

The Environmental Assessment of Plans and Programmes Regulations 2004
North Somerset Council

Revised SEA Screening Opinion / Determination under Regulation 9(1) as to whether the Congresbury Neighbourhood Development Plan is likely to have significant environmental effects.

Congresbury Parish Council is currently producing the Congresbury Neighbourhood Development Plan (NDP) which will supplement (and partially supersede) the adopted North Somerset Core Strategy, North Somerset Site Allocations Plan and North Somerset Development Management Plan and form part of the local development plan when finalised. As part of the production of a NDP the District Council is required to advise and assist the “qualifying body” (Parish Council), including in ensuring that the NDP does not breach, and is otherwise compatible with, European Union obligations.

This includes deciding whether the NDP requires a Strategic Environmental Assessment (SEA) in accordance with the European Directive 2001/42/EC (“SEA Directive”) and associated Environmental Assessment of Plans and Programmes Regulations 2004 (“SEA Regulations”).

The Congresbury NDP can be regarded as:

- i. a “plan or programme which, 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.” (albeit the Appropriate Assessment concluded “no adverse effects” and the “small area” exemption under SEA Regulation 5(6) applies to this Plan); and as

- ii. a “plan or programme which sets the framework for future development consent of projects” requiring environmental assessment (albeit to a limited degree, and primarily because it seeks to allocate sites for residential development with an estimated capacity of circa 85 dwellings and provides for a potential 150 dwellings in total) (albeit the “small area” exemption also applies in these circumstances).

It is therefore potentially caught by SEA Regulation 5(4) [which could require an environmental assessment to be carried out] unless it is determined that it is unlikely to have significant environmental effects.

Therefore, North Somerset Council needs to determine (under the provisions of Regulation 9) whether, or not, the Congresbury NDP is “likely to have significant environmental effects”.

Regulation 9(2) requires that before making such a determination, the Council shall:

- a) take into account the criteria specified in Schedule 1 to these Regulations; and
- b) consult the consultation bodies [Environment Agency, Historic England and Natural England].

Regulation 9(3) requires that if the Council's conclusion is that the plan is unlikely to have significant environmental effects (and, accordingly, does not require an environmental assessment); it shall prepare a statement of its reasons for the determination.

Determination under SEA Regulation 9(1)

Having regard to the criteria set out in Schedule 1 of the SEA Regulations, and consultation with Environment Agency, Historic England and Natural England North Somerset Council has made a determination under Regulation 9 that the Congresbury Neighbourhood Development Plan is unlikely to have significant environmental effects (and, accordingly, does not require an environmental assessment).

Statement of Reasons

The District Council has had regard to:

1. the characteristics of the plan, and
 2. the characteristics of the potential effects and of the area potentially affected
- including all of the particular matters under each of these headings as set out in Schedule 1 of the SEA Regulations.

A response to each of the individual criteria is set out below in tabular form.

A draft version of the HRA/SEA Screening on the consultation draft of the plan was shared with the relevant statutory consultees (Natural England, Historic England and the Environment Agency) in August 2018. Amendments were subsequently made to the plan following concerns raised by Historic England in relation to the level of assessment undertaken on the potential impact on heritage assets. This resulted in further assessment on the potential impact of heritage assets, the subsequent removal of one of the proposed housing allocations from the plan, and additional wording being incorporated into the policy text for each housing allocation in terms of mitigating against future impacts. No objections were raised by Natural England or the Environment Agency at this point.

A final HRA/SEA Screening Report was then produced to reflect the changes to the plan and submitted to the District Council along with the final plan.

Natural England have subsequently raised concerns over the reliance on mitigation measures in the Screening Report in relation to the North Somerset and Mendip Bats SAC in light of the Court of Justice of the European Union (CJEU) ruling for *People Over Wind and Sweetman v Coillte Teoranta*. Therefore, the HRA report for the Congresbury Neighbourhood Plan has been revised to include an Appropriate Assessment of the Plan.

The need for an Appropriate Assessment triggers the need for a Strategic Environmental Assessment, unless one of two exemptions applies and a Reg 9(1) Determination concludes that the Plan is unlikely to result in significant environmental effects. The original SEA Screening Report has been revised to acknowledge the need to consider this automatic trigger and, in summary, it is concluded that the "small area" exemption applies and, therefore, a Reg 9(1) Determination needed to be made.

This review of the individual criteria indicates that potential effects are either **limited / localised / negligible / totally absent** and therefore the conclusion is that the plan is unlikely to have significant environmental effects.

