

Wiltshire Council

Strategic Environmental Assessment

**Screening determination for the Draft Dilton Marsh Neighbourhood
Development Plan**

September 2023



Contents

Page

1. Introduction	3
2. Legislative requirements	3
3. The Draft Dilton Marsh Neighbourhood Development Plan	5
4. SEA Screening assessment	5
5. SEA Screening decision	9
6. Consultation on SEA screening decision	9

1. Introduction

- 1.1 This document provides a screening determination of the need to carry out a Strategic Environmental Assessment (SEA) of the Draft Dilton Marsh Neighbourhood Development Plan (hereafter 'draft DMNDP').
- 1.2 Wiltshire Council, as the 'Responsible Authority'¹ under the SEA Regulations², is responsible for undertaking this screening process. It will determine if the draft DMNDP is likely to have significant environmental effects, and hence whether SEA is required.
- 1.3 This process has been carried out in accordance with the requirements of European Directive 2001/42/EC³, often known as the Strategic Environmental Assessment (SEA) Directive, which has been transposed into English law by the SEA Regulations.

2. Legislative requirements

- 2.1 The Localism Act 2011 requires neighbourhood plans to comply with EU legislation. The screening procedure outlined in this report meets the requirements of the SEA Directive and Regulations, as introduced in Section 1 of this document.
- 2.2 Regulation 5 of the SEA Regulations requires an environmental assessment of plans which:

1. *are prepared for agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use (Regulation 5, para. (2)(a), and which set the framework for future development consent of projects listed in Annex I or II to Council Directive 85/337/EEC (EIA Directive) on the assessment of the effects of certain public and private projects on the environment (Reg. 5, para. (2)(b)*
2. *in view of the likely effect on sites, have been determined to require an assessment pursuant to Article 6 or 7 of the Habitats Directive (92/43/EEC) (Reg. 5, para. (3)*
3. *set the framework for future development consent of projects⁴ (Reg. 5, para. (4)(b)*
4. *are determined to be likely to have significant environmental effects as determined under regulation 9(1) (Reg. 5, para. (4)(c)*

An environmental assessment need not be carried out for:

- a) *plans which determine the use of a small area⁵ at local level (Regulation 5, para. (6)(a); or*
- b) *plans which are a minor modification⁶ to a plan or programme (Regulation 5, para. (6)(b)* unless it has been determined under regulation 9(1) that the plan is likely to have significant environmental effects.

- 2.3 The diagram⁷ below shows the SEA Directive's requirements and its application to neighbourhood plans:

1. Is the Plan subject to preparation and/or adoption by a national, regional or local authority OR prepared by an authority for adoption through a legislative procedure by Parliament or Government? (SEA Directive Art. 2(a))

