



Planning Policy Group

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Website: www.kirklees.gov.uk/localplan

Date: 17th May 2019

Ref: KBPC_SEAscreenlet2

Enquiries to: Sarah Smith

Mrs A Royle
Kirkburton Parish Council
Burton Village Hall
Northfield Lane
Highburton
Huddersfield
HD8 0QT

Dear Angela

Kirkheaton Neighbourhood Plan SEA screening opinion

We recognise all the hard work that is being put into producing your neighbourhood plan and wish to maintain an open dialogue to discuss the plan as it progresses.

We (Kirklees Local Planning Authority) have undertaken a screening assessment of your draft plan (dated January 2019). It is our view that the neighbourhood plan requires a Strategic Environmental Assessment to be undertaken in line with regulations and best practice. The reasons and conclusion are set out below.

Neighbourhood Plan Background

- 1.1 The Kirkheaton Neighbourhood Plan Area was approved on the 8th March 2016 by Kirklees Council. Further detail including the location and extent of the neighbourhood Area can be viewed on here: <http://www.kirklees.gov.uk/beta/planning-policy/neighbourhood-planning.aspx>

Local Plan:

- 1.2 The Kirklees Local Plan was adopted on 27th February 2019. The Local Plan is now the statutory development plan for Kirklees and supersedes the Kirklees Unitary Development Plan (adopted March 1999). The local plan included a sustainability appraisal (incorporating the requirements of the SEA Directive). This will form the context for any Neighbourhood Plan Strategic Environmental Assessment.

Neighbourhood plan screening assumptions:

- 1.3 Kirkheaton Neighbourhood Plan assumptions for the screening:
- The neighbourhood plan will allocate land for development
 - The neighbourhood plan will include policies that set the framework for future development within the extent of the neighbourhood area
- 1.4 These assumptions are based on the Kirkheaton Neighbourhood Plan (NDP) (Kirkheaton Future: A Neighbourhood Plan for Kirkheaton 2017 – 2032 preliminary draft January 2019)

Screening opinion Kirkheaton Neighbourhood Plan:

- 1.5 ‘A Practical Guide to the Strategic Environmental Assessment Directive (2005)’ (Appendix 1)- illustrates the process for screening a planning document to ascertain whether a full SEA is required, the criteria have been extracted and included in the first column in table 1 below, with commentary provided in the second column.

Table 1: Screening opinion Kirkheaton Neighbourhood Plan

Assessment Criteria	Assessment	
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? [Article 2(a)]	Yes	Neighbourhood Plans are prepared by Parish Councils or Neighbourhood Forums (as the “qualifying body”) under the provisions of the Town and Country Planning Act 1990 as amended by the Localism Act 2011. Once the Plan has been prepared, and subject to examination and referendum, it will be “made” by Kirklees Council as the Local Planning Authority.
2. Is the Plan required by legislative, regulatory or administrative provisions? [Article 2(a)]	Yes	It is not a requirement for a parish or community group to produce a Neighbourhood Plan however a Neighbourhood Plan, once “made” does form part of the Statutory Development Plan and will be used when making decisions on planning applications.
3. Is the Plan prepared for agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use, AND does it set a framework for future development consents or projects in Annexes I and II to the EIA Directive? [Article 3.2(a)]	Yes	The Neighbourhood Plan as drafted covers some of the topics identified in this list and they could set the framework for development of a scale that would fall under Annex II of the EIA Directive. However for Neighbourhood Plans, developments which fall under Annex I of the EIA Directive are “excluded development” as set out in Section 61k of the Town and Country Planning Act 1990 (as amended by the Localism Act)

