

**Shadow Habitat Regulations
Assessment**

Burntwood Neighbourhood
Development Plan

BLANK PAGE

Issuing office

Worton Park | Worton | Oxfordshire | OX29 4SX
 T: 01865 883833 | W: www.bsg-ecology.com | E: info@bsg-ecology.com

Client	Burntwood Town Council
Project	Shadow Habitat Regulations Assessment, Burntwood Neighbourhood Development Plan
Version	FINAL
Project number	P19-105 Burntwood Neighbourhood Plan HRA(1).docx

	Name	Position	Date
Originated	Judith Giles	Principal Ecologist	20 March 2019
Reviewed	Steven Betts	Partner	25 March 2019
Approved for issue to client	Judith Giles	Principal Ecologist	28 March 2019
Issued to client	Judith Giles	Principal Ecologist	29 March 2019

Disclaimer

This report is issued to the client for their sole use and for the intended purpose as stated in the agreement between the client and BSG Ecology under which this work was completed, or else as set out within this report. This report may not be relied upon by any other party without the express written agreement of BSG Ecology. The use of this report by unauthorised third parties is at their own risk and BSG Ecology accepts no duty of care to any such third party.

BSG Ecology has exercised due care in preparing this report. It has not, unless specifically stated, independently verified information provided by others. No other warranty, express or implied, is made in relation to the content of this report and BSG Ecology assumes no liability for any loss resulting from errors, omissions or misrepresentation made by others.

Any recommendation, opinion or finding stated in this report is based on circumstances and facts as they existed at the time that BSG Ecology performed the work. The content of this report has been provided in accordance with the provisions of the CIEEM Code of Professional Conduct. BSG Ecology works where appropriate to the scope of our brief, to the principles and requirements of British Standard BS42020.

Nothing in this report constitutes legal opinion. If legal opinion is required the advice of a qualified legal professional should be secured. Observations relating to the state of built structures or trees have been made from an ecological point of view and, unless stated otherwise, do not constitute structural or arboricultural advice.

Contents

1 Introduction 2

2 Habitats Regulations Assessment..... 5

3 Identification of Relevant European Sites 9

4 Screening for Likely Significant Effects 15

5 Appropriate Assessment 19

6 Mitigation Measures 22

7 Conclusions 24

8 References 25

9 Figures..... 27

1 Introduction

Purpose of report

- 1.1 Burntwood Town Council is preparing a Neighbourhood Development Plan to provide a policy framework to guide the development of the Neighbourhood Development Plan area over the next twenty years. The geographic area covered by the Burntwood Neighbourhood Development Plan (BNDP) is shown on Figure 1, Section 9.
- 1.2 There are European sites that are present outside the plan area but near enough that implementation of the Plan may impact upon them. Under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations), there is therefore a need to assess these impacts.
- 1.3 Lichfield District Council is the 'competent authority', as defined under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations), and as such it is required to ensure that the Neighbourhood Development Plan complies with the requirements of the Habitats Regulations. This involves undertaking a Habitats Regulations Assessment (HRA), the purpose of which is to assess the possible effects of the Neighbourhood Development Plan on the nature conservation interests of sites designated under the Habitats and Birds Directives. These sites consist of Special Areas of Conservation and Special Protection Areas, and also include Ramsar Sites (collectively referred to as European sites). The HRA process is a key part of the preparation of the Neighbourhood Development Plan as objectives, proposals and policies in the plan can potentially affect European sites.
- 1.4 The purpose of this report is to inform the HRA process, i.e. to identify whether the proposed objectives, proposals and policies set out within the emerging Neighbourhood Development Plan, alone or in combination with other plans and projects, are likely to have an adverse effect on the integrity of any designated sites of European importance, i.e. Special Areas of Conservation, Special Protection Areas and Ramsar sites. The requirement to carry out this assessment is set out within the Habitats Regulations.

Purpose of the Burntwood Neighbourhood Development Plan

- 1.5 The purpose of the Burntwood Neighbourhood Development Plan is to provide a set of statutory planning policies to guide development within the neighbourhood area over the life of the plan. The Plan provides a series of policies within seven themes/areas which are intended to guide future development within the Plan area. The Burntwood Neighbourhood Development Plan describes the changes which should take place, provides the community's views on these and, where appropriate, identifies policies which any proposed development or change should comply with for the period to 2029.

BNDP Process

- 1.6 The BNDP area was designated in 2014 and a consultation exercise was carried out on issues and options for the future of the area. Following this the Draft Policies Consultation document was produced during March/April 2016 and consulted upon. Formal consultation (under Regulation 14 of the Localism Act 2011) was undertaken in April – June 2018 with the final consultation of the Regulation 16 Submission Draft taking place in November 2018, alongside the Burntwood Neighbourhood Plan Strategic Environmental Assessment and Habitat Regulations Assessment Screening Report.
- 1.7 An HRA screening assessment was published by Lichfield District Council in November 2018 (Lichfield District Council, 2018a). This document notes the presence of Policy NR7 within the Council's adopted Local Plan Strategy which requires development to demonstrate that alone or in combination with other developments it will not have an adverse effect, whether direct or indirect, upon the integrity of the Cannock Chase SAC. However, it also recognises that in April 2018 a

judgement was handed down by the Court of Justice of the European Union which concluded that mitigation measures (such as those required by Policy NR7) cannot be taken into account when deciding on whether a plan or project is likely to have a significant effect on a European site (People Over Wind and Sweetman, 12 April 2018, C-323/17). Whilst the Local Plan has been well-tested and complies with this ruling, there is ongoing debate about situations where a higher tier plan has been thoroughly tested, whether lower tier plans still require an appropriate assessment (if they are in accordance with the higher plan). Therefore although the HRA screening report concludes that significant effects on European Sites from the policies within the BNDP are unlikely, in light of the judgement, Natural England recommended that the Town Council seek legal advice on whether it would be necessary to proceed to the further stages of Appropriate Assessment. The legal opinion obtained considered that to reduce the risk of legal challenge, the BNDP should proceed to the further stages of Appropriate Assessment.

- 1.8 The BNDP also relies on policy in the Local Plan to confirm that there is no risk of in-combination impacts on the River Mease SAC. It is therefore considered prudent to also include the River Mease SAC in the shadow appropriate assessment.

Reference Documents

- 1.9 This HRA report builds upon previous HRA reports that have been completed by consultants on behalf of Lichfield District Council as part of the Local Plan and Burntwood Neighbourhood Plan process.
- 1.10 In particular the following reports have been considered:
- Burntwood Neighbourhood Plan, Strategic Environmental Assessment (SEA) & Habitat Regulations Assessment Screening Report (Lichfield District Council, 2018a)
 - Burntwood Neighbourhood Development Plan 2018-2029 Regulations 16 Submission Draft November 2018 (Burntwood Town Council, 2018)
 - Habitat Regulations Assessment: Lichfield District & Tamworth Borough (Lichfield District Council and Tamworth Borough Council, 2012)
 - Main Modifications of the Lichfield District Local Plan: Strategy Addendum to Habitat Regulations Assessment (Lichfield District Council, January 2014)
 - Habitat Regulations Assessment: Addendum to the Appropriate Assessment of the Lichfield District Allocations DPD Modifications Consultation (Lichfield District Council, 2018b)
 - Local Plan Allocations (Focused Changes) Habitat Regulations Assessment January 2018 (Lichfield District Council, 2018c)
- 1.11 The additional following documents have been considered during the assessment:
- Local Plan Strategy 2008 - 2029 Adopted 17 February 2015 (Lichfield District Council , 2015)
 - Liley, D., Underhill-Day, J., White, J. & Sharp, J. (2009) Evidence Base relating to Cannock Chase SAC and the Appropriate Assessment of Local Authority Core Strategies. Footprint Ecology.
 - Impacts of Recreation to Cannock Chase SAC (Footprint Ecology, 2012)

