



**Milton Keynes Council Biodiversity Supplementary  
Planning Document**

**Strategic Environmental Assessment Screening  
Report and Habitat Regulations Assessment**

**Milton Keynes Council  
September 2020**

# **Biodiversity SPD**

## **Strategic Environmental Assessment Screening Report**

### **1. Title of SPD:**

Biodiversity Supplementary Planning Document (SPD)

### **2. Subject:**

Milton Keynes Council (MKC) has prepared a Biodiversity SPD to provide more detailed guidance regarding the implementation and interpretation of the policies of the Plan:MK (NE1, NE2 and NE3). There are also other policies within the Plan which make references to biodiversity and the need to securing a net gain in biodiversity (NE4 and NE6). The SPD provides additional information on how these policies will be implemented and provides guidance on biodiversity and nature conservation for development applicants concerned with the conservation of biodiversity in development. Additionally, this SPD will also be considered as a material consideration in the determination of planning applications submitted to the Council.

### **3. Consultation:**

Public consultation on the draft Biodiversity SPD will take in September to November 2020.

### **4. Consultation Address:**

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# **Biodiversity SPD**

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### **1. Introduction**

1.1 This screening report is designed to determine whether or not the contents of the Biodiversity (SPD) requires:

- A Strategic Environmental Assessment (SEA) in accordance with the European Directive 2001/42/EC and associated Environmental Assessment of Plans and Programmes Regulations 2004; and
- An assessment against the Habitats regulations to establish whether there would be any significant effects on European site(s).

### **2. Policy context**

2.1 Milton Keynes Council prepared and adopted Plan:MK 2016-2031, a Local Plan for the Borough of Milton Keynes, in March 2019 in accordance with the Planning and Compulsory Purchase Act 2004, the Town and Country Planning (Local Planning) (England) Regulations 2012, and national planning policy set out in the National Planning Policy Framework 2012 . Plan:MK now forms part of the statutory Development Plan for Milton Keynes and replaces the saved policies of the Local Plan 2005 and Core Strategy 2013.

2.2 The NPPF (February 2019) states that SPDs are “documents which add further detail to the policies in the development plan. They can be used to provide further guidance for development on specific sites, or on particular issues, such as design. Supplementary planning documents are capable of being a material consideration in planning decisions but are not part of the development plan.”

### **3. Purpose and content of the Biodiversity SPD**

3.1 Milton Keynes Council, in its role as Local Planning Authority is producing a Biodiversity SPD. It is anticipated that a consultation on a draft document will take place in Summer/Autumn 2020.

3.2 The geographic area covered by the SPD is the borough of Milton Keynes. The purpose of the Biodiversity SPD is to provide more detailed guidance regarding the implementation and interpretation of the following policies of the Plan:MK:

- Policy NE1: Protection of sites
- Policy NE2: Protected species and priority species and habitats
- Policy NE3: Biodiversity and geological enhancement

3.3 The SPD provides additional information on how these policies will be implemented and provides guidance on biodiversity and nature conservation

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for development applicants concerned with the conservation of biodiversity in development.

3.4 The legislative background set out below outlines the regulations that require the need for this screening exercise. Section 4 provides a screening assessment of the likely significant environmental effects of the SPD and the need for a full SEA.

#### **4. Legislative Background**

4.1 The basis for Strategic Environmental Assessments and Sustainability Appraisal legislation is European Directive 2001/42/EC and was transposed into English law by the Environmental Assessment of Plans and Programmes Regulations 2004, or SEA Regulations.

4.2 The Planning and Compulsory Purchase Act 2004 required Local Authorities to produce Sustainability Appraisals (SA) for all local development documents to meet the requirement of the EU Directive on SEA. It is considered best practice to incorporate requirements of the SEA Directive into a SA.

4.3 However, the 2008 Planning Act removed the requirement to a Sustainability Appraisal for a Supplementary Planning Document, but not a Strategic Environmental Assessment. This, is because SPD's do not normally introduce new policies or proposals or modify planning documents which have already been subject to Sustainability Appraisal.

4.4 Appraisal incorporating SEA has been undertaken during the preparation of Plan:MK (SA of the Plan:MK November 2017) and has been examined as part of the Examination in Public of Plan:MK. The Council, at the request of the examination Inspector, prepared an Addendum to the SA/SEA to present information on the proposed modifications, and alternatives, with a view to informing the current consultation and subsequent plan finalisation<sup>1</sup>.