in Wiltshire Council's guide *Neighbourhood planning the plan*'.
2004

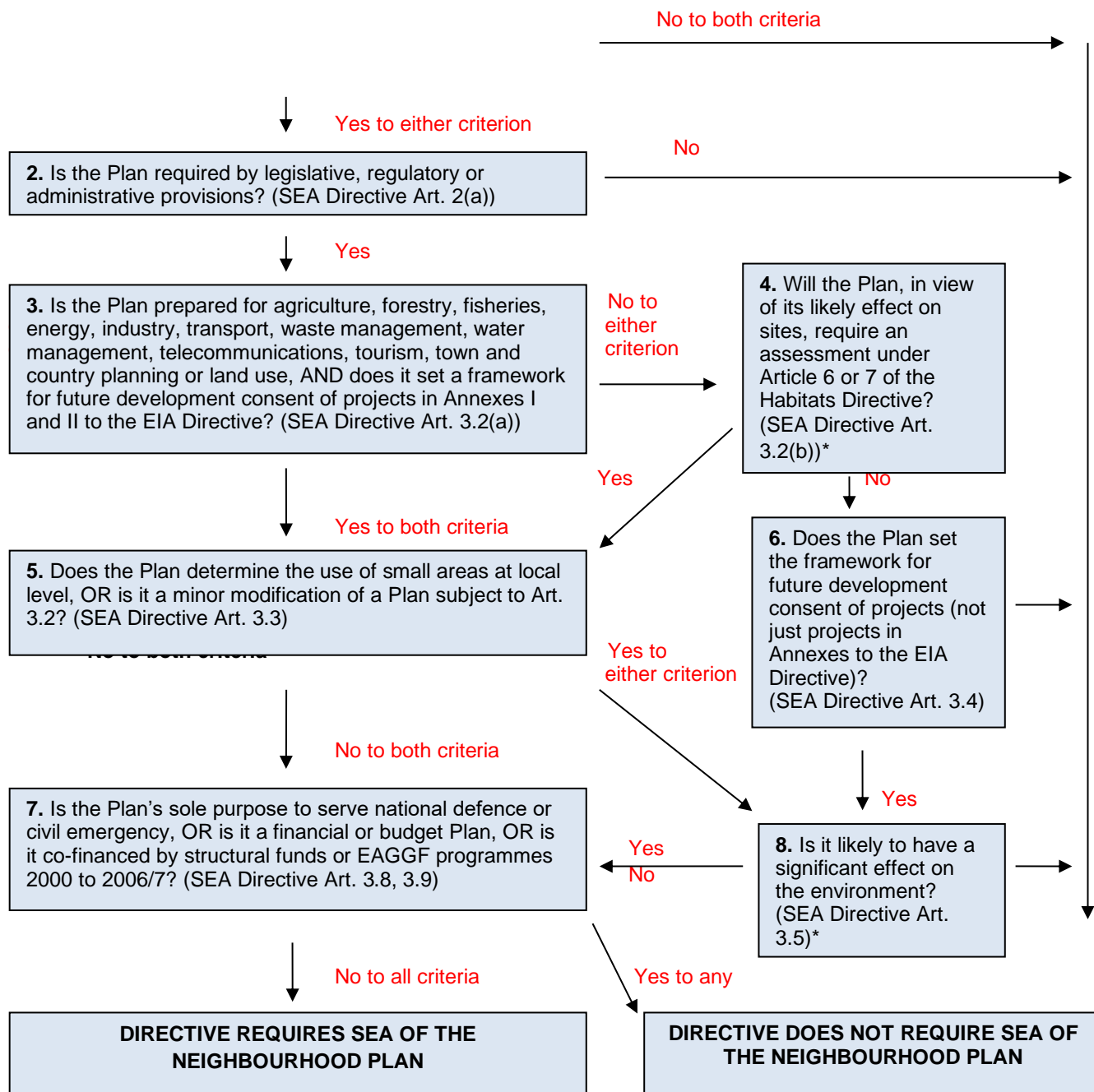
³ European Directive 2001/42/EC 'on the assessment of the effects of certain plans and programmes on the environment'

⁴ European Commission guidance states that plans and programmes which set the framework for future development consent of projects would normally contain 'criteria or conditions which guide the way a consenting authority decides an application for development consent'. Development consent is defined in the EIA Directive as "the decision of the competent authority or authorities which entitled the developer to proceed with the project" (Article 1(2) of the EIA Directive).

⁵ European Commission guidance suggests that plans which determine the use of small areas at local level might include "a building plan which, for a particular, limited area, outlines details of how buildings must be constructed, determining, for example, their height, width or design"

⁶ 'Minor modifications' should be considered in the context of the plan or programme which is being modified and of the likelihood of their having significant environmental effects. A modification may be of such small order that it is unlikely to have significant environmental effects.

⁷ Taken from *A Practical Guide to the Strategic Environmental Assessment Directive* ODPM, (2005)



