

Woolhope Neighbourhood Plan

Appropriate Assessment

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Executive summary

This report addresses the Appropriate Assessment (AA) stage of the HRA and considers the adverse effects on the integrity of the River Wye (including the River Lugg) SAC and Wye Valley and Forest of Dean Bat sites SAC. Recent advice, responses from Natural England and the Dutch Case it is considered that a Stage 2 Appropriate Assessment is required. This report addresses the Appropriate Assessment stage; outlines the task undertaken, the findings and recommendations to support the Woolhope Neighbourhood Plan through to draft plan consultation.

This report addresses the Appropriate Assessment stage; outlines the task undertaken, the findings and recommendations to support the Woolhope Neighbourhood Plan through to adoption.

The Screening report August 2015 found that the River Wye (including the River Lugg) SAC runs within the Neighbourhood Area. There is no other SAC to be taken into account within this Neighbourhood Area assessment.

All of the policies within the Woolhope NDP are not site allocations but have criteria to support development. They would all require a further planning application. It should be borne in mind that site allocations do not grant planning permission and all site allocations will be subject to a more detailed assessment at planning application stage.

The most significant issue with the Wye catchment is regarding water quality and these issues form the majority of the assessment of these policies.

At this stage the appropriate mitigation measures can also be considered against each of the policies. The table within appendix 3 indicates where this has been the case. Herefordshire Council are investigating a wide range of mitigation measures and working with partners to resolve the current water quality issues within the Lugg catchment. The mitigation measures references within the document could be expanded and refined prior to any planning permissions in association with the policies of this development plan are approved.

The results of this Appropriate Assessment indicate that there will not be a significant effect on the integrity of the River Wye (including River Lugg) SAC or the (include any other) when the mitigation and avoidance measures have been taken into account.

1 Introduction

- 1.1 This report address the Appropriate Assessment (AA) stage of the HRA and considers the adverse effects on the integrity of the River Wye (including the River Lugg) SAC.
- 1.2 Following recent advice, the Dutch Case and responses from Natural England it is considered that a Stage 2 Appropriate Assessment would be applicable.
- 1.3 Woolhope Parish Council has produced a Neighbourhood Plan for Woolhope parish area and has set out the vision, objective and policies for development within the area up to 2031. This Neighbourhood Plan will support the policies within the adopted Herefordshire Core Strategy and if adopted form part of the Herefordshire Development Plan. The Neighbourhood Plan is current at draft plan stage.
- 1.4 Below shows a map of the Neighbourhood Plan Area.



2 Requirement for the HRA

- 2.1 The requirement to undertake HRA of development plans was confirmed by the amendments to the “Habitats Regulations” published for England and Wales in July 2007 and updated in 2013 and now included within the Conservation of Habitats and Species Regulation 2019 ‘the Habitats Regulations’. Therefore, when preparing its neighbourhood plan, Woolhope Parish Council is required by law to carry out an assessment known as “Habitats Regulations Assessment”. It is also a requirement in Regulation 32 schedule 2 of the Neighbourhood Planning Regulations 2012.
- 2.2 Herefordshire Council is aware of the recent judgment (People over Wind, Peter Sweetman vs Coillte). The Court of Justice of the European Union (CJEU) ruled that the Habitats Directive must be interpreted as meaning that mitigation measures should be

assessed within the framework of an Appropriate Assessment and that it is not permissible to take account of measures intended to avoid or reduce the harmful effects of the plan on a National Network site at the screening stage. The initial screening undertaken in February 2022 concluded that a full HRA would be required.

- 2.3 The Co-operation Mobilisation (The Dutch case) ruling will also have an impact on Herefordshire in the areas within the catchment of the River Lugg. As this Neighbourhood Area is within the River Wye catchment area however it has been concluded that a Stage 2 Appropriate Assessment be undertaken to include a range of potential mitigation.