4.5 This report focuses on screening for SEA and the criteria for establishing whether a full assessment is needed.

4.6 To assess whether a SEA is required the local planning authority must undertake a screening process based on a standard set of criteria. This must

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<sup>1</sup> At the time Plan:MK was prepared the prevailing national planning policy was set out in the NPPF (published in March 2012). In accordance with paragraph 214 of the revised NPPF (published in July 2018 and subsequently updated in February 2019, Plan:MK was examined against the 2012 NPPF and accompanying Planning Practise Guidance (PPG).

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be subject to consultation with the three consultation bodies: Historic England, The Environment Agency and Natural England.

4.7 If a SPD is considered unlikely to have significant environmental effects through the screening process, then the conclusion will be that the preparation of a SEA is not necessary.

4.8 Following consultation, the results of the screening process will be detailed in a Screening Statement, which is required to be made available to the public.

4.9 This document will be updated when the consultation response of the three consultation bodies have been received and evaluated.

## **5. The Screening Process**

3.1 Criteria for determining the likely significance of effects referred to in Article 3(5) of Directive 2001/42/EC are set out below:

1. The characteristics of plans and programmes, having regard to:
  - the degree to which the plan or programme sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources,
  - the degree to which the plan or programme influences other plans and programmes including those in a hierarchy,
  - the relevance of the plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development,
  - environmental problems relevant to the plan or programme,
  - the relevance of the plan or programme for the implementation of Community legislation on the environment (e.g. plans and programmes linked to waste-management or water protection).
2. Characteristics of the effects and of the area likely to be affected, having regard, in particular, to
  - the probability, duration, frequency and reversibility of the effects,
  - the cumulative nature of the effects,
  - the transboundary nature of the effects,
  - the risks to human health or the environment (e.g. due to accidents),
  - the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected),
  - the value and vulnerability of the area likely to be affected due to:

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- special natural characteristics or cultural heritage,
- exceeded environmental quality standards or limit values,
- intensive land-use,
- the effects on areas or landscapes which have a recognised national, Community or international protection status.

Source: Annex II of SEA Directive 2001/42/EC

## **6. The SEA Screening**

6.1 The adopted Local Plan (Plan:MK) was subject of Sustainability Appraisal (SA) (incorporating SEA). This included a specific assessment of policies NE1, NE2 and NE3, as well as assessment of all other policies within the Local Plan.

6.2 Despite no longer requiring sustainability appraisal, SPDs may still require SEA. The ODPM practical guidance provides a checklist approach based on the SEA regulations to help determine whether SEA is required.

6.3 This guide has been used as the basis on which to assess. The diagram below illustrates the process for screening a planning document to ascertain whether a full SEA is required.

