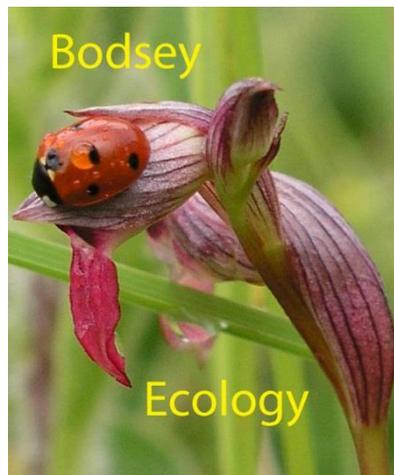


Habitat Regulations Assessment for the Oakley Neighbourhood Development Plan

Bodsey Ecology Limited

28 January 2019

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Oakley Neighbourhood Development Plan – Habitats Regulations Assessment 2019

Issue 1 – Draft Report on August 2018 Draft Oakley Neighbourhood Development Plan (28th January 2019)

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Date: 28 January 2019

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1 EXECUTIVE SUMMARY

- 1.1.1 The Conservation of Habitats and Species Regulations 2017 [the Habitats Regulations] require that Habitats Regulation Assessment (HRA) is applied to all statutory land use plans in England and Wales. HRA is achieved by carrying out an Appropriate Assessment.
- 1.1.2 Neighbourhood plans are nested within Local Plans. A HRA must determine whether significant effects on a European site can be ruled out on the basis of objective information and best scientific knowledge.
- 1.1.3 Appropriate Assessment for any development plan is a three stage process: screening, appropriate assessment itself that identifies whether the integrity of European sites could be compromised; and alternative solutions that include avoidance and mitigation measures. Until a ruling by the European Court of justice in 2018 it was assumed that existing planned mitigation measures against likely significant effects to European sites could allow those European sites to be 'screened out' at the first stage of the appropriate assessment process. The "People Over Wind" ruling has changed that assumption. It is no longer possible to screen out predicted adverse impacts on European sites where they are avoided or mitigated against without appropriate assessment. It is possible to screen out threats that are neither likely nor significant during the screening stage. HRA allows for a fourth stage that only applies in cases where adverse impacts are predicted even after alternative solutions have been tried and where there are imperative reasons of overriding national interest that the project should go ahead. It would be extremely unlikely that a Neighbourhood Plan could ever reach this fourth stage.
- 1.1.4 The HRA for the Bedford Borough Local Plan to 2030 (Bodsey Ecology, 2018) identified likely significant effects on two European sites, The Ouse Washes (SAC/SPA/Ramsar) and Portholme (SAC), downstream of Bedford. Although the policies within the Local Plan should protect the European sites if followed, detail was not available from the emerging Neighbourhood Plans to confirm this for all developments. Further screening of the Neighbourhood Plans will ensure that there were no unforeseen likely significant effects whilst undertaking the HRA for the Bedford Borough Local Plan to 2030. The HRA of Neighbourhood Plans will also ensure that they all avoid or mitigate against likely significant effects identified in the Bedford Borough Local Plan to 2030. The HRA for the Neighbourhood Plans are also necessary because the Bedford Borough Local Plan to 2030 has yet to be adopted and the policies within it are not yet in force.
- 1.1.5 Screening of the Oakley Neighbourhood Development Plan identified the same likely significant effects on the two European sites as the Bedford Borough Local Plan to 2030 but at a reduced scale. Appropriate assessment (AA Stage 2) showed that the policies of the Oakley Neighbourhood Development Plan (draft September 2018) offer protection to the European sites although they do not mention them specifically. Rewording of the policies to include the European sites would ensure avoidance or mitigation against the likely significant effects and their subsequent adverse impact on the qualifying features and site integrity.
- 1.1.6 This HRA has to assume that water quantity and quality in the River Great Ouse will not be compromised because the future strategic plans of Anglian Water will prevent this from happening. The safeguard that these future plans will protect the River Great Ouse and consequently the European sites along it is that those plans will have their own HRA. The Oakley Neighbourhood Plan (draft September 2018) recognises this issue but not in relation to the European sites.
- 1.1.7 This HRA concludes that the Oakley Neighbourhood Development Plan can proceed as it will not have adverse impacts on any European sites, the qualifying features and/or the integrity of those sites itself or in combination with other plans that have currently been adopted.



2 THE LEGISLATIVE CONTEXT

- 2.1.1 The National Policy Planning Framework (July 2018)¹ (NPPF) states that to protect and enhance biodiversity and geodiversity, plans should:
- a) Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation; and
 - b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.
- 2.1.2 In addition to the requirements of the NPPF, the Conservation of Habitats and Species Regulations 2017 [the Habitats Regulations] require that Habitats Regulation Assessment (HRA) is applied to all statutory land use plans in England and Wales, including Neighbourhood Plans.
- 2.1.3 The Habitats Regulations transpose the requirements of the European Directive (92/43/EEC) on the Conservation of Natural Habitats and Wild Flora and Fauna [The Habitats Directive] which aims to protect the habitats and species of European nature conservation importance. The Directive establishes a network of internationally important sites designated for their ecological status. These are referred to as Natura 2000 sites or European sites, and comprise Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) which are designated under European Directive (2009/147/EC) on the conservation of wild birds [the Birds Directive].
- 2.1.4 The aim of the HRA process is to assess the potential effects arising from a plan against the conservation objectives of any European site designated for its nature conservation importance.
- 2.1.5 SACs and SPAs were included as designations referred to in the NPPF (paragraph 2.11 above). In addition, the NPPF¹ also requires that Ramsar sites (which support internationally important wetland habitats and are listed under the Convention on Wetlands of International Importance [Ramsar Convention]) are included within the HRA process as required by the Regulations.
- 2.1.6 The Parish Council, as the 'plan-making' or 'relevant competent' authority, must before the plan is given effect, make a HRA through Appropriate Assessment (AA) of the implications for the site in view of that site's conservation objectives where (a) the plan is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and (b) is not directly connected with or necessary to the management of the site (Paragraph 102 of the Habitats Regulations 2017).
- 2.1.7 The process of HRA is based on the precautionary principle and evidence should be presented to allow a determination of whether the impacts of a land-use plan, when considered in combination with the effects of other plans and projects against the conservation objectives of a European site; would adversely affect the integrity of that site. Where effects are considered uncertain, the potential for adverse impacts should be assumed. Whether those effects reach a threshold where they can be considered 'significant' has to be interpreted using objective information and best ecological knowledge. Neighbourhood plans are nested within Local Plans. HRA identifies whether a plan is likely to have a significant effect on the integrity of a European site's conservation objectives because it may adversely impact the qualifying features listed, either alone or in combination with other plans or projects. This assessment must determine whether significant effects on a European site can be ruled out on the basis of objective information². Neighbourhood Plans must therefore be considered in combination with the Bedford Borough Local Plan to 2030.
- 2.1.8 It is important to recognise that this HRA deals exclusively with the requirements of the Habitats Regulations 2017, which in turn are concerned only with sites designated for their importance at