1. The characteristics of plans and programmes, having regard, in particular, to:-

<p>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.</p>	<p>Very Limited - The Plan will set a framework for development proposals within the Congresbury Neighbourhood Area of a level which conforms with the North Somerset Core Strategy, emerging JSP and emerging North Somerset Local Plan 2036. Congresbury is a Service Village where development of an appropriate small scale is appropriate. The plan allocates five housing sites, but draft Policy H2 states “New development should not exceed more than 25 dwellings on any one site to ensure sustainable small scale residential development that respects and enhances the character of the village”. The Plan also proposed the designation of three new areas of Local Green Space, two employment sites and contains policies for protection of landscape and local wildlife, retail services, employment uses, community facilities and the historic environment.</p>
<p>b) The degree to which the plan or programme influences other plans and programmes including those in a hierarchy</p>	<p>Totally absent - The Neighbourhood Plan is subordinate to the Core Strategy and emerging JSP. It will sit alongside the Sites and Policies Development Management Plan and Site Allocations Plan and the emerging Local Plan 2036. It does not set the framework for lower order plans or programmes.</p>
<p>c) The relevance of the plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development</p>	<p>Localised - The Neighbourhood plan is required to contribute to the achievement of sustainable development. The Plan itself contains policies to promote sustainable development and protection of important environmental assets.</p>
<p>d) Environmental problems relevant to the plan or programme</p>	<p>Localised - The Congresbury NDP is neither: (a) primarily responding to, nor (b) heavily constrained by significant environmental problems.</p> <p>The aim of the Congresbury NDP is to address local concerns and issues including the design and location of new development, affordable housing, road safety and parking, the local economy, supporting and improving local facilities and protecting valued landscape and green spaces.</p> <p>A review of potential environmental constraints reveals that:</p>

- Land to the west of the settlement is flood zone 3A and 3B and land either side of the Congresbury Yeo to the east of the settlement. This encourages development in the built up area in certain parts of the settlement but does not adversely affect any of the proposed housing sites.
- The Biddle Street, Puxton Moor and Kings Wood and Urchin Wood SSSI's are within the plan area but none of the proposed allocations are within or close to these.
- North Somerset and Mendip Bats SAC – The District Council are suggesting, in their proposed modifications to the examiner, that additional text is written into policies H3 and H4 which allocate housing to refer specifically to the North Somerset and Mendip Bats SAC SPD and how any development of these sites must be in accordance with the guidance in the SPD. The proposed wording is as follows:

Development proposals must not adversely affect the integrity of Natura 2000 sites. Where necessary, appropriate mitigation measures should be incorporated in accordance with the guidance set out in the North Somerset and Mendip Bats Special Area of Conservation (SAC) Guidance on Development: SPD, or any future document that supersedes it.

- The Cadbury Hill/Henley quarry and Cheddar Valley Railway Walk Local Nature Reserves are within the plan area but none of the proposed allocations are within or close to these. Policy T1 proposes improvements to improve access onto the Strawberry Line.
- 6 Wildlife sites. The Congresbury Station Dismantled Railway South of Moor Bridge Wildlife site is situated between two proposed site allocations. However, no impact is envisaged on this site.
- 28 Listed buildings, Congresbury Conservation Area and 3 Scheduled monuments are within the plan area. An assessment of the potential impact of heritage assets has been undertaken resulting in the removal of one of the proposed housing allocations from the plan, and additional text

	<p>being incorporated into the policy text for each housing allocation to ensure appropriate mitigation against impact on heritage assets in the future development of the proposed sites.</p>
<p>e) 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>Limited - The implementation of community legislation is unlikely to be significantly compromised by the Congresbury Neighbourhood Plan.</p>
<p>(2) Characteristics of the effects and of the area likely to be affected, having regard, in particular to:-</p>	
<p>a) The probability, duration, frequency, and reversibility of the effects.</p>	<p>Limited - In light of the scale and nature of the proposals it is considered unlikely that significant effects will result. The plan policies and proposals are for small scale housing development (up to 25 dwellings per site) on 5 proposed allocations, as well as safeguarding and promoting employment uses through the allocation of two employment sites which are currently in use for retail uses. It is unlikely therefore that there will be any significant effects on the environment.</p> <p>However, two of the proposed housing allocations are located within Zone A of the North Somerset and Mendip Bats SAC.</p> <p>The District Council are therefore suggesting, in their proposed modifications to the examiner, that additional text is written into policies H3 and H4, which allocate housing, to refer specifically to the North Somerset and Mendip Bats SAC SPD and how any development of these sites must be in accordance with the guidance in the SPD. The proposed wording is as follows:</p> <p><i>Development proposals must not adversely affect the integrity of Natura 2000 sites. Where necessary, appropriate mitigation measures should be incorporated in accordance with the guidance set out in the North Somerset and Mendip Bats Special Area of Conservation (SAC) Guidance on Development: SPD, or any future document that supersedes it.</i></p>