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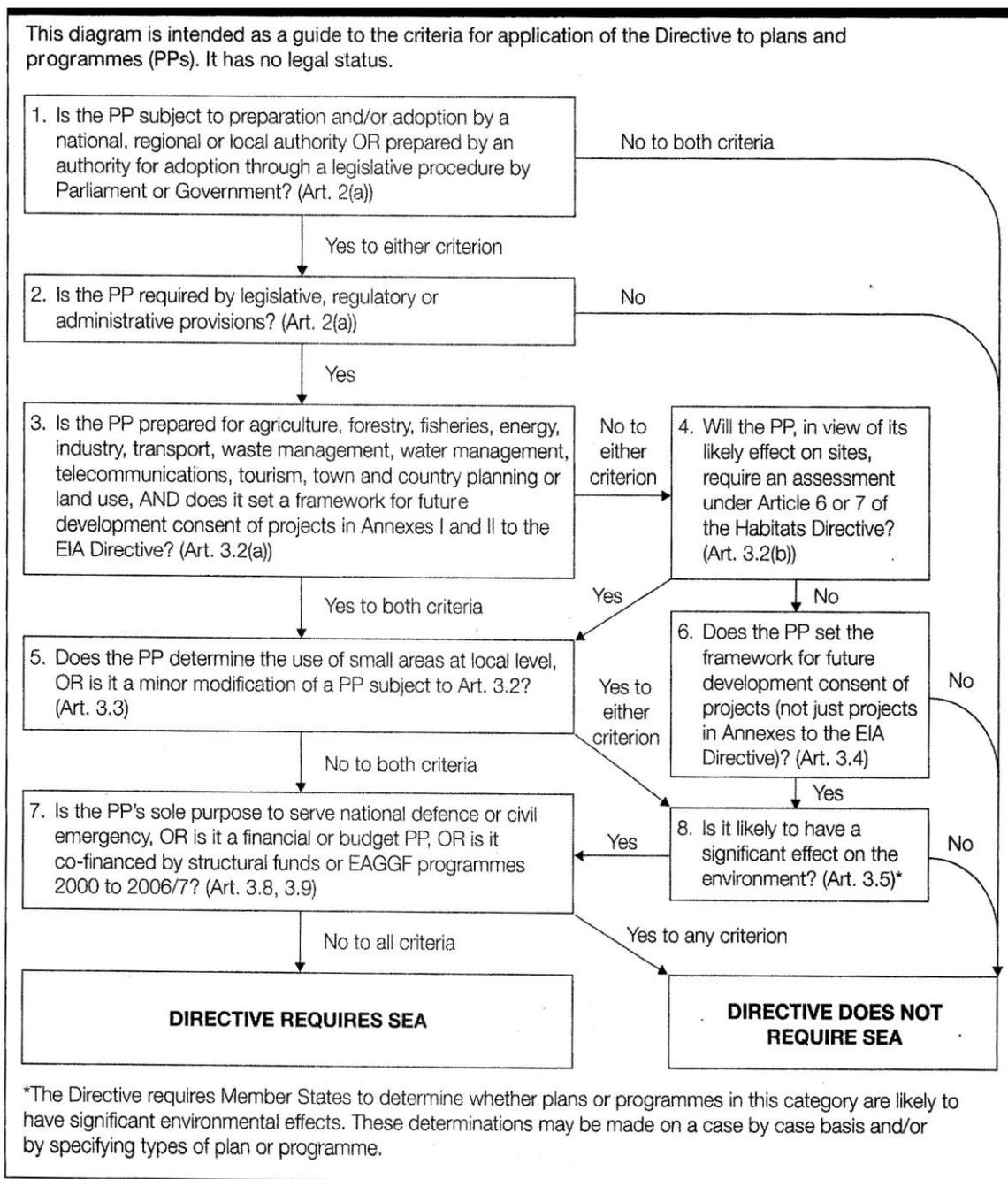


Figure 1. Establishing the need for SEA.

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4.2 The table below shows the assessment of whether the SPD will require a full SEA. The questions below are drawn from the diagram above which sets out how the SEA Directive should be applied.

Stage	Y/N	Reason
1. Is the SPD subject to preparation and/or adoption by a national, regional or local authority OR prepared by an authority for adoption through a legislative procedure by Parliament or Government? (Art. 2(a))	Yes	The SPD is to be adopted by Milton Keynes Council
2. Is the SPD required by legislative, regulatory or administrative provisions? (Art. 2(a))	Yes	The SPD is required in terms of adopted Plan:MK Policies NE1, NE2 and NE3, The SPD is required for administrative purposes and will be used when assessing planning applications.
3. Is the SPD prepared for agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use, AND does it set a framework for future development consent of projects in Annexes I and II to the EIA Directive? (Art 3.2(a))	No	Although the SPD is prepared for biodiversity in relation to town and country planning purposes it does not set a framework for future development consent of projects that are required to undergo an Environmental Impact Assessment.
4. Will the SPD, in view of its likely effect on sites, require an assessment for future development under Article 6 or 7 of the Habitats Directive? (Art. 3.2 (b))	No	The SPD will provide further guidance and reinforce relevant parts of the policies. It provides further guidance to policies NE1, NE2 and NE3 of the Plan:MK which was screened under the Habitats Regulations where possible impacts were investigated. The SPD itself does not lead to development.
5. Does the SPD Determine the use of small areas at local level, OR is it a minor modification of a SPD subject to Art.	No	The SPD itself does not lead to development.

