

Habitat Regulations Assessment (HRA) Review in the light of judgement ‘People Over Wind’¹

Background

The Habitats Regulations Assessment (HRA) for the Summertown and St. Margaret’s Neighbourhood Plan (SSMNP) was completed in October 2017. The screening was determined to have no likely significant adverse effects on the Oxford Meadows SAC (or any other significant area of the natural environment within the plan boundaries), that this determination was made without any consideration of any mitigation measures in the Neighbourhood Plan and was not based on any proviso that recommendations regarding mitigation should be embedded within the Plan. The screening report concluded that *‘none of the policies within SSMNP are likely to have adverse effects on the integrity of the Oxford Meadows SAC either ‘alone or in combination’ with other plans, projects or programmes’*.

This view was confirmed by the statutory consultees in particular Natural England who agreed that the SSMNP would not have any significant impacts on the environment or be likely to have an adverse impact on the integrity of relevant European Sites. Therefore no further assessment was necessary.

In April 2018 a notable legal judgement, in an unrelated case², centred on the role of mitigation measures when carrying out screening was issued (People Over Wind). The SSMNP HRA has therefore been reviewed in the light of the ‘People Over Wind’ judgement.

Review of SSMNP HRA

The SSMNP ‘Strategic Environmental Assessment (SEA) & Habitat Regulations Assessment (HRA) Screening Report (October 2017)’ has been reviewed in the light of the above and concludes that:

- The SSMNP does not allocate any sites for development or contain any other policies that would be likely to lead to any significant effects on the natural environment;
- The Oxford Meadows SAC is currently judged by Natural England to be in favourable condition. The Habitat Regulations Assessment (HRA) has concluded that none of the policies within the Summertown and St. Margaret’s Neighbourhood Plan are likely to have adverse effects on the integrity of the Oxford Meadows SAC either ‘alone or in combination’ with other plans, projects or programmes.
- The HRA was carried out on the precautionary principle basis;
- Government guidance remains that generally neighbourhood plans are unlikely to result in significant effects;
- Natural England raised no objections or concerns about the SSMNP either through formal consultations or their consideration of the Screening Report (October 2017).

Conclusion

¹ Case C323/17 Court of Justice of the European Union

² Generalised view. Does not constitute legal opinion.

The Habitats Regulations Assessment dated October 2017 remains appropriate and no changes are considered necessary in the light of the 'People Over Wind' judgement.