

Kilmington Neighbourhood Development Plan

Strategic Environmental Assessment

Habitat Regulations Assessment

Screening Report

Prepared by Officers of East Devon District Council

July 2021

1. Introduction

- 1.1 The purpose of this report is to assess the draft proposals in the Kilmington Neighbourhood Development Plan ('the Plan'), covering the whole of Kilmington Parish, to determine whether it requires a Strategic Environmental Assessment (SEA) in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004 (as amended). An SEA is required under this legislation for all plans which may have a significant effect on the environment.
- 1.2 This report will also screen to determine whether or not the Plan requires a Habitats Regulations Assessment (HRA) in accordance with the Conservation of Habitats and Species Regulations 2017 (as amended). An HRA is required when there is the potential that the implementation of a plan could cause a likely significant effect on protected European Sites (Natura 2000 sites or national site network).
- 1.3 **With regard to the SEA, the conclusion of the assessment is that the Plan is unlikely to result in a significant adverse effect on the environment, subsequently SEA is not required.**
- 1.4 **With regard to the HRA, the assessment demonstrates that there is potential for significant effects on a European site, the River Axe SAC, through pollution from household effluent. An Appropriate Assessment has been carried out and strategic mitigation is in place through Policy EN19 of the East Devon Local Plan/ amendments to KNP policies to ensure that there will be no significant effects on the features of the SAC. It is therefore possible to conclude that, in combination with the Local Plan Policy, there will be no impact on the integrity of the European site.**
- 1.5 This report was sent to the three statutory consultees designated in the Regulations (Historic England, Environment Agency and Natural England) to elicit their views on the findings. The responses to this report are appended. **Addendum:** Further to additional supporting work by District Council officers to carry out a [Landscape and Visual Impact Assessment](#) and [Heritage Impact Review](#) in relation to the proposed allocations, and to incorporate an Appropriate Assessment within this Screening Report, in response to consultation on previous versions in January and May 2021, the consultees have now confirmed they support the report's conclusions.

2. SEA screening

- 2.1 The basis for Strategic Environmental Assessments and Sustainability Appraisal is the Environmental Assessment of Plans and Programmes Regulations 2004 (as amended), or SEA Regulations. Detailed Guidance of these regulations can be found in the Government publication 'A Practical Guide to the Strategic Environmental Assessment Directive' (ODPM 2005).
- 2.2 The objective of SEA is 'to provide for a high level of protection of the environment and contribute to the integration of environmental considerations into the preparation and adoption of development plans with a view to promoting sustainable development'.
- 2.3 Local authorities are legally obliged to assess the Plan proposals and advise plan producers as to whether an SEA is required. To ascertain if SEA is required, a "screening" exercise has been undertaken by East Devon District Council to evaluate the proposals of the Plan against the criteria set out in the SEA Regulations. This criterion is set out in Schedule 1 of the SEA Regulations.
- Should the screening report reach the conclusion that that Plan will have a significant impact on the environment; a full SEA should be undertaken.
 - If the conclusion is that a full SEA is not required, any significant variations or additions to the Plan will also be subject to screening.
- 2.4 An SEA has been undertaken as part of the adopted East Devon Local Plan 2013-2031 and has been taken into account whilst undertaking this screening assessment.

3.0 Kilmington Neighbourhood Plan

- 3.1 The Plan has been in production for approximately four years. It has undergone significant consultation and the Neighbourhood Plan Steering Group (NPSG) is currently assessing responses made to the Regulation 14 consultation.
- 3.2 East Devon District Council has been kept informed on progress and has offered support and guidance to the NPSG throughout and therefore can be fairly confident in the Plan's direction of travel. We have been asked to screen the draft Plan prior to submission.
- 3.3 The Plan is predominantly protective, recognising that parts of the parish are within one of two Areas of Outstanding Natural Beauty, that there are many important environmental features in the parish and that much of the village is designated as a conservation area.
- 3.4 The Plan makes two allocations for housing - one for around 14 mixed market and affordable dwellings (within but on the edge of the AONB) and one for 6-10 single level dwellings (aimed at older people, just outside the AONB) as well as permitting infill within the built up area boundary defined in the EDDC Villages Plan.
- 3.5 Kilmington is identified as a village with a Built up Area Boundary in the East Devon Villages Plan and is therefore considered to be a 'sustainable' settlement capable of meeting the basic everyday needs of residents and therefore suitable to accommodate some additional growth.