4. Will the Plan, in view of its effects on sites, require a Habitats Regulations Assessment? [Article 3.2(b)]	Yes*	The local plan HRA (March 2017) rules out any adverse effects on Natura 2000 sites. *The Kirkheaton neighbourhood plan does not raise concerns regarding the conclusions of the local plan HRA, however it does include land allocations and policies so a HRA screening will be required, using the context of the local plan HRA.
5. Does the Plan determine the use of small areas at local level, OR is it a minor modification of a Plan subject to Article 3.2? [Article 3.3]	Yes	The Kirkheaton Neighbourhood Plan allocates land for development, it is set within the wider context of the local plan but as currently drafted seeks to change some of the outcomes of the local plan within the NP area.
6. Does the Plan set the framework for future development consents of projects (not just projects that require an EIA)? [Article 3.4]	Yes	It is the intention that the Kirkheaton Neighbourhood Plan includes a policy framework to determine planning applications.
7. Is the Plans sole purpose to serve national defence or civil emergency, OR is it a financial or budget Plan OR is it co-financed by structural funds? [Article 3.8, 3.9]	No	The Kirkheaton Neighbourhood Plan does not deal with any of these categories of plan.
8. Is the Plan likely to have a significant effect on the environment? (See Figure 2.2) [Article 3.5]	Yes	The intention to allocate land and include a suite of policies means that when considering the criteria in annex II of the SEA directive, significant effects cannot be ruled out at this stage, and additional work is needed. This approach would be consistent with the SA (SEA) of the local plan.
It is the intention of the Kirkheaton Neighbourhood Plan to allocate land and provide a policy framework for future development. As such there is the potential for significant environmental effects and therefore a more detailed assessment of the environmental impact is required, this would also provide a consistent approach with the local plan Sustainability Appraisal (Strategic Environmental Assessment).		

Consultee Responses (Environmental Assessment Consultation Bodies)

1.6 It is a statutory requirement of the SEA screening process to consult with Historic England, Natural England, and the Environment Agency when forming a view as to whether an SEA is required.¹

¹Environmental Assessment of Plans and Programmes Regulations 2004

1.7 A copy of the draft Kirkheaton Neighbourhood Plan alongside the Council’s draft SEA screening opinion was sent to the three statutory consultees on 02nd April 2019. Their response is set out in the table below and full details are provided in Appendix 2.

Consultation Body	Comment
Historic England	On the basis of the information supplied, and in the context of the criteria set out in schedule 1 of the Environmental Assessment Regulations [Annex II of ‘SEA’ Directive] Historic England concurs with your conclusion that the preparation of a Strategic Environmental Assessment <u>is required</u> for the Kirkheaton Neighbourhood Plan.
Natural England	We have reviewed the Strategic Environmental Assessment screening opinion and are in agreement with the conclusion that an SEA is required.
Environment Agency	We have considered the draft plan and its policies against those environmental characteristics of the area that fall within our remit and area of interest. Having considered the nature of the policies in the Plan, we consider that it is unlikely that significant negative impacts on environmental characteristics that fall within our remit and interest will result through the implementation of the plan.

Conclusion

In considering the scope of the Kirkheaton Neighbourhood Plan against the criteria from the guidance document “A Practical Guide to the Strategic Environmental Assessment Directive” (ODPM, 2005) and responses from the consultation bodies, it is concluded that the neighbourhood plan will need a more detailed Environmental Assessment in line with the SEA Directive and under the Habitats Regulations 2017.

