

Determining the need for SEA/HRA: Bentley Neighbourhood Plan

Date of assessment: 20th April 2015

The Planning and Compulsory Purchase Act 2004 requires all local development documents (LDDs) to be supported, and to a great extent led, by a formal Sustainability Appraisal (SA) designed to meet the requirements of the SEA Directive. This requirement was amended as part of the Planning Act 2008 to only require full SA of development plan documents (DPDs) which are those documents that make up a 'local plan.' There is no requirement under either Act for a full SA to be prepared for Neighbourhood Development Plans. However, SEA may still be required.

Following the amendment to the Neighbourhood Planning (General) Regulations 2012 in February 2015 there is now a requirement for either an Environmental Report or a statement of reasons why an Environmental Report is not required to be submitted to the Local Planning Authority under Regulation 15. In the event that the following report is completed and no SEA is required then this document will comprise this aspect of the submission package.

The National Planning Practice Guidance (NPPG) suite, amended in February 2015, provides an overview of the approach that should be taken when identifying the need for SEA of Neighbourhood Development Plans:

"In some limited circumstances, where a neighbourhood plan is likely to have significant environmental effects, it may require a strategic environmental assessment. Draft neighbourhood plan proposals should be assessed to determine whether the plan is likely to have significant environmental effects. This process is commonly referred to as a "screening" assessment and the requirements are set out in regulation 9 of the Environmental Assessment of Plans and Programmes Regulations 2004.

If likely significant environmental effects are identified, an environmental report must be prepared in accordance with paragraphs (2) and (3) of regulation 12 of those Regulations.

One of the basic conditions that will be tested by the independent examiner is whether the making of the neighbourhood plan is compatible with European Union obligations (including under the Strategic Environmental Assessment Directive)."

The Environmental Assessment of Plans and Programmes Regulations 2004 (EAPP Regulations) are used to determine whether a plan or programme (PP) such as the Bentley Neighbourhood Plan require SEA, directing the responsible authority in a series of steps to reach a view.

The following assessment, in accordance with the EAPP Regulations, was undertaken by East Hampshire District Council to identify any requirement for full SEA. The relevant Articles from the SEA directive are given in brackets:

Regulation	Yes/No	Reason
<p>Regulation 2 (1)</p> <p>PP means plans and programmes, including those co-financed by the European Community, as well as any modifications to them, which –</p> <p>(a) are subject to preparation or adoption by an authority at national, regional or local level; or</p> <p>(b) are prepared by an authority for adoption, through a legislative procedure by Parliament or Government; and in either case,</p> <p>(c) are required by legislative, regulatory or administrative provisions;</p> <p>(Article 2(a))</p>	Yes	<p>The Bentley Neighbourhood Plan is prepared by Bentley Parish Council. Upon successful completion of an examination and referendum it will be made by the local authority as part of the development plan. It is regulated by legislative procedures.</p>
<p>Regulation 5(2)</p> <p>Is it a PP which:</p> <p>(a) Is prepared for agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, tele-communications, tourism, town and country planning or land use; AND</p> <p>(b) Sets the framework for future development consent of projects in Annex I or II to Council Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment, as amended by Council Directive 97/11/EC?</p> <p>(Article 3.2(a))</p>	Yes	<p>NPs will cover town and country planning/land use, and may also cover other issues in the list set out. In addition, it will also set part of the framework for possible future consents covered by Annex II of the EIA Directive. Development under Annex I however, would be excluded development.</p>
<p>Regulation 5(3)</p> <p>Has the PP, in view of the likely effect on sites, been determined to require an assessment pursuant to Article 6 or 7 of the Habitats Directive?</p> <p>(Article 3.2(b))</p>	No	<p>Natural England has been consulted in relation to the requirement and the LPA has carried out a HRA of the East Hampshire Site Allocations Plan. The settlement of Bentley is well over 5km from the Wealden Heaths Phase II Special Protection Area and Solent European sites therefore no further assessment work will be required.</p>
<p>Regulation 5(4)</p> <p>Is the first formal preparatory act of the plan on or after 21st July 2004; and does the plan set the framework for future</p>	Yes	<p>The first formal preparatory act falls after 21st July 2004 and the plan does set the framework for future development consent of projects.</p>