Figure 1 SEA Screening Flowchart (from A Practical Guide to the Strategic Environmental Assessment Directive)

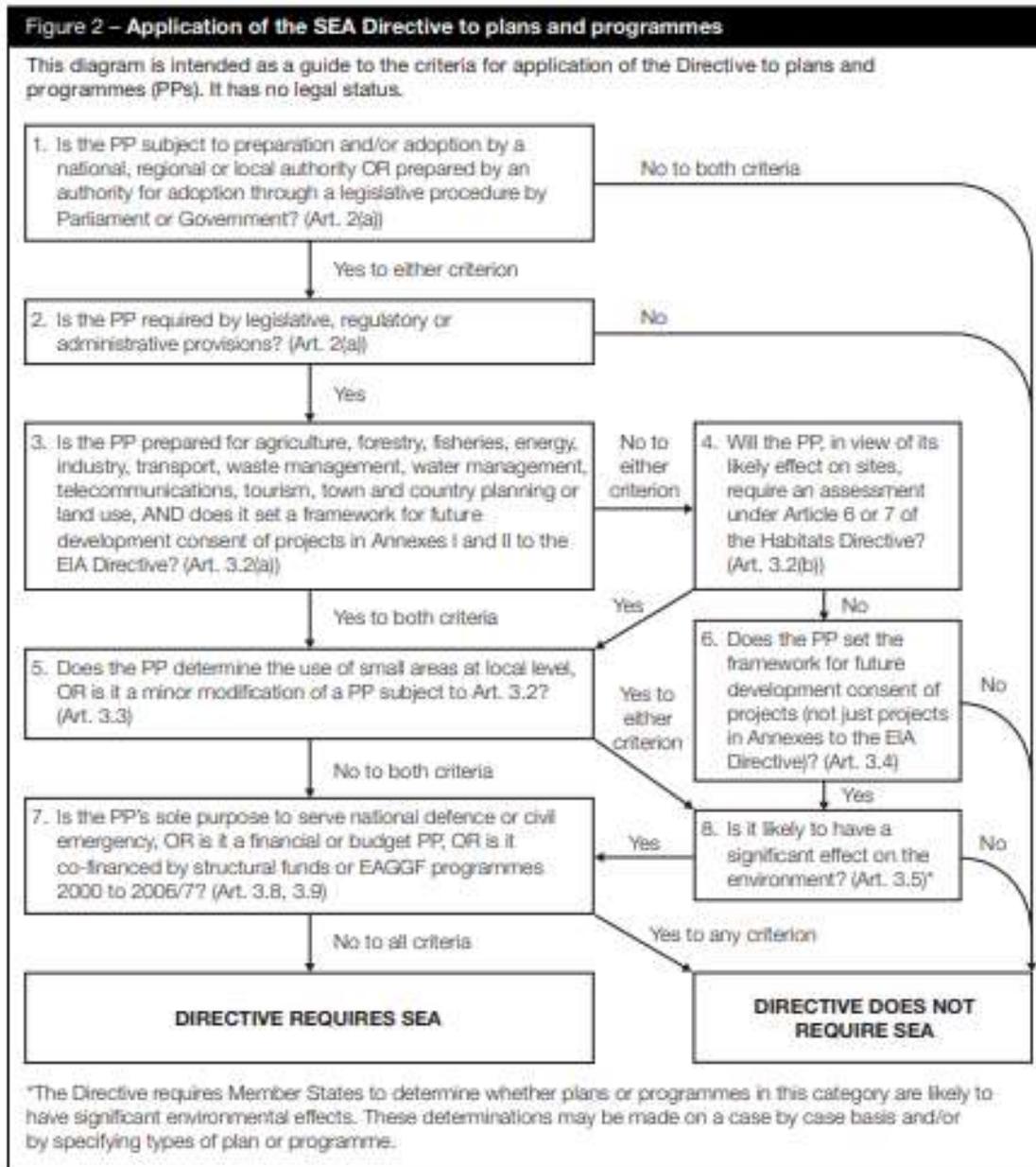


Figure 2: Screening assessment against the criteria for whether the Kilmington Neighbourhood Plan (and Neighbourhood Development Order) requires an SEA.

Stage	Y/N	Reason
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?	Yes	The Plan and Neighbourhood Development Order will be prepared by Kilmington Parish Council and 'made' (adopted) by East Devon District Council as part of the Development Framework, subject to a successful referendum.
2. Is the Plan required by legislative, regulatory or administrative provisions?	Yes	Localism Act 2011 The Plan meets the characteristics set out in the Government's Practical Guide to the SEA Directive in that that it will be publicly available, prepared in a formal way and involving consultation with interested parties.
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 consent of projects in Annexes I and II to the EIA Directive? (Reg 5 (2))	No	The Plan is prepared for Town and Country Planning and land use and is not considered to provide the framework for development of a scale that would fall within Annex II of the EIA Directive at a Neighbourhood Area level.
4. Will the Plan, in view of its likely effect on sites, require an assessment for future development under Articles 6 or 7 of the Habitats Directive?	Yes	The Plan will require an appropriate assessment.
5. Does the Plan determine the use of small areas at local level, OR is it a minor modification of a PP subject to Reg 5 (6)	Yes	The Plan will determine the use of small areas at a local, parish, level.
6. Does the PP set the framework for future development consent of projects (not just projects in annexes to the EIA Directive)?	Yes	The NDP will be 'made' and used as part of the development plan for determining planning applications in the Plan area.
7. Is the PP's sole purpose to serve the national defence or civil emergency, OR is it a financial or budget PP, OR is it co-financed by structural funds or EAGGF programmes 2000 to 2006/7?	No	

Stage	Y/N	Reason
8. Is the Plan likely to have a significant effect on the environment? Reg 5 (4)	No	See screening assessment for environmental effects in table 1 of this report.