¹https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/740441/National_Planning_Policy_Framework_web_accessible_version.pdf

² <https://www.gov.uk/guidance/strategic-environmental-assessment-and-sustainability-appraisal#neighbourhood-plan-require-sustainability-appraisal>
Paragraph: 047 Reference ID: 11-046-20150209



the European level. It is not a comprehensive review of interactions of the Bedford Borough Local Plan to 2030 with biodiversity and important components such as SSSIs, Local Wildlife Sites, Green Infrastructure and Protected Species and Habitats of Principal Importance that are included within the Sustainability Appraisal for that plan. It should be noted that this author noted references to the biodiversity of Bedford Borough and Oakley Parish were largely missing from the Oakley Neighbourhood Development Plan which concentrates largely on landscape impacts in the environment policy ONP LE1.

3 AA STAGE 1 – SCREENING METHODOLOGY

- 3.1.1 The methodology for this Appropriate Assessment (AA) stage 1 of the Oakley Neighbourhood Development Plan is an extension of that used for the HRA for the Bedford Borough Local Plan to 2030 (Bodsey Ecology 2018).
- 3.1.2 The HRA for the Bedford Borough Local Plan to 2030 considered the following possible threats:
- Increased public recreation, causing disturbance to birds, damage to vegetation, increased littering / flytipping or leading to management compromises (e.g. grazing being restricted).
 - Air pollution, air-borne pollutants
 - Human induced changes in hydraulic conditions
 - Invasive non-native species
 - Pollution to groundwater (point sources and diffuse sources)
 - Reduction in water quality, from increased discharges of sewage and surface water drainage, or from pollution incidents, either during or after construction.
 - Disruption to the flight paths of birds and mammals.
- 3.1.3 The threats were assessed for a number of European sites that are geographically connected by environmental pathways to Bedford Borough. The site objectives of each European site were considered at this stage (Appendix 1) in order to determine if there were ecological pathways that could connect the Oakley Neighbourhood Development Plan to the European sites. The seven European sites were: Portholme SAC; The Ouse Washes SAC/SPA/Ramsar; The Wash SPA/Ramsar; Upper Nene Valley Gravel Pits SPA/Ramsar; The Nene Washes SAC/SPA/Ramsar; Eversden and Wimpole Woods SAC; Chilterns Beechwoods SAC. The AA stage 1 for the Bedford Borough Local Plan to 2030 demonstrated that there would be no likely significant effects on all but Portholme SAC and The Ouse Washes SAC/SPA/Ramsar. Following analysis of the Oakley Neighbourhood Development Plan (draft September 2018) there were no newly identified likely significant effects that had not already been identified in the Bedford Borough Local Plan to 2030.
- 3.1.4 The threat from “Air pollution, air borne pollutants” was screened out of the Bedford Borough Local Plan to 2030 because none of the European sites were close enough to Bedford Borough for there to be an effect and extra road-use would mostly avoid the main routes passing close by the Upper Nene Gravel Pits SPA because there are more direct routes from Bedford to major national routes. Therefore, this threat will not be considered in any Appropriate Assessment for Neighbourhood Plans within Bedford Borough.



- 3.1.5 The conclusions of the full appropriate assessment for the HRA of the Bedford Borough Local Plan to 2030 were:

Climate change impacts on flows and therefore flooding in the River Great Ouse catchment are predicted to be much larger than impacts from urban developments in the long-term. However, protection from urbanisation should not be omitted because of this as it is still a likely significant effect. It is assumed policies in The Local Plan will be followed and permission will only be given to development by the consenting bodies on the understanding that there will not be increased output of pollutants from water recycling centres into the River Great Ouse.

The Local Plan in isolation or in combination with the Huntingdonshire Local Plan to 2036 and Central Bedfordshire "Shaping where you live 2035¹ should not have adverse effects on the two identified European sites on the River Great Ouse assuming policies are followed, although it should be stated that there are not HRA tasks 2 and 3 available from other Local Authorities in the catchment.

This HRA finds that as it stands The Local Plan could have significant effects on two of the sites, Portholme (SAC) and The Ouse Washes (SAC/SPA/Ramsar). Portholme (SAC) and The Ouse Washes (SAC) could be affected by a reduction in the quality of flood water. The Ouse Washes (SPA/Ramsar) could be affected by increased flooding. The effects could be avoided by rewording and subsequent adherence to policies and with Anglian Water following its commitments and any findings of future HRA of its Asset Management Plans or other plans.

The HRA concludes that, if policies identified as key in this report are retained, and/or the wording changes recommended for policies highlighted are adopted, The Local Plan will not have adverse effects on site integrity of any European site. Therefore, Bedford Borough Council can proceed with The Local Plan to 2030 in the context of Habitats Regulations 2017.