Report Structure

- 1.12 This report documents the process, findings and recommendations to inform the HRA for the BNDP. It identifies, analyses and quantifies (where possible) potential negative impacts on the relevant European sites, as well as identifying aspects of the BNDP where no impacts are likely. It presents measures to avoid or reduce these effects to the point at which they are no longer significant, either alone or in combination with other plans and projects.
- Chapter One: sets out the purpose of the report and provides an overview of the Neighbourhood Plan process;

- Chapter Two: describes the Habitats Regulations Assessment process;
- Chapter Three: identifies the European sites that are receptors of the likely significant effects of the Neighbourhood Development Plan, together with ecological information about these sites;
- Chapter Four: sets out the review of the screening stage of HRA and identifies those objectives, proposals and policies that have been taken through to the appropriate assessment;
- Chapter Five: sets out the results of the appropriate assessment focussing on those aspects of the Neighbourhood Plan that have the potential to impact on European sites;
- Chapter Six: describes the measures that are proposed to mitigate any impacts on European sites;
- Chapter Seven: sets out conclusions to the report.

2 Habitats Regulations Assessment

Legislation

- 2.1 The Conservation of Habitats and Species Regulations 2017, referred to as the 'Habitats Regulations,' transpose the requirements of the European Birds and Habitats Directives¹ into UK legislation. The Birds Directive aims to protect rare and vulnerable birds and the habitats that they depend upon and this is achieved in part through the classification of Special Protection Areas (SPAs).
- 2.2 The Habitats Directive aims to protect plants, habitats and animals other than birds, and this is achieved in part through the creation of Special Areas of Conservation (SACs). Article 6(1) and (2) of the Habitats Directive require that Member States establish management measures for these areas, to avoid deterioration of their ecological interest. SPAs and SACs include European Marine Sites, which are designated sites below Mean High Water.
- 2.3 The UK is also a contracting party to the Ramsar Convention², which seeks to protect wetlands of international importance, especially those wetlands utilised as waterfowl habitat. It is UK Government policy (in England this is identified within the National Planning Policy Framework) that all competent authorities should treat Ramsar sites similarly as if they are fully designated European sites.
- 2.4 Collectively, all formally proposed and fully classified or designated SPAs and SACs, and all formally proposed or listed Ramsar sites form a pan-European Union network of protected areas known as Natura 2000. These are also referred to as European sites³, and this term has been adopted throughout this report.

Habitats Regulations Assessment Process

- 2.5 The requirements of the Habitats Regulations with regard to the implications of plans or projects are set out within Part 6 'Assessment of Plans and Projects' and specifically Regulation 61. Chapter 8 of the Habitats Regulations sets out the requirements with regard to land use plans within Regulation 102 (which apply the provisions of Article 6(3) and (4) of the Habitats Directive – see Appendix 1). The step-based approach implicit within Regulation 61 is referred to as a 'Habitats Regulations Assessment', which is the term that has been used throughout this report.
- 2.6 It is incumbent on any public body (referred to as a competent authority within the Habitats Regulations) to carry out a HRA where they are proposing to carry out a project, implement a plan or authorise another party to carry out a plan or project. Competent authorities are required to record the process undertaken, ensuring that there will be no adverse effects on the integrity of a European site as a result of a plan or project.
- 2.7 Paragraph 1 of Schedule 2 of the Neighbourhood Planning (General) Regulations 2012 states that '*The making of the neighbourhood development plan is not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2010(2)) or a European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007(3)) (either alone or in combination with other plans or projects)*'.

¹ Council Directive on the conservation of natural habitats and of wild fauna and flora of 21st May 1992 (92/43/EEC) and Council Directive on the conservation of wild birds of 2nd April 1979 (70/409/EEC) consolidated by the Birds Directive 2009 (2009/147/EC).

² Convention on wetlands of international importance especially as waterfowl habitat, Ramsar, Iran, 2/2/71 as amended by the Paris protocol of 3/12/92 and the Regina amendments adopted at the extraordinary conference of contracting parties at Regina, Saskatchewan, Canada 28/5 – 3/6/87, most commonly referred to as the 'Ramsar Convention.'

³ Tyldesley, D. and Chapman, C., (2013) The Habitats Regulations Assessment Handbook, September 2013 2013 edition UK: DTA Publications Limited

- 2.8 However, following the recent case law described in Section 1.7, in order to ensure that the Neighbourhood Development Plan is compliant with the requirements of the Habitats Regulations, Burntwood Town Council appointed BSG Ecology to carry out analysis and reporting to inform the Habitats Regulations Assessment.
- 2.9 Burntwood Town Council is responsible for the BNDP however the HRA assessment is the responsibility of Lichfield District Council as the competent authority.

Assessment Stages

- 2.10 The European Commission has developed guidance in relation to Articles 6(3) and 6(4) of the Habitats Directive⁴, and this recommends a four stage approach to addressing the requirements of these Articles.
- 2.11 Table 1 summarises the detail and legislative context for the four HRA stages. In subsequent sections further detail is provided about the method that has been adopted when completing Stages 1 and 2. Neighbourhood Plans typically do not require HRA (see paragraph 2.7), it is not anticipated that Stages 3 and 4 will be triggered.

Table 1: Stages in the Habitats Regulations Assessment process

Stage	Description	Legislative Context
Stage 1: Screening	Assessment of whether a plan or project, either alone or in combination with other plans or projects, is likely to have a significant effect on a Natura 2000 site.	Article 6(3) of the Habitats Directive Regulation 61(1) of the Habitats Regulations
	Stage 1A: The identification of European sites that are relevant to the assessment.	
	Stage 1B: The identification of underlying trends.	
	Stage 1C: The analysis of the plan and its incorporated objectives, proposals and policies to determine whether they are likely to have a significant effect on the integrity of any European site.	
	Stage 1D: The identification of other plans and projects that, when considered in-combination with the Neighbourhood Plan, are likely to result in significant effects.	
Stage 2: Appropriate Assessment	Consider the impacts of the plan on the integrity of a European site, alone or in combination with other plans or projects and with reference to the site's conservation objectives. Consider measures to mitigate the identified impacts. Prepare an Appropriate Assessment Report for consultation with key stakeholders including Natural England.	
Stage 3: Assessment of alternative solutions	Re-assessing alternatives if effective mitigation proves impossible and develop / select a different alternative that does not harm site integrity. If no such alternatives exist the process continues to Stage 4.	
Stage 4: Assessment where no alternative solutions exist and where adverse impacts remain	At this stage, plans which, after mitigation still have an adverse effect on the site(s) integrity should be dropped. Assessing whether a plan can be passed justified by 'imperative reasons of overriding public interest' (IROPI) or permitted on the grounds of human health, public safety or primary beneficial consequences for the environment.	Article 6(4) of the Habitats Directive Regulation 62 of the Habitats Regulations

⁴ European Commission (2001). Assessment of plans and projects significantly effecting Natura 2000 site. Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC. Published November 2001.