4. Screening Assessment for Environmental effects

4.1 Under step 8 of the Application of the SEA directive (Table 1), in order to establish whether a plan requires an SEA, it was necessary to conduct a thorough assessment of whether the Plan is likely to have a significant effect on the environment.

4.2 The table below sets out the criteria by which the site allocation in the Plan should be judged, as outlined in the SEA Regulations.

Table 1: Environmental impact screening assesment

Criteria for determining the likely significance of effects (Schedule 1 of SEA regulations)	Comment
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.	The type and distribution of development at Kilmington will support policies contained within the adopted East Devon Local Plan. Kilmington is a settlement with a Built-up Area Boundary and therefore a level of new development (commensurate with the size of the settlement and available facilities) was considered when the Local Plan was subject to SEA. The two housing allocations will be seen in the context of existing development and a detailed landscape assessment (undertaken by a qualified landscape architect) has concluded that the visual impact is not unacceptable.
The degree to which the plan or programme influences other plans and programmes including those in a hierarchy.	The Plan must be in general conformity with the adopted East Devon Local Plan and have regard to national policies. It must also be compatible with EU law and the ECHR obligations.
The relevance of the plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development.	The Plan will contribute towards the achievement of sustainable development, as required by the “basic conditions” on which the Plan will be judged by at examination.
Environmental problems relevant to the plan or programme.	Development of the type and scale proposed has the potential to result in environmental problems. The River Axe Special Area of Conservation (SAC) lies approximately 1km from the village, on the boundary of the parish. The River Axe has been identified as being at risk from increased development, with Kilmington sewage