4 AA STAGE 1 - RESULTS

- 4.1.1 The screening matrix between the threats listed in paragraph 3.1.2 and the European sites listed in paragraph 3.1.3 for the Oakley Neighbourhood Development Plan is shown in Table 1.
- 4.1.2 The results of the screening showed that there are possible likely significant effects on the Portholme SAC and The Ouse Washes SAC/SPA/Ramsar. Subsequent analysis showed which of the qualifying features of those European sites might be affected by the threats and whether these adverse effects would lead to a loss of site integrity (these are summarised in Table 2) and are based on the site objectives (Appendix 1). Non-native invasive species are a likely effect because seeds and vegetative parts of plants capable of regeneration could escape from gardens and be transported down the River Great Ouse. Cumulatively across the whole of the River Great Ouse catchment the threat that non-native invasive species (some as yet unidentified or even present in the UK) remains very small and unquantifiable using evidence or with best ecological knowledge. Arguably, the escape of non-native invasive species cannot be discounted for any plan anywhere in England, UK or even the European Union below the threshold of 1 in 500,000 per year (as suggested by DTA Publications Limited, 2018 as being *de minimis*). However, this author believes in his expert opinion that the statement from the Advocate General in Sweetman '48 the requirement that the effect in question should be significant exists to lay down a *de minimis* threshold. Plans or projects that have no appreciable effect on the site are thereby excluded. If all plans or projects capable of having any effect whatsoever on the site were to be



caught be Article 6(3), activities on or near the site would risk being impossible by reason of legislative overkill’.

is pertinent because no development anywhere could take place with the threshold of 1 in 500,000 per year for the spread of invasive non-native species. This author suggests that the criteria for a causal link between plans or projects and European sites should be based on the presence of existing invasive non-native species in the plan or project area and/or projects that suggest non-native planting will take place as part of the project.

- 4.1.3 Pollution of groundwater and Reduction in water quality could have likely significant effects from pollution incidents emanating from new housing before, during or after construction.
- 4.1.4 In determining the likelihood of significant impacts, and hence the need for an appropriate assessment, mitigation measures (i.e. measures to avoid or reduce negative effects) cannot be taken into account. This is confirmed by the European Court of Justice in its ruling in case C-323/17 (commonly known as “People Over Wind”): ‘Article 6(3) of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora must be interpreted as meaning that, in order to determine whether it is necessary to carry out, subsequently, an appropriate assessment of the implications, for a site concerned, of a plan or project, it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site’³ Reversing the logic of this statement, a consequence of “People Over Wind” is that no European site can be screened out at AA stage 1 if there are likely significant effects identified from the perceived threats that come from an analysis of the plan in question, even if there are avoidance or mitigation steps put in place. However, perceived threats can be screened out if there is, on inspection, no chance of a likely significant effect on any European site because there is not actually a causal link. An example of this would be the potential threat from water pollution to the European sites on the River Nene, as the catchment is partly within Bedford Borough. On inspection, there is no development proposed in that part of Bedford Borough and so there is no causal link between the threat and the European sites and therefore no likely significant effect. That threat can be screened out for the European sites along the River Nene. “The People Over Wind” ruling means that although the Bedford Borough Local Plan to 2030 policies will be reworded to mitigate against the likely significant effects (identified in the HRA (Bodsey Ecology,2018)) at the scale of Bedford Borough it is assumed that they cannot be screened out at the finer scale of the Oakley Neighbourhood Development Plan. Furthermore, the Bedford Borough Local Plan has yet to be adopted and the policies in the emerging plan are not yet in force at the time of writing.

4.1 REASONING FOR TABLE 1 RESULTS

Oakley is in a very sensitive location when considering the River Great Ouse as it sits in a large loop in the river. The water related threats from developments in Oakley to the River Great Ouse required detailed consideration.

1. The Oakley Neighbourhood Development Plan is too small to have a noticeable effect on the number of visitors to any of the European sites and can be considered *de minimis*. Furthermore, the Bedford Borough Local Plan to 2030 in its entirety is predicted to have no adverse impact on the integrity of the European sites in question for this threat (Bodsey Ecology, 2018).
2. The Oakley Neighbourhood Development Plan is too small (25-50 dwellings) to have a measurable effect on the hydrology of the River Great Ouse and therefore will not significantly affect any of the European sites on its own. The in combination impacts of all developments in the River Great Ouse catchment are dependant on the plans of Anglian Water which are themselves subject to an

³<http://curia.europa.eu/juris/document/document.jsf?text=&docid=200970&pageIndex=0&doclang=en&mode=req&dir=&occ=first&part=1>



HRA. It can only be assumed for this HRA that the plans of Anglian Water will prevent effects on the European sites in question. The Oakley Neighbourhood Development Plan recognises the threat to the River Great Ouse and local flooding on page 11 and on page 49.

3. It is possible that non-native species could escape from new gardens and be dispersed along the River Great Ouse to Portholme and/or The Ouse Washes. Although the risk is small and almost unmeasurable it is still a possible significant effect that requires further attention. The Oakley Neighbourhood Development Plan is not connected by river to the Nene Washes or the Upper Nene Valley Gravel Pits and so there is no threat. There is no tangible connection between the Oakley Neighbourhood Development Plan and Eversden and Wimpole Woods or the Chilterns Beechwoods that would allow the dispersal of propagules and therefore there is no threat.
4. The same connections (or lack of them) between Oakley Neighbourhood Development Plan and the River Great Ouse as for reason “3” apply for pollution incidents to ground water.
5. The same connections (or lack of them) between Oakley Neighbourhood Development Plan and the River Great Ouse as for reason “3” apply for pollution incidents.
6. No dwelling in Oakley Neighbourhood Development Plan will be tall enough or close enough to have an effect on flyways for birds or mammals and therefore there is no threat.

Table 1. Screening of European sites for likely significant effects from threats identified from the Oakley Neighbourhood Development Plan.