Stage 1 – Screening

- 2.12 This stage identifies the likely effects of the Neighbourhood Plan on any European site, either alone or in combination with other plans or projects. Specifically this stage considers whether these effects are likely to be significant with regard to the integrity of the European site. The Neighbourhood Plan will require ‘appropriate assessment’ if it is considered that any aspect of it will have a significant effect on any European site.

Stage 2 – Appropriate Assessment

- 2.13 If it is considered that a plan or project is likely to have a significant effect on the integrity of a European site, the requirements of Stage 2 are triggered. This stage considers the impacts of the Neighbourhood Plan on the integrity of a European site, alone or in combination with other plans or projects. The assessment should consider the implications for the European site in view of the site’s conservation objectives. If adverse impacts are identified, this assessment should also consider measures to mitigate the identified impacts.
- 2.14 If necessary, modifications to those proposals or policies are identified to avoid any adverse effects on site integrity. If mitigation is not possible and adverse effects on a European site’s integrity remain, the process must proceed to Stage 3.

Guidance on Procedure and Method

- 2.15 This report has referred to the following published guidance and good practice:
- Office of the Deputy Prime Minister Circular 6/2005, (Defra Circular 1/2005), Biodiversity and Geological Conservation: Statutory obligations and their impact within the planning system (although note that this will shortly be replaced with National Planning Practice Guidance to support the NPPF);
 - Natural England’s approach to advising competent authorities on the assessment of road traffic emissions under the Habitats Regulations (NEA001) (July 2018)
 - Assessment of plans and projects significantly affecting Natura 2000 sites Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC (2001)
 - Guidance on the Habitats Regulations Assessment of plans published by the Welsh Assembly⁵ and Scottish Natural Heritage in association with the Scottish Government⁶, (these methodologies are considered to be the most up-to-date and Natural England have not formally released equivalent guidance for English Planning Authorities).
- 2.16 This advice is complemented by guidance that is published and updated on a regular basis by David Tyldesley Associates (DTA⁷).
- 2.17 The guidance does not define the method for undertaking or recording Habitats Regulations Assessment but notes that the adopted method must be appropriate to its purpose under the Habitats Directive and Habitats Regulations, i.e. an ‘appropriate assessment’.

Scope of Assessment

- 2.18 An important part of the HRA process is ensuring that Natural England is consulted to ensure that the scope of the assessment is appropriate for the purposes of discharging the duties set out within the Conservation of Habitats and Species Regulations 2017 (as amended). HRA is an iterative

⁵ Planning Policy Wales Technical Advice Note 5: Nature Conservation and Planning Welsh Assembly (September 2009); Research Briefing The Planning Series: 16 – Habitats Regulations Assessment National Assembly for Wales Research Service H. Davies and W. Dodds (December 2017)

⁶ Habitats Regulations Appraisal of Plans: guide for plan making bodies in Scotland (version 3.0) January 2015.

⁷ Tyldesley, D. and Chapman, C. The Habitats Regulations Assessment Handbook, [accessed February 2019] UK: DTA Publications Limited. BSG Ecology is an active subscription holder for updates to the handbook and receipt of the quarterly journal.

process that aims to influence the development of a plan or project so as to ensure the ecological integrity of affected European sites is maintained.

- 2.19 This report follows on from HRA screening report published in November 2018 for the BNDP. Natural England's response to consultation on this plan stated:
- 2.20 *'The plan area is in close proximity to Cannock Chase Special Area of Conservation (SAC). Cannock Chase SAC is at risk of impacts from increasing recreation. In order to prevent impacts materialising, a mitigation package has been devised (the Strategic access management and monitoring measures (SAMMM)). As a part of this, all development within an agreed zone is required to make a financial contribution towards a suite of on-site mitigation measures. This has been written into relevant Local Plans, including the Lichfield District Local Plan through its policy NR7.'*
- 2.21 It goes on to state:
- 2.22 *'We note that the Burntwood Neighbourhood Plan does not allocate development. However, it does enable the delivery of houses by setting out policies governing their approximate location, form, delivery etc. The HRA Screening for the Burntwood Neighbourhood Plan reaches a conclusion of no likely significant effects. This is based on a consideration that the Local Plan and the Visitor Impact Mitigation Strategy have dealt with the issue of recreational pressure, and therefore the Neighbourhood Plan can proceed. The Lichfield District Local Plan has been well-tested and complies with People over Wind. The strategic solution has therefore been tested thoroughly at the plan level.'*
- 2.23 *'There is ongoing debate about whether when a higher tier plan has been thoroughly tested and would comply with People over Wind, lower tier plans and projects still require an appropriate assessment. Given the risk of procedural challenge, it is our view that in these circumstances it would be prudent to carry out an appropriate assessment of the plan or project to assess its compliance with the higher tier plan. Due to the basic condition associated with neighbourhood plans this option is not currently available to them. We therefore advise that the council seeks its own legal advice on this matter.'*
- 2.24 Following this advice from Natural England, the legal advice received by the Council advised that an Appropriate Assessment should be undertaken.

3 Identification of Relevant European Sites

Scope of the assessment

- 3.1 No European Sites fall within the Burntwood Neighbourhood Plan area. The potential for impacts of the plans and proposals on European sites within 15 km of the Neighbourhood Plan area has been considered.
- 3.2 It is, however, possible that implementation of the Burntwood Neighbourhood Plan could result in impacts on European sites that fall outside the neighbourhood plan area. In order to decide which European sites need to be considered within this assessment it is important to identify the mechanisms by which the Core Strategy could potentially impact on any European site.
- 3.3 A previous HRA of the Lichfield District and Tamworth Borough local plans (Lichfield District and Tamworth Borough, 2012) identified that following potential impact mechanisms:
- Direct habitat loss
 - Impact on protected species
 - Impacts on air quality
 - Impacts on water quality and quantity
 - Recreational pressure
 - Change in surrounding land use
 - Introduction of invasive species
- 3.4 It should be noted that the impacts associated with the Lichfield and Tamworth Local Plans, which propose development across the two districts, will be much greater than the Burntwood Neighbourhood Plan. However taking into account the potential impact pathways, a precautionary 15 km zone of influence this HRA has been adopted on the basis that none of the identified impact pathways is likely to have an effect that extends beyond this.
- 3.5 The relevant Natura 2000 sites within 15km of the Burntwood Neighbourhood Area are:
- Cannock Chase SAC – approx. 4.1km to the north west.
 - Cannock Extension Canal – approx. 1.1km to the south west.
 - River Mease SAC – approx. 10.3km to the east.
 - Pasturefields Salt Marsh – approx. 14.4km to the north west.
 - Humber Estuary SAC – River Trent whose catchment is part of the Humber Estuary SAC is within the BNDP boundary.
- 3.6 The following European Sites have previously been screened out and are not considered further in this assessment: full details of the assessment in relation to these sites is contained within the Burntwood Neighbourhood Plan Strategic Environmental Assessment (SEA) and Habitat Regulations Assessment Screening Report (Lichfield District Council, November 2018):
- Pasturefields Salt Marsh – approx. 14.4 km to the north west; the vulnerabilities of the site are to changes in water quality and water quantity, which will not be affected by the Neighbourhood Plan as implementation of the Plan will not result in changes to water quality or water quantity within the SAC (Table 7, Lichfield District Council, November 2018)
 - Humber Estuary SAC – the River Trent whose catchment is part of the Humber Estuary SAC is within the Burntwood Neighbourhood Development Plan boundary: the Site is over 20km from the Neighbourhood Plan boundary. Development proposals within the neighbourhood area will not affect the site physically as any effects would be through discharges into the

River Tame and Trent as this eventually flows to the Humber. (Table 8, Lichfield District Council, November 2018). Furthermore any discharge in the Neighbourhood Plan area will be in accordance with consent requirements. Therefore it is not expected that there will be any change in water quality entering the Humber Estuary via the River Trent.