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3.2? (Art. 3.3)		
6. Does the SPD set the framework for future development consent of projects (not just projects in annexes to the EIA Directive)? (Art 3.4)	Y	The SPD sits at the lowest tier of the Development Plan system and adds detail to policies NE1, NE2 and NE3, of the Plan:MK .The SPD itself does not lead to development however the SPD will be a material consideration when assessing planning applications and the policies requirements will need to be met in order for consent to be granted.
7. Is the PP's sole purpose to serve the national defence or civil emergency, OR is it a financial or budget PP, OR is it co-financed by structural funds or EAGGF programmes 2000 to 2006/7? (Art 3.8, 3.9)	No	The SPD does not serve national defence or civil emergency nor is it co-financed by structural funds or EAGGF programmes.
8. Is it likely to have a significant effect on the environment? (Art. 3.5)	No	The Plan:MK does not identify any significant environmental effects associated although it does identify some negative environmental impacts in relation to some developments. Plan:MK policies and the SPD will have a positive impact on mitigating these negative impacts. The SPD itself does not lead to development.

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**7. Statement of Reasons for screening outcome**

7.1 The Council believes that the impact of this SPD through responses to the SEA Directive Criteria will not have significant environmental effects on the local area specifically or on the wider Milton Keynes area generally.

7.2 Moreover, the SPD is not setting a new policy framework; it is supplementing and providing further guidance on existing policies, in particular the adopted Plan:MK.

7.3 The Plan:MK SA does not identify any significant environmental effects associated with the biodiversity although it does identify some negative environmental impacts. Plan:MK policies and the SPD will have a positive impact on mitigating these negative impacts and securing a biodiversity net gain through future developments.

7.4 The Plan:MK SA does not identify any significant environmental effects associated with the plan or Policy NE1, NE2 and NE3 in particular.

7.5 Therefore, the Council considers that a SEA will not be required for this SPD.

7.6 Before this presumption can be confirmed however, it is necessary to consult with the three statutory environment bodies over this SEA Screening Statement for the Biodiversity SPD.

**8. Appropriate Assessment (AA) for the Habitats directive**

8.1 Legal protection is afforded to habitats and species of European importance through Directive 92/43/EEC on the Conservation of Natural Habitats and Wild Flora and Fauna - known as the 'Habitats Directive'. Articles 6(3) and 6(4) of the Habitats Directive require AA of plans to be undertaken. This involves assessing the contents of plans to ensure that their policies and proposals maintain the integrity of Natura 2000 sites. The assessment must determine whether the plan would adversely affect the nature conservation objectives of each site. Where negative effects can be identified, other options should be examined to avoid any potential damaging effects.

8.2 The application of the precautionary principle through the Habitats Directive means that plans can only be permitted once it is shown that there will be no adverse effect on the integrity of any Natura 2000 sites. In the rare case of there being no alternatives available or over-riding reasons of public interest

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why a plan needs to be implemented, plans that do have negative impacts may still be approved.

#### **9. Screening for Appropriate Assessment**

9.1 The first stage in carrying out an Appropriate Assessment for the Habitats Directive is screening, by determining whether the plan is likely to have any significant effect on a European site, either alone or in combination with other plans and projects.

9.2 As above with the SEA screening, it is not considered that the Biodiversity SPD would have any negative impact on sites covered by the Habitats Directive. A Habitats Regulation Assessment of Plan:MK<sup>2</sup> was undertaken when preparing Plan:MK. This concluded that “development in the Milton Keynes Local Plan will not have a likely significant effect on any internationally important wildlife sites either alone or in combination with other plans and projects.” Therefore, an appropriate assessment was not required. The Biodiversity SPD will inform developers about the biodiversity considerations in Milton Keynes when submitting applications, or reserved matters. The impact on any important habitats would be considered through the determination of the development proposal itself, and it is therefore considered that a full Appropriate Assessment is not required for the Biodiversity SPD.

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<sup>2</sup> <https://www.milton-keynes.gov.uk/assets/attach/51223/Habitats%20Regulations%20Assessment%20of%20Milton%20Keynes%20Local%20Plan%20FINAL.pdf>

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Appendix 1. Criteria for determining the likely significance of effects

Criteria for determining the likely significance of effects of the environment	Potential effects of the SPD	Is there a likely significant effect?
<b>1. Characteristics of the Biodiversity SPD, having regard to:</b>		
(a) the degree to which the plan or programme sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources;	The SPD will provide guidance on how to apply policy set in the Plan:MK (most notable NE1, NE2, and NE3). It does not establish new policy. The adopted Local Plan was prepared with continuous, iterative input from the SA (inc. SEA). The Local Plan was considered sound by an independent Inspector.	No
(b) the degree to which the plan or programme influences other plans and programmes including those in a hierarchy;	The SPD sits in a hierarchy of documents. It does not directly affect any other plans or programmes but is influenced by the adopted Local Plan and other higher tier planning policy documents including the National Planning Policy Framework (NPPF).	No
c) the relevance of the plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development;	<p>The adopted Local Plan and other higher level policies set the context for achieving sustainable development in the borough.</p> <p>Options considered through the development of the SPD will not change the higher level policy requirements which have, in themselves, been subject to SA (inc. SEA).</p> <p>The SPD will assist with meeting the SA (inc. SEA) objectives such as: 7</p>	No