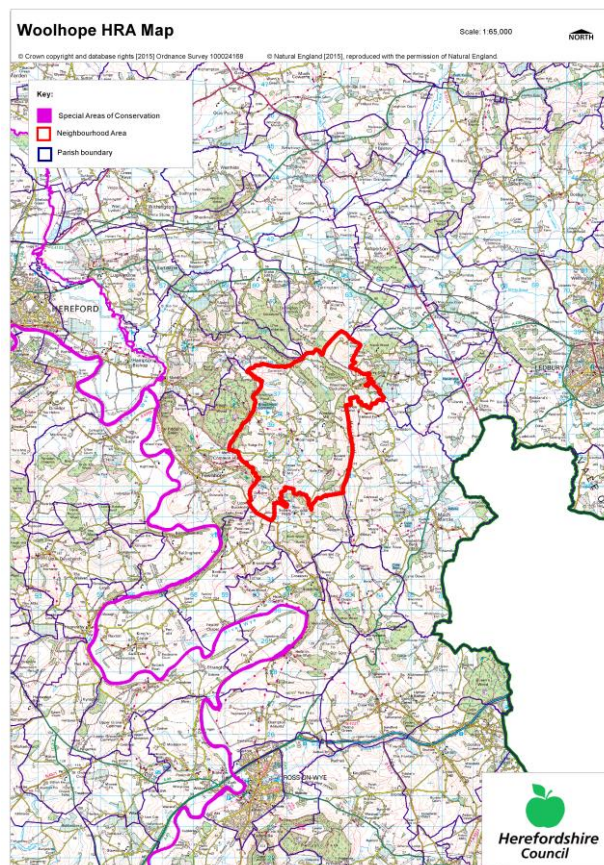
3 Stage 2 – Appropriate Assessment

- 3.1 As highlighted above the Woolhope Neighbourhood Plan is to be subject to a Stage 2 Appropriate Assessment.

- 3.2 The initial screening and scoping in August 2015 have identified that the plan may have potential impacts and effects on the following National Network sites:

- River Wye (including the River Lugg) SAC

- 3.3 The map below shows the Woolhope Neighbourhood Area in relation to the SACs.



- 3.4 The requirements of the Appropriate Assessment can be broken down into 5 areas;

- 1 Scoping
 - Collect information regarding the National Network Site
 - Any additional Environment Condition information

- 2 Assessing the impacts
 - Assess the impacts of the neighbourhood plan policies and proposals
 - Consider the in-combination effects
 - Consider the cumulative effects
- 3 Mitigation measures
 - Consider the potential mitigation measures
- 4 Summary and recommendations
- 5 Consultation

4 Scoping

- 4.1 The initial Screening report in August 2015 found the River Lugg 1.25 km away and is west of the neighbourhood area, however, and falls within the hydrological catchment of the River Wye (including the River Lugg) SAC. Therefore, a full screening assessment is required.
- 4.2 There is also a duty under the Water Framework Directive to ensure that proposals for growth do not adversely affect the river water quality and this included the associated watercourses flowing into the rivers.

Site integrity of the River Wye (including the River Lugg) SAC

- 4.3 The River Wye forms one of the longest near natural rivers in England and Wales. The 25km within Herefordshire runs from Hay-on-Wye to Monmouth passing through Hereford and Ross-on-Wye. This section of the river is a rare example of eutrophic river and has not been subject to straightening.
- 4.4 There are a number of qualifying site features within the English section of the River Wye SAC:
 - Water crowfoot vegetation
 - White-clawed crayfish
 - Sea Lamprey
 - Brook lamprey
 - River Lamprey
 - Twaite shad / Allis shad
 - Atlantic salmon
 - Bullhead
 - Otter
- 4.5 The issues associated with maintaining the sites integrity include water levels and flow, water quality, eutrophication (nitrogen enrichment), sedimentation, disturbance and species maintenance.
- 4.6 The vulnerability data is indicating that any site allocations and policies should avoid developments within 100m of the designated banks to avoid proximity impacts.

- 4.7 The River Wye SAC can be sensitive to changes in water quantity and quality. There are some sections of the River Wye SAC, mainly the River Lugg catchment area, where the water quality targets are already exceeding set levels and therefore the river is failing its 'favourable condition' status. This area is subject to measure to reduce nutrients particularly phosphates in line with the targets. In light of the interpretation of the Dutch Case where a Site is failing its water quality objectives and is classified as unfavourable condition, there is limited scope for the approval of additional damaging effects and measures that cannot be relied upon or are uncertain. The neighbourhood plan assessed within this report falls within the Wye catchment area.
- 4.8 However, the River Wye SAC as a whole is not currently failing its conservation status water quality levels but there are growth concerns that other stretches of the river could deteriorate in water quality following future Environment Agency testing.

