

Marton West modified Neighbourhood Plan Habitats Regulations Assessment Screening Report

Neighbourhood Planning (General) Regulations 2012 (as amended)

November 2020

1. Introduction

1.1 The European Habitats Directive and Wild Birds Directive provide protection for sites that are of exceptional importance in respect of rare, endangered or vulnerable natural habitats and species. The network consists of Special Areas of Conservation (SACs) and Special Protection Areas (SPAs). Both types can also be referred to as European Sites. The National Planning Policy Framework (NPPF) also states that Ramsar sites should be afforded the same level of protection as the European sites.

1.2 The requirement to undertake Habitats Regulation Assessment (HRA) of development plans is set out in the Conservation of Habitats and Species Regulations (2017) (as amended). It is also a requirement of Regulation 32 schedule 2 of the Neighbourhood Planning Regulations 2012 (as amended). In order to proceed to referendum a Neighbourhood Plan must meet a series of 'basic conditions', which include that it does not breach, and is otherwise compatible with, EU obligations.

1.3 Regulation 105 of the Conservation of Habitats and Species Regulations (2017) states:

'Where a land use plan:

(a) Is likely to have a significant effect on a European sites 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.'

1.4 The HRA is therefore undertaken in stages and should conclude whether or not a proposal or policy in the Plan would adversely affect the integrity of any sites:

Stage 1: Determining whether a plan is likely to have a significant effect on a European site. This needs to take account of the likely impacts in combination with other relevant plans and projects. This assessment should be made using the precautionary principle. The screening assessment must reflect the outcomes of the 2018 judgement of the Court of Justice of the European Union, which has ruled that where mitigation is necessary this must be identified through an Appropriate Assessment.

Stage 2: Carrying out Appropriate Assessment and ascertaining the effect on site integrity. The effects of the plan on the conservation objectives of sites should be assessed, to ascertain whether the plan has an adverse effect on the integrity of a European site.

Stage 3: Identifying mitigation measures and alternative solutions. The aim of this stage is to find ways of avoiding or significantly reducing adverse impacts, so that site integrity is no longer at risk. If there are still likely to be negative impacts, the option should be dropped, unless exceptionally it can be justified by imperative reasons of overriding public interest.

- 1.5 The Marton West Neighbourhood Forum has prepared the Marton West modified Neighbourhood Plan, and in accordance with **Stage 1** of the HRA process this screening assessment considers whether there are likely to be significant effects on protected European sites and whether a full Appropriate Assessment will be required. The current 'made' Marton West Neighbourhood Plan was adopted on 30th November 2016. As a result of a boundary change, and the decision by the Middlesbrough Council not to establish Marton-in-Cleveland Neighbourhood Forum and Area, as it did not meet the definition of a Neighbourhood Area, it was agreed to incorporate the new expanded Marton West Ward, into the existing designated Marton West Neighbourhood Area, and undertake an early review of the current 'made' Neighbourhood Plan, to reflect these changes.
- 1.6 The early review of the 'made' Marton West Neighbourhood Plan needs to be in general conformity with the strategic policies of the Council's development plan. Currently, the development plan for Middlesbrough comprises of the Housing Local Plan, adopted Nov 2014, Core Strategy adopted Feb 2008, Regeneration DPD adopted Feb 2009, Minerals and Waste Core Strategy adopted 2011, Minerals and Waste DPD adopted Sept 2011, and the Middlesbrough Local Plan saved Policies adopted Aug 1999, however a new Local Plan for Middlesbrough is currently being prepared.
- 1.7 When the Housing Local Plan was being prepared an Appropriate Assessment was undertaken by the Council. The Appropriate Assessment (AA) showed that the Council's Housing Local Plan was unlikely to have any significant effects on the nearest Special Areas of Conservation (SAC) and Special Protection Areas (SPA) sites – Teesmouth and Cleveland Coast SPA/Ramsar site and the North Yorks Moors SAC, and SPA. At the time given this comprehensive AA report, undertaken for the Housing Local Plan, the Habitats Directive was not considered a requirement in the preparation of 2016 Marton Neighbourhood Plan. Due to changes in legislation it is now considered necessary to carry out a **Stage 1** - HRA screening assessment for the Marton West modified Neighbourhood Plan.
- 1.8 The emerging Middlesbrough Local Plan will however, be subject to an HRA as part of its production, which is likely to require a **Stage 2** – Appropriate Assessment, but unfortunately will not be ready in time for this modified Neighbourhood Plan.

1.9 This screening report therefore, only contains the results of **Stage 1** of the HRA process in relation to the Marton West modified Neighbourhood Plan. **Stages 2 and 3** are only required if the screening stage concludes that there is likely to be a significant impact on a European site. This initial screening has been undertaken by Middlesbrough Council in consultation with the Marton West Neighbourhood Forum and Natural England as the statutory consultee, in November 2020.