European Site	Public Recreation	Human induced changes in hydraulic conditions	Non-native invasive Species	Pollution of Ground Water	Reduction in water Quality	Disruption to flight paths of animals
Portholme SAC	No	No - too small	Possible	Possible	Possible	No
Ouse Washes SAC/SPA/RAMSAR	No	No - too small	Possible	Possible	Possible	No
Nene Washes (SAC/SPA/RAMSAR)	No	No - too small	No - not connected	No - not connected	No - not connected	No
Eversden and Wimpole Woods (SAC)	No	No - too small	No - not connected	No - not connected	No - not connected	No
The Wash (SPA/RAMSAR)	No	No - too small	No	No	No	No
Upper Nene Valley Gravel Pits (SPA/RAMSAR)	No	No - too small	No - not connected	No - not connected	No - not connected	No
Chilterns Beechwoods	No	No - too small	No	No	No	No
Reason	1	2	3	4	5	6



Table 2. Summary of impacts on European site integrity of the Bedford Borough Local Plan to 2030 with additional information relating to the Oakley Neighbourhood Development Plan..

European Site	Qualifying Feature	Impacted negatively with potential loss of site integrity	Relevant to Oakley Neighbourhood Development Plan	Likely impact on site integrity	Suggested Mitigation Measure in Bedford Borough Local Plan to 2030
Portholme SAC	H6510 Lowland hay Meadow	Reduction in water quality	Yes – make reference to BBC Local Plan Policy 97 or mention the need to protect European sites in own policy	yes	Add enhanced use of SUDS and water storage. Include importance of preventing spring/summer flooding to Policy 97. Assumes Water Recycling Centres have capacity and pass their own HRA and/or upgraded as necessary upgraded.
		Increased spring/summer flooding	Yes – make reference to BBC Local Plan Policy 97 or mention the need to protect European sites in own policy	yes	Add enhanced use of SUDS and water storage. Include importance of preventing spring/summer flooding to protect European sites to Policy 97
		Non-native invasive species of plants	Yes	possibly	Ensure non-native species are not included in planting of new developments.
Ouse Washes SPA/RAMSAR	A051 <i>Anas strepera</i> , Gadwal (breeding) A056 <i>Anas querquedula</i> , Garganey (breeding) A119 <i>Porzana porzana</i> , Spotted Crake (breeding) A156a <i>Limosa limosa</i> , Black-tailed Godwit (breeding) Breeding Bird Assemblage (breeding)	Increased spring/summer flooding Increased winter flooding	Yes – make reference to BBC Local Plan Policy 97 or mention the need to protect European sites in own policy	yes	Add enhanced use of SUDS and water storage. Include importance of preventing spring/summer flooding to protect European sites to Policy 97. Enhanced use of SUDS and water storage. Include importance of preventing spring/summer flooding to protect European sites to Policy 97
	A082 <i>Circus cyaneus</i> , Hen Harrier (non-breeding)	Reduction in water quality	Yes – make reference to BBC Local Plan Policy 97 or mention the need to protect European sites in own policy	yes	Add enhanced use of SUDS and water storage. Include importance of preventing spring/summer flooding to protect European sites to Policy 97. Assumes upgrades to Water Recycling Centres as necessary and assuming these pass their own HRA.
Ouse Washes SAC	S1149 <i>Cobitis taenia</i> (Spined Loach)	Reduction in water quality	Yes – make reference to BBC Local Plan Policy 97 or mention the need to protect European sites in own policy	yes	As for SPA/Ramsar

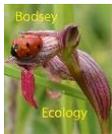


5 AA STAGE 1 - CONCLUSIONS

- 5.1.1 The Oakley Neighbourhood Development Plan will have no unforeseen likely significant effects on the qualifying features of the two European sites identified in addition to those in the HRA of the Bedford Borough Local Plan to 2030 (Bodsey Ecology, 2018).
- 5.1.2 The screening process provided a quandry in relation to “The People Over Wind” ruling. The Oakley Neighbourhood Development Plan (draft September 2018) acknowledges that any future development will need to ensure that the plans of Anglian Water will protect the River Great Ouse through mitigation. This therefore acknowledges that there might be a problem and could require avoidance and/or mitigation and as such the threat of loss of site-integrity (Portholme SAC and Ouse Washes SAC/SPA/Ramsar) due to increased water quantity at times of high precipitation and a reduction in water quality should not have been screened out. This is the most conservative view possible but erring on the side of caution in respect of legal challenge it was decided to take these likely significant effects forward to the appropriate assessment and site integrity test (AA stage 2).
- 5.1.3 The developments included in the Oakley Neighbourhood Development Plan (draft Septemebrr 2018) could contribute to the likely significant effects on qualifying features of the European sites already identified as possible in the HRA of the Bedford Borough Local Plan to 2030. All sites close to the River Great Ouse require an appropriate assessment to ascertain that avoidance and mitigation measures are sufficient to prevent any significant effects. It is noteworthy that the draft plan assessed here already recognises the need to work with Anglian Water to prevent flooding and unplanned discharge to the river.

6 AA STAGE 2 - APPROPRIATE ASSESSMENT

- 6.1.1 Screening (Table 1) has determined that the Oakley Neighbourhood Development Plan (draft September 2018) could add to the likely significant effects of the Bedford Borough Local Plan to 2030 and those of other district councils in the River Great Ouse catchment on the European sites at Portholme and The Ouse Washes.
- 6.1.2 Each of the policies in the document “Oakley Neighbourhood Development Plan” (draft version September 2018) were reviewed. Secondly, the impact of the policies on the threats listed above in paragraph 3.1.2 were evaluated. The following criteria were used in the evaluation:
- 1 Could the policy possibly cause or alter likely significant effects of any of the threats to the European sites.
 - 2 Would the significant effects be positive or negative
 - 3 Does the wording of the policy mean that the significant effects will be either avoided or mitigated against if the policy is followed. Noting that at this stage a likely significant effect or European site can be ‘discounted and removed’ from the Appropriate Assessment if the current policy will mitigate or avoid the adverse impacts on the qualifying features, and there will be no loss of site integrity.
 - 4 Does rewording of the policy allow for significant effects on site integrity of the European sites to be avoided or mitigated against. If the answer is “no” then adverse impacts on site integrity might be a result of the plan if it went ahead (which it should not).
- 6.1.3 Using these criteria the following pathway was followed:
- The answer to criterion 1 could be “yes” or “no”.
 - If the answer to criterion 1 was “yes” then the answer to criterion 2 could be “positive” or “negative”.
 - If the answer to criterion 2 was “negative” the answer to criterion 3 could be “yes” or “no”.



