
  - Provision of Education Facilities
- 2.11 Due to the location of non-strategic housing sites proposed and having regard to their location the Council screened out likely significant effects on any Special Areas of Conservation or other European sites located outside of the District. LP2 did include a number of housing sites in the River Mease Catchment. However where these generated foul flows to treatment works discharging to the River Mease or one of its tributaries a financial contribution has been made to offset any likely environmental effects associated with that development. In respect of surface water flows these developments have included an appropriate sustainable drainage scheme in accordance with policy in LP1 to ensure surface water is appropriately treated prior to discharge into the ground or nearby watercourses which discharge in the River Mease.

## **The Local Green Spaces Plan**

- 2.12 The Local Green Spaces Plan (LGS Plan) includes a total of 75 proposed local Green Spaces together with two policies , one of which seek to control development within designated green spaces, whilst the other sets out a general commitment by the Council to improve the community value of spaces including in respect of biodiversity and accessibility.

## **Purpose of this Report**

- 2.13 The remainder of this report will set to what extent the Plan could affect the River Mease SAC or other nearby European sites. The report will consider the following:

- The requirement for HRA and the guidance published to inform the process
- The Screening Process and the findings of the Screening Assessment
- The need for further assessment

### **3.0 Habitat Regulations Assessment and the Local Green Spaces Plan**

3.1 Article 6 of EU Habitats Directive on the conservation of natural habitats and of wild fauna and flora (Council Directive 92/43/EEC) requires that:

*‘Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to an appropriate assessment of its implications for the site in view of the site’s conservation objectives... competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the public’.*

3.2 The Conservation of Habitats and Species Regulations 2017 (often referred to as the Habitats Regulations) transpose the Habitats Directive into national law in England and Wales and require that HRA is applied to all statutory land use plans. The aim of the HRA process is to assess the potential effects arising from a plan against the conservation objectives of any European site.

3.3 Reference in this report to ‘European sites’ should be taken to include the following:

- Special Areas of Conservation (SACs) for habitats and species designated through the EU Habitats Directive;
- Special Protection Areas (SPAs) for the protection of wild birds and their habitats designated through the EU Birds Directive;
- Ramsar sites, identified through the Convention on Wetlands of International Importance; and
- Sites that are being considered for designation, referred to as Sites of Community Interest, candidate SACs or proposed SPAs.

### **Guidance and Best Practice**

3.4 This assessment is being undertaken in line guidance set out in the Habitats Regulations Assessment of Local Development Documents produced by DTA Planning. However, in addition to this guidance this report has been prepared having regard to the following key documents:

- the Habitats Regulations;
- all relevant judgments of the Court of Justice of the European Union, and the Courts in the UK;
- relevant guidance from the European Commission and the UK Government;
- authoritative, relevant decisions, for example, at Government level in Great Britain;

- good practice in undertaking such assessments, such as that published by Natural England, the Countryside Council for Wales and Scottish Natural Heritage and the RSPB.

3.5 The Local Green Spaces Screening Assessment has been carried out in accordance with guidance set out in 'Planning for the Protection of European Sites: Appropriate Assessment' which provides guidance in respect of the Habitat Regulations in preparing land use plans. Section 2.1 of this guidance document summarises the HRA process as comprising of three main tasks:

#### **Stage 1: Identifying whether a Plan is likely to have a significant effects**

This stage consists of identifying 'European' sites which could be affected by the Plan and reviewing the conservation objectives for each feature of the site. The changes that policies and proposals in the plan may cause are appraised and the likely effects on the interest feature of each site, either indirectly, directly, alone or in combination with other projects and plans is considered. Where no likely significant effects occur as a result of implementation, no further assessment is required.

#### **Stage 2: Appropriate Assessment**

Undertake an assessment of the implications of the plan (those policies and proposals within it identified in stage 1 as requiring further assessment) for each European site likely to be affected, in light of their conservation objectives. Review how the plan in combination with other plans or projects will interact and affect the site when implemented and consider how the effects of the plan on the integrity of the site could be mitigated and consider alternatives. If it can be demonstrated that the plan will not have an adverse effect on the European sites, the plan can be adopted. If the plan is still likely to have an adverse impact on the site(s) the Authority would be required to progress to stage 3 of the process

#### **Stage 3: Assessment where no alternatives exist**

The competent authority must demonstrate that there are no alternative solutions to the plan which are less damaging. The competent authority must establish whether there are '*imperative reasons of overriding public interest*' making it necessary to proceed with the plan or policy and identify and agree compensation measures and how these will be monitored.

3.6 This document sets out the Council's findings in respect of stage 1 of this process. The following section clarifies the scope of the assessment.



## 4.0 The Habitat Regulations Screening Process

4.1 There is no predefined guidance that dictates the physical scope of an HRA of a Local Plan. Therefore, in considering the physical scope of the assessment we were guided primarily by the identified impact pathways rather than by arbitrary 'zones'. Current guidance suggests that the following European sites be included in the scope of assessment

- All sites within the South Derbyshire District boundary, and
- Other sites shown to be linked to development within the District boundary through a potential 'pathway' (discussed below).