development consent of projects?		
<p>It may be required that the Plan would be automatically eligible for full SEA, unless:</p> <ul style="list-style-type: none"> - The answer to the questions posed by Regulation 5(2) are both No; or - The answer to questions posed by exemptions set out under Regulation 5(5) or 5(6) apply. <p>In either event the tests set out under Regulation 9(1) below must then be satisfied to ensure that no significant environmental effect is likely and no SEA is required.</p>		
<p>Regulation 5(5)</p> <p>Is the PP's sole purpose to serve national defence or civil emergency; a financial or budget PP; or is it co-financed under Council Regulations (EC) No's 1260/1999 or 1257/1999?</p> <p>(Articles 3.8, 3.9)</p>	No	These do not apply.
<p>Regulation 5(6)</p> <p>Does the PP:</p> <ul style="list-style-type: none"> (a) Determine the use of a small area at local level; or (b) Propose a minor modification of an existing PP subject of the regulations. <p>(Article 3.3)</p>	Yes	<ul style="list-style-type: none"> (a) A NP can determine the use of small areas at the local level. (b) The Bentley Neighbourhood Plan does not propose minor modifications of an existing PP subject of the regulations.
<p>It may still be required that the Plan would be eligible for full SEA, unless it is determined that it will not give rise to significant environmental effects under Regulation 9.</p>		
<p>Regulation 9(1)</p> <p>Is the PP likely to have a significant effect on the environment taking into account the views of the consultation bodies and the criteria set out at Schedule 1 of the Regulations?</p> <p>(Article 3.5)</p>	No	<p>Following consultation with Natural England, Historic England (formerly English Heritage), the Environment Agency and the findings of the LPA's Sustainability Appraisal of the East Hampshire Site Allocations Plan, the following conclusion has been reached:</p> <p>The Bentley Neighbourhood Plan proposes to only allocate a single small site for approximately 10 dwellings, given that planning permission has recently been granted for 37 dwellings in Bentley. Due to the size and capacity for only 10 dwellings on the site, it is deemed unlikely to have a significant effect on the environment.</p>

Determining significant environmental effects

The following assessment has been made as to whether the plan is likely to have any significant environmental effects against the Schedule 1 criteria in the EAPP Regulations, set out below.

Criteria set out in Schedule 1 of the Environmental Assessment of Plans and Programmes Regulations 2004	Assessment	Significant environmental effect (positive or negative)?
The characteristics of plans and programmes, having regard to:		
The degree to which the plan or programme sets a framework for projects and other activities, either in regard to location, nature, size and operating conditions or by allocating resources.	The NP only sets the framework for projects in a local context. There is a statutory requirement for this Plan's policies to be within the context of strategic policies in the adopted development plan. It therefore cannot provide for development that significantly exceeds, at a strategic level, the intentions of the adopted Local Plan. Rather, it provides for local village allocations.	None likely
The degree to which the plan or programme influences other plans and programmes including those in the hierarchy.	Whilst Neighbourhood Plans comprise part of the statutory development plan for the LPA area, they are required to conform to the strategic policies of the development plan. They are effectively the bottom tier of the statutory policy pyramid.	None likely
The relevance of the plan or programme for the integration of environmental considerations, in particular, with a view to promoting sustainable development.	The NP will have regard to the objective of achieving sustainable development in the local area. It will be in conformity with the strategic policies in the adopted East Hampshire District Local Plan: Joint Core Strategy.	None likely
Environmental problems relevant to the plan or programme.	The Plan will seek to address environmental, economic and social issues in the neighbourhood area.	None likely
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).	The Plan is not relevant in this instance, as the matters described are guided by higher level legislation (and in some instances these matters fall under the category of 'excluded development' for Neighbourhood Development Plans). Instead, the policies of the Plan must have regard to these matters and seek to ensure that any development it promotes does not compromise the objectives of higher level strategies.	None likely
The characteristics of the effects and of the area likely to be affected, having regard, in particular, to:		
The probability, duration, frequency and reversibility of effects.	The Neighbourhood Plan will set the local vision, objectives and policies to guide new development in the neighbourhood area.	None likely
The cumulative nature of the effects.	Ultimately the cumulative nature of the effects can be characterised by the impact that residents of the level of new homes planned for the village will have on the environment. Whilst it is accepted	None likely

	that, unmitigated, there may be a number of potential effects around traffic movement, waste generation, recreational uses and impact on the water environment, the Plan in combination with the adopted development plan and other plans and programmes propose measures to restrict and neutralise the impact of new development in and around areas of sensitivity.	
The trans-boundary nature of the effects.	There will be no trans boundary effects (in relation to other EU member states).	None likely
The risks to human health or the environment (for example, due to accidents).	It is highly unlikely that the Plan will give rise to any significant instances of risk to human health.	None likely
The magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected).	As identified above it is highly unlikely that any environmental effect brought about by the Plan will be of any magnitude or impact on any area of scale. Neighbourhood Plans have a very limited ability to influence the delivery of strategic levels of development and this particular Neighbourhood Plan only seeks to direct development to a small area at local level.	None likely
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.	The Neighbourhood Plan proposes to only allocate a single small site for approximately 10 dwellings which the Sustainability Appraisal for the Site Allocations Plan has shown has no special characteristics etc. Development on site however may present an opportunity to enhance the ecological network of the area through new and additional planting.	None likely
The effects on areas or landscapes which have a recognised national, Community or international protection status.	The settlement of Bentley is well over 5km from the Wealden Heaths Phase II Special Protection Area and Solent European sites.	None likely

Determination of the requirement for SEA

As a result of the assessment set out above and initial consultation with the statutory bodies, East Hampshire District Council, as the responsible authority, determines that:

Following its assessment against Schedule 1 of the EAPP Regulations it is the view of the three statutory bodies as well as the LPA that the Plan will not give rise to any significant environmental effects. Therefore, a full Environmental Report is not required in support of the Bentley Neighbourhood Plan.