- If the answer to criterion 3 was “no” then the answer to criterion 4 could be “yes” or “no”.

- 6.1.4 For each policy a written reason for the conclusion was added. The results are presented in full in Appendix 2.
- 6.1.5 Note that if any policy or aspect of a plan could lead to adverse impacts on European site integrity the plan should not go forward to adoption. In this rare circumstance, If the plan is to go ahead it would have to have ‘imperative reasons of overriding national interest’ and compensatory projects would have to be put in place.

7 AA STAGE 2 - RESULTS

- 7.1.1 There are no policies (including those relating to the housing developments themselves) that have likely significant effects on any of the qualifying features of the European sites (Appendix 2). The European site objectives will not be compromised and there will be no loss of site integrity if the avoidance steps that are recommended in the next section are followed.

8 AA STAGE 3 – AVOIDANCE AND MITIGATION

- 8.1.1 Although the draft assessed here is very clear and well written, the following rewording of the text and policies of the Oakley Neighbourhood Development Plan are recommended to ensure that the examiner is made aware that the potential for likely significant effects on European sites has been evaluated and that avoidance or mitigation measures are in place.
- 8.1.2 As the Oakley Neighbourhood Development Plan (draft September 2018) already acknowledges the issue relating to flood water having a negative impact and that the developments should ensure that Anglian Water plans can accommodate the increase (on page 11 and on page 49) arguably no changes are required. However, the plan would demonstrate that it has taken into account the protection of the European sites (Portholme SAC and Ouse Washes SAC/SPA/Ramsar) by stating this in the section on page 11 that currently reads:

“Surface water drainage is an issue at certain locations within the village and any development must not add to the load on existing systems.

Certain properties also suffer from sewer flooding and again future development must not add to the existing problems. Additional capacity may be required in the Anglian Water pumping station to address existing problems and to provide capacity for future developments. “

- 8.1.3 A sentence after “... existing systems.” that reads “Protecting the quantity and quality of water entering the River Great Ouse from Oakley would prevent harm to the European sites downstream (Portholme SAC, The Ouse Washes SAC/SPA/Ramsar).” would suffice.
- 8.1.4 The threat from invasive non-native species is impossible to quantify but can be eliminated if all householders refrain from planting such species in their gardens and/or dispose of garden waste appropriately ensuring seeds and propagules do not enter the River Great Ouse directly or via smaller water courses. There is no legislation to prevent householders growing what they like, with the exception of notifiable species (Himalayan Balsam, Giant Hogweed and Japanese Knotweed). To minimise the impact of the threat from invasive non-native species some explanatory text could be added to policy **ONP DH1 Design** explaining that landscaping should use native species or garden species that are known to be non-invasive and explaining that invasive non-native species should be prevented from entering the wider countryside where they could have adverse impacts on designated species and habitats including the European site, Portholme (SAC) downstream on the River Great Ouse.



9 CONCLUSIONS

- 9.1.1 There are likely significant effects from increased flooding and from pollution to the European sites of Portholme (SAC) and The Ouse Washes (SAC/SPA/Ramsar) from the Oakley Neighbourhood Development Plan, but only in combination with other plans. The avoidance of the impacts of increased flooding and pollution in the River Great Ouse depends on the efficacy of Anglian Water's Water Recycling Centres. The assumption has to be made that future HRAs for strategic plans of Anglian Water show that flooding and pollution are avoided or mitigated against.
- 9.1.2 There is no reason arising from this Habitat Regulations Assessment to prevent the Oakley Neighbourhood Development Plan from being adopted in the context of the Habitat Regulations 2017.

10 REFERENCE

Bodsey Ecology (2018). *Bedford Borough Local Plan Habitat Regulations Assessment 2018*. Accessed on 4/10/2018 at <http://edrms.bedford.gov.uk/OpenDocument.aspx?id=mWdUC1eYtKneHtAkS7KPeQ%3d%3d&name=26%20-%20Habitats%20Regulations%20Assessment%202018.pdf>



APPENDIX 1 – EUROPEAN SITE OBJECTIVES

EUROPEAN SITE CONSERVATION OBJECTIVES FOR PORTHOLME SPECIAL AREA OF CONSERVATION SITE CODE: UK0030054

With regard to the SAC and the natural habitats and/or species for which the site has been designated (the 'Qualifying Features' listed below), and subject to natural change;

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 qualifying natural habitats rely

Qualifying Features:

H6510. Lowland hay meadows (*Alopecurus pratensis*, *Sanguisorba officinalis*)

EUROPEAN SITE CONSERVATION OBJECTIVES FOR OUSE WASHES SPECIAL AREA OF CONSERVATION SITE CODE: UK0013011

With regard to the natural habitats and/or species for which the site has been designated (the 'Qualifying Features' listed below), and subject to natural change;

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 the habitats of qualifying species
- The structure and function of the habitats of qualifying species
- The supporting processes on which the habitats of qualifying species rely
- The populations of qualifying species, and,
- The distribution of qualifying species within the site.

Qualifying Features:

S1149. *Cobitis taenia*; Spined loach

EUROPEAN SITE CONSERVATION OBJECTIVES FOR OUSE WASHES SPECIAL PROTECTION AREA SITE CODE: UK9008041

With regard to the SPA and the individual species and/or assemblage of species for which the site has been classified (the 'Qualifying Features' listed below), and subject to natural change;

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;

- The extent and distribution of the habitats of the qualifying features
- The structure and function of the habitats of the qualifying features



- The supporting processes on which the habitats of the qualifying features rely
- The population of each of the qualifying features, and,
- The distribution of the qualifying features within the site.