Yours sincerely,

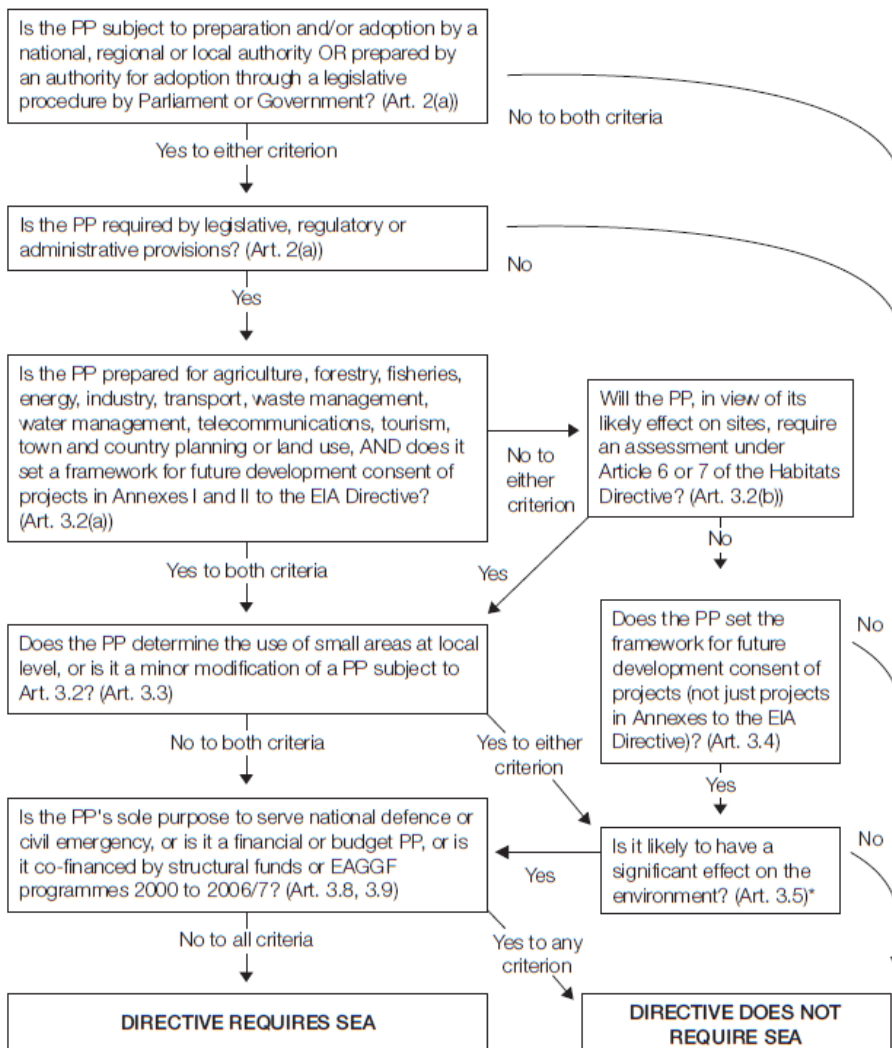


Simon Taylor
Head of Development and Masterplanning

Appendices

Appendix 1: Application of the SEA Directive to plans and programmes

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



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

Source: A Practical Guide to the Strategic Environmental Assessment (ODPM, 2005)



Historic England

YORKSHIRE

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08 May 2019

Dear Ms. Smith,

**Kirkheaton Neighbourhood Development Plan
Strategic Environmental Assessment Screening Opinion Consultation**

We write in response to your e-mail of Tuesday 02 April 2019, seeking a Screening Opinion for the Kirkheaton Neighbourhood Plan 2017-2032, January 2019.

For the purposes of this consultation, Historic England will confine its advice to the question, “Is it likely to have a significant effect on the environment?” in respect to our area of concern, cultural heritage. Our comments are based on the information supplied within the Kirkheaton Neighbourhood Plan 2017-2032, January 2019.

The Draft Neighbourhood Plan indicates that within the plan area there is a wide range and number of designated cultural heritage assets. There are also likely to be other features of local historic, architectural or archaeological value, and consideration should also be given to the wider historic landscape.

On the basis of the information supplied, and in the context of the criteria set out in Schedule 1 of the Environmental Assessment Regulations [Annex II of ‘SEA’ Directive], Historic England concurs with your conclusion that the preparation of a Strategic Environmental Assessment is required for the Kirkheaton Neighbourhood Plan.

The views of the other two statutory consultation bodies should be taken into account before the overall decision on the need for an SEA is made. We should like to stress that this opinion is based on the information available in the Kirkheaton Neighbourhood Plan.

To avoid any doubt, this does not reflect our obligation to provide further advice on later stages of the 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 SEA, these would have an adverse effect upon the environment.

We would 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 Kirklees Council and the West Yorkshire Archaeological Advisory Service 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 HER (formerly SMR); how the 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 historic assets.