- Cannock Extension Canal SAC - The Burntwood Neighbourhood area is 1.1km from the SAC. Development within the neighbourhood area would not have a direct or indirect (though changes to water quality) impact upon floating water-plantain *Lauronium natans*, the only qualifying feature for which the SAC is designated, nor would any policies within the plan have a direct or indirect impact upon the site (Table 5, Lichfield District Council, November 2018).

3.7 The previous HRA screening report (Lichfield District Council, November 2018) included conclusions of no likely significant effect in relation to the Cannock Chase SAC and the River Mease SAC that relied upon mitigation measures committed to in the Local Plan. This reliance on mitigation is not complicit with recent case law and therefore there is a need for potential likely significant effects on these two European Sites to be reassessed in the absence of mitigation.

3.8 The following European Sites have therefore been considered in this assessment:

- Cannock Chase SAC – approx. 4.1 km to the north west.
- River Mease SAC – approx. 10.3 km to the east.

3.9 The boundaries of the designated sites are shown on Figure 1 in Section 9. Summary details of the European sites and their Conservation Objectives are provided below.

Cannock Chase SAC

Qualifying features

3.10 The Annex I habitat that is a primary reason for the selection of this site is 'European Dry Heaths'. The description of this habitat provided on the site citation is as follows:

3.11 "The area of lowland heathland at Cannock Chase is the most extensive in the Midlands, although there have been losses due to fragmentation and scrub/woodland encroachment. The character of the vegetation is intermediate between the upland or northern heaths of England and Wales and those of southern counties. Dry heathland communities belong to NVC types H8 *Calluna vulgaris* – *Ulex gallii* and H9 *Calluna vulgaris* – *Deschampsia flexuosa* heaths. Within the heathland, species of northern latitudes occur, such as cowberry *Vaccinium vitis-idaea* and crowberry *Empetrum nigrum*. Cannock Chase has the main British population of the hybrid bilberry *Vaccinium intermedium*, a plant of restricted occurrence. There are important populations of butterflies and beetles, as well as European nightjar *Caprimulgus europaeus* and five species of bats."

3.12 A further Annex I habitat present as a qualifying feature is 'Northern Atlantic wet heath with *Erica tetralix*'. A description of this habitat is provided on the Supplementary Advice document for the site. A brief summary is as follows:

3.13 "The scarcity of water over much of the Chase effectively confines wetland flora and fauna to the stream valley systems and a scatter of natural and artificial pools and damp depressions. The Oldacre and Sherbrook valleys have small-scale mosaics of spring-fed mire and wet heath vegetation, a result of complex water chemistry. Where acidic conditions prevail the mires are mostly formed of bog mosses *Sphagnum* spp. with cranberry *Vaccinium oxycoccus*, cotton-grasses *Eriophorum* spp. and cross-leaved heath *Erica tetralix*".

Conservation objectives

3.14 The Cannock Chase SAC conservation objectives (27 November 2018, version 3) are as follows:

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;

- *The extent and distribution of qualifying natural habitats*
- *The structure and function (including typical species) of qualifying natural habitats, and,*
- *The supporting processes on which the qualifying natural habitats rely*

3.15 Natural England has produced a Supplementary Advice document for Cannock Chase, which sets out more detailed targets and advice for enabling the application and achievement of the objectives set out above. These targets are specific to each qualifying habitat, and include recommendations relating to species composition, connectivity, soils, air/water quality and hydrology, among others.

Site condition

3.16 By reference to the condition of the thirty underlying SSSI management units comprising the SAC (obtained from the Natural England website in March 2019 and indicating that, excepting three units assessed in November 2018, the latest assessments were prior to 2013) it is apparent that:

- 5.4% by area of constituent SSSI units were in favourable condition at the last assessment. These are the areas of lowland dwarf shrub heath at Brindley Heath (south-east), White House and the rifle ranges, as well as the woodland at Upper Stafford Brook.
- 2.76% by area were in unfavourable (no change) condition: these comprise the lowland fen, marsh and swamp habitats at Oldacre Valley and Sherbrook Valley.
- 6.02% by area were in unfavourable (declining) condition: these are the areas of lowland dwarf shrub heath at Seven Springs, Birchwood and Bevin's Birches.
- The remainder (85.82%) of the constituent SSSI units were in unfavourable recovering condition.

Vulnerabilities

3.17 The following issues have been reported for the SAC (source: Site Improvement Plan for Cannock Chase, Natural England, October, 2014):

- **Undergrazing:** Conservation grazing is required by appropriate animals to build on the restoration of the dry and wet heathland habitats and address a number of management issues.
- **Drainage:** The water supply to the wetland habitats needs further investigation and there are artificial, historic drainage structures in the Oldacre Valley which need to be assessed to establish their impact on the wetland vegetation.
- **Hydrological changes:** There has been a reduction in the extent of the valley mire and changes in the vegetation in the Sher Brook Valley which indicate a move towards a drier wetland vegetation. Investigations are needed into why this is happening and what can be done to rectify it.
- **Disease:** The fungal plant disease *Phytophthora pseudosyringae* is widespread on several parts of the main body of the Chase, affecting bilberry, a major part of the heathland vegetation. Monitoring of disease spread has so far focused on County land but there is a need to understand if and how the disease is spreading on the other parts of the Special Area of Conservation.
- **Air pollution: impact of atmospheric nitrogen deposition:** Nitrogen deposition on Cannock Chase Special Area of Conservation currently exceeds the relevant critical loads for the site. Possible effects of this seen on the ground include an increase in bramble across the site and a shorter *Calluna vulgaris* lifecycle resulting in the plants ageing faster.
- **Wildfire/arson:** Accidental and deliberate fires have caused massive damage to Cannock Chase over the decades.
- **Invasive species:** A range of invasive species are present on the SAC and on surrounding land. Monitoring and controlling the spread of certain aggressive species is vital to prevent damage to the dry and wet heath communities. Raising awareness with neighbouring

landowners about the damage such species can cause and how they can help prevent the risk of spread of invasive species is needed too.

River Mease SAC

Qualifying features

- 3.18 The Annex II species that are a primary reason for the selection of this site are spined loach *Cobitis taenia* and bullhead *Cottus gobio*. The descriptions of the value of the site for these species as provided by the site citation is as follows:
- 3.19 “The River Mease is a good example of a riverine population of spined loach. It is a small tributary of the River Trent and has retained a reasonable degree of channel diversity compared to other similar rivers containing spined loach populations. It has extensive beds of submerged plants along much of its length which, together with its relatively sandy sediments (as opposed to cohesive mud) provides good habitat opportunities for the species”.
- 3.20 “The Mease is an example of bullhead populations in the rivers of central England. Bed sediments are generally not as coarse as other sites selected for the species, reflecting the nature of many rivers in this geographical area, but are suitable in patches due to the river’s retained sinuosity. The patchy cover from submerged macrophytes is also important for the species”.
- 3.21 Further Annex II species which are present as a qualifying feature, but not as a primary reason for site selection are white-clawed crayfish *Austropotamobius pallipes* and otter *Lutra lutra*.
- 3.22 Annex I habitat which is present as a qualifying feature, but not as a primary reason for selection of this site is ‘Water courses of plain to montane levels with the *Ranunculon fluitantis* and *Callitricho-Batrachion* vegetation’.