Qualifying Features:

A037 *Cygnus columbianus bewickii*; Bewick's swan (Non-breeding)

A038 *Cygnus cygnus*; Whooper swan (Non-breeding)

A050 *Anas penelope*; Eurasian wigeon (Non-breeding)

A051 *Anas strepera*; Gadwall (Breeding)

A052 *Anas crecca*; Eurasian teal (Non-breeding)

A053 *Anas platyrhynchos*; Mallard (Breeding)

A054 *Anas acuta*; Northern pintail (Non-breeding)

A055 *Anas querquedula*; Garganey (Breeding)

A056 *Anas clypeata*; Northern shoveler (Non-breeding)

A056 *Anas clypeata*; Northern shoveler (Breeding)

A082 *Circus cyaneus*; Hen harrier (Non-breeding)

A151 *Philomachus pugnax*; Ruff (Breeding)

A156a *Limosa limosa limosa*; Black-tailed godwit (Breeding)

Waterbird assemblage

Breeding bird assemblage

EUROPEAN SITE CONSERVATION OBJECTIVES FOR THE WASH AND NORTH NORFOLK COAST SPECIAL AREA OF CONSERVATION SITE CODE: UK0017075

With regard to the SAC and the natural habitats and/or species for which the site has been designated (the 'Qualifying Features' listed below), and subject to natural change;

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.

Qualifying Features:

H1110. Sandbanks which are slightly covered by sea water all the time; Subtidal sandbanks



H1140. Mudflats and sandflats not covered by seawater at low tide; Intertidal mudflats and sandflats

H1150. Coastal lagoons*

H1160. Large shallow inlets and bays

H1170. Reefs

H1310. Salicornia and other annuals colonising mud and sand; Glasswort and other annuals colonising mud and sand

H1330. Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*)

H1420. Mediterranean and thermo-Atlantic halophilous scrubs (*Sarcocornetea fruticosi*); Mediterranean saltmarsh scrub

S1355. *Lutra lutra*; Otter

S1365. *Phoca vitulina*; Common seal

EUROPEAN SITE CONSERVATION OBJECTIVES FOR THE WASH SPECIAL PROTECTION AREA SITE CODE: UK9008021

With regard to the SPA and the individual species and/or assemblage of species for which the site has been classified (the 'Qualifying Features' listed below), and subject to natural change;

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;

- The extent and distribution of the habitats of the qualifying features
- The structure and function of the habitats of the qualifying features ☐ The supporting processes on which the habitats of the qualifying features rely
- The population of each of the qualifying features, and,
- The distribution of the qualifying features within the site.

Qualifying Features:

A037 *Cygnus columbianus bewickii*; Bewick's swan (Non-breeding)

A040 *Anser brachyrhynchus*; Pink-footed goose (Non-breeding)

A046a *Branta bernicla bernicla*; Dark-bellied brent goose (Non-breeding)

A048 *Tadorna tadorna*; Common shelduck (Non-breeding)

A050 *Anas penelope*; Eurasian wigeon (Non-breeding)

A051 *Anas strepera*; Gadwall (Non-breeding)

A054 *Anas acuta*; Northern pintail (Non-breeding)

A065 *Melanitta nigra*; Black (common) scoter (Non-breeding)

A067 *Bucephala clangula*; Common goldeneye (Non-breeding)

A130 *Haematopus ostralegus*; Eurasian oystercatcher (Non-breeding)

A141 *Pluvialis squatarola*; Grey plover (Non-breeding)

A143 *Calidris canutus*; Red knot (Non-breeding)

A144 *Calidris alba*; Sanderling (Non-breeding)

A149 *Calidris alpina alpina*; Dunlin (Non-breeding)



- A156 *Limosa limosa islandica*; Black-tailed godwit (Non-breeding)
A157 *Limosa lapponica*; Bar-tailed godwit (Non-breeding)
A160 *Numenius arquata*; Eurasian curlew (Non-breeding)
A162 *Tringa totanus*; Common redshank (Non-breeding)
A169 *Arenaria interpres*; Ruddy turnstone (Non-breeding)
A193 *Sterna hirundo*; Common tern (Breeding)
A195 *Sterna albifrons*; Little tern (Breeding)
Waterbird assemblage

EUROPEAN SITE CONSERVATION OBJECTIVES FOR EVERSDEN AND WIMPOLE WOODS SPECIAL AREA OF CONSERVATION SITE CODE: UK0030331

With regard to the SAC and the natural habitats and/or species for which the site has been designated (the 'Qualifying Features' listed below), and subject to natural change;

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 the habitats of qualifying species
- The structure and function of the habitats of qualifying species
- The supporting processes on which the habitats of qualifying species rely
- The populations of qualifying species, and,
- The distribution of qualifying species within the site.

This document should be read in conjunction with the accompanying Supplementary Advice document, which provides more detailed advice and information to enable the application and achievement of the Objectives set out above and is found at <http://publications.naturalengland.org.uk/publication/6736081810620416>.

Qualifying Features:

S1308. *Barbastella barbastellus*; Barbastelle bat

EUROPEAN SITE CONSERVATION OBJECTIVES FOR UPPER NENE VALLEY GRAVEL PITS SPECIAL PROTECTION AREA SITE CODE: UK9020296

With regard to the SPA and the individual species and/or assemblage of species for which the site has been classified (the 'Qualifying Features' listed below), and subject to natural change;

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;

- The extent and distribution of the habitats of the qualifying features
- The structure and function of the habitats of the qualifying features
- The supporting processes on which the habitats of the qualifying features rely



- The population of each of the qualifying features, and, 2 The distribution of the qualifying features within the site.