Environmental condition data for the River Wye SAC

- 4.9 The River Lugg is considered to be 'failing' its water quality targets because it has exceeded the phosphate limit over 3 years testing period. Testing is undertaken between March and September by the Environment Agency. Although the Lower Wye is at risk of failing, it has currently not been declared as 'failing'
- 4.10 Phosphorous enter the river via two distinct avenues: point source pollution (waste water treatment works 'WWTW') and diffuse source pollution (run off from roads and agricultural).
- 4.11 Discharges from WWTW are monitored and controlled by the issuing of Permitted Discharge Consents but diffuse pollution depends upon a number of different factors including land management, stock near to rivers and runoff.
- 4.12 The Wye and Lugg Monitoring Dashboard indicates that as of 2021(the latest figures published), the phosphate levels within the River Lugg at the testing point at Mordiford Bridge were recorded as 0.120mg/l with the target set at 0.050mg/l.
- 4.13 In 2021, the sewerage treatment works within the Lugg catchment area were reporting 100% compliance with phosphate limits.
- 4.14 For the Upper Wye (at Carrots Pool, Hereford) it is within target at 0.0193mg/l against the target of 0.03mg/l and within the Lower Wye (at Holme Lacy) it is 0.03mg/l against the target of 0.03mg/l. The sewerage treatment works within the Upper and Lower Wye are also reporting 100% compliance with their phosphate limits.
- 4.15 For full details of the three SAC attributes which contribute to and define their integrity and vulnerable data see Appendix 1 of the Woolhope. Initial Screening Report. The Initial Screening Report, August 2015, can be found in Appendix 1 of this HRA report.
- 4.20 This information made it possible to identify the features of each site which determine site integrity, as well as the specific sensitivities of each site, therefore enabling later analysis of how the potential impacts of the Woolhope Neighbourhood Plan may affect site integrity.
- 4.21 The initial screening assessment indicated that a full screening assessment is required to assessment the likelihood of significant effects on the River Wye (including the River Lugg) SAC within the Woolhope NDP.

5 Description of the Woolhope Neighbourhood Plan

- 5.1 The Regulation 14 Woolhope Neighbourhood Plan presents detailed policies for development in the Neighbourhood Area up to 2031. All neighbourhood plans are required to be in general conformity with the adopted Herefordshire Core Strategy. Proportional growth for development is contained within the Core Strategy Policy RA1 and RA2 and neighbourhood plans will seek to allocate this proportional of development to be in conformity with the Core Strategy.
- 5.2 The Plan begins by highlighting its issues. It then details the vision for the parish over the plan period until 2031 together with 5 objectives to realise their vision.
- 5.3 The initial options for the neighbourhood plan were assessed to determine their environmental impact that could affect the River Wye (including the River Lugg) SAC All of which indicated growth however all the options would be seeking to provide proportional growth in line with the Core Strategy. Five general options were considered in total and to do an NDP was one of the options. The parish council decided to not allocate a settlement boundary or allocate a housing site, relying on an existing windfall to meet the housing requirement.
- 5.4 The neighbourhood plan sets out 10 general policies on a variety of topic bases areas and 1 site allocation or specific site related policies. These include:
- WNDP1-Landscape and biodiversity
 - WNDP2- Protecting historic assets and settlement character
 - WNDP3: River Wye Special Area of Conservation (SAC)
 - WND4: New Housing development
 - WNDP5: Replacement dwellings in the countryside
 - WNDP6: Change of use of agricultural buildings to dwellings and holiday use
 - WNDP7: Promoting sustainable transport in new developments
 - WNDP8: Protecting existing community facilities and supporting investment in new and improved facilities
 - WNDP9: New agricultural buildings and polytunnels
 - WNDP10: Tourism and rural diversification
- 5.5 An initial Appropriate Assessment was subject to consultation between 5 May to 9 June 2016 Historic England and Natural England made representations this is detailed in Appendix 2. The response given was supportive of our current approach and has no substantive comments to the assessments.

6.0 Assessing the impacts of the Submission Woolhope Neighbourhood Plan

- 6.1 Each of the policies and proposals within the neighbourhood plan has been considered in more detail to ascertain whether the impacts are likely to have an adverse effect on the site integrity and in combination with other neighbourhood plans and policies.
- 6.2 There are a number of potentially relevant plans and projects that may result in in-combination effects with the Core Strategy across Herefordshire. These plans have been reviewed and can be found in Appendix 2 of the HRA of the Core Strategy and specifically for this neighbourhood plan in the Stage A report dated April 2015.
- 6.3 In terms of growth, the neighbourhood plan does not contribute above and beyond the growth targets for the housing market area requirements as set out within the Core Strategy.