4.2 Briefly defined, pathways are routes by which a change in activity within the Plan area can lead to an effect upon a European site. In terms of the second category of European site listed above, previous DCLG guidance states that the assessment should be 'proportionate to the geographical scope of the plan and that 'an assessment need not be done in any more detail, or using more resources, than is useful for its purpose '.

### Sites within the District

4.3 There is a single Special Area of Conservation in South Derbyshire (the River Mease SAC). This site forms part of the southern boundary of the District and the river flows through a largely rural landscape in South Derbyshire. The Conservation Objectives for this site is as follows:

#### **Conservation Objectives for the River Mease SAC**

With regard to the SAC and the natural habitats and/or species for which the site has been designated ('the Qualifying Features' listed below), and subject to natural change;

**Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;**

- The extent and distribution of qualifying natural habitats and habitats of qualifying species
- The structure and function (including typical species) of qualifying natural habitats
- The structure and function of the habitats of qualifying species
- The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely
- The populations of qualifying species, and,
- The distribution of qualifying species within the site.

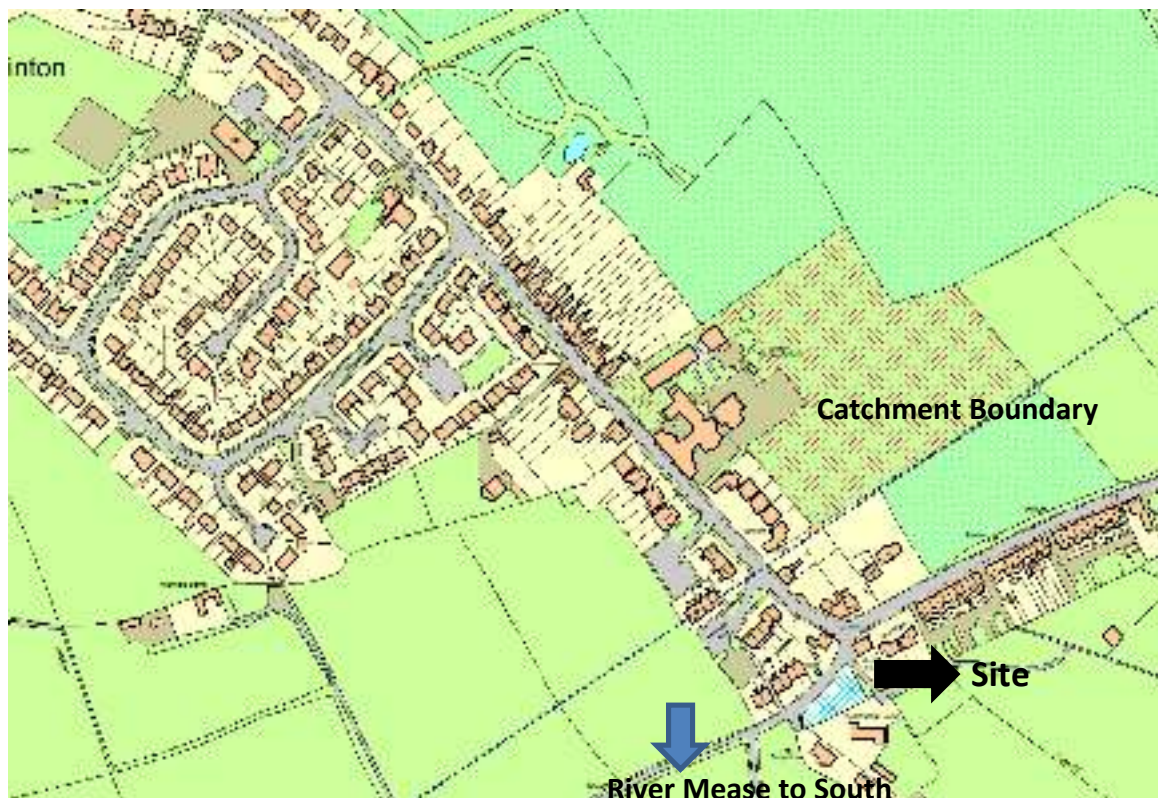
This document should be read in conjunction with the accompanying *Supplementary Advice* document which provides more detailed advice and information to enable the application and achievement of the Objectives set out above.

#### **Qualifying Features:**

H3260. Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitriche-Batrachion* vegetation; Rivers with floating vegetation often dominated by water-crowfoot  
S1092. *Austropotamobius pallipes*; White-clawed (or Atlantic stream) crayfish  
S1149. *Cobitis taenia*; Spined loach  
S1163. *Cottus gobio*; Bullhead  
S1355. *Lutra lutra*; Otter

4.4 Of the 104 sites proposed for designation only a single site is located within the catchment of the River Mease. This is site reference 168 (Linton Orchard) which is a small community orchard located in the vicinity of Linton Heath. It extends around 0.1ha. The location of the site is set out below:

