



Glemsford Neighbourhood Plan

2023 - 2037

Strategic Environmental Assessment *and* **Habitat Regulation Assessment** **Determination Notices**

February 2024

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GLEMSFORD NEIGHBOURHOOD PLAN (Nov 2023)

Strategic Environmental Assessment & Habitat Regulation Assessment Screening Determination Notices (January 2024)

Overview

This report, which is divided into two parts, relates to the Regulation 14 Pre-submission draft 'Glemsford Neighbourhood Plan 2023 - 2037' [hereafter referred to as the 'Glemsford NP'] which was published in November 2023. A copy was made available for screening purposes at the same time. The reports purpose is to determine whether a Strategic Environmental Assessment (SEA) and/or an Appropriate Assessment in relation to Habitat Regulation Assessment (HRA) matters are required.

Part A addresses SEA. Part B addresses HRA.

The report also refers to:

- the SEA and the HRA Screening Reports that have been prepared on behalf of the district council by Land Use Consultants, which can be found online at:

<https://www.babergh.gov.uk/documents/d/babergh/glemsford-np-sea-screening-report-dec23>

<https://www.babergh.gov.uk/documents/d/babergh/glemsford-np-hra-screeing-report-dec23>

- and to the screening consultation responses to these from the statutory bodies reproduced in Appendix 1.

The Glemsford NP contains the following vision:

In 2037 Glemsford will be a place that has retained its village characteristics set in a high-quality landscape where services and facilities meet the day-to-day needs of residents and new development has protected and enhanced the historic and natural environment.

To deliver the vision, there are thirteen theme-based objectives and thirteen policies (GLEM1 to GLEM13).

The Plan allocates one site for development - in policy GLEM3 (Land west of Park Lane) for 100 homes along with recreational open space. The allocation is also referred to in the general housing delivery policy (GLEM2) which specifies that growth in the parish will be achieved through the completion of new dwellings with planning permission as at 1 April 2023, the site allocation, and through small brownfield "windfall" sites and infill development within the Settlement Boundary. Policy GLEM4 sets out criteria that will apply to proposals for affordable housing on rural exception sites, and criteria for employment sites are set out in Policy GLEM5 although no sites are allocated for employment use.

Other policies within the plan address a range of topics including new business and employment, landscape, biodiversity, local green spaces, design and Public Rights of Way.

Part A - Strategic Environmental Assessment Determination

1. Introduction

One of the basic conditions that all neighbourhood plans will be tested against by the independent examiner is whether the making of that Plan is compatible with European Union obligations, as incorporated into UK law. Whether a neighbourhood plan requires a SEA and the level of detail needed will depend on what is proposed in the draft Neighbourhood Plan and the characteristics of the local area.

2. Legislative Background

European Union Directive 2001/42/EC (the SEA Directive), transposed into UK law through the SEA Regulations, requires a Strategic Environmental Assessment to be undertaken for certain types of plans or programmes that would have a significant environmental effect. The Environmental Assessment of Plans & Programmes Regulations 2004 (the Regulations) require that this is determined by a screening process, which should use a specified set of criteria (set out in Schedule 1 of the Regulations). The results of this process must be set out in a SEA Screening Statement, which must be publicly available.

In accordance with Regulation 9 of the SEA Regulations 2004, Glemsford Parish Council (the qualifying body) asked Babergh District Council (BDC) (the responsible authority) to determine whether an environmental report on their pre-submission draft neighbourhood plan was required due to significant environmental effects. In making this determination, BDC have had regard to Schedule 1 of the Regulations.

In line with the advice contained within the National Planning Policy Framework (NPPF) and Planning Practice Guidance, the Plan's potential scope has been assessed against the criteria set out in Schedule 1 of the 2004 Environmental Assessment Regulations. As mentioned already, Land Use Consultants (LUC) were commissioned to prepare a screening report to assess whether SEA would be required.

SEA can be required in some limited situations where a sustainability appraisal is not needed. Neighbourhood Planning is one of these situations. Sustainability Appraisals (SAs) may incorporate the requirements of the Strategic Environmental Assessment Regulations, which implement the requirements of the 'Strategic Environmental Assessment Directive' on the assessment of the effects of certain plans and programmes on the environment.