Conservation objectives

- 3.23 The River Mease SAC conservation objectives (27 November 2018, version 3) are, subject to natural change, as follows:
- 3.24 “Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;
- The extent and distribution of qualifying natural habitats and habitats of qualifying species
 - The structure and function (including typical species) of qualifying natural habitats
 - The structure and function of the habitats of qualifying species
 - The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely
 - The populations of qualifying species, and,
 - The distribution of qualifying species within the site.”
- 3.25 Natural England has produced a Supplementary Advice document for the River Mease SAC (Natural England, 2016), which sets out more detailed targets and advice for enabling the application and achievement of the objectives set out above. These targets are specific to all qualifying habitats and species, and include recommendations relating to habitat structure and species composition, connectivity, sediment regime, water quality, and juvenile density, among others.

Site condition

- 3.26 By reference to the condition of the four underlying SSSI management units comprising the SAC (obtained from the Natural England website in March 2019 and indicating that the latest

assessments were all undertaken in January 2010), all four management units were of unfavourable (no change) condition. It is stated that the River Mease fails on the following targets:

- biological GQA & phosphorus - due to point source and diffused pollution
- physical modifications - over dredging, weir, other impoundments
- non-native species
- lack of river bank vegetation
- lack of macrophyte species density and composition
- over abstraction - lack of fresh water entering the river
- density of the designated fish species

3.27 It is important however to be treat these results with some caution, given that the assessment is now nine years old and the condition of the SSSI management units may have changed during the interim period.

Vulnerabilities

3.28 The following issues have been reported for the SAC (source: Site Improvement Plan for River Mease, Natural England, 10/2014):

- **Water pollution:** Elevated levels of phosphate contribute to eutrophication leading to increased algal growth and the decline in abundance and/or diversity of characteristic plant and freshwater species and habitats of the SAC. A large proportion of phosphate is associated with the high number of sewage treatment works (STWs) and more diffuse septic tank discharges. Whilst phosphate stripping has been undertaken at several STWs through the water industry Asset Management Plan process further reductions are desirable. Severn Trent Water is trialling five new techniques for phosphate stripping at Packington STW. In addition further investigation is required to understand the cumulative impact of small discharges such as from the high number of septic tanks. The River Mease is included in NE's Septic Tank Risk Project. In the headwaters of the river high levels of ammonia are a concern and may be having an impact on juvenile recruitment of spined loach and bullhead. The sources of these elevated levels are not fully understood.
- **Drainage:** Cumulatively drains, field under drainage and other discharges (e.g.11 sewage treatment works, and roads as a conduit) within the catchment affect the naturalised flow pattern. As a consequence the river appears more 'flashy' with water levels rising and falling with increased rapidity.
- **Inappropriate weirs, dams and other structures:** The modified physical condition of the river, such as the presence of multiple weirs affects the condition of the SAC features and can restrict their population size and distribution. Several actions have been identified in the River Mease River Restoration Plan for the River Mease in order to restore the necessary condition. This includes removal of structures which are preventing fish movement and the attainment of the required hydrological conditions. Other issues include poor planform and connection to the flood plain. Care will be required to ensure any weir removal is compatible with protection of the crayfish population.
- **Invasive species:** Himalayan balsam *Impatiens grandulifera* and Japanese knotweed *Fallopia japonica* are found along the banks of the river. American signal crayfish *Pacifastacus leniusculus* has recently been found in the lower reaches of the river. Signal crayfish out-compete native species for available food and habitat and carry the crayfish plague which the native white-clawed crayfish *Austropotamobius pallipes* has no resistance to.
- **Siltation:** High levels of siltation smother gravel beds which are the required spawning habitat of bullhead and can also cover areas of fine sand which are used as spawning habitat by spined loach.
- **Water extraction:** Water abstraction changes the naturalised flow pattern from low to high flows and all flow ranges are important for different life stages of the SAC species. There are a

number of regulated agricultural related abstractions along the River Mease and a permitted transfer of ground water to the Ashby Canal. However there are 11 sewage treatment works within the catchment providing a net surplus of water to the system overall. The water balance for the catchment and how this affects the flow pattern and ecology needs to be further understood.

4 Screening for Likely Significant Effects

The 'Screening' process

4.1 The term 'screening' is routinely adopted to describe the initial stage of the Habitats Regulations Assessment. The purpose of screening is to:

- Identify all aspects of the Neighbourhood Plan that are not likely to have a significant effect on a European site, either alone or in combination with other aspects of the Neighbourhood Development Plan or other plans or projects. These can then be screened out from further assessment.
- Identify those aspects of the Neighbourhood Plan where it is likely to have a significant effect on a European site, either alone or in combination with other plans or projects. These aspects will require 'appropriate assessment' and mitigation measures may need to be introduced.

Likely significant effects

4.2 Current guidance defines a 'likely' effect as one that cannot be ruled out on the basis of objective information. In the Waddenzee case the European Court of Justice provides further clarity on this point, advising that a project (and a plan) should be subject to appropriate assessment 'if it cannot be excluded, on the basis of objective information, that it will have a significant effect on the site, either individually or in combination with other plans and projects'⁸. Therefore, 'likely' should be interpreted as a significant effect that, objectively, cannot be ruled out.

4.3 An effect may be significant if it undermines the conservation objectives for the European site. The assessment of whether a potential effect is significant for the site's interest features must consider, amongst other things, the characteristics and specific environmental conditions of the site concerned. The Advocate General's Opinion for the Sweetman case⁹ provides further clarification, stating that consideration of the likelihood of a significant effect is simply a case of determining whether the plan or project is capable of having a significant effect.

4.4 A second recent HRA judgment (Holohan & Ors. v An Bord Pleanála, 7 November 2018, C - 461/17) has also been considered within this assessment. In summary this judgement provides further clarification about the scope of an assessment, requiring that all habitats and species associated with a European site must be considered (irrespective of whether or not they are qualifying features) if impacts on those habitats and species are liable to affect the conservation objectives of the site.

Refining the scope (screening out)

4.5 It is possible to screen out some types of policies and proposals in the Neighbourhood Plan, on the basis that there is no potential mechanism by which an effect can occur or an identified effect is not likely to be significant (in the absence of mitigation). Policies that may be screened out from further assessment can broadly be categorised as follows:

- Administrative text, general aspirations or Plan vision, goals and objectives.
- General policy statements and general criteria based policies: These policies set out strategic aspirations with regard to certain issues. Policies of this type are not likely to have any effect on a European site as they only establish general aspirations or objectives.
- Projects or proposals referred to in, but not proposed by, the Neighbourhood Plan: Whilst the Neighbourhood Plan may refer to large projects, it may not be feasible or necessary to assess the effects these projects (which are not proposed by the plan). Nevertheless, it may become necessary to consider these projects in combination with the effects of other plans or projects.

⁸ See paragraph 45 of European Court of Justice case C-127/02 dated 7th September 2004, 'the Waddenzee ruling'.

⁹ Sweetman v. An Bord Pleanála, Case C-258/11, CJEU judgment 11 April 2013.

- Other aspects of a plan that could have no likely significant effect on a site, either alone or in combination with other aspects of the same plan, or with other plans or projects: Policies and proposals can be screened out if they are not likely to have a significant effect on a site, alone or in combination with other aspects of the same plan, or with other plans or projects. Effects may be direct, such as land take, or may be indirect, such as through disturbance or hydrological changes.