6.4 The adjoining areas neighbourhood plans in Herefordshire are:

- How Caple, Sollers Hope and Yatton– adopted
- Much Marcle- adopted
- Putley-adopted
- Tarrington-adopted
- Fownhope-adopted
- Brockhampton with much Farley-adopted
- Dormington and mordiford-draft stage

6.5 The combination of the growth proposed within these plans does not exceed that set out within the Core Strategy.

6.6 The HRA for the Core Strategy also identifies that both the Water Cycle Study for Herefordshire, which indicates the potential for planned water abstraction requirements combined with pressures on European Sites from the Core Strategy policies, and the review work on the Nutrient Management Plan, have both been considered as part of the in-combination assessment.

6.7 It is unlikely that the Woolhope Plan will have any in-combination effects with any plans from neighbouring parish councils, as the level of growth proposed is the same as that proposed for the Ross-on-wye Housing Market Area in the Herefordshire Core Strategy.

6.8 A matrix has been used to assess all the policies and proposals within the neighbourhood plan and full details can be seen in appendix 3.

Mitigation measures

7.1 An Appropriate Assessment is being undertaken as the Woolhope Neighbourhood Plan is located within the Neighbourhood Plan is located within the River Wye (including river Lugg) catchment area. The consideration of any mitigation also requires this to take place within an Appropriate Assessment. Clearly, water quality within the SAC is the predominate issue here and this is reflected within the assessment undertaken.

7.2 It is therefore the ability to consider any potential mitigation measures, which could be, applied that would reduce the adverse effects on the integrity of the site. The following potential mitigation measures are indicated below. The summary of findings will indicate if any of these are relevant to the Woolhope NDP.

Policy SD4

7.3 Policy SD4 is contained within the adopted Herefordshire Core Strategy. This is not seen as a mitigation measure as the development plan should be read as a whole. However, compliance with the policy is required for any planning application within the catchment area. Therefore, no site allocations proposed within the neighbourhood plan will receive planning permission unless they can also meet the criteria of Policy SD4.

7.4 It should be borne in mind that site allocations do not grant permission for a site and do not directly lead to development. All site allocations will still require planning permission to be granted before any development can take place. This means that all site allocation will be subject to a further environmental assessment/Habitat Regulation Assessment/Appropriate Assessment prior to development taking place or any potential impact to the SAC directly.

7.5 Although all proposals will need to demonstrate compliance with Policy SD4, this does not give sufficient scientific certainty alone and other measures will need to be considered.

Waste Water Sewage Treatment works

- 7.6 Dwr Cymru Welsh Water (DCWW) are making improvements to its Waste Water Treatment Works to reduce phosphate levels from the treatment discharge. DCWW are on target to deliver requirements within the AMP7 assessment management planning. The following treatment works within the River Wye catchment have or proposed to have phosphate limits:
- Eign, Hereford
 - Rotherwas, Hereford
 - Ross Lower Cleeve
 - Bromyard
 - Pontrilas
 - Kingstone and Madley
 - Leominster)
 - Moreton on Lugg
 - Kington
 - Weobley
- 7.7 It is however noted the majority of the areas within Woolhope are served by mains drainage. Therefore, this is not a mitigation measure that can be used within this NDP area but it will provide some reduction in phosphate levels within the river catchment area.
- 7.8 The proposed Levelling Up and Regeneration Bill (LURB) will place a new statutory duty on water and sewerage companies in England to upgrade wastewater treatment works to the highest technically achievable limits by 2030.

Natural England Nutrient Mitigation Scheme

- 7.9 Working with Defra and DLUHC, Natural England will be establishing a Nutrient Mitigation Scheme to identify mitigation projects within the catchment to frontload investment; this could include wetland and woodland creation schemes. The recent advice from DLUHC indicates that LPA can be confident that upgrades and mitigation will be in place by 2030 reducing the mitigation requirements for the in perpetuity period. The delivery of sites can take into account this strategic mitigation and the accelerated timescales for mitigation schemes and water treatment upgrades.

Nutrient Management Plan review

- 7.10 The Dutch judgment means that the current Nutrient Management Plan (NMP) can no longer be relied upon as mitigation as there is not enough certainty that the measures set out within the current plan can be delivered. Therefore, the current NMP does not provide reasonable scientific certainty as a mitigation measure.
- 7.11 The Nutrient Management Board comprises of a number of partners including Natural England, Environment Agency, National Farmers Union, local planning authorities, and Welsh Water.
- 7.12 The Board is working on reviewing and revising the NMP so that the measures contained within it can be relied upon as mitigation once more. The anticipated timescale for this is within the development plan period but no specific dates have been given as yet.