Criteria for determining the likely significance of effects (Schedule 1 of SEA regulations)	Comment
	<p>treatment works potentially contributing to adverse effects on the SAC through phosphorus (p) discharges. The Plan producers have agreed to amend the site allocation policies to provide a cross-reference to Policy EN19 in the East Devon Local Plan 2013-20312, which seeks to ensure water quality issues such as this are addressed, stating that permission can only be granted for new developments where the sewage treatment can be proven adequate. In addition policy will require the developer to comply with the measures set out in the emerging Axe Catchment Area Nutrient Management Plan. This is considered in the appropriate assessment within this report.</p>
<p>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).</p>	<p>These community legislation types are not relevant to the Plan and will not need to be considered.</p>
<p>The probability, duration, frequency and reversibility of the effects.</p>	<p>The Plan will influence development that will likely come forward over the Plan period and therefore any impact will be long term and not easily reversible, however this was considered in the SEA to the Local Plan and villages Plan.</p>
<p>The cumulative nature of the effects.</p>	<p>The cumulative effects of the Plan are not considered to have potential for significant adverse effect on the environment on the basis of the information available.</p>
<p>The trans-boundary nature of the effects.</p>	<p>There are not considered to be any proposals in the Plan or NDO which will have a significant trans-boundary effect.</p>
<p>The risks to human health or the environment (e.g. due to accidents).</p>	<p>There is not considered to be potential for risks to human health. The housing allocation south of the A35 includes a requirement for planting to reduce the impact of exhaust particulates on new and existing residents so an overall improvement will result.</p>
<p>The magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected).</p>	<p>The Plan is concerned only with development within the Neighbourhood Area (which covers all of the Parish of Kilmington).</p>
<p>The value and vulnerability of the area likely to be affected due to: special natural</p>	<p>Kilmington Parish contains some areas of value and vulnerability.</p>

Criteria for determining the likely significance of effects (Schedule 1 of SEA regulations)	Comment
<p>characteristics or cultural heritage; exceeded environmental quality standards or limit values; intensive land-use.</p> <p>The effects on areas or landscapes which have a recognised national, community or international protection status.</p>	<ul style="list-style-type: none"> • 33 listed buildings or structures (all Grade II except Grade II* St Giles Church) • Two ancient orchards • A County Wildlife Site • Potential archaeology • Two Areas of Outstanding Natural Beauty <p>European sites within the parish:</p> <ul style="list-style-type: none"> • River Axe SSSI,SAC <p>A landscape assessment has been undertaken by a qualified landscape architect and has concluded that the likely impacts (particularly on the AONB's) of the proposed development are not considered significant. Notwithstanding that the development as proposed falls below the threshold for 'significant' he has suggested mitigation which would further lessen the impact. A heritage assessment has been undertaken by a qualified conservationist. This concludes that the allocated housing sites will not result in an unacceptable impact on any heritage assets. Opportunities to improve the setting of a listed building adjacent to one of the housing allocations (through the undergrounding of an electricity transformer and wires) have been identified. Opportunities to minimize the impact of the development through use of traditional vernacular materials, design and layout have been identified.</p>

The maps below show the locations of the areas of value and vulnerability. Housing allocations and infill are proposed adjacent to/within the BUAB so listed buildings and the conservation area are shown in detail on the larger scale second map.