4.6 Notwithstanding the above, Natural England stated in their consultation response that “we note that the Burntwood Neighbourhood Plan does not allocate development. However, it does enable the delivery of houses by setting out policies governing their approximate location, form, delivery etc.” Therefore policies that are considered to enable development which are likely to have a significant effect on a European site are taken forward in the assessment.

4.7 The Neighbourhood Plan and its incorporated objectives, proposals and policies, has been analysed to determine whether they are likely to have a significant effect on the integrity of any European site. None of the policies are directly connected with or necessary to the management of any European Site. The results of this screening are given in Table 2 below.

Table 2: Results of HRA Screening of Neighbourhood Plan Policies (Policies screened out in grey)

Policy	Description of Policy	Any likely significant effects on European Sites anticipated as a result of policy?
<i>Policy B1 – Burntwood Town Centre</i>	<i>Supports development within Burntwood Town Centre subject to a range of criteria.</i>	<i>Yes – enables residential development within new town square.</i>
<i>Policy B2 – Improving the Environment of Burntwood</i>	<i>Supports improvements to the identified key pedestrian and road approaches to the town centre.</i>	<i>No – is not likely to have any effect on a European site as it only establishes support for environmental improvements which is not likely to impact a European site.</i>
<i>Policy B3 – Chasetown, Swan Island, Ryecroft Shopping Centre and Morley Road Neighbourhood Centres</i>	<i>Supports improvements and development within identified neighbourhood centres.</i>	<i>No – policy supports retail development and public realm improvements. It is therefore not likely to impact a European site.</i>
<i>Policy B4: Local shops</i>	<i>Supports proposals which retain and/or improve local shops. Provides criteria which must be considered if proposals would lead to a loss of a local shop.</i>	<i>No – policy supports local shops and is not likely to impact a European site.</i>
<i>Policy B5 – Enhancing the Identity and Distinctiveness of Local Neighbourhoods</i>	<i>Seeks to enhance and reinforce the distinctiveness of different neighbourhoods within Burntwood.</i>	<i>No – policy guides development design however it sets out general aspirations of design and does not relate to specific residential development.</i>
<i>Policy B6 Promoting Good Quality Design in New Housing Development</i>	<i>Requires new development to be of good quality design and sets a number of principles to be considered when assessing development proposals.</i>	<i>Yes – directly related to controlling the scope and scale of new housing and the resultant impact magnitude.</i>

Policy	Description of Policy	Any likely significant effects on European Sites anticipated as a result of policy?
<i>Policy B7 – Conserving and Enhancing Local, Non-Designated Heritage Assets</i>	<i>Provides support for development proposals which conserve and/or enhance non-designated heritage assets and sets out circumstances where development which leads to loss of such assets would be supported.</i>	<i>No – policy is related to existing built heritage and is not likely to impact a European site.</i>
<i>Policy B8 – Improving Local Accessibility Outside the Defined Centres</i>	<i>Requires development outside centres to improve accessibility through provision of pedestrian linkages to key facilities/centres.</i>	<i>No – Policy provides supports new linkages but provides general objectives rather than specific plans. Not likely to impact a European site.</i>
<i>Policy B9 – Protecting and Enhancing Local Sport and Recreation Facilities</i>	<i>Provides protection to identified sports and recreation facilities and supports their enhancement.</i>	<i>No – policy specifically supports local recreation facilities and is not likely to impact a European site.</i>
<i>Policy B10 – Local Green Spaces</i>	<i>Policy proposes to designate a number of Local Green Spaces within the neighbourhood area.</i>	<i>No – policy specifically supports local green spaces and is not likely to impact a European site.</i>
<i>B11 – Protected and New Open Spaces Policy</i>	<i>Provides protection for identified open spaces and support for proposals which improve the identified spaces and new open spaces.</i>	<i>No – policy specifically supports local open spaces and is not likely to impact a European site.</i>
<i>B12 – Retaining and Enhancing Existing Community Facilities</i>	<i>Provides support for proposals which enhance a range of community facilities and provides detail of circumstances where proposals which lead to loss of such facilities would be supported.</i>	<i>No – policy specifically supports local community facilities and is not likely to impact a European site.</i>

4.8 The policies listed below are therefore given further consideration within the following sections of the Habitats Regulations Assessment, as it needs to be determined whether there significant effects on the integrity of the European site are likely following analysis of available information and evidence:

- Policy B1 – Burntwood Town Centre
- Policy B6 Promoting Good Quality Design in New Housing Development

4.9 The Burntwood Neighbourhood Development Plan boundary does not fall within the River Mease SAC boundary or identified water catchment area (Figure 1)¹⁰. The catchment of the River Mease SAC is located almost entirely to the east and south of the SAC, and is 9 km from the neighbourhood plan area. There is therefore no potential for the above policies in the Neighbourhood Plan to result in changes to water supply or quality in the SAC and therefore it is not likely that there could be any significant effect on the interest features of the River Mease SAC.

¹⁰ The Burntwood Neighbourhood Plan Strategic Environmental Assessment and Habitat Regulations Assessment Screening Report (Lichfield District Council, 2018) states that the Neighbourhood Plan Area falls partly within the River Mease water catchment area; however, this is an error and in fact it is the Lichfield District Council boundary that overlaps with the drainage catchment.

- 4.10 The River Mease SAC is therefore screened out and not considered further in this assessment.
- 4.11 Evidence commissioned by the Cannock Chase SAC Partnership suggests that the planned level of growth for plans and projects within a 15 km radius of the Cannock Chase SAC is likely to have a significant effect on the designated site. Research indicates that most visitors to the SAC are contributed from a 0-8km radius and it therefore follows that most impact on the SAC will arise from visitors resident within 8km of the SAC. The effect of increased visitor numbers consists of additional damage from site use and vehicle emissions (Lichfield District Council, 2018).
- 4.12 It is possible that the policies identified above, through enabling residential development, may result in impacts on Cannock Chase SAC via the pathways of changes to air quality or increased recreational pressure.
- 4.13 Policies B1 and B6 have therefore been taken forward for appropriate assessment considering their potential to give rise to changes to air quality and recreation. It is concluded, in the absence of mitigation measures, that these policies are likely to result in a significant effect on the interest features of the SAC, either alone or in combination with other plans or projects.

5 Appropriate Assessment

Impacts from recreation

- 5.1 The following impacts from recreational and amenity use causing disturbance and damage/erosion have been identified as issues affecting the conservation objectives of Cannock Chase SAC (Liley, et. al. 2009):
- Soil erosion and compaction
 - Disturbance to ground nesting birds
 - Trampling / increased bare ground
 - Dogs and nutrient enrichment
 - Increased fire risk -The effect of individual fires depends on date, fire temperature and duration, and the type of habitat burnt
 - Spread of disease - A current issue of concern at Cannock Chase is the plant disease *Phytophthora pseudosyringae* which occurs within the SAC on bilberry
 - Restrictions on management – in particular feasibility of re-establishing grazing
- 5.2 Data from a visitor survey undertaken of Cannock Chase showed that 75% of those interviewed came from within 15 km of the survey point (Underhill-Day and Liley, 2012). A 15 km zone is therefore identified in which developments are considered likely to affect the conservation objectives of the SAC. By using a threshold of 75% of visitors the authors adopt the same principles as on the Thames Basin Heaths and Dorset Heaths, with the larger impact zone (of 15 km rather than 5 km) explained by its regional appeal as a large composite site, and by the different distribution of housing with a much lower density of houses nearby than the Dorset or Thames Basin heathlands. Further analysis of the visitor survey data identifies a significantly higher proportion of visitors coming from within 8km.