A Sustainability Appraisal ensures that potential environmental effects are given full consideration alongside social and economic issues, and it is good practice to do one to understand how a plan is to deliver sustainable development. However, NPPF Planning Practice Guidance states that there is no legal requirement for a neighbourhood plan to undertake a Sustainability Appraisal as set out in Section 19 of the Planning and Compulsory Purchase Act 2004. It is down to the qualifying body to demonstrate whether the plan is likely to have significant environmental effects. This is the purpose of the SEA Screening Report.

3. Criteria for determining likely significance of effects

The criteria are set out in the following table:

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| <ol style="list-style-type: none">1. The characteristics of plans and programmes, having regard, in particular, to:<ol style="list-style-type: none">a) the degree to which the plan or programme sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources,b) the degree to which the plan or programme influences other plans and programmes including those in a hierarchyc) (the relevance of the plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development,d) environmental problems relevant to the plan or programme,e) the relevance of the plan or programme for the implementation of Community legislation on the environment (e.g. plans and programmes linked to waste-management or water protection).2. Characteristics of the effects and of the area likely to be affected, having regard, in particular, to:<ol style="list-style-type: none">a) the probability, duration, frequency and reversibility of the effects,b) the cumulative nature of the effects,c) the trans-boundary nature of the effects,d) the risks to human health or the environment (e.g. due to accidents),e) the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected),f) the value and vulnerability of the area likely to be affected due to:<ol style="list-style-type: none">i) special natural characteristics or cultural heritage,ii) exceeded environmental quality standards or limit values,iii) intensive land-use,g) the effects on areas or landscapes which have a recognised national, Community or international protection status. |
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[Source: Schedule 1 of Environmental Assessment of Plans & Programmes Regulations 2004]

4. Assessment

The neighbourhood plan vision, and a summary of its policies are set out in the Overview. A full assessment of the likely effects of the Plan are set out in the relevant screening report.

5. SEA Screening Conclusion

The LUC Screening Report concludes that the Glemsford NP “...does directly impact on land use through the allocation of one site [which does not yet have planning consent] for 100 new homes”

It goes on to say that while “there are policies in the Neighbourhood Plan and in the adopted Babergh and Mid Suffolk Joint Local Plan (Part 1) that may provide mitigation” ... “given the scale of the allocated site that does not have existing planning permission and the sensitivity of the area in which it is located it is considered that the Glemsford Neighbourhood Plan has the potential to have significant environmental effects and that SEA is therefore required.”

Consultation on the SEA Screening Report was carried out with the Environment Agency (EA), Historic England (HE), and Natural England (NE). The response from HE is reproduced in Appendix 1 and is summarised below.

- HE have concluded that, based on the information supplied, and given the likely significant effects (both positive and negative) upon the historic environment, that a Strategic Environmental Assessment will be required.

No response was received from the EA or NE, either during the formal consultation period or in reply to our consultation reminder e-mail.

6. SEA Determination

In the light of the SEA Screening Report (Dec 2023) prepared by LUC and having considered the one consultation response from Historic England, it is our determination that the Glemsford Neighbourhood Plan (November 2023) **does require** a Strategic Environmental Assessment in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004.

Part B – Habitats Regulations Determination

1. Introduction

It is a requirement of European Law that a plan or project is subject to an assessment to determine whether it is likely to have a significant effect on the integrity of any ‘European Site’, in terms of impacting on the site’s conservation objectives.

Submitted neighbourhood plans need to be accompanied by a statement to explain how the proposed Plan meets the ‘basic conditions’ set out in Schedule 4B of the 1990 Town and Country Planning Act. These include a requirement to demonstrate how the Plan is compatible with EU obligations, which includes the need to undertake a Habitats Regulations Assessment (HRA). This is one of the matters that will be tested at the independent examination.

The assessment itself and the level of detail needed will depend on what is proposed in the draft Neighbourhood Plan and the potential impacts on Habitats Sites designated for their nature conservation interest.

This report therefore determines whether a HRA under the UK Conservation of Habitats and Species Regulations 2017, which enacts the Habitats Directive¹, is required for the Glemsford NP.

