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District Council

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# **Strategic Environmental Assessment and Habitat Regulation Assessment Screening Opinion**

## **Lickey & Blackwell and Cofton Hackett Neighbourhood Development Plan**

**March 2018**

# Lickey & Blackwell and Cofton Hackett Neighbourhood Development Plan

## SEA & HRA Screening Determination

### 1. Introduction

This report sets out the screening assessment for the Lickey, Blackwell & Cofton Hackett Neighbourhood Development Plan and has been prepared by Bromsgrove District Council. The purpose of the screening is to assess if the Neighbourhood Plan will require a Strategic Environmental Assessment (SEA) and /or a Habitat Regulation Assessment (HRA). Section 10 shows the report conclusions for the screening assessment.

### 2. Introduction to Strategic Environmental Assessment and Habitat Regulation Assessment

#### Introduction to Strategic Environmental Assessment (SEA)

A Strategic Environmental Assessment (SEA) is required under European legislation for all plans which may have a significant effect on the environment. This particularly relates to plans that designate sites for development. When a neighbourhood plan becomes “made” (adopted) it will have legal status as a statutory development plan document. As the Neighbourhood Plan will become a statutory development plan document, there is a legal requirement to assess the policies and proposals in the Neighbourhood Plan against the requirements of European Union Directive 2001/42/EC; also known as the “Strategic Environmental Assessment (SEA) Directive”. The objective for SEA is: *“to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development, by ensuring that, in accordance with this Directive, and environmental assessment is carried out of certain plans and programmes which are likely to have significant effects on the environment.”* (SEA Directive, Article 1).

The SEA Directive was incorporated into national law through The Environmental Assessment of Plans and Programmes Regulations 2004 (SI 2004 No 1633) (the SEA Regulations). Detailed guidance on these regulations can be found in the Government publication ‘A Practical Guide to the Strategic Environmental Assessment Directive’ (ODPM 2005). While this guidance pre-dates Neighbourhood Plans, it remains a relevant and useful document and provides the definitive government guidance.

#### Habitat Regulation Assessment (HRA)

The Habitats Regulation (2010) requires an assessment of land use planning proposals associated with neighbourhood plans. The assessment process examines the likely significant effects of the different spatial options on the integrity of the European wildlife sites of nature conservation importance within, close to or connected to the plan area. European wildlife sites are areas of international nature conservation importance that are protected for the benefit of the habitats and species they support. This assessment is known as a Habitat Regulation Assessment (HRA). For the purposes of the HRA, international designated wildlife sites are Special Protection Areas (SPA), Special Areas of Conservation (SAC), and Ramsar wetland sites.

### 3. Neighbourhood Plans and SEA & HRA

Regulation 15 of the 2012 Neighbourhood Planning (General) Regulations sets out the information that must accompany a Neighbourhood Plan when submitted to the local planning authority. In February 2015 amendments to the Neighbourhood Plan Regulations came into force; this is known as the Neighbourhood Planning (General) (Amendment) Regulations 2015. Regulation 2(4) of these amendments adds additions to the list of documents that a qualifying body must submit to a local planning authority with a Neighbourhood Plan. The additional document which must be submitted is either an environmental report prepared in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004, or a statement of reasons why an environment assessment is not required. The amendment to the Regulations is to ensure that the public can make informed representations and that independent examiners have sufficient information before them to determine whether a neighbourhood plan is likely to have significant environmental effects.

The National Planning Practice Guidance (NPPG) states that one of the basic conditions that will be tested at examination stage is to see if the Neighbourhood Plan is compatible with the European Union obligations (including under the Strategic Environmental Assessment Directive).

The National Planning Policy Framework (NPPF) makes it clear that *“A sustainability appraisal which meets the requirements of the European Directive on strategic environmental assessment should be an integral part of the plan preparation process, and should consider all the likely significant effects on the environment, economic and social factors.”* (NPPF para 165). The NPPF goes on to say that *“Local Plans may require a variety of other environmental assessments, including under the Habitats Regulations where there is a likely significant effect on a European wildlife site.”* (NPPF para 166).