We look forward to receiving a consultation on the Pre-submission Draft of the Kirkheaton Neighbourhood Plan in due course.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Craig Broadwith', is written over a faint, repeating watermark of the word 'electronic'.

Craig Broadwith
Historic Places Adviser
E-mail: Craig.Broadwith@HistoricEngland.org.uk

Date: 14 May 2019
Our ref: 278819



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BY EMAIL ONLY

Dear Ms Smith

Planning consultation: Kirkheaton Draft Neighbourhood Development Plan Kirklees Council SEA Screening opinion

Thank you for your consultation on the above dated which was received by Natural England on 02 April 2019.

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.

We have reviewed the Strategic Environmental Assessment (SEA) screening opinion and are in agreement with the conclusion that an SEA is required.

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

For any queries relating to the specific advice in this letter only please contact Kate Wheeler on 07769918711. For any new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

Yours sincerely

Kate Wheeler
Yorkshire and Northern Lincolnshire Area

Sarah Smith

From: Dennison, Claire <claire.dennison@environment-agency.gov.uk>
Sent: 10 May 2019 14:05
To: Sarah Smith
Subject: RE: Kirk Heaton Draft Neighbourhood Plan Kirklees Council SEA Screening opinion - second request for comments

Thank you for consulting the Environment Agency regarding the above mentioned proposed draft plan. We have reviewed the information submitted and we wish to make the following comments

Strategic Environmental Assessment

We note that the Council has a responsibility to advise the Parish Council if there is a need for formal Strategic Environmental Assessment of the draft Neighbourhood Plan. You are seeking our views in order to inform the Council's decision on this matter.

We have considered the draft plan and its policies against those environmental characteristics of the area that fall within our remit and area of interest.

Having considered the nature of the policies in the Plan, we consider that it is **unlikely that significant negative** impacts on environmental characteristics that fall within our remit and interest will result through the implementation of the plan.

Draft Plan

We have **no objections** to the draft plan.

Flood Risk

I note that the area has a risk of flooding (within Flood Zone 2.3) around the watercourses

We would like to see flood risk policies and that minimising the impact of flooding referred to in an 'Environmental' section. This is a key sustainability issue and will be exacerbated in the future due to climate change.

In terms of both policy and site selection, flood risk should be a major consideration in your plan. In drafting your flood risk policy, you should:

- Emphasise that inappropriate development will not be considered acceptable in areas of high flood risk.
- Highlight, where necessary, the need to undertake the sequential and exception tests.
- Promote a sequential approach to development layout, to ensure the highest vulnerability development is located in areas at lowest flood risk.
- Address the potential impacts of climate change on flood risk.
- Describe what is expected of developers in terms of surface water run-off rates (for both brownfield and Greenfield sites) and sustainable drainage systems.
- Where possible, expect development to result in a betterment to the existing flood risk situation.
- Ensure that new development does not increase flood risk to others

A sequential approach to flood risk will also need to be taken when allocating sites.

New development proposals should be encouraged to contribute either financially or through physical works to reduce the flood risk to the wider village. This would require a clear understanding of what the flood risk reduction strategy is. This should be reflected in this section/policy.

Surface Water

The Lead Local Flood Authority is now the responsible authority for commenting on the surface water drainage arrangements. We therefore recommend you consult your LLFA regarding the proposed management of surface water within the Plan.

Allocation of sites

We understand that the large allocation for over 500 houses is within the local plan, we should have made comment on this at this stage. This could be used as an opportunity for environmental gain for the area as an offset against the housing development.

Those that are not within the local plan we suggest any developer take the opportunity to have pre development advise from ourselves, so no unwanted surprises arise at planning stage.

Water quality

Proper management is important to protect water quality, both for groundwater and surface water resources.

Drainage misconnections can occur in new developments, redevelopments, extensions or through refurbishment. Developers must ensure that they do not connect any foul drainage (including sinks, showers, washing machine/dishwasher outlets and toilets) to a surface water sewer, as this can send polluted water into watercourses. Similarly, developers should ensure that they do not connect surface water drainage (e.g. roof gutter downpipes) into foul sewers as this can cause overloading of the foul sewer during heavy rainfall.