2. Legislative Background

One of the basic conditions that neighbourhood plans must meet is that:

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

The Conservation of Habitats and Species Regulations 2017 include regulations on the assessment of plans (including neighbourhood plans) and projects on a Habitats Site (European Site or a European offshore marine site). The first stage is to screen the plan to see whether it is likely to have a significant effect on any Habitats sites. If the plan is ‘screened-in’ because likely significant effects cannot be ruled out, the next stage is for an Appropriate Assessment to be carried out considering the impact on the Habitats site’s conservation objectives. Consent for the Plan can only be given if it is ‘screened-out’ at the first stage, or the Appropriate Assessment concludes the integrity of the Habitats site will not be adversely affected.

Case law is also relevant, including most notably the ‘People over Wind’ and ‘Holohan’ rulings. The ‘People Over Wind, Peter Sweetman v Collie Teoranta’ judgement ruled that it is not permissible to take account of measures intended to reduce or avoid any harmful effects of a plan or project on a European Site at the screening stage. Any mitigation measures can now only be considered at the appropriate assessment stage. The ‘Holohan and Others v An Bord Pleanála’ judgement also imposes more detailed requirements on the competent authority for any plans or projects at the Appropriate Assessment stage, including, but not limited to cataloguing the entirety of habitat types and species for which a site is protected and being beyond reasonable scientific doubt concerning the effects of the work envisaged on the site concerned.

¹ Directive 92/43/EEC ‘on the conservation of natural habitats and of wild fauna and flora’: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:31992L0043>.

3. Assessment

In determining whether a proposed development plan or programme is likely to have significant effects, the local authority must incorporate the 'precautionary principle' into its decision. This means that if there is uncertainty as to whether the plan or programme would cause significant effects on a Habitats Site, the full Appropriate Assessment would be required.

The neighbourhood plan vision, and a summary of its policies are set out in the Overview. A full assessment of the likely effects of the Plan are set out in the relevant screening report. The screening has also been prepared in accordance with the relevant CJEU judgements.

The only European site identified for inclusion in the HRA was the Breckland Special Protection Area (SPA) which is located approximately 17km from the Plan area.

4. HRA Screening Conclusion

The Screening Report concludes that:

'... no likely significant effects are predicted on European sites as a result of the Glemsford Neighbourhood Plan, either alone or in combination with other policies and proposals..' and that *"An Appropriate Assessment is therefore not required."*

Consultation on the HRA Screening Report was carried out with the Environment Agency (EA) and Natural England (NE). Neither provided a response, either during the formal consultation period or in reply to our consultation reminder e-mail.

5. HRA Determination

In light of the advice set out in the HRA Screening Report (December 2023) prepared by LUC it is our determination that the Glemsford Neighbourhood Plan is '**screened out**' from further assessment under the Habitats Regulations 2017 and that an Appropriate Assessment is not required.

Appendix 1

By e-mail dated 16 January 2024

Re: SEA Screening on R14 Glemsford NP



Historic England

Dear Paul,

Thank you for your email regarding the above consultation. As the Government's adviser on the historic environment Historic England is keen to ensure that the protection of the historic environment is fully taken into account at all stages and levels of the local planning process. Therefore, we welcome this opportunity to review this request for a Screening Opinion. For the purposes of this consultation, Historic England will confine its advice to the question, "Is it (the neighbourhood plan) likely to have a significant effect on the historic environment?". Our comments are based on the information supplied with the Screening Opinion.

The supporting information (screening report and draft neighbourhood plan) supplied with the consultation indicates that within the plan area there is a range of designated historic environment assets. There is also likely to be other features of local historic, architectural or archaeological value, and consideration should also be given to the wider historic landscape. The documentation indicates that the Glemsford Neighbourhood Plan proposes to allocate one sites for housing/other use.

We note that the Neighbourhood Plan allocates one site for development in policy GLEM3 'Land west of Park Lane'. The site is allocated for 100 homes along with recreational open space.

Given the likely significant effects (both positive and negative) upon the historic environment, Historic England hence concurs with the Council's view that a Strategic Environmental Assessment will be required.

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

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

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

Please do contact me, either via email or the numbers below, if you have any queries.

Kind regards,

Ross McGivern (he/him)
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