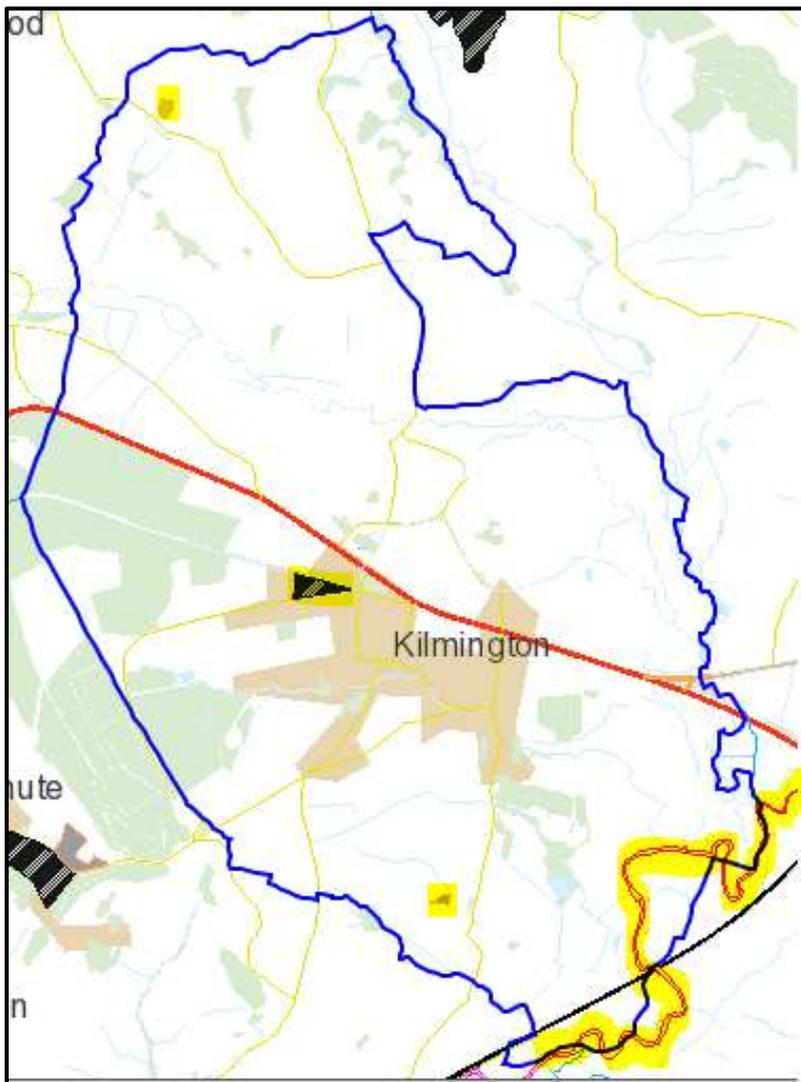
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5.0 Conclusion

5.1 The Plan does not require a Strategic Environmental Assessment. Subject to the housing allocation Policies cross-referring to Policy EN19 of the East Devon Local Plan (to ensure that the potential for phosphorous to enter the River Axe is addressed prior to development commencing), the Plan does not have the potential to result in a significant environmental impact and proposes a level of development in broad conformity with the adopted Local Plan. Allocated sites, infill and (limited) self-build are proposed within or adjacent to the BUAB and this limits potential harm elsewhere in the parish. The other policies of the plan are protective in nature.