However, as a Neighbourhood Plan is not a ‘Local Plan’, it may not need an environment assessment of the type normally required when preparing Local Plans. A Strategic Environmental Assessment (SEA) will only be required for a Neighbourhood Plan if it is likely to cause significant environment effects. Neighbourhood Plans that are located near to a European wildlife site may also trigger the Habitats Directive depending on how complex the proposed policies are. The Duty to Cooperate requires the Local Planning Authority (alongside Natural England, Environment Agency, and English Heritage) to advise and assist on SEA and HRA requirements. This involves the Local Planning Authority undertaking a screening assessment of the emerging Neighbourhood Plan proposals at an early stage to ascertain whether they will trigger any EU directives or Habitat directives and thus to avoid the community and local authority undertaking unnecessary work.

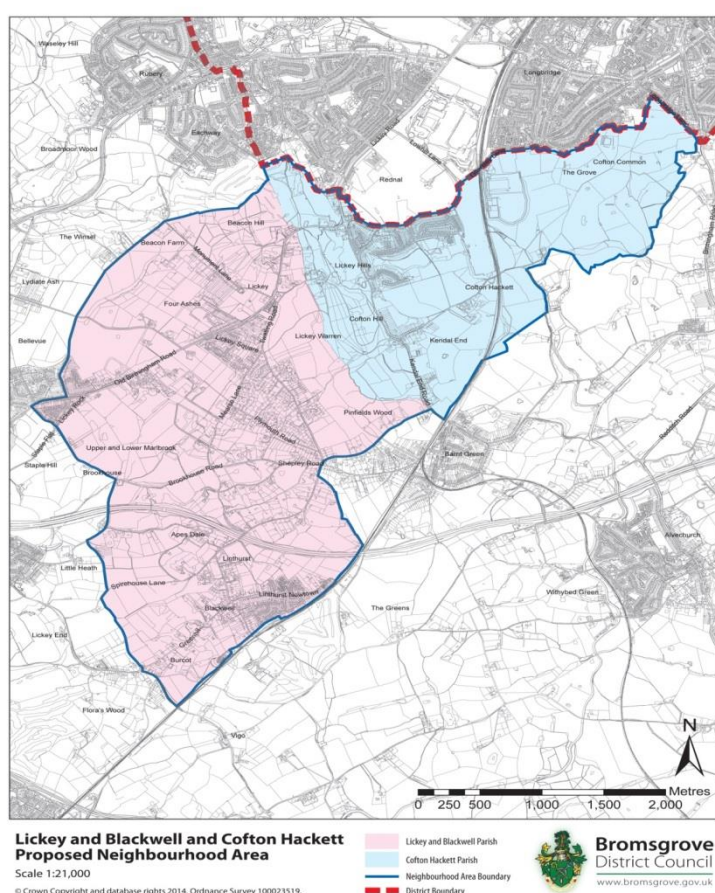
If an SEA or HRA is found to be required, the gathering of evidence for its preparation can be integrated into the process of producing the Neighbourhood Plan. If the outcome concludes that an SEA or HRA is not necessary, a statement will be prepared that sets out how environmental issues have been taken into account and considered during the preparation of the Neighbourhood Plan. This statement will be submitted to the Local Planning Authority with the proposed Neighbourhood Plan following the pre-submission consultation.

#### 4. The Lickey & Blackwell and Cofton Hackett Neighbourhood Development Plan

Work on the Lickey, Blackwell & Cofton Hackett Neighbourhood Plan commenced in 2014. A steering group of parish councillors and interested residents from both parishes was set up to oversee the preparation of the Neighbourhood Plan.

Lickey, Blackwell and Cofton Hackett are located in Bromsgrove District within Worcestershire and are located south of the City of Birmingham. The majority of the parish area is designated as Green Belt, with the small residential settlements of Blackwell, Lickey Hills and Cofton Hackett inset within the Green Belt.