Polluted surface water flows from areas like car parks or service yards should always have sufficient pollution prevention measures in place to ensure the protection of groundwater and watercourses from specific pollutants like petrol (hydrocarbons) and suspended solids. Developers should follow appropriate pollution prevention guidance when designing formal drainage for large areas of hardstanding.

Ideally, applicants should introduce more 'surface' or 'green' drainage solutions to aid improvements in water quality, such as swales along hardstanding boundaries, or a more advanced reed bed system for larger sites. These solutions are easier to access and maintain than engineered solutions like petrol/oil interceptors, which require regular maintenance to ensure they operate correctly.

We would welcome a policy which requires a net gain in biodiversity through all development,

River restoration

We would welcome the inclusion of a specific river policy, addressing the following:

- Minimum of 8 metre (m) buffer zones for all watercourses measured from bank top to provide an effective and valuable river corridor and improve habitat connectivity. A 5m buffer zone for ponds would also help to protect their wildlife value and ensure that the value of the adjacent terrestrial habitat is protected.
- Development proposals to help achieve and deliver WFD objectives. Examples of the types of improvements that we may expect developers to make are: removal of obstructions (e.g. weirs), de-culverting, regrading banks to a more natural profile, improving in-channel habitat, reduce levels of shade (e.g. tree thinning) to allow aquatic vegetation to establish, etc. Proposals which fail to take opportunities to restore and improve rivers should be refused. If this is not possible, then financial or land contributions towards the restoration of rivers should be required.
- River corridors are very sensitive to lighting and rivers and their 8m buffer zones (as a minimum) should remain/be designed to be intrinsically dark i.e. Lux levels of 0-2.

It may be useful to include ownership information details for landowners, applicants or developers who have a watercourse running through or adjacent to their site. Many people believe that the Environment Agency own 'main rivers' which is not the case. Whilst we hold permissive powers to carry out maintenance on main rivers, the site owner is the 'riparian owner' of the stretch of watercourse running through their site (whole channel) or adjacent to their site (up to the centre line of the channel) – and this includes culverted watercourses. Our 'Living on the Edge' publication provides important guidance for riverside owners.

Applicants should remove watercourses from existing culverts where this is feasible. This will help to reduce flood risk from blocked or collapsed culverts, and open channels are significantly easier for the landowner to maintain. Culverts that cause blockages of the watercourse are the responsibility of the owner to repair. Additionally, we will usually object to planning applications that propose new culverts.

Your plan policy should also provide details of 'buffer zones' that are left adjacent to watercourses. We will always ask developers to maintain an undeveloped,

Naturalised, 8 metre buffer zone adjacent to main rivers. We ask that applicants do not include any structures such as fencing or footpaths within the buffer zone as this could increase flood risk - through the inclusion of close-board fencing for example. Any works or structures that applicants intend within 8m of a main river will require a flood defence consent from us, which is separate from and in addition to any planning permission granted.

Sustainable construction

You could also help your community save money through sustainable construction. Neighbourhood planning is an opportunity for communities to encouraging efficient water and waste management systems in new buildings, and use locally sourced wood fuel for heating. You could also help to promote the use of sustainable materials in construction, and encourage energy efficiency measures for new builds. These measures will reduce the cost of construction for developers and help to reduce utility bills for those using the building. This will also help the environment by reducing emissions and improving air quality.

We hope this response helps you develop your plan.

Kind Regards

Claire Dennison
Sustainable Places Planning Advisor

MY CONTACT DETAILS:

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Email: Claire.Dennison@environment-agency.gov.uk

TEAM CONTACT DETAILS:

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Environment Agency, Lateral, 8 City Walk, Leeds, LS11 9AT

Charging for planning advice

We began charging for some of our planning advice.

For more information please see our web pages at <https://www.gov.uk/government/publications/planning-advice-environment-agency-standard-terms-and-conditions> or speak to your local Sustainable laces team.