2. Identification of relevant European sites covered by this screening report

2.1 The first step of the HRA process is to establish the impact that may arise from the policies and to ascertain over what distance those potential impacts may be identified. The following identification of relevant European sites (see below) has been taken from Middlesbrough Council's 2018 Publication Local Plan HRA, commissioned from Baker Consultants.

2.2 While the policies set out in the modified Neighbourhood Plan may be considered to only affect the Borough of Middlesbrough, impacts arising from the policies may give rise to trans-boundary effects that could result in effects upon European sites outside the Borough. In relation to this, Government advice states that: "when considering whether the plan option is likely to have a significant effect on a European site, it should be noted that such a site may be located either within or outside the area covered by the plan. Significant effects may be incurred even in cases where the area of the plan is some distance away".

2.3 In-line with the distance other Tees Valley local authorities have applied in their Habitat Regulations Assessments, the LSE screening has been carried out on all sites within 15 kilometres of the boundary of the Borough.

2.4 Two types of European site are involved in this screening assessment, and are collectively referred to as the 'Natura 2000' network of European sites:

- **Special Protection Areas (SPAs)** - designated under the Birds Directive for rare and vulnerable bird species, for regularly occurring migratory bird species, and for the protection of wetlands, especially wetlands of international importance.
- **Special Areas for Conservation (SACs)** – protected sites under the Habitats Directive that make a significant contribution to conserving habitat types and species (excluding birds) identified in Annexes I and II of the Directive.

2.5 In addition, the UK Government's National Planning Policy Framework (NPPF 2018) requires that listed or proposed **Ramsar** sites are given the same level of protection as European sites. Ramsar sites are wetlands of international importance designated under the Ramsar Convention (1971).

- 2.6 Middlesbrough, as of January 2020 contains one internationally designated site - the Teesmouth and Cleveland Coast SPA and Ramsar. The North York Moors SPA and SAC sites although located outside the Boundary, are within 15km of it.

European sites potentially affected by the Marton West modified Neighbourhood Plan

Site Name, Status and Code	Location	Proximity to Borough	Primary Reason for Designation
Teesmouth and Cleveland Coast SPA (UK9006061)	Stockton on Tees, Hartlepool, Redcar and Cleveland, and Middlesbrough	North-east. As of January 2020, partly within borough.	Red knot <i>Calidris canutus</i> (Nonbreeding); Common redshank <i>Tringa totanus</i> (Non-breeding); s; Sandwich tern <i>Sterna sandvicensi</i> (Non-breeding); Little tern <i>Sterna albifrons</i> (Breeding), Pied avocet <i>Recurvirostra avosetta</i> * (Breeding); Common tern <i>Sterna hirundo</i> * (Breeding); Ruff <i>Calidris pugnax</i> (Non-breeding) and Water bird assemblage
Teesmouth and Cleveland Coast RAMSAR (RIS:UK11068)	Stockton on Tees, Hartlepool, Redcar and Cleveland, and Middlesbrough	North-east. As of January 2020, partly within borough.	Common redshank (Spring/Autumn); Red knot (Winter); Sandwich tern, and Water bird assemblage
North York Moors SAC (UK0030228)	North Yorkshire Moors National Park	South and south-east by approximately 3km at nearest point.	Northern Atlantic wet heaths with crossleaved heath <i>Erica tetralix</i> ; Wet heathland with cross-leaved heath; European dry heaths; Blanket bogs*
North York Moors SPA (UK9006161)	North Yorkshire Moors National Park	South and south-east by approximately 3km at nearest point.	Merlin <i>Falco columbarius</i> (Breeding), and European golden plover <i>Pluvialis apricaria</i> (Breeding)

*Annex I/II Habitats and Species are priority natural habitats and species of the Directive

Source: Middlesbrough Publication Local Plan HRA undertaken by Baker Consultants 2018

3. Marton West Modified Neighbourhood Plan

- 3.1 The Marton West Neighbourhood Forum has prepared the Marton West modified Neighbourhood Plan, which includes a range of policies covering the designated Marton West Neighbourhood Area. As outlined above (see paragraph 1.5) the modified Neighbourhood is a review of the existing 'made' 2016 Marton West Neighbourhood Plan, to incorporate the De Brus Park area, (in respect of the Ward boundary change) into the designated Marton West Neighbourhood Area. The review of the existing 'made' Marton West Neighbourhood Plan has resulted in a number of the Plan policies being amended and updated, to reflect these boundary changes. The modified Neighbourhood Plan does not allocate specific

sites for development, but is proposing to seek a local green space designation under amended Policies MW1: Parks & Green Spaces.