This document should be read in conjunction with the accompanying Supplementary Advice document, which provides more detailed advice and information to enable the application and achievement of the Objectives set out above. It is available at

<http://publications.naturalengland.org.uk/publication/5495529882517504>

Qualifying Features:

A021 Botaurus stellaris; Great bittern (Non-breeding)

A051 Anas strepera; Gadwall (Non-breeding)

A140 Pluvialis apricaria; European golden plover (Non-breeding)

Waterbird assemblage

EUROPEAN SITE CONSERVATION OBJECTIVES FOR NENE WASHES SPECIAL PROTECTION AREA SITE CODE: UK9008031

With regard to the SPA and the individual species and/or assemblage of species for which the site has been classified (the 'Qualifying Features' listed below), and subject to natural change;

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;

- The extent and distribution of the habitats of the qualifying features
- The structure and function of the habitats of the qualifying features
- The supporting processes on which the habitats of the qualifying features rely
- The population of each of the qualifying features, and,
- The distribution of the qualifying features within the site.

Qualifying Features:

A037 Cygnus columbianus bewickii; Bewick's swan (Non-breeding)

A050 Anas penelope; Eurasian wigeon (Non-breeding)

A051 Anas strepera; Gadwall (Breeding)

A051 Anas strepera; Gadwall (Non-breeding)

A052 Anas crecca; Eurasian teal (Non-breeding)

A054 Anas acuta; Northern pintail (Non-breeding)

A055 Anas querquedula; Garganey (Breeding)

A056 Anas clypeata; Northern shoveler (Non-breeding)

A056 Anas clypeata; Northern shoveler (Breeding)

A156a Limosa limosa limosa; Black-tailed godwit (Breeding)



EUROPEAN SITE CONSERVATION OBJECTIVES FOR CHILTERN BEECHWOODS SPECIAL AREA OF CONSERVATION SITE CODE: UK0012724

With regard to the SAC and the natural habitats and/or species for which the site has been designated (the 'Qualifying Features' listed below), and subject to natural change

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.

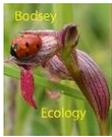
This document should be read in conjunction with the accompanying Supplementary Advice document, which provides more detailed advice and information to enable the application and achievement of the Objectives set out above. This is available at <http://publications.naturalengland.org.uk/publication/4808896162037760>

Qualifying Features:

H6210. Semi-natural dry grasslands and scrubland facies: on calcareous substrates (FestucoBrometalia); Dry grasslands and scrublands on chalk or limestone

H9130. Asperulo-Fagetum beech forests; Beech forests on neutral to rich soils

S1083. Lucanus cervus; Stag beetle



APPENDIX 2 – RESULTS OF THE ASSESSMENT OF POLICIES

Criteria 1 and 2 of the appropriate assessment (AA Stage 2)

Could Likely Significant Effects Occur Because of Policy						
Policy Number	Policy Title	Human induced changes in hydraulic conditions	Invasive non-native species	Pollution to groundwater	Reduction in water quality	Reason
	What is the Neighbourhood Plan	No	No	No	No	Explanatory text only
	Neighbourhood Plan Meeting the Basic Conditions	No	No	No	No	submitted draft Bedford Borough Plan to 2035 which needs rectifying.
	About Oakley	No	No	No	No	Explanatory text only
	Aims of the Plan	No	No	No	No	Explanatory text only
	Community Consultation and Engagement	No	No	No	No	Explanatory text only
	Sustainable Development for Oakley	Possibly	Possibly	Possibly	Possibly	There is a threat from propagules and seeds of invasive non-native plant species to the European site at Portholme (SAC) that could escape if there is inappropriate landscape planting
	Vision and Objectives	No	No	No	No	It would. be good to see mention of wildlife in the objectives but the reference to the sustainable development section will suffice
	Plan Monitoring and Review	Positive	Positive	Positive	Positive	The review should monitor the policies and also the policies of Anglian Water to ensure they will protect the River Great Ouse.
	Overall Growth Strategy	Possibly	Possibly	Possibly	Possibly	Although small the number of extra dwellings could in combination with other plans lead to a loss of site integrity at Portholme (SAC) and The Ouse Washes (SAC/SPA/Ramsar)



Criteria 1 and 2 of the appropriate assessment (AA Stage 2) - continued

Policy Number	Policy Title	induced changes in hydraulic conditions	Invasive non-native species	Pollution to groundwater	Reduction in water quality	Reason
	Housing Need	No	No	No	No	Explanatory text that cites NPPF and the aim to increase biodiversity. It is assumed that policies for individual developments are more relevant for likely significant effects rather than this overarching policy
ONP HG1	Housing Growth in Oakley	No	No	No	No	Assuming the sustainability texts contain references to protecting European sites there will be no likely significant policy from this policy
ONP HG2	Housing Mix	No	No	No	No	Not relevant to European sites
	Business and Employment	No	No	No	No	Environmental sensitivity of Willow Vale is recognised in the background text.
ONP BE1	Business and Employment	Possibly	Possibly	Possibly	Possibly	Inappropriate expansion could have environmental impacts on water entering the River Great Ouse. Inappropriate landscaping could release invasive non-native species into The River Great Ouse
ONP BE2	Retail and Community Facilities	No	Possibly	No	No	There is nothing to prevent new facilities planting inappropriately
ONP BE3	Public Houses	No	No	No	No	No connection to European sites
ONP BE\$	Broadband Connectivity	No	No	No	No	No connection to European sites
	Landscape	Possibly	Possibly	Possibly	Possibly	Development could lead to the release of seeds and propagules of invasive non-native species into the River Great Ouse that could impact site integrity of Portholme (SAC) and The Ouse Washes (SAC/SPA/Ramsar). Likewise increased water and pollution could enter the River Great Ouse at times of high precipitation if the water recycling centre is overwhelmed.