**Figure 1: Lickey & Blackwell and Cofton Hackett Neighbourhood Development Plan Area.**



#### 5. Applying the SEA & HRA Screening to the Lickey & Blackwell and Cofton Hackett Neighbourhood Development Plan

The SEA screening is a two stage process consisting of:

Stage 1 – this stage considers the Neighbourhood Plan against the SEA assessment criteria set out in the national guidance “A Practical Guide to the Strategic Environmental Assessment Directive”, (Figure 2, ODP, 2005). If it is determined at this stage that there is potential for the

Neighbourhood Plan to have a significant effect on the environment then stage 2 should be carried out.

Stage 2 – this stage involves testing the relevant Neighbourhood Plan against the criteria set out in SEA Directive Article 3(5) Annex II, to determine the likely significance of environmental effects.

The HRA screening approach involves consideration of the internationally designated wildlife sites within a reasonable distance of the Neighbourhood Plan Area and the potential impact of the proposals within the plan on these designated sites. For the purpose of the HRA, international designated wildlife sites are Special Protection Areas (SPA), Special Areas of Conservation (SAC) and Ramsar wetland sites.

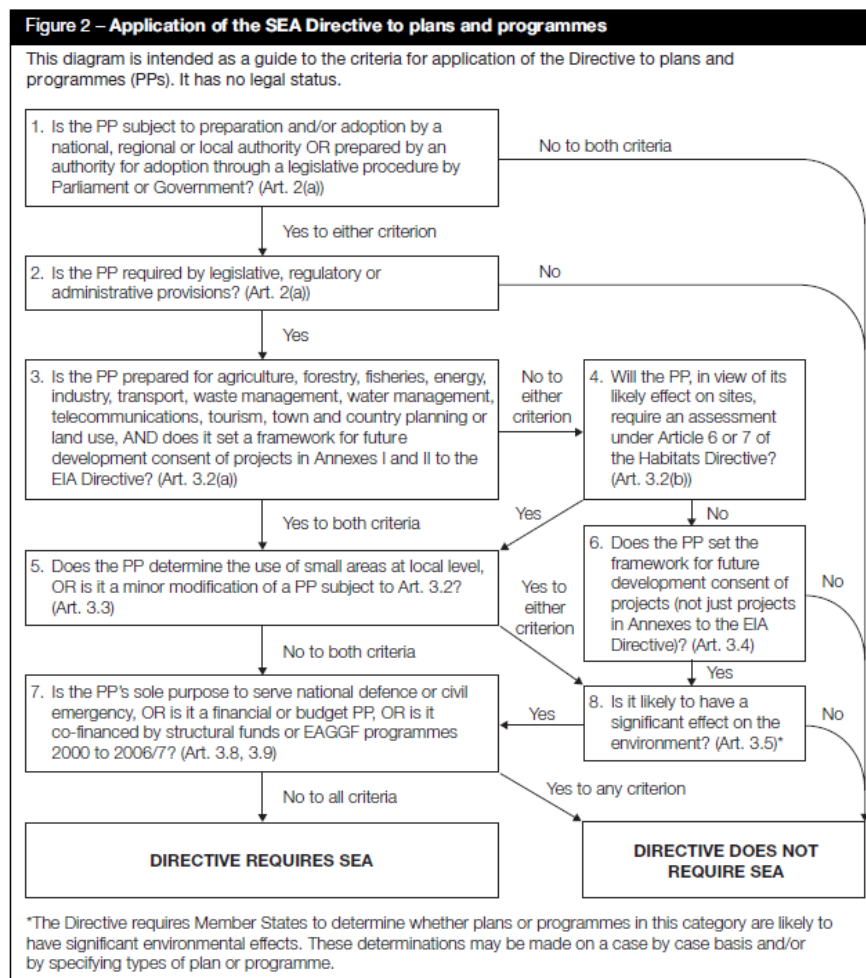
The next three sections set out stages 1 and 2 of the SEA screening and the HRA screening assessment.

## 6. SEA Screening Stage 1: Application of SEA Directive to the Lickey & Blackwell & Cofton Hackett Neighbourhood Development Plan

To establish if a Neighbourhood Plan needs to be accompanied by a full SEA, stage 1 of the screening assessment is required to assess the plan against a series of criteria set out in the SEA Directive.

