

External Memo: technical note

To	Eva Neale, Stratford-on-Avon District Council
From	Samantha Cheater, Lepus Consulting
Subject	The Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 - impacts for Neighbourhood Development Plans
Date	04 th November 2019
CC	Jo Bozdoganli, Stratford-on-Avon District Council Neil Davidson, Lepus Consulting Catherine Wright, Lepus Consulting

Summary

This technical note has been written to expand on how ‘The Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018’ affect the HRA Screening process for Neighbourhood Development Plans in the Stratford-on-Avon District.

The Conservation of Habitats and Species and Planning Regulations 2018

1. ‘The Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018’ is available at <http://www.legislation.gov.uk/uksi/2018/1307/made>.
2. The Neighbourhood Planning (General) Regulations 2012, Schedule 2 (Habitats), paragraph 1, previously stated:

“In relation to the examination of neighbourhood development plans the following basic condition is prescribed for the purpose of paragraph 8(2)(g) of Schedule 4B to the 1990 Act—

The making of the neighbourhood development plan is not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2010) or a European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007) (either alone or in combination with other plans or projects)”.

3. In ‘The Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018’, the above text has been amended to:

“In relation to the examination of neighbourhood development plans the following basic condition is prescribed for the purpose of paragraph 8(2)(g) of Schedule 4B to the 1990 Act—

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”.

4. Chapter 8, Part 6, Paragraph 105 of The Conservation of Habitats and Species Regulation 2017 states

“Where a land use plan—

a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and
b) is not directly connected with or necessary to the management of the site,
the plan-making authority for that plan must, before the plan is given effect, make an appropriate assessment of the implications for the site in view of that site’s conservation objectives”.

5. The changes mean that where the adoption of a Neighbourhood Development Plan could be likely to have a significant effect on a European site (either alone or ‘in combination’), the Plan will be subject to a full Appropriate Assessment, which can be used to demonstrate how potential

impacts will be mitigated. Mitigation should not be included in the HRA Screening stage of a Plan.

6. A 'Letter about Habitats Regulations Assessment (January 2019)' from the Ministry of Housing, Communities and Local Government to chief planning officers regarding this change can be found at

<https://www.gov.uk/guidance/planning-guidance-letters-to-chief-planning-officers>

Neighbourhood Development Plan Screenings – Stratford-on-Avon

7. The following recent/ current HRA Screening's carried out by Lepus Consulting within the Stratford-on-Avon District are compliant with 'The Conservation of Habitats and Species Regulations 2017' as well as 'The Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018': Bearley; Beaudesert & Henley-in-Arden; Claverdon; Clifford Chambers; Napton-on-the-Hill; Tysoe, Loxley and Ilmington.