Criteria 1 and 2 of the appropriate assessment (AA Stage 2) - continued

Policy Number	Policy Title	Human induced changes in hydraulic conditions	Invasive non-native species	Pollution to groundwater	Reduction in water quality	Reason
ONP LE1	Sensitive Landscapes	Possibly	Possibly	Possibly	Possibly	See Above
ONP LE2	Local Green Space	No	No	No	No	Not relevant to the European sites
ONP LE3	Coalescence With Neighbouring Villages	No	No	No	No	Not relevant to European sites
	Design and Heritage	No	Possibly	No	No	Inappropriate planting could lead to the release of propagules of invasive non-native plant species into The River Great Ouse
ONP DH1	Design	No	Possibly	No	No	No mention of invasive non-native species
ONP DH2	Local Character	No	No	No	No	Not relevant to European sites
ONP DH3	Local heritage	No	No	No	No	Not relevant to European sites
	Transport	No	No	No	No	In this case transport has no impact on European sites
ONP TR1	Balanced transport Provision	No	No	No	No	In this case transport has no impact on European sites
	Neighbourhood Plan Designations	No	No	No	No	This is descriptive text
	Designations	No	No	No	No	The local green spaces will not impact the European sites as they are too far away
	Proposed Development Sites	No	No	No	No	This is descriptive text
Site 170 and 571	Station Road	No	No	No	No	Does not mention environmental impact or water issues - even if there are none it should say so. However site will have HRA or be linked to this HRA - see below
Site 171	Rear of High Street	No	No	No	No	Acknowledges that there ecological issues but site will have HRA or be linked to this HRA- see below
Site 406	Town Farm	No	No	No	No	Acknowledges that there ecological issues but site will have HRA or be linked to this HRA- see below
	Development sites - Final Assessment and Outcome	Possibly	Possibly	Possibly	Possibly	Although the developments could lead to a loss of site integrity of Portholme SAC



Criteria 1 and 2 of the appropriate assessment (AA Stage 2) - continued

Policy Number	Policy Title	Human induced changes in hydraulic conditions	Invasive non-native species	Pollution to groundwater	Reduction in water quality	Reason
	Settlement Policy Area	No	No	No	No	Not related to European sites
	Annex 1 Non-Neighbourhood Plan Matters	No	No	No	No	Not relevant to European sites
	Annex 2 Map of Village Assets	No	No	No	No	Not relevant to European sites
	Annex 3 List of Evidence Reports	Possibly	Possibly	Possibly	Possibly	Does not refer to Bedford Borough Biodiversity Report(s) or the Bedford Borough HRA



Criterion 3. Does current wording address Likely Significant Effect						
Policy Number	Policy Title	Human induced changes in hydraulic conditions	Invasive non-native species	Pollution to groundwater	Reduction in water quality	Reason
	Sustainable Development for Oakley	No	No	No	No	No mention is made of the threat from non-native invasive species to biodiversity in the parish or wider countryside (notably European sites). Although the issue of surface water drainage is raised on page 11 there is no indication that there is a threat to European sites downstream of Oakley on The River Great Ouse
	Overall Growth Strategy	No	No	No	No	There is no reference to the HRA for the Bedford Borough Local Plan to 2030 in the evidence sources and also the biodiversity section of the Sustainability Assessment for Bedford Borough
ONP BE1	Business and Employment	No	No	No	No	This policy states that there should be no harm to the local landscape and rural character. It does not mention biodiversity, habitats or wildlife in any way
ONP BE2	Retail and Community Facilities		No			There is nothing to prevent new facilities planting inappropriately
	Landscape	No	No	No	No	The text quotes the NPPF which is good. However, the section of the text that refers to protection of wildlife in The River Great Ouse does not mention the European sites of Portholme (SAC) or The Ouse Washes (SAC/SPA/Ramsar). The text discusses the landscape but not biodiversity features within it.
ONP LE1	Sensitive Landscapes	No	No	No	No	This policy does not mention biodiversity, wildlife or habitats locally nor does it mention them at the wider scale ie does not mention the European sites
	Design and Heritage		No			Landscaping does not mention avoiding planting with invasive non-native species.
ONP DH1	Design		No			No mention of invasive non-native species
	Development sites - Final Assessment and Outcome	Yes	Yes	Yes	Yes	Each site will have its own HRA or be linked to this HRA.
	Annex 3 List of Evidence Reports	No	No	No	No	Does not refer to Bedford Borough Biodiversity Report(s) or the Bedford Borough HRA



Criterion 4: Does rewording of the policy address the negative likely significant effect?						
Policy Number	Policy Title	Human induced changes in hydraulic conditions	Invasive non-native species	Pollution to groundwater	Reduction in water quality	Reason
	Sustainable Development for Oakley	Yes	Yes	Yes	Yes	Include biodiversity in the explanatory text, mentioning the need to protect the European sites downstream and including the need for sensitive use of planting - which is probably best placed in the landscape section.
	Overall Growth Strategy	Yes	Yes	Yes	Yes	Mention the HRA for the Bedford Borough Local Plan to 2030 and cite in Annex 3
ONP BE1	Business and Employment	Yes	Yes	Yes	Yes	Mention protection of biodiversity and/or habitats and species in the explanatory text or ensure that it is referred to in another policy that is a background requirement.
ONP BE2	Retail and Community Facilities		Yes			Ensure that inappropriate planting is covered in one of the policies that are a background requirement for this policy.
	Landscape	Yes	Yes	Yes	Yes	Mention the European sites and their protection is a requirement.
ONP LE1	Sensitive Landscapes	Yes	Yes	Yes	Yes	The protection of the European sites by ensuring that only appropriate planting is undertaken and that there is cross reference to the need to make sure that excessive surface water or polluted water enters the River Great Ouse.
	Design and Heritage		Yes			see landscape policies above
ONP DH1	Design		Yes			see landscape policies above
	Development sites - Final Assessment and Outcome	Yes	Yes	Yes	Yes	Each site will have its own HRA or be linked to this HRA.
	Annex 3 List of Evidence Reports	Yes	Yes	Yes	Yes	Cite all relevant biodiversity reports and HRAs