6. Habitat Regulations Assessment (HRA) Screening

- 6.1 The Regulation 14 version of the Plan forms the basis of this initial screening assessment. Any variations or additions to the aims and objectives may require a further screening. A screening report was produced as part of the production of the Local Plan. [Footprint Ecology Report - Habitat Regulation Assessment of East Devon Local Plan](#) and has been taken into account in undertaking this screening assessment.
- 6.2 The HRA needs to satisfy the following Regulation:
- Habitat Regulation 105 & 106 of The Conservation of Habitats and Species Regulations 2017 (referred to as Habitat Regulations 2017 (as amended) in this document)
- The Habitat Regulations 2017 afford protection to plants, animals and habitats that are rare and vulnerable in a European context.
- 6.3 Habitats Regulations Assessment (HRA) is a systematic process through which the performance of a plan or project can be assessed for its likely impact on the integrity of a European Site. European Sites, also referred to as Natura 2000 sites or national site network, consist of Special Protection Areas (SPA), Special Areas of Conservation (SAC); Potential Special Protection Areas and candidate Special Areas of Conservation (pSPA and cSAC); and listed or proposed Ramsar sites.
- 6.4 There are European Site(s) of relevance to the Kilmington Neighbourhood Plan within the Parish. The River Axe is a SAC and SSSI and forms a significant length of the south eastern boundary to the parish (shown red, highlighted with yellow). Natural England have been consulted on a draft of this document by the District Council and will be consulted on this version.
- 6.5 Of more local importance, Kilmington Common, on the north western edge of the village, is a County Wildlife Site. There are also two traditional orchards in the parish. These are located to the north and south of the parish, well outside the built up area. All of these features are highlighted yellow on the map.



6.6 HRA screening must address the question “Is the Plan, either alone or in combination with other relevant projects and plans, likely to result in a significant effect upon European sites? The table below appraises the effect of allocations or policies within the KNP which have the potential to significantly affect European sites within or with a pathway of impact from the KNP. The precautionary principle must be used when assessing whether adverse effects are significant.

European Site	Qualifying Features	Threats/Pressures	Pathways of Impact (arising from development relating to the KNP)	Likely significant effects (including in combination)	Screen in or out
Rive Axe SAC and SSSI	* S1095 Petromyzon marinus: Sea lamprey * H3260 Water courses of plain to montane levels with	Water Pollution is the main threat Pollution as a result of run-off from agricultural fields and household effluent (i.e. from sewage treatment works and septic tanks) can lead to	Impact of pollution from household effluent (i.e. from sewage treatment works and septic tanks)	Yes	In

European Site	Qualifying Features	Threats/Pressures	Pathways of Impact (arising from development relating to the KNP)	Likely significant effects (including in combination)	Screen in or out
	the Ranunculion fluitantis and Callitriche-Batrachion vegetation * S1096 Lampetra planeri: Brook lamprey * S1163 Cottus gobio: Bullhead	elevated levels of phosphate within the river. In turn, this can lead to excessive weed/algal growth resulting in changes to water chemistry, which is potentially damaging to the designated features of the SAC Siltation Invasive Species Inappropriate structures such as weirs and dams			

6.7 As new development is proposed allocations are within the River Axe catchment and has the potential to increase phosphate loading, therefore, in combination with the level of growth in the Local Plan it is concluded that there is a Likely Significant Effect so an appropriate assessment must be carried out.

6.8 Appropriate Assessment

In combination with the windfall and limited other development permitted by the policies in the East Devon Local Plan there is potential for the development identified in the KNP to increase household effluent and therefore increase pollution in the River Axe (approximately 1km to the west). The East Devon Local Plan recognises in *Strategy 20-Axminster* that development in the Axminster area has the potential to impact upon the River Axe and states, in criteria 6, that “Environment- make sure that any development does not harm wildlife and habitats in the Axminster area. In particular, the water quality of the River Axe and the surrounding wildlife sites should be protected.” Strategy 47- Nature Conservation and Geology establishes that mitigation will be required if harmful impacts to a European designated site are predicted or could arise. Where such harmful impacts arise as a result of pollution, they are controlled by Policy EN14 of the Local Plan in addition to EN18 which requires water quality and quantity to be maintained and EN19 which requires foul sewers and sewage treatment systems to be adequate.

6.9 The KNP proposes two housing sites to be allocated and there are policies supporting limited infill and up to 10 self-build houses. Kilminster is identified in the Local Plan as a village with a good range of everyday facilities and services which is suitable to accommodate an appropriate amount of

housing growth. It is considered that the approach proposed in the Neighbourhood Plan is well thought out and will provide a balanced mix of housing to meet local needs, suited to the scale of the village and the facilities available and at a level envisaged by the Local Plan. Most housing will be on the two allocated sites with the remainder being subject to strict locational criteria. Mains sewerage is available to the village and it is anticipated that new development will be connected to this mains provision.