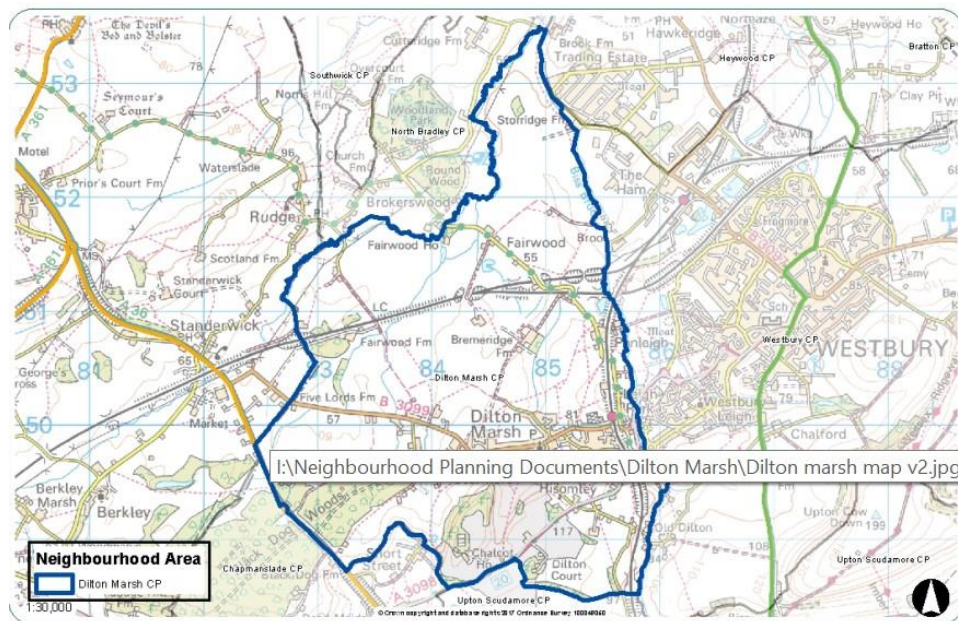
* Plans falling in this category (No.8) will be screened by Wiltshire Council to determine if they are likely to have significant environmental effects. This determination will be made on a case-by-case basis for neighbourhood plans coming forward in Wiltshire.

NB This diagram is intended as a guide to the criteria for application of the Directive to neighbourhood plans. It has no legal status.

3. The Draft Dilton Marsh Neighbourhood Development Plan

3.1 The parish of Dilton Marsh is preparing a neighbourhood development plan under the provisions of the Localism Act 2011.

3.2 The designation of the Dilton Marsh Neighbourhood Area was made on 16th February 2017 (see map of area outlined in blue below). For the designation notice see <http://www.wiltshire.gov.uk/planning-neighbourhood-latest-news>



- 3.3 This screening decision is based on, and accompanied by, a draft of the neighbourhood plan dated May 2023, a site assessment report and a site selection topic paper.

4. SEA Screening assessment

- 4.1 Wiltshire Council, as the 'Responsible Authority', considers that the draft DMNDP falls within the scope of the SEA Regulations on the basis that it is a plan that:

a) is subject to preparation or adoption by an authority at national, regional or local level (Regulation 2);

b) is prepared for town and country planning or land use and it is a plan that sets the framework for future development consent of projects generally (Regulation 5); and

c) will apply to a wider area other than a small area at local level and is not a minor modification to an existing plan or programme (Regulation 5).

- 4.2 A determination under Regulation 9 is therefore required as to whether the draft DMNDP is likely to have significant effects on the environment.

- 4.3 The screening requirements set out in Regulation 9 and Schedule 1 of the SEA Regulations includes two sets of characteristics for determining the likely significance of effects on the environment. These relate to i) the characteristics of the draft DMNDP and ii) the characteristics of the effects and of the area likely to be affected by the draft DMNDP. In making a determination, Wiltshire Council will take into account the criteria specified in Schedule I of the Regulations which are follows:

1. The characteristics of the plans and programmes, having regard in particular to:

(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 hierarchy;

(c) 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; and

(e) the relevance of the plan or programme for the implementation of Community legislation on the environment (for example, 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:

(a) the probability, duration, frequency and reversibility of the effects;

(b) the cumulative nature of the effects;

(c) the transboundary nature of the effects;

(d) the risks to human health or the environment (for example, 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—

(i) special natural characteristics or cultural heritage;

(ii) exceeded environmental quality standards or limit values; or

(iii) intensive land-use; and

(g) the effects on areas or landscapes which have a recognised national, Community or international protection status.

The screening assessment of the draft DMNDP is set out below:

