

# SCREENING OPINION ON THE ARMTHORPE NEIGHBOURHOOD PLAN

The Armthorpe Neighbourhood Plan will need to be subject to a further screening assessment in the light of recent legal cases and changes to government guidance. This assessment is set out below.

## Previous screening opinion

The council provided an initial screening opinion which concluded that the NP would not require an SA/SEA (see attached) at an early stage of the process (see [www.armthorpeparishcouncil.co.uk/Core/Armthorpe-PC/UserFiles/Files/ScreeningOpinionJan14.pdf](http://www.armthorpeparishcouncil.co.uk/Core/Armthorpe-PC/UserFiles/Files/ScreeningOpinionJan14.pdf)). However, circumstances have changed since the council's initial screening opinion.

1. The government has further clarified the relationship between neighbourhood plans and the SA/SEA regulations. Whilst not a legal requirement, neighbourhood plan may give rise to "*significant environmental effects which fall within the scope of the Environmental Assessment of Plans and Programmes Regulations 2004*" and therefore "*require a strategic environmental assessment*" (see paragraph 28 of the government's Planning Practice Guidance, which was revised on 6<sup>th</sup> March 2014)<sup>1</sup>. This applies to schedule 1 of the regulations (see appendix 1 of this note).
2. The recent legal challenge (Barratt Homes and Wainhomes Developments against the decision by Cheshire West and Chester Borough Council) serves to highlight the importance of ensuring that neighbourhood plans have been undertaken in accordance with the SEA regulations (see [www.tattenhallpc.co.uk/wp-content/uploads/2013/07/Draft-Neighbourhood-Plan-SA-Report-inc-Appendices.pdf](http://www.tattenhallpc.co.uk/wp-content/uploads/2013/07/Draft-Neighbourhood-Plan-SA-Report-inc-Appendices.pdf)).
3. A neighbourhood plan has recently been found unsound at the examination stage on the basis of non-compliance with relevant EU/SEA obligations (see [www.midsussex.gov.uk/media/Slaugham Hearing Notes](http://www.midsussex.gov.uk/media/Slaugham_Hearing_Notes)).
4. Development allocations (e.g. housing sites) are located within close proximity to nature conservation sites (e.g. Sandall Beat Park and local wildlife sites and the "nightjar buffer zone" (in the case of employment sites) which may give rise to significant effects both within Armthorpe and the wider area which require mitigation.

In the light of these developments, the Armthorpe Neighbourhood Plan could potentially be open to legal challenge from developers who are proposing sites which are not allocated or identified in the plan and/or third parties on the basis that has failed to undertake an SA/SEA as required under the SEA regulations<sup>3</sup>.

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<sup>1</sup> Under articles Articles 3 (3) and (4) of the SEA Directive and regulation 5 of the SEA Regulations, the following plans will require an SEA, if the council determines they will have significant adverse effects.

- A plan that determines the use of a small area at local level;
- A minor modification to an existing plan;
- Any plan or programme which sets the framework for future development consent of projects (whether or not they require EIA).

<sup>2</sup> Appeal case no: CO/15278/2013 (9th May 2014)

- Are any of the proposals likely to affect a "sensitive area", for example a Site of Special Scientific Interest?
- Will the implementation of policies in the plan lead to major new development in the future (for example if you are proposing a new road, that new road might lead to new housing development in the future?)
- Will there be cumulative impact of the policies and proposals when assessed together may give rise to a likely significant environmental effect (for example several relatively small housing proposals may cumulatively have a significant effect on a nearby rare wildlife habitat or species)?

The SEA Directive does not require the council to duplicate assessments already carried out, or assessments that will be carried out, in relation to other plans and programmes in a "hierarchy" (see Article 5 (2)). In this case, the draft plan supports higher tier policies set out in the Core Strategy and does not propose a higher level of development than is already included in the adopted plan. However, it identifies a range of land allocations (including new urban extension sites) and designations which are not identified in the adopted Core Strategy or Joint Waste Plan.

Independent guidance on carrying out a sustainability appraisal of a neighbourhood plan (see [www.levett-therivel.co.uk/DIYSA.pdf](http://www.levett-therivel.co.uk/DIYSA.pdf)) advises that:

*"There is no harm in carrying out an SA where it is not legally required, but you can be legally challenged for not carrying out an SA where one is required. So **in case of doubt**, carry out the SA. You may want to do this anyway, simply because SA helps to make sure that your neighbourhood plan is as well thought-out and as sustainable as possible."*

### **Likelihood of significant effects**

Because of their proximity to sensitive areas (e.g. nightjar habitat, ancient woodland, historic hedgerows and mature trees) the proposed site allocations within the draft Armthorpe Neighbourhood Plan are likely to give rise to significant effects which have not previously been considered and assessed within the sustainability appraisal of the Core Strategy (as identified in schedule 1 of the SEA regulations in appendix 1). Development on these sites will result in the loss of open countryside and agricultural land within close proximity to local wildlife sites and open spaces.

Sandall Beat Wood, a site of special scientific interest, is located within close proximity to existing schools and housing to the immediate west of the parish. Shaw Wood, a local wildlife site, lies to the west of the proposed housing site (land west of Hatfield Lane).

Long Plantation, a prominent thin strip of ancient woodland, lies to the north of the proposed housing sites (land west of Hatfield Lane and West Moor Link Road) just beyond the link road. There are some important views across the housing sites from northern edge of the existing settlement, as shown on the landscape character and capacity assessment.

Part of the employment allocation (West Moor Park Employment Park Extension) lies within a local wildlife site (New Close Wood). The nightjar foraging area (as shown on the biodiversity map) extends into the parish of Armthorpe within close proximity to the proposed employment allocations.

As such, new development within the boundary of the parish has the potential to have a cumulative impact over the wider area which is vulnerable to change, including the green wedge.

## Appendix

### Schedule 1: Criteria for determining the likely significance of effects on the environment

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

(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;

(b) the degree to which the plan or programme influences other plans and programmes including those in a hierarchy;

(c) the relevance of the plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development;

(d) environmental problems relevant to the plan or programme; and

(e) 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).

2. Characteristics of the effects and of the area likely to be affected, having regard, in particular, to—

(a) the probability, duration, frequency and reversibility of the effects;

(b) the cumulative nature of the effects;

(c) the transboundary nature of the effects;

(d) the risks to human health or the environment (for example, due to accidents);

(e) the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected);

(f) 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; and

(g) the effects on areas or landscapes which have a recognised national, Community or international protection status.

**General Comments** (in the same order as the form)

**Site location and use**

**Suitability**

**Environmental considerations -**

- For all the assessments distance buffers are shown in the criteria but are taken no account of at all. The distance criteria is set the same for international, national and locally important sites – consideration should be given to why the criteria have been set and changing the criteria to reflect the different status of sites with greater protection.

**Community facilities and services**

**Historic considerations -**

- There are no Scheduled Monuments in Armthorpe.
- No conservation areas (and which is noted on some sites but missed on a few), and the only listed buildings is the Church which only really affects Site 302 - Barton Lane.

**Other key considerations -**

- **Flooding** There is a “?” over 3 of the sites to the south (Res: 170, 513 & 514) as I believe the EA Map has been successfully challenged by JBA/developer early this year, but the latest EA Flood Map (published May 2014) has not made any changes – both possibilities therefore identified on the assessment sheets.

**Characteristics**

**Availability**

**Summary**