- 3.2 The policies in the Marton West modified Neighbourhood Plan are listed below. In addition, an assessment of whether each policy is likely to have a significant effect on European protected sites is included in Table 1: Stage 1 - HRA screening opinion analysis of the potential for impacts of the modified Marton West Neighbourhood Plan upon the Teesmouth and Cleveland Coast SPA/Ramsar/PSPA sites of this report (see below).

List of Neighbourhood Plan Policies:

- MW1:** Parks & Green Spaces
- MW2:** Housing Allocations
- MW3:** Small Unallocated Sites
- MW4:** Land at the Ford Riding School – Brass Castle Lane
- MW5:** Built Environment
- MW6:** Design
- MW7:** Backland Development
- MW8:** Design to Reduce Surface Water Run-off
- MW9:** Public Transport
- MW10:** Parking
- MW11:** Lingfield Primary School Parking

4. Other Plans and Projects

- 4.1 Regulation 105 of the 2017 Regulations requires consideration to be given to whether a Plan will have an effect either alone or in combination with other plans or projects.
- 4.2 As highlighted in above in paragraph 1.6, the development plan for Middlesbrough comprises of the Housing Local Plan, adopted Nov 2014, Core Strategy adopted Feb 2008, Regeneration DPD adopted Feb 2009, Minerals and Waste Core Strategy adopted 2011, Minerals and Waste DPD adopted Sept 2011, and the Middlesbrough Local Plan saved Policies adopted Aug 1999, however a new Local Plan for Middlesbrough currently being prepared. Until the adoption of the new Local Plan, the above plans and policies remain the adopted development plan for Middlesbrough.

5. Assessment of likely effects of the Marton West modified Neighbourhood Plan on European protected sites

- 5.1 Table 1 below considers each policy of the Marton West modified Neighbourhood Plan in relation to whether there is potential for a likely significant effect on protected European sites. This constitutes **Stage 1** as set out under paragraph 1.4 above. Consideration is given to the characteristics and location of the protected sites. The policies are considered within the context of the Local Plan policies which they must be in general conformity with and which have themselves been subject to Habitats Regulations Assessment, as set out in Section 4 above.

Table 1: Stage 1 - HRA screening opinion analysis of the potential for impacts of the modified Marton West Neighbourhood Plan upon the Teesmouth and Cleveland Coast SPA/Ramsar/PSPA sites:

Neighbourhood Plan Policy Number/Section	Neighbourhood Plan Policy Description	Likely Significant Effect	Appropriate Assessment Required?
Introduction	This section of the modified Neighbourhood Plan does not set-out specific policies for HRA analysis.		
Background	This section of the modified Neighbourhood Plan does not set-out specific policies for HRA analysis.		
Marton West Neighbourhood Plan Area	This section of the modified Neighbourhood Plan does not set-out specific policies for HRA analysis.		
Community Involvement in the Updated Plan	This section of the modified Neighbourhood Plan does not set-out specific policies for HRA analysis.		
Historical Context – Marton West	This section of the modified Neighbourhood Plan does not set-out specific policies for HRA analysis.		
The Historical Development of Marton West	This section of the modified Neighbourhood Plan does not set-out specific policies for HRA analysis.		
Marton West Ward Profile	This section of the modified Neighbourhood Plan does not set-out specific policies for HRA analysis.		
Ethos & Character of Marton West	This section of the modified Neighbourhood Plan does not set-out specific policies for HRA analysis.		
Sustainable Development Principles	This section of the modified Neighbourhood Plan does not set-out specific policies for HRA analysis.		
Vision and Objectives	This section of the modified Neighbourhood Plan does not set-out specific policies for HRA analysis.		
Marton West – Sites Location Map	This section of the modified Neighbourhood Plan does not set-out specific policies for HRA analysis.		
Policy MW1: Parks & Green Spaces	This existing 2016 Neighbourhood Plan policy seeks to ensure the accessibility and enhancement of existing parks	None identified.	No Appropriate Assessment Required.

	<p>and green spaces within the Neighbourhood Area. The policy has been amended to include the proposed the designation of existing 'parkland' area as Local Green Space. This policy will not have a direct effect on the Teesmouth and Cleveland SPA and Ramsar site, or other identified protected sites. Therefore no likely significant effects are identified.</p>		
<p>Policy MW2: Housing Allocations</p>	<p>This existing 2016 Neighbourhood Plan policy supports the sustainable growth of Marton West on existing allocated housing sites within the Neighbourhood Area, including on small wind sites. The policy has been amended to ensure that an element of bungalows are also provided within these allocated sites. The policy does not allocate or propose additional housing sites. It is therefore considered that this policy will not have a direct effect on the Teesmouth and Cleveland SPA and Ramsar site, or other identified protected sites.</p>	<p>None identified.</p>	<p>No Appropriate Assessment Required.</p>