Criteria (Schedule 1 SEA Regs.)	Significant environmental effects likely?	Justification and evidence
1. The characteristics of plans, having regard, in particular, to:		
(a) the degree to which the plan sets a framework for projects and other activities, either with regards to the location, nature, size and operating conditions or by allocating resources	No	The neighbourhood plan covers the parish area only. It sets a new policy framework for projects in the parish only, not over a wider area, and it is considered to be in general conformity with policies of the adopted Wiltshire Core Strategy and national planning policies.
(b) the degree to which the plan influences other plans and programmes including those in a hierarchy	No	The draft DMNDP is produced by the local community to influence development at the local parish level. The draft DMNDP will not have a significant influence on other plans and programmes or those in a hierarchy. All neighbourhood plans must be in general conformity with the strategic policies contained in the development plan for the area, contribute to the achievement of sustainable development and have regard to national policies.
(c) the relevance of the plan for the integration of environmental considerations, in particular with a view to promoting sustainable development	No	The draft DMNDP is a land-use plan that promotes sustainable development, in general conformity with the Local Plan and national planning guidance. It is not a Plan specifically relating to the integration of environmental considerations.
(d) environmental problems relevant to the plan	No	There are no known specific environmental problems relevant to this Plan. The neighbourhood area is rural and mainly agricultural. The parish is mostly designated as open countryside in the Wiltshire Core Strategy (WCS), except for Dilton Marsh which is categorised as a Large Village.
(e) the relevance of the plan for the implementation of Community legislation on the environment (for example, plans and programmes linked to waste management or water protection)	No	The neighbourhood plan is not relevant as a plan for implementing community legislation.
2. Characteristics of the effects and of the area likely to be affected, having regard, in particular, to:		
(a) the probability, duration, frequency and reversibility of the effects	Yes	Due to the proximity of Dilton Marsh to the Bath and Bradford on Avon Bats SAC, Salisbury Plain SPA and the site allocations DM13-DM16 which allocate 69 houses on a mix of greenfield and brownfield sites. Considering the judgement of the European Court of Justice (People Over Wind, Peter Sweetman v Coillte Teoranta) which ruled that it is not permissible to take account of mitigation measures intended to reduce or avoid any harmful effects of a plan or project on a European site at the screening stage, it has been determined by Wiltshire Council, the

		<p>'competent authority' under the Habitats Regulations, that the neighbourhood plan will require a full Appropriate Assessment (AA) due to the potential for impacts on the Bath and Bradford on Avon Bats SAC.</p> <p>Regulation 5 of the SEA Regulations requires an environmental assessment of plans which 'in view of the likely effect on sites, have been determined to require an assessment pursuant to Article 6 or 7 of the Habitats Directive (92/43/EEC) (Reg. 5, para. (3)).' Planning Practice Guidance (PPG) para 047 states that 'if a plan is one which has been determined to require an appropriate assessment under the Habitats Directive, then it will normally also require a Strategic Environmental Assessment.' In light of this, it is considered that the draft SNP is likely to have significant environmental effects and therefore an SEA will be required.</p>
(b) the cumulative nature of the effects	Yes	Refer to 2(a) above.
(c) the transboundary nature of the effects	No	No transboundary effects with other EU countries are considered likely to be significant.
(d) the risks to human health or the environment (for example, due to accidents)	No	There are no significant environmental effects considered likely to risk human health or the environment.
(e) the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected)	No	The draft DMNDP covers a mainly rural parish which includes the large village of Dilton Marsh. The 2021 Census records 1958 people living in the parish. Significant environmental effects due to the geographic size of the area and population size are not considered likely.
(f) the value and vulnerability of the area likely to be affected due to— (i) special natural Characteristics or Cultural heritage; (ii) exceeded environmental quality standards or limit values; or (iii) intensive land-use;	Yes	Refer to 2(a) above.
(g) the effects on areas or landscapes which have a recognised national, Community or international protection status.	Yes	Refer to 2(a) above.

5. SEA Screening decision

- 5.1 Regulation 9 of the SEA Regulations requires that the responsible authority (Wiltshire Council) shall determine whether or not a plan is likely to have significant environmental effects. The responsible authority shall —
- (a) take into account the criteria specified in Schedule 1 to these Regulations; and
 - (b) consult the consultation bodies (Historic England, Natural England, Environment Agency).
- 5.2 Where the responsible authority determines that the plan is unlikely to have significant environmental effects (and, accordingly, does not require an environmental assessment), it shall prepare a statement of its reasons for the determination.
- 5.3 Wiltshire Council considers that the draft DMNDP **is likely to have significant environmental effects** and accordingly **a Strategic Environmental Assessment is required**. This decision is made for the following reason:

Reason 1: Due to the proximity of Dilton Marsh to the Bath and Bradford on Avon Bats SAC and Salisbury Plain SPA and the site allocations DM13-DM16 which allocate 69 houses on a mix of greenfield and brownfield sites. Considering the judgement of the European Court of Justice (People Over Wind, Peter Sweetman v Coillte Teoranta) which ruled that it is not permissible to take account of mitigation measures intended to reduce or avoid any harmful effects of a plan or project on a European site at the screening stage, it has been determined by Wiltshire Council, the 'competent authority' under the Habitats Regulations, that the neighbourhood plan will require a full Appropriate Assessment (AA) due to the potential for impacts on the Bath and Bradford on Avon Bats SAC.