Impacts from changes to air quality

- 5.3 The impacts on Cannock Chase SAC from air quality are set out in Liley, et. al. 2009:
- 5.4 *Airborne nitrogen arising from the burning of fossil fuels in industry, traffic, aviation and agriculture poses a considerable threat to heathland. Many heathland plant species can only survive and compete successfully on acid soils with low nitrogen availability. The addition of nutrients in rain or dust particles increases the nitrogen in the vegetation, litter and upper soil layers, and this builds up over time. Heather can initially benefit from inputs of nitrogen, but this also causes more rapid ageing of the plants and greater susceptibility to drought, frost and insect attack. Where the heather is weakened or removed, for example by fire, then grasses gain a competitive advantage both from the higher nutrient levels and from the increase in light; and this triggers a conversion from heather to grass-dominated communities with the loss of many specialist species associated with heather dominated heaths. Grasses which can benefit from inputs of atmospheric nitrogen to the detriment of the heath vegetation include purple moor grass *Molinia caerulea* on wet heath and mire, and wavy hair grass *Deschampsia flexuosa* on dry heathland.*
- 5.5 The report goes on to look at critical loads for Nitrogen in relation to Cannock Chase: *“The figures show that there have at times been substantial deposition levels, up to 62.8 ug/m³ in November 1997 and over 25ug/m³ on 19 occasions during the period as a whole. However the trend line also shows a reducing trend in nitrogen deposition levels in line with national trends. This suggests that nitrogen deposition is a decreasing problem, but that past depositions could pose a problem for many years without management measures to reduce existing levels”.*
- 5.6 The report goes on to conclude: *“The general level of nitrogen deposition at Cannock Chase already exceeds the maximum critical load for dry heath and the minimum, critical load for wet*

heath. Any further increase in nitrogen deposition is therefore going to further contribute to an adverse effect upon the integrity of the interest features. The main source of nitrogen is from traffic and additional development in the areas surrounding the SAC is likely to generate additional traffic. Most visits to the SAC are by car and it can be anticipated that further residential development in the area will generate more visits to Cannock Chase, and increase direct effects on the heathland from emissions. About a third of the area of the SAC is within 200m of a road. It is therefore not possible to conclude that the increased traffic levels both regionally and locally will not have a significant adverse effect on the integrity of Cannock Chase SAC.”

In combination assessment

- 5.7 The research undertaken on current and potential impacts on Cannock Chase (Liley, et. al. 2009): Underhill-Day and Liley, 2012) considered the effects of development arising from development plans of surrounding areas including:
- Cannock Chase District Council: Preferred Options Consultation: April 2009.
 - Lichfield District Council: Core Strategy Preferred Options, December 2008.
 - South Staffordshire District Council: Core Strategy Preferred Spatial Strategy Consultation Document, January 2009.
 - Stafford Borough Council: Delivering the plan for Stafford Borough: Issues & Options, February 2009.
- 5.8 Further to this, the Habitat Regulations Assessment: Lichfield District and Tamworth Borough (Lichfield District and Tamworth Borough (Lichfield District Council and Tamworth Borough Council, 2012) identified an extensive list of plans and projects which it considered in its in-combination assessment (including the above documents produced on behalf of the Cannock Chase Partnership amongst others). In addition, a review of the relevant plans and projects to be considered was undertaken to inform the Main Modifications of the Lichfield District Local Plan: Strategy Addendum to Habitat Regulations Assessment (Lichfield District Council, January 2014). As such development allocated within the Lichfield District Council Local Plan Strategy has been subject to an in-combination assessment as part of its Habitat Regulations Assessment.

Relevant Local Plan HRA Conclusions

- 5.9 Development within the Burntwood Neighbourhood Plan supports development allocated in the Lichfield Local Plan. It is therefore logical when considering the potential for impacts on European Sites from the Neighbourhood Plan to look to the Local Plan HRA.
- 5.10 The Lichfield District Local Plan Strategy (Lichfield District Council, 2015) includes Policy NR7 which states:
- 5.11 *Before development is permitted it must be demonstrated that alone or in combination with other development it will not have an adverse effect whether direct or indirect upon the integrity of the Cannock Chase Special Area of Conservation (SAC) having regard to avoidance or mitigation measures. In particular, any development that results in a net increase in dwellings within a 15km radius of any boundary of Cannock Chase SAC (as shown on the Policies Map) will be deemed to have an adverse impact upon the Cannock Chase SAC unless or until satisfactory avoidance and/or mitigation measures have been secured. The ongoing work by relevant partner authorities will develop a Mitigation and Implementation Strategy. This may include contributions to habitat management; access management and visitor infrastructure; publicity, education and awareness raising; provision of additional recreational space within development sites where they can be accommodated and contributions towards off-site alternative recreational space where they cannot; and measures to encourage sustainable travel.*
- 5.12 The HRA for the Local Plan Strategy (Lichfield District Council, 2012) concludes that the “Evidence Base relating to Cannock Chase SAC and the Appropriate Assessment of Local Authority Local Plans and accompanying Visitor Mitigation Report, carried out by Footprint Ecology, has concluded that the impact from the pressures of the surrounding Local Plans can be mitigated with

appropriate levels of financial support and/or alternative natural greenspace provision". Subsequently the HRA addendum to Lichfield District Council Local Plan regarding the Cannock Chase Special Area of Conservation and new residential development (Lichfield District Council, undated) concludes that with the measures contained within the Local Plan and the requirement for Strategic Access Management and Monitoring Measures (SAMMM) payments "an adverse effect on the integrity of Cannock Chase SAC arising from the residential development set out in the adopted Lichfield District Local Plan Strategy can be ruled out".