	Therefore no likely significant effects are identified.		
Policy MW3: Small Unallocated Sites	This existing 2016 Neighbourhood Plan policy supports residential development proposals on small unallocated sites, in accordance with set criteria. The policy does not allocate or propose additional housing sites. It is therefore considered that this policy will not have a direct effect on the Teesmouth and Cleveland SPA and Ramsar site, or other identified protected sites. Therefore no likely significant effects are identified.	None identified.	No Appropriate Assessment Required.
Policy MW4: Land at the Ford Riding School – Brass Castle Lane	This existing 2016 Neighbourhood Plan policy supports residential development proposals on this allocated site. The policy does not allocate or propose additional housing at this. It is therefore considered that this policy will not have a direct effect on the Teesmouth and Cleveland SPA and Ramsar site, or other identified protected sites. Therefore no likely significant effects are identified.	None identified.	No Appropriate Assessment Required.

<p>Policy MW5: Built Environment</p>	<p>This existing 2016 Neighbourhood Plan criteria based policy seeks design and public realm improvements in respect of planning applications involving alterations and extensions to existing residential properties within the Neighbourhood Area. It is therefore considered that this policy will not have a direct effect on the Teesmouth and Cleveland SPA and Ramsar site, or other identified protected sites. Therefore no likely significant effects are identified.</p>	<p>None identified.</p>	<p>No Appropriate Assessment Required.</p>
<p>Policy MW6: Design</p>	<p>This existing 2016 Neighbourhood Plan criteria based policy seeks all development to accord with the design and public realm characteristics and principles within the Neighbourhood Area. It is therefore considered that this policy will not have a direct effect on the Teesmouth and Cleveland SPA and Ramsar site, or other identified protected sites. Therefore no likely significant effects are identified.</p>	<p>None identified.</p>	<p>No Appropriate Assessment Required.</p>

<p>Policy MW7: Backland Development</p>	<p>This existing 2016 Neighbourhood Plan criteria based policy seeks to ensure that 'Backland' and 'Tandem' development will only be permitted in certain circumstances within the Neighbourhood Area. It is therefore considered that this policy will not have a direct effect on the Teesmouth and Cleveland SPA and Ramsar site, or other identified protected sites. Therefore no likely significant effects are identified.</p>	<p>None identified.</p>	<p>No Appropriate Assessment Required.</p>
<p>Policy MW8: Design to reduce Surface Water Run-off</p>	<p>This existing 2016 Neighbourhood Plan policy seeks to ensure that new development accords with SuDs requirements, in order to reduce flood risk within the Neighbourhood Area. It is therefore considered that this policy will not have a direct effect on the Teesmouth and Cleveland SPA and Ramsar site, or other identified protected sites. Therefore no likely significant effects are identified.</p>	<p>None identified.</p>	<p>No Appropriate Assessment Required.</p>
<p>Policy MW9: Public Transport</p>	<p>This existing 2016 Neighbourhood Plan policy seeks</p>	<p>None identified.</p>	<p>No Appropriate Assessment Required.</p>

	<p>to ensure sustainable public transport initiatives are supported within the Neighbourhood Area. It is therefore considered that this policy will not have a direct effect on the Teesmouth and Cleveland SPA and Ramsar site, or other identified protected sites. Therefore no likely significant effects are identified.</p>		
Policy MW10: Parking	<p>This existing 2016 Neighbourhood Plan policy aims to ensure that residential parking is provided in such a way that avoids issues associated with on street parking and enables safe access. It is therefore considered that this policy will not have a direct effect on the Teesmouth and Cleveland SPA and Ramsar site, or other identified protected sites. Therefore no likely significant effects are identified.</p>	None identified.	No Appropriate Assessment Required.
Policy MW11: Lingfield Primary School Parking	<p>This existing 2016 Neighbourhood Plan policy supports traffic calming and parking measures that ease congestion around Lingfield Primary School. It is therefore</p>	None identified.	No Appropriate Assessment Required.

	<p>considered that this policy will not have a direct effect on the Teesmouth and Cleveland SPA and Ramsar site, or other identified protected sites. Therefore no likely significant effects are identified.</p>		
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6. Summary and conclusions

- 6.1 The Marton West modified Neighbourhood Plan will provide policy which will be used for determining planning applications alongside Middlesbrough Council's existing and emerging Local Plan. It includes locally specific criteria based policies to be used for the determination of planning applications within the designated Marton West Neighbourhood Area.
- 6.2 The Marton West modified Neighbourhood Plan has been prepared to be in general conformity with the relevant policies in Middlesbrough Council's adopted development plan. The above proposed Neighbourhood Plan policies provide locally specific criteria and will not lead to likely significant effects on protected European sites.