6.10 The potential for pollution was recognised in the River Axe Site Improvement Plan and actions were proposed to address the issue:

1D Walkover surveys in the catchment to identify diffuse and point source pollution

1E Investigate the locations of septic tanks within the River Axe catchment to identify potential sources of pollution including phosphate (SSSI Risk Assessment of Septic Tanks underway as part of a national project).

1I Investigate the need to improve discharges from sewage treatment works in line with the best available technology to accommodate housing growth.

The lead delivery body for each of these actions is Natural England (with the Environment Agency for action 1D), to timescales between 2014-2020.

6.11 The Kilmington sewage treatment works has potential to contribute to adverse effects on the SAC through phosphorus (p) discharges (See 1I above). The Neighbourhood Plan producers have agreed to amend the site allocation policies to provide a cross-reference to Policy EN19 in the East Devon Local Plan 2013-2031, which seeks to ensure water quality issues such as this are addressed, stating that permission can only be granted for new developments where the sewage treatment can be proven adequate. This will be read alongside the wider local plan policies including those relating to water quality and management of sewage.

6.12 In addition to the reference to local plan policy EN19, the neighbourhood plan policy will require the developer to comply with the measures set out in the emerging Axe Catchment Area Nutrient Management Plan and will not permit permission to be granted, or development commenced, until it can be demonstrated that no increase in phosphates will result. This ACANM Plan identifies a need for mitigation, how net adverse impacts can be calculated and potential mitigation options. This Plan is supported by the Axe Catchment/Triple Axe Project, being advanced by a multi-agency steering group, which considers the overall environmental quality of the Axe and identifies measures to bring about environmental improvements. This project will secure schemes to facilitate phosphate removal, funded through development contributions.

6.13 It is therefore possible to conclude that, in combination with the East Devon Local Plan, the possible effects are considered to have been appropriately assessed and measures are in place to ensure that any effects are addressed prior to development being granted consent, or development commencing, and therefore there will be no impact on the integrity of the SAC.

7. Conclusion/Screening Outcome

7.1 The assessment demonstrates that there is potential for significant effects on a European site, the River Axe SAC, through pollution from household effluent. An Appropriate Assessment has been carried out and strategic mitigation is in place through Policy EN19 of the East Devon Local Plan combined with amendments to KNP policies to ensure that there will be no significant effects on the features of the SAC. It is therefore possible to conclude that, in combination with the Local Plan Policy, there will be no impact on the integrity of the European site.

- 7.2 SEA screening: Regulation 5(1) of the Environmental Assessment of Plans and Programmes Regulations 2004 (“the SEA Regulations”) provides that an environmental assessment (an SEA) must be carried out in a number of circumstances, including where the plan or programme, in view of the likely effect on sites, has been determined to require an assessment pursuant to Article 6 or 7 of the Habitats Directive (i.e. appropriate assessment by way of an HRA).
- 7.3 However, this requirement is subject to an exception contained in Regulation 5(6) which provides that an environmental assessment need not be carried out for a plan or programme “which determines the use of a small area at local level” unless the plan has been determined to be likely to have significant environmental effects. Whether the plan is likely to have significant environmental effects needs to be determined by reference to the criteria in Schedule 1 of the 2004 Regulations. These criteria are set out in a series of questions in section 4 of this report.
- 7.4 The assessment in section 4 does not reveal any significant effects in the environment resulting from the Kilmington Neighbourhood Plan. The plan is of a small scale providing for two small sites (around 21 dwellings) as well as a small amount of windfall development and up to 10 self-build dwellings in line with the strategic policies of the East Devon Local Plan. The development boundary and locations for development are based on appropriate evidence and are chosen to avoid environmental effects. As well as criteria-based policies in the KNP, the policy framework exists in the East Devon Local Plan (which was itself subject to SEA and HRA) to ensure protection of the environment. SEA is therefore not required.