Figure 2 is taken from the ODPM guidance on SEAs. The diagram shows the screening process and how a plan would be assessed against the SEA Directive criteri

Figure 2: Application of the SEA Directive to plans and programmes



Source: A Practical Guide to the Strategic Environmental Assessment Directive, Figure 2, ODPM 2005

An assessment of the characteristics of the Lickey & Blackwell and Cofton Hackett Neighbourhood Development Plan against these criteria is set out in Table 2 below.

**Table 2: SEA Screening Stage 1 – Application of the SEA Directive to the Neighbourhood Plan**

SEA Assessment Criteria	Neighbourhood Plan Outcome (Y/N)	Commentary
1) Is a Neighbourhood Plan subject to preparation and / or adoption by a national, regional or local authority OR prepared by an authority through a legislative procedure by Parliament or Government? (Article 2(a))	Y	The Lickey & Blackwell and Cofton Hackett Neighbourhood Development Plan is being prepared by a qualifying body (Parish Councils) under the Town and Country Planning Act 1990 (as amended). The Local Planning Authority (Bromsgrove District Council) has a statutory obligation to “make” a Neighbourhood Plan once it has successfully gone through the relevant statutory preparation stages, culminating in a local community referendum. At this stage, the Neighbourhood Plan becomes part of the statutory development plan for the local authority area. To this extent, the Neighbourhood Planning process is directed through a legislative procedure which is set out in the Neighbourhood Planning Regulations 2012 (and Amendments 2015) and the Localism Act 2011.
2) Is the Neighbourhood Plan required by legislative, regulatory or administrative provisions? (Article 2(a))	N	The preparation of Neighbourhood Plans is optional and is a decision to be made by the Parish/Town Council or Neighbourhood Forum. However, if the decision is taken to prepare a Neighbourhood Plan, the qualifying body is required to follow the set of regulatory and administrative procedures as set out in the Neighbourhood Planning Regulations 2012 (and Amendments 2015) and the Localism Act 2011.
3) Is the Neighbourhood 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	Y	A Neighbourhood Plan must relate to town and country, spatial and/or land use planning. Once made, it will form part of the statutory framework (“development plan”) for the determination of planning applications. Neighbourhood Plans therefore set specific frameworks for future development consents.

the EIA Directive? (Article 3.2(a))		
4) Will the Neighbourhood Plan, in view of its likely effects on sites, require an assessment for future development under Article 6 or 7 of the Habitats Directive? (Article 3.2(b))	N	A Neighbourhood Plan could potentially have impacts on sites covered by the Habitats Regulations. A Habitat Regulations Assessment screening of Neighbourhood Plans is required to assess if the plan proposals will impact negatively on internationally designated wildlife sites. A HRA screening assessment of the Neighbourhood Plan has been undertaken and is concluded in section 9 and 10 of this report.
5) Does the Neighbourhood Plan determine the use of small areas at local OR is it a minor modification of an existing plan/programme subject to Article 3.2? (Article 3.3)	Y	<p>A Neighbourhood Plan can set out detailed, localised policies to reflect local aspirations, concerns or issues.</p> <p>The Neighbourhood Plan can also determine the use of sites in its neighbourhood plan area by making site specific land use allocations. The Lickey &amp; Blackwell and Cofton Hackett Neighbourhood Development Plan. This plan will not be allocating any new sites within its area.</p>
6) Is the Neighbourhood Plan likely to have a significant effect on the environment?	N	<p>The Neighbourhood Plan could potentially have an effect on the environment. However, whether this is significant depends on the proposals within the Neighbourhood Plan. This requires individual assessment of the Neighbourhood Plan.</p> <p>The relevant criteria for determining whether Neighbourhood Plans are likely to have a significant environmental effect are set out in Article 3(5) Annex II of the SEA Directive.</p> <p>Stage 2 of this screening assessment determines whether or not the Lickey &amp; Blackwell and Cofton Hackett Neighbourhood Development Plan will lead to any significant effects on the environment and, therefore, whether the Neighbourhood Plan will need to be accompanied by a full SEA.</p>

### SEA Screening Stage 1: Conclusions

The conclusion of the assessment in Table 2 is that depending on the content of the Lickey & Blackwell and Cofton Hackett Neighbourhood Development Plan, an SEA may be required. For this reason an analysis of the proposed Neighbourhood Plan was required to determine the likely significant effects on the environment. Therefore, it was necessary to complete stage 2 of the SEA screening assessment.