Regulation 5 of the SEA Regulations requires an environmental assessment of plans which 'in view of the likely effect on sites, have been determined to require an assessment pursuant to Article 6 or 7 of the Habitats Directive (92/43/EEC) (Reg. 5, para. (3)).' Planning Practice Guidance (PPG) para 047 states that 'if a plan is one which has been determined to require an appropriate assessment under the Habitats Directive, then it will normally also require a Strategic Environmental Assessment.' In light of this, it is considered that the draft SNP is likely to have significant environmental effects and therefore an SEA will be required.

- 5.4 This screening decision is based on, and accompanied by, a draft of the neighbourhood plan dated May 2023, a site assessment report and a site selection topic paper. It is possible that these proposals may change. If the draft Plan is subsequently amended significantly from these proposals i.e. changes that substantially alter the draft plan and/or are likely to give rise to additional significant environmental effects, or it is subsequently decided that the draft Plan should be subject to an Appropriate Assessment under the Habitats Regulations, this SEA screening must be reviewed. In this instance, the Qualifying Body should request a revised SEA screening assessment from Wiltshire Council.

6. Consultation on SEA screening decision

- 6.1 This screening decision was sent to Natural England, Environment Agency and Historic England, requesting comments within a 5-week period between 4th August 2023 and 8th September 2023.
- 6.2 Comments were received from all three consultees who agreed that an SEA was required for the plan. These comments are included in Appendix 1.

Appendix 1 – consultations comments received from the consultation bodies

Environment Agency

Dear [REDACTED]

Thank you for consulting the Environment Agency on the above neighbourhood plan SEA.

We have no objection to the LPA's screening decision that the Dilton Marsh NP will require a SEA.

Kind regards, [REDACTED]

Historic England

Dear [REDACTED]

Thank you for your consultation on the SEA Screening associated with the emerging Dilton Marsh Neighbourhood Plan.

Our records indicate that this is our first involvement with the preparation of this Plan so we also welcome the opportunity to familiarise ourselves with its likely scope of policies and identify any matters of potential interest or concern.

We note that the Plan envisages allocating sites for housing development under policies DM11 & 13 – 16, and an extension to an existing industrial estate under policy DM20. On this basis your authority considers that the need for an AA has been triggered through the HRA process, and as a consequence a full SEA is required.

We note additionally from the site selection topic paper that at least one of the sites proposed for development has the potential to generate impacts on the settings of nearby designated heritage assets. This in itself can be sufficient to be deemed “significant environmental effects”, thereby triggering the need for a full SEA in its own right.

We would therefore concur with the view that a full SEA is required and ask that the reasons for such a conclusion include the potential for the site allocations to generate impacts upon designated heritage assets. Flagging up this additional criterion formally will also help ensure that the SEA process gives appropriate emphasis to exploring this necessary consideration from a supporting evidence perspective.

Otherwise, there are no other matters or issues associated with the Plan as it stands which prompt our interest or need for comment at this time, or which, on that basis, are likely to do so as the Plan making process progresses.

Kind regards

[REDACTED]

Natural England

Dear [REDACTED],

Draft Dilton Marsh Neighbourhood Plan - SEA Screening Consultation

Thank you for your consultation on the above dated 04 August 2023.

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

Natural England is a statutory consultee in neighbourhood planning and must be consulted on draft neighbourhood development plans by the Parish/Town Councils or Neighbourhood Forums where they consider our interests would be affected by the proposals made.

We have considered the screening assessment of the Neighbourhood Plan against the requirements of the criteria set out in the SEA Directive. Based on the information provided, Natural England agrees the Neighbourhood Plan appears likely to give rise to significant environmental effects and your conclusion that a Strategic Environmental Assessment is required is reasonable.

We would be happy to comment further should the need arise but in the meantime if you have any queries relating to the above please contact me via email –

[REDACTED]

For any further consultations on your plan, please contact

consultations@naturalengland.org.uk

Yours faithfully,

[REDACTED]