**Figure 1 Location of Linton Orchard**



4.5 The site itself is located in excess of 4km from the SAC and would not lead to any physical loss of this site.

Threat															
	Hydrological Changes/Drainage	Water Quality/pollution	Inappropriate dams and weirs and other structures	Siltation	Inappropriate management	Public Access/Disturbance	Air Pollution	Wildlife	Changes in Species Distribution/low breeding	Disease	Invasive Species	Development/Planning Permission	Fertilizer use	Flytipping	Vandalism/Vehicle Use
Site															
River Mease SAC	✓	✓	✓	✓	-	-	-	-	-	-	✓	-	-	-	-

4.6 Moreover having reviewed the Conservation Objectives for the site and having regard to the scale and nature and location of the proposed designation included in the Plan it is considered that the Plan will have no effect on the SAC. This is because only a single site is located within the catchment of the SAC and this will not give rise to any effects in respect of the hydrology, water quality of the River. Moreover it will have no effect on existing structures, siltation and invasive species.

4.7 Sites outside of the catchment of the River would have no effect on the SAC as no pathways exists via which foul or surface water will find its way into the Mease.

**Sites outside of the District**

4.8 For the avoidance of doubt sites located outside of the District and previously considered during Habitat Regulations Assessments for the LP1 and LP2 are:

- West Midlands Mosses (10km from District Boundary)
- Bees Nest and Green Clay Pits (16.5km from District Boundary)
- Peak District Dales
- Gang Mine (17km from District Boundary)
- Pasturefields Salt Marsh (18.5km from District Boundary)
- Cannock Chase (20km from District Boundary)

4.9 The pressures and threats to these sites is set in the below table:

**Identified Pressure/Threats to identified European Sites**

Threat															
	Hydrological Changes/Drainage	Water Quality/pollution	Inappropriate dams and weirs and other structures	Siltation	Inappropriate management	Public Access/Disturbance	Air Pollution	Wildlife	Changes in Species Distribution/low breeding	Disease	Invasive Species	Development/Planning Permission	Fertilizer use	Flytipping	Vandalism/Vehicle Use
Site															
West Midlands Mosses	✓	✓	--	--	✓	--	✓	--	--	--	--	--	--	--	--
Bees Nest and Green Clay Pits SAC	--	--	--	--	✓	--	✓	--	--	--	--	--	--	--	--
Peak District Dales SAC	✓	✓	--	--	✓	✓	✓	--	--	✓	✓	--	✓	✓	✓
Gang Mines SAC	--	--	--	--	✓	--	✓	--	--	--	--	--	--	--	--
Pasturefields Salt Marsh.	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--
Cannock Chase	✓	--	--	--	✓	--	✓	✓	--	✓	✓	--	--	--	--

4.10 Having reviewed other European sites in located closest to South Derbyshire (and excluding the River Mease which is located within the District) it is inconceivable that this Plan would have any effect on these sites. This is because the Plan seeks to designate small areas of green space within the District and strictly control the nature and extent of development on these sites, protecting sites from development rather than seeking to deliver land use change to meet South Derbyshire’s development needs.

## **5.0 Effects Summary – the Plan alone**

- 5.1 Having considered the Conservation Objectives and the identified sensitivities the River Mease and reviewed the identified the pressures or threats to this site it is inconceivable that the Plan would have any effect on the identified sites. This is because the Plan is only designating a single local green space within the River Mease catchment and the policies included in the Plan will apply solely to this site. Moreover the site is small scale, located a significant distance from the SAC itself, will not lead to changes in surface water or foul flows from the site, increase sediment or siltation entering the river or lead to any other conceivable effects.
- 5.2 The Plan will have no effect on European sites outside of the District by virtue of the nature of the sites designated and the distance of the proposed green spaces from the identified European sites located outside of the District.

## **6.0 Effects Summary – Plan in Combination**

- 6.1 In undertaking this assessment regard has been had to the preparation of relevant strategies and Plans which could act in-combination with the LGS Plan. These have chiefly comprised of existing or emerging Local Plans in surrounding Districts or Boroughs (and Habitat Regulations Assessments where these are available), as well as the River Mease Water Quality Management Plan, The River Mease Site Improvement Plan, the River Mease Restoration Plan and the River Mease Diffuse Water Plan.
- 6.2 However, it was considered unnecessary to undertake anything more detailed than brief appraisal of these documents given that the Local Green Spaces Plan is only allocating a single 0.1ha site (in use as a community orchard) within the catchment of the Mease. This is more than 4km from the SAC and as a local green space will, in effect, tighten planning control and so make development on this site less likely holding it in its current use.

Given that it is inconceivable that the Local Green Spaces Plan will have any effect alone it will not act in combination with other Plan or programmes to impact of the integrity of the SAC.

## **7.0 Conclusion**

- 7.1 Based on this screening assessment it is inconceivable that this Plan will have any effect on the River Mease SAC, or any other European sites located closest to the District either alone or in combination with other plans. On this basis there is no requirement to undertake an appropriate assessment.
- 7.2 The findings of this report have previously been subject to consultation with Natural England, the Environment Agency and wider stakeholders.

South Derbyshire District Council  
Community and Planning Services

Local Development Framework

## Habitat Regulations, Screening Report

### Proposed Submission Local Green Spaces Plan



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