## 7. SEA Screening Stage 2: SEA Directive Article 3(5) Annex II – Application of Criteria for determining the likely significance of effects of a Neighbourhood Plan

Table 3 below sets out the assessment against the Strategic Environmental Assessment criteria for the Lickey & Blackwell and Cofton Hackett Neighbourhood Development Plan. This is to determine whether the implementation of the Neighbourhood Plan will have a significant effect on the environment. This criteria against which the screening is carried out are taken directly from Annex II of the European Union Directive 2001/42/EC (also known as the SEA Directive), as required by Article 3(4).

Table 3: SEA Screening Stage 2 – Assessment of likelihood of significant effects on the environment

Criteria for determining the likely significance of effects (Schedule 1 of SEA Regulations)	Is the Lickey & Blackwell and Cofton Hackett Neighbourhood Development Plan likely to have a significant environmental effect?	Justification for Screening Assessment
<b>1) The characteristics of plans and programmes, having regard, in particular to:</b>		
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.	No	The Lickey & Blackwell and Cofton Hackett Neighbourhood Development Plan will only be setting the framework for projects in a local context. There is a statutory requirement for the Neighbourhood 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 will make policies and proposals that will be applicable to the designated neighbourhood plan area. The proposed neighbourhood plan will not include site allocations.
b) The degree to which the plan or programme influences other plans and programmes including those in a hierarchy.	No	The Lickey & Blackwell and Cofton Hackett Neighbourhood Development Plan will be in conformity with the Development Plan for Bromsgrove District, which consists of the Bromsgrove Local Plan (adopted 2017). The Neighbourhood Plan will also be in conformity with the National Planning Policy Framework and the planning guidance set out in the National Planning Policy Guidance. The conformity of the Neighbourhood Plan with these strategic district plans and national policies is one of the basic conditions and will be checked at examination stage by an Independent Examiner.



c) The relevance of the plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development.	Potentially	<p>The Neighbourhood Plan will need to be in conformity with the emerging Bromsgrove District Plan which advocates sustainable development and has been subject to full SEA and Sustainability Appraisals. It is also one of the Basic Conditions of producing a Neighbourhood Plan that it should contribute to the achievement of sustainable development. (Note: Bromsgrove District Plan is currently at examination stage).</p> <p>The proposed Neighbourhood Plan will make reference to the Green Belt review that the Local Authority will be undertaking in the future. A policy is proposed for future growth in the neighbourhood plan area to address the possible release of land from the Green Belt following the completion of the Green Belt review.</p>
d) Environmental problems relevant to the plan or programme.	Potentially	At this stage it is considered that the Lickey & Blackwell and Cofton Hackett Neighbourhood Development Plan will not introduce any environmental problems, rather it will seek to encourage sensitive development in relation to the environment.
e) The relevance of the plan or programme for the implementation of European Community legislation on the environment (e.g. plans and programmes linked to waste management or water protection).	No	<p>The Lickey, Blackwell and Cofton Hackett Neighbourhood Plan will not impact on the implementation of European Community legislation on the environment.</p> <p>Strategies relating to waste disposal or water protection are mostly dealt with by Worcestershire County Council. Bromsgrove District Council itself has a number of strategies in place, relating to waste collection and environmental protection. Community consultations as part of the plan process may identify specific local environmental concerns or issues, but these are generally not issues which could be addressed through a Neighbourhood Plan.</p>
<b>2) Characteristics of the effects and of the area likely to be affected, having regard, in particular, to:</b>		
a) The probability, duration, frequency and reversibility of the effects	No	It is considered that the overall impact of the Neighbourhood Plan will be positive by maximising the positive environmental effects of development and minimising or avoiding negative impacts.
b) The cumulative nature of the effects	No	It is considered that the effect of this Neighbourhood Plan will be largely beneficial therefore any cumulative impacts will also be beneficial.