<p>b) The cumulative nature of the effects</p>	<p>Localised - The neighbouring village of Yatton within the adjoining parish (Yatton), but with a different neighbourhood area, is the subject of development pressure with 696 new houses proposed within the emerging Site Allocations Plan. The Congresbury NP identifies the potential allocation of five housing sites equalling approximately 85 new houses across the plan area. Any planning proposals for these sites, can be subject to relevant impact studies to identify appropriate levels of development and so avoid significant cumulative effects of housing or other development in conjunction with proposed development levels at Yatton. Proposals can be adjusted accordingly and given the scale of likely development at Congresbury there are unlikely to be significant environmental effects.</p>
<p>c) The trans boundary nature of the effects.</p>	<p>Limited - Any trans boundary impacts beyond the Congresbury Neighbourhood Plan area are unlikely to be significant given the nature and scale of the proposals within the plan. Any development at the proposed housing sites will be subject to relevant impact studies as necessary to determine the appropriate level of development. In terms of the meaning of ‘transboundary effects’ used in Reg 14 – effects on the environment of another Member State – there are very unlikely to be any that are significant.</p>
<p>d) The risks to human health or the environment (e.g. due to accidents).</p>	<p>Limited - The Congresbury Neighbourhood plan is unlikely to introduce significant risks to human health in light of the nature and scale of proposals.</p>
<p>e) The magnitude and spatial extent of the effects (geographical area and size of the population likely)</p>	<p>Localised - The scale of development proposed in the Neighbourhood Plan is small scale housing sites and therefore the potential for environmental effects is also likely to be small and localised. It is unlikely that the effects of the proposals within the Plan will be large scale and extensive in themselves in the context of the SEA. See also c) and d) above.</p>
<p>f) The value and vulnerability of the area likely to be affected due to:</p> <p>i) Special natural characteristics or cultural heritage</p>	<p>Localised - The neighbourhood plan offers the opportunity to enhance the natural environment and the cultural heritage of the area through the proposals being considered, particularly policy EH1 which aims to Enhance the Conservation Area and protect the Village Cross and Policy EH4 which sets out measures to preserve landscape and wildlife.</p>

Where the plan is silent on an issue then Sites and Policies (Development Management) Plan Part 1, or Core Strategy will prevail, which contain policies for the protection of the natural and built environment including cultural heritage.

There are a number of nationally or locally protected areas or buildings falling partly within the neighbourhood area including:

- the Biddle Street, Puxton Moor and Kings Wood and Urchin Wood SSSI's
- North Somerset and Mendip Bat SAC
- The Cadbury Hill/Henley quarry and Cheddar Valley Railway Walk Local Nature Reserves
- 6 Wildlife sites
- 28 Listed buildings
- Congresbury Conservation Areas
- 3 Scheduled monuments.

An assessment of the proposed housing allocations has shown that development of those sites would have a low-medium impact on heritage assets which can be mitigated against. The mitigation measures for the relevant heritage assets have been included in the policy text for each site to ensure they are incorporated as part of any future development.

The councils Conservation Officer does not feel that there will be a cumulative impact of the proposed housing allocation on the heritage assets within the plan area.

Two of the proposed housing allocations are located within Zone A of the North Somerset and Mendip Bats SAC.

The District Council are therefore suggesting, in their proposed modifications to the examiner, that additional text is written into policies H3 and H4, which allocate housing, to refer specifically to the North Somerset and Mendip Bats SAC SPD and how any development of these sites must be in accordance with the guidance in the SPD. The proposed wording is as follows:

Development proposals must not adversely affect the integrity of Natura 2000 sites. Where

	<p><i>necessary, appropriate mitigation measures should be incorporated in accordance with the guidance set out in the North Somerset and Mendip Bats Special Area of Conservation (SAC) Guidance on Development: SPD, or any future document that supersedes it.</i></p>
<p>ii) Exceeded environmental quality standards or limit values</p>	<p>Limited - The Congresbury NP is unlikely to result in the exceedance of environmental quality standards, such as those relating to air, water and soil quality, due to the nature and scale of the development.</p>
<p>iii) Intensive land use</p>	<p>Limited - The Plan is unlikely to bring forward development of an extent which would result in significant intensification of local land use.</p>
<p>g) The effects on areas or landscapes which have a recognised national, Community or international protection status.</p>	<p>Localised - North Somerset and Mendip Bats SAC is located within the plan area. The District Council are therefore suggesting, in their proposed modifications to the examiner, that additional text is written into policies H3 and H4, which allocate housing, to refer specifically to the North Somerset and Mendip Bats SAC SPD and how any development of these sites must be in accordance with the guidance in the SPD. The proposed wording is as follows:</p> <p><i>Development proposals must not adversely affect the integrity of Natura 2000 sites. Where necessary, appropriate mitigation measures should be incorporated in accordance with the guidance set out in the North Somerset and Mendip Bats Special Area of Conservation (SAC) Guidance on Development: SPD, or any future document that supersedes it.</i></p>