Proposed wetlands and the Interim Development Plan

- 7.13 Herefordshire Council is currently investigating the potential for integrated wetlands to assist in the reduction of phosphate levels within the river Lugg catchment. Wetlands can remove phosphorous from surface water runoff or streamflow or remove the final effluent from wastewater treatments plants or package treatment plants. They are designed to filter,

use sedimentation and plant take up. If the management of wetlands can be secured then they will provide a significant reduction in phosphorous within the Lugg catchment.

- 7.14 The emerging Interim Development Plan will include the proposed wetlands and other agricultural measures including buffer zones which will provide a reduction in phosphorous in the catchment.
- 7.15 There are currently plans for several integrated wetlands within the River Wye catchment. However, this principle could be followed if required within the Lower Wye catchment in future.

Nutrient Neutral / betterment

- 7.16 Nutrient Neutrality is where mitigation measures or avoidance included within the neighbourhood plan can counterbalance any phosphate increase attributed to the plan's policies and proposals or would lead to betterment. Neutrality will need to be demonstrated with certainty. The development will need to show that it avoids harm to the protected site or provided the level of mitigation required to ensure that there is no adverse effects.
- 7.17 The Woolhope NDP contains a number of policies seeking to protect and enhance natural features, including ensuring appropriate measures are set out. Policy WNDP3 River Wye Special Area of Conservation aims to protect water quality and the SAC policy including specific nutrient neutrality policy included in the plan.
- 7.18 Providing options to developers and applicants - Additional guidance is provided to developers seeking to provide nutrient neutral developments. The Interim Phosphate Delivery Plan Stage 2 – Mitigation options for phosphate removed provides a range of potential mitigation solutions that could be used and a set of recommendations are included to provide a robust solution to achieve nutrient neutral residential developments. This document has been available on the Council's website since March 2021.
- 7.19 The interim Phosphate Delivery Plan Stage 1 provides guidance to calculating the phosphate budget for new developers with a phosphate calculate tool. Regular position statements are placed on the Council's website to update developers and applicants for the requirements to demonstrate nutrient neutrality and the options for this.
- 7.20 As the work is ongoing and moving at a pace, it is considered that the best and most guidance for developers on the options to achieve nutrient neutrality is within these guidance documents on the website and not specifically within the NDP policy or text. This is because during the plan period, methods could be refined and solutions that are more appropriate found. The guidance notes and website can easily respond to this update unlike the supporting text of the neighbourhood plan

Summary of findings

- 8.1 This assessment has considered the adverse effects of the Woolhope Neighbourhood Plan on the following National Network Sites
 - River Wye (including the River Lugg) SAC
- 8.2 The neighbourhood area falls within the River Lugg catchment area and an Appropriate Assessment is being undertaken in light of recent comments from Natural England.

- 8.3 The table within Appendix 3 show the detail of each policy and proposals assessed.
- 8.4 After the screening of the 10 policies, 2 are concerned have potential adverse effects.
- WNDP5- Replacement dwellings in the countryside
 - WNDP6- Change of use of agricultural buildings to dwellings and holiday use
- 8.5 All of these policies do not allocate sites, but have criteria to support development. They would all require a further planning application. It should be borne in mind that site allocations do not grant planning permission and all site allocations will be subject to a more detailed assessment at the planning application stage.
- 8.6 The most significant issue is regarding water quality and these is the form the majority of the assessment of these policies.
- 8.7 At this stage the appropriate mitigation measures can also be considered against each of the policies. The table with appendix 3 indicates where this has been the case. Herefordshire Council are investigate a wide range of mitigation measures and working with partners to resolve the current water quality issues within the Lugg catchment and are minded to the water quality within the Upper and Lower Wye catchment area.
- 8.8 The parish is not within a catchment that is currently 'failing' but it is considered that there is policy criteria added within WNDP 3 that requires development to be nutrient Neutral this acts as a policy safeguard for if the Lower Wye catchment did follow that of the current Lugg catchment.
- 8.10 The mitigation measures referenced within the document could be expanded and refined prior to any planning permissions in association with the policies of this development plan are approved.
- 8.13 **The results of this Appropriate Assessment indicate that the objectives and policies of the draft Woolhope NDP will not have an adverse effect on the integrity of the River Wye (including River Lugg) SAC or when the mitigation and avoidance measures have been taken into account.**

Consultation

- 9.1 This report will accompany Regulation 14 version of the Woolhope Neighbourhood Plan. This report will be subject to a 6 week consultation, followed by further submission consultation of the Woolhope NDP.