6 Mitigation Measures

- 6.1 Cannock Chase SAC Partnership has developed and is implementing a developer contributions scheme to fund a package of access management measures to offset the impact of 78,000 new houses identified within the Local Plans of the planning authorities whose administrative areas encroach to within 15 km of the SC (Zone of Influence - ZOI). The SAC Partnership has determined to collect planning obligations up to the current value of £1.97 million to mitigate for this housing with the level of contribution based upon the planned development within the 0 - 8km zone of impact of Cannock Chase. The contributions to be made for new residential housing within the Lichfield District as a whole are set out in the HRA addendum to Lichfield District Council Local Plan regarding the Cannock Chase Special Area of Conservation and new residential development (Lichfield District Council, undated) has agreed to formally support the Footprint Ecology evidence base reports and acknowledge a 15km Zone of Influence, with financial contributions for the required mitigation being sought in the 0-8km Zone only. Lichfield District Council will therefore implement a charge for any net dwelling of £178.60 and administration costs of £100 in entering into that agreement (Lichfield District Council, 2017).
- 6.2 The residential housing supported by the Burntwood Neighbourhood Development Plan is allocated within the Lichfield District Local Plan Strategy 2008-2029 and The Local Plan Allocations (Focused Changes document).
- 6.3 The Litchfield District Local Plan Strategy includes Policy NR7 (Cannock Chase Special Areas of Conservation) which requires development to demonstrate that alone or in combination with other developments it will not have an adverse effect, whether direct or indirect, upon the integrity of Cannock Chase SAC:
- 6.4 Policy NR7: Cannock Chase Special Area of Conservation states:
- 6.5 *'Before development is permitted it must be demonstrated that alone or in combination with other development it will not have an adverse effect whether direct or indirect upon the integrity of the Cannock Chase Special Area of Conservation (SAC) having regard to avoidance or mitigation measures.*
- 6.6 *In particular, any development that results in a net increase in dwellings within a 15km radius of any boundary of Cannock Chase SAC (as shown on the Policies Map) will be deemed to have an adverse impact upon the Cannock Chase SAC unless or until satisfactory avoidance and/or mitigation measures have been secured.*
- 6.7 *The ongoing work by relevant partner authorities will develop a Mitigation and Implementation Strategy. This may include contributions to habitat management; access management and visitor infrastructure; publicity, education and awareness raising; provision of additional recreational space within development sites where they can be accommodated and contributions towards off-site alternative recreational space where they cannot; and measures to encourage sustainable travel.'*
- 6.8 Since this policy was adopted a developer contributions scheme has been adopted to fund Strategic Access Management and Monitoring Measures (SAMMM). Following the adoption of Lichfield District Council's Community Infrastructure Levy (CIL) Charging Schedule by Full Council on Tuesday 19th April 2016, the CIL Charging Schedule came into effect on 13th June 2016. A CIL charge will apply to all relevant applications determined on or after this date. Regulation 123 of the CIL Regulations sets out the need for local authorities to produce a list of 'relevant infrastructure' which will be funded in whole or part by the CIL. Lichfield District Council's Regulation 123 list in its current form, includes the measures for preventing harm to the Cannock Chase Special Area of Conservation (CCSAC) as agreed by the Cannock Chase SAC Partnership (Lichfield District Council, 2018d).
- 6.9 On the basis of Policy NR7 and subsequent agreement over SAMMM payments required, an adverse effect on the integrity of Cannock Chase SAC arising from the residential development set

out in the adopted Lichfield District Local Plan Strategy within 15 km of the Cannock Chase SAC has been ruled out (Lichfield District Council, undated). It therefore follows that policies within the Burntwood Neighbourhood Development Plan, which support development allocated in the Local Plan, will not give rise to likely significant effects on the Cannock Chase SAC in light of the site's conservation objectives.

7 Conclusions

- 7.1 Under Regulation 61 of the Conservation of Habitats and Species Regulations 2017 (as amended) there is a legal requirement to consider the impacts of a plan or project on a European site. Following legal advice it was concluded that an Appropriate Assessment was advisable for the Burntwood Neighbourhood Plan, which is not directly connected with or necessary to the management of the Cannock Chase SAC (Regulation 48(a) of the Conservation (Natural Habitats, &c.) Regulations 1994).
- 7.2 The HRA has identified likely significant effects that may arise as a result of implementation of the Burntwood Neighbourhood Plan, in particular Policies B1 and B6. The main effects are likely to be from recreation and changes to air quality on the Cannock Chase SAC caused by enabling residential development allocated in the Lichfield Local Plan.
- 7.3 Policy NR7 of the Lichfield Local Plan Strategy confirms that development will be required to have “*demonstrated that alone or in combination with other development it will not have an adverse effect whether direct or indirect upon the integrity of the Cannock Chase Special Area of Conservation (SAC) having regard to avoidance or mitigation measures*”. This policy is subsequently supported by additional guidance from Lichfield District Council (Lichfield District Council, 2017) which describes the adopted process to mitigate impacts on Cannock Chase SAC.
- 7.4 With reference to Regulation 63 of the Conservation of Habitats and Species Regulations 2017, the assessment has concluded that the application of Policy NR7 of the Lichfield District Local Plan Strategy and mitigation thereby secured through the Local Plan, means that the Burntwood Neighbourhood Development Plan is not likely to have a significant effect on the interest features of Cannock Chase SAC. In reaching this conclusion consideration has been given to the implications of the judgment released from the Court of Justice of the European Union ‘People Over Wind and Sweetman’, 12 April 2018, C-323/17, and the direction provided by a second recent HRA judgment (Holohan & Ors. v An Bord Pleanála, 7 November 2018, C - 461/17).

8 References

- Burntwood Town Council, November (2018) Burntwood Neighbourhood Development Plan 2018-2029 Regulations 16 Submission Draft November 2018
- Cannock Chase District Council (2009) Cannock Chase District Council: Preferred Options Consultation: April 2009.
- Hoskin, R. & Liley, D (2017) Cannock Chase SAC - Planning Evidence Base Review. Unpublished report for the Cannock Chase Partnership.
- Lichfield District Council (2008) Lichfield District Council: Core Strategy Preferred Options, December 2008.
- Lichfield District Council (2014) Main Modifications of the Lichfield District Local Plan: Strategy Addendum to Habitat Regulations Assessment. January 2014.
- Lichfield District Council (2014) Habitat Regulations Assessment: Lichfield District and Tamworth Borough (May 2012) and Main Modifications of the Lichfield District Local Plan: Strategy, Addendum to Habitat Regulations Assessment. January 2014.
- Lichfield District Council (2015) Lichfield District Local Plan Strategy 2008 - 2029 Adopted 17 February 2015.
- Lichfield District Council (2017) Cannock Chase Special Area of Conservation (SAC) Guidance to Mitigate the Impact of New Residential Development. May 2017.
- Lichfield District Council (2018a) Burntwood Neighbourhood Plan, Strategic Environmental Assessment (SEA) & Habitat Regulations Assessment Screening Report November 2018
- Lichfield District Council (2018b). Habitat Regulations Assessment: Addendum to the Appropriate Assessment of the Lichfield District Allocations DPD Modifications Consultation.
- Lichfield District Council (2018c) Local Plan Allocations (Focused Changes) Habitat Regulations Assessment. January 2018 .
- Lichfield District Council (2018d) Habitats Regulations Assessment HRA addendum to Lichfield District Council Local Plan regarding the relationship of the Community Infrastructure Levy to the Cannock Chase Special Area of Conservation and new residential development Methods
- Lichfield District Council (undated) HRA addendum to Lichfield District Council Local Plan regarding the Cannock Chase Special Area of Conservation and new residential development
- Lichfield District Council and Tamworth Borough Council (2012) Habitat Regulations Assessment: Lichfield District & Tamworth Borough (May 2012)
- Liley, D. (2012). Cannock Chase SAC Visitor Survey. Unpublished report, Footprint Ecology.
- Liley, D., Underhill-Day, J., White, J. & Sharp, J. (2009) Evidence Base relating to Cannock Chase SAC and the Appropriate Assessment of Local Authority Core Strategies. Footprint Ecology.
- Natural England (2016) European Site Conservation Objectives: Supplementary Advice on Conserving and Restoring Site Features River Mease Special Area of Conservation (SAC) Site Code: UK0030258. Published 31 May 2016.
- South Staffordshire District Council (2009) South Staffordshire District Council: Core Strategy Preferred Spatial Strategy Consultation Document, January 2009.

Stafford Borough Council (2009) Stafford Borough Council: Delivering the plan for Stafford Borough: Issues & Options, February 2009.

White, J, Liley, D. & Underhill-Day, J. (2009). Cannock Chase Visitor Impact Mitigation Strategy. Footprint Ecology.

White, J., McGibbon, R. & Underhill-Day, J. (2012). Impacts of Recreation to Cannock Chase SAC. Unpublished report. Footprint Ecology.

Underhill-Day, J. & Liley, D. (2012). Cannock Chase Visitor Impacts Mitigation Report. Footprint Ecology. Unpublished report.

9 Figures

(overleaf)