c) The transboundary nature of the effects	No	The effects of the proposals within the Neighbourhood Plan are limited to the area within the Neighbourhood Plan boundary and are unlikely to have a significant impact on neighbouring areas outside of the boundary (see figure 1 for neighbourhood plan area).
d) The risks to human health or the environment (e.g. due to accidents)	No	No significant risks to human health or the environment are envisaged through the application of this Neighbourhood Plan.
e) The magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected)	No	The Neighbourhood Plan is applicable only to developments within the neighbourhood plan area (Lickey & Blackwell and Cofton Hackett Parished areas). Therefore, the potential for environmental effects are likely to be minimal and limited to the neighbourhood plan area.
f) The value and vulnerability of the area likely to be affected due to: <ul style="list-style-type: none"> <li>a. Special natural characteristics or cultural heritage;</li> <li>b. Exceeded environmental quality standards or limit values; or</li> <li>c. Intensive land-use.</li> </ul>	Potentially	The Lickey & Blackwell and Cofton Hackett Neighbourhood Development Plan is applicable to developments within the Lickey, Blackwell and Cofton Hackett Parishes. Policy impacts on heritage have been assessed through the Sustainability Appraisal of the emerging Bromsgrove District Plan.
g) The effects on areas or landscapes which have a recognised national, community or international protection status.	No	<p>The overall impact of the Neighbourhood Plan will be positive by maximising the positive environmental effects of development and minimising or avoiding negative impacts. Bromsgrove has a number of sites of importance for nature conservation but these are protected by separate policies in the emerging Bromsgrove District Plan.</p> <p>If a Habitat Regulations Assessment (HRA) is deemed necessary then a full SEA would be required. The results of the HRA screening assessment is shown in sections 9 and 10 of this report.</p>

### SEA Screening Stage 2: Conclusions

On the basis of the SEA Screening Assessment set out in Tables 2 and 3, the conclusion is that the Lickey & Blackwell and Cofton Hackett Neighbourhood Development Plan will not have significant environmental effects in relation to any of the criteria set out in Schedule 1 of the SEA Regulations, and therefore does not need to be subject to an SEA. The main reasons for this conclusion are:

- There are no plans for the proposed Lickey, Blackwell and Cofton Hackett Neighbourhood Plan to allocate sites for development;

- The Neighbourhood Plan itself is unlikely to have environmental effects; rather it is the specific developments that come forward as part of planning applications within the neighbourhood area that may result in environmental effects;
- The neighbourhood plan will seek to avoid or minimise negative environmental effects by providing guidance for applicants when making proposals for development within the neighbourhood plan area. This will help to reduce the number of negative environmental effects occurring within the neighbourhood plan area.

## **8. HRA Screening**

In addition to the screening of the Neighbourhood Plan in relation to SEA, there is a requirement to assess if the proposals within the Neighbourhood Plan could have an adverse impact on internationally designated wildlife sites. This Habitats Regulation Assessment (HRA) is required by the European Habitats Directive.

The HRA involves an assessment of any plan or project to establish if it has potential implications for European wildlife sites. The HRA will consider if the proposals in the Neighbourhood Plan have the potential to harm the habitats or species for which European wildlife sites are designated. European wildlife sites are:

- Special Protection Areas (SPA) designated under the Birds Directive (79/409/EEC)
- Special Areas of Conservation (SAC) designated under the Habitats Directive (92/43/EEC)

In addition to SPA and SAC sites Ramsar sites are designated under the Ramsar Convention (Iran 1971 as amended by the Paris Protocol 1992). Although they are not covered by the Habitats Regulations, as a matter of Government Policy, Ramsar sites should be treated in the same way as European wildlife sites. European wildlife sites and Ramsar sites are collectively known as internationally designated wildlife sites.