Statutory Consultee Responses

Environment Agency

From: SPDC <SPDC@environment-agency.gov.uk>
Sent: 21 May 2021 12:08
To: Planning Policy <PlanningPolicy@eastdevon.gov.uk>
Subject: RE: Kilmington Neighbourhood Plan - SEA/HRA Consultation

Dear Angela,

Thank you for your consultation of 19th May 2021 providing us with the opportunity to comment in respect of the Kilmington Neighbourhood Plan updated SEA/HRA screening opinion.

In general we consider that it is unlikely that neighbourhood plans will result in any significant environmental effects unless the plan allocates or encourages development over that set out in the Local Plan. Otherwise we consider that any potential for environmental effects from growth in the parish should already have been addressed through the Sustainability Appraisal (SA) which supported the adopted Local Plan.

Please note, this is a standard response. If you consider the plan will result in significant environmental effects please re-consult us.

Kind regards,

Harriet Fuller
Planning Advisor, Sustainable Places
Environment Agency | Manley House, Exeter, EX2 7LQ

SPDC@environment-agency.gov.uk
External: 02030 256485 / 07785 601 798

Please note: I am on study leave on Tuesdays



Historic England

From: Stuart, David <David.Stuart@HistoricEngland.org.uk>
Sent: 30 June 2021 16:10
To: Angela King <AKing@eastdevon.gov.uk>
Subject: Kilmington Neighbourhood Plan - SEA/HRA Consultation

Dear Angela

Thank you for your consultation on the amended SEA Screening Report for the emerging Kilmington Neighbourhood Plan.

The Heritage Assessment included in the updated Report is most impressive and provides a thorough and informed consideration of the necessary historic environment considerations in accordance with our guidance on Site Assessments, Setting, and SEAs respectively.

On this basis, the fact that this evidence has been prepared by and/or approved utilising your authority's in house heritage expertise (we presume its conservation officer), and that the relevant policies will be amended as appropriate to accommodate the Assessment's recommendations, I can confirm that we now have no objection to the view that a full SEA is not required.

It will be helpful to the NP process for the Assessments in question to formally support the Plan as available evidence documents. We will then be able to confirm that we have no residual issues to raise concerning the Plan when consulted at the Regulation 16 stage.

Kind regards

David

David Stuart | Historic Places Adviser

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Date: 17th August 2021
Our ref: 363477
Your ref: Kilmington NDP revised SEA/HRA Screening



Angela King
Neighbourhood Planning Officer
East Devon District Council

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BY EMAIL ONLY

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T 0300 060 3900

Dear Angela

Consultation: Kilmington Neighbourhood Plan – SEA/HRA

Thank you for your consultation on the above dated 28 July 2021 which was received by Natural England on the same day.

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.

Strategic Environmental Assessment - screening

Natural England notes, and welcomes, the changes made to the SEA screening report in light of our previous comments. The changes clarify the rationale behind the conclusions made. To reiterate, in so far as our strategic environmental interests (including but not limited to statutory designated sites, landscapes and protected species, geology and soil) are concerned, we concur that there are unlikely to be significant environmental effects from the proposed plan.

Habitats Regulations Assessment – screening and appropriate assessment requirements

Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the plan in accordance with regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process.

Your appropriate assessment concludes that your authority is able to ascertain that the plan will not result in adverse effects on the integrity of the River Axe SAC. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the plan, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in the policy text.

For any queries relating to the specific advice in this letter only please contact **Stephanie Parker- Stephenson**. on **07799438517**. For any new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

Yours sincerely

Stephanie Parker-Stephenson
Lead Adviser (Sustainable
Development) Devon, Cornwall and
Isles of Scilly Area Team