The legislation sets out a process to assess the potential implications of a plan on internationally designated sites. The first stage of this process is a “screening” exercise where the details of nearby internationally designated sites within a reasonable distance from the Neighbourhood Plan area are assessed to see if there is any potential for the Neighbourhood Plan proposals to have an impact on the site. For the purposes of this HRA screening assessment a “reasonable distance” will be taken to be sites within 15km of the designated Neighbourhood Plan Area.

For the HRA “screening” assessment the Neighbourhood Plan area was checked to see if any Special Protection Areas, Special Areas of Conservation sites, or Ramsar sites were located within its area. The assessment also checked to see if any of these internationally important sites were located within a 15km radius and a 20km radius from the Neighbourhood Plan area.

## **9. SEA & HRA Screening Conclusion**

### SEA Assessment

On the basis of the SEA Screening assessment set out in stages 1 and 2 above, it is concluded that the Lickey & Blackwell and Cofton Hackett Neighbourhood Development Plan will not have

significant effects in relation to any of the criteria set out in Schedule 1 of the SEA Regulations, and therefore does not need to be subject to an SEA report.

#### Habitat Regulations Assessment

There are no internationally designated wildlife sites within the Neighbourhood Plan area or within 15km of it. However, the results show that there is one Special Area of Conservation (SAC) located within 20km of the neighbourhood plan area. This site is Fens Pools, a 20.2ha SAC site located near to Pensnett in the Dudley Borough.

HRAs published to date have typically considered European sites with a 10-15km radius around the plan area. Using this approach of a 15km radius, it is concluded that the Lickey, Blackwell and Cofton Hackett Neighbourhood Plan will not have an adverse effect on the integrity of internationally designated sites either on its own or in combination with other plans and therefore does not require a Habitat Regulation Assessment to be undertaken.

### **10. Next Stages**

#### Strategic Environmental Assessment (SEA)

The next stage will be to submit this Screening Report of the Lickey & Blackwell and Cofton Hackett Neighbourhood Development Plan to the Statutory Consultees (Natural England, Environment Agency, and English Heritage). The Statutory Consultees will be asked to consider the Screening Report and confirm if they consider an SEA is necessary or not. The consultation period will last for six weeks.

If the Statutory Consultees advise that an SEA is necessary then a Sustainability Appraisal will be carried out on the Neighbourhood Plan. The Sustainability Appraisal will integrate the requirements of the SEA Regulations. This will ensure that the potential environmental effects (the focus of the SEA) are given full consideration alongside social and environmental issues. The Sustainability Appraisal will sit alongside the draft Neighbourhood Plan when it goes out to formal consultation. It will also be submitted to the Local Planning Authority when the proposed Neighbourhood Plan is submitted.

If it is concluded that the emerging Neighbourhood Plan will not require a full SEA, then it will be necessary to publish the Statutory Consultee responses together with this screening assessment on the Bromsgrove District Council website and the Lickey & Blackwell and Cofton Hackett parishes' website. In accordance with the Neighbourhood Planning Regulations (2015) Amendments, a statement of reasons why an environmental assessment is not required will need to be published and submitted to the Local Planning Authority with the proposed Neighbourhood Plan.

#### Habitats Regulations Assessment (HRA)

The next stage will also request Natural England to consider the screening assessment of the Habitat Regulations Assessment (HRA) and to advise if a HRA is necessary or not. If Natural England advises that a HRA is necessary then a HRA will be prepared and will sit alongside the draft Neighbourhood Plan when it goes out to formal consultation. It will also be submitted to the Local Planning Authority with the proposed Neighbourhood Plan.

## **11. Further Information**

The Lickey & Blackwell and Cofton Hackett Neighbourhood Plan Steering Group has prepared a statement to Bromsgrove District Council setting out why they consider an SEA should not be required. Appendix A shows a copy of this statement and has been submitted with this screening assessment to the three statutory consultees.

Further details on the Lickey & Blackwell and Cofton Hackett Neighbourhood Development Plan can be found on the Bromsgrove District Council website at:

<http://www.bromsgrove.gov.uk/council/policy-and-strategy/planning-policies/neighbourhood-plans/lickey-blackwell-and-cofton-hackett-neighbourhood-plan.aspx>