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	Maintain and improve the air quality in the borough, 8 Conserve and enhance the borough's biodiversity, 12 Encourage efficient use of natural resources, Given the topics in the SPD, it is not likely that there would be any significant environmental effects arising from the SPD.	
(d) environmental problems relevant to the plan or programme; and	The Local Plan SA (inc. SEA) identified that policies NE1, NE2, NE3, have positive impacts against several SA objectives including: 7 Maintain and improve the air quality in the borough, 8 Conserve and enhance the borough's biodiversity, 12 Encourage efficient use of natural resources,  The SPD will provide further guidance and reinforce relevant parts of the policies.	No
(e) the relevance of the plan or programme for the implementation of Community legislation on the environment (e.g. plans and programmes linked to waste management or water protection).	It is unlikely that there would be any significant environmental effects resulting from the further guidance on biodiversity planning matters.	No
<b>2. Characteristics of the effects and of the area likely to be affected, having regard, in particular, to:</b>		
(a) the probability, duration, frequency and reversibility of the effects;	The SPD does not itself lead to development. It provides further guidance to policies NE1, NE2 and NE3, of the Plan:MK. The	No

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	policies aim to protect, conserve, restore and enhance biodiversity and ecological network resources and protect species.	
(b) the cumulative nature of the effects;	There are no likely cumulative effects that would result from the production of the SPD. It provides further guidance to policies NE1, NE2 and NE3, of the Plan:MK. The policies aim to protect, conserve, restore and enhance biodiversity and ecological network resources and protect species.	No
(c) the transboundary nature of the effects;	There will be no transboundary environmental effects since it does not in itself lead to development.	No
(d) the risks to human health or the environment (e.g. due to accidents);	The SPD will not result in any risk to human health or the environment. It provides further guidance to policies NE1, NE2 and NE3, of the Plan:MK. The policies aim to protect, conserve, restore and enhance biodiversity and ecological network resources and protect species.	No
(e) the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected);	The spatial extent of policy NE1, NE2 and NE3, of the Local Plan is the borough boundary. The spatial extent of the SPD will be the borough boundary. The SPD itself does not lead to development.	No

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<p>(f) the value and vulnerability of the area likely to be affected due to –          (i) special natural characteristics or cultural heritage; (ii) exceeded environmental quality standards or limit values; or.          (iii) intensive land-use; and</p>	<p>The value and vulnerability of the area covered by the Biodiversity SPD has been considered as part of the SA (inc. SEA) of the Local Plan.</p> <p>The SPD will provide further guidance and reinforce relevant parts of the policies. It provides further guidance to policies NE1, NE2 and NE3, of the Plan:MK. The policies aim to protect, conserve, restore and enhance biodiversity and ecological network resources and protect species.</p>	<p>No</p>
<p>(g) the effects on areas or landscapes which have a recognised national, Community or international protection status.</p>	<p>The SPD will help to secure biodiversity net gains through new development and is likely to have a positive environmental impact. There are currently three statutory Sites of Special Scientific Interest (SSSI) in the District. These sites are of national importance for nature conservation and are protected from damaging activities. They are designated by Natural England:</p> <ul style="list-style-type: none"> <li>• Howe Park Wood</li> <li>• Oxley Mead</li> <li>• Yardley Chase</li> </ul> <p>The value and vulnerability of the area covered by the Biodiversity SPD has been considered as part of the SA (inc. SEA) of the Local Plan.</p> <p>The SPD will provide further guidance and reinforce relevant parts of the policies. It provides further guidance to policies</p>	<p>No</p>

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	NE1, NE2 and NE3, of the Plan:MK. The policies aim to protect, conserve, restore and enhance biodiversity and ecological network resources and protect species.	
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**10. Conclusions**

10.1 The three statutory environmental bodies (Natural England, Historic England and the Environment Agency) were consulted on the Screening Report. Their comments are detailed below.

Consultation Body	Comments received
Natural England	<p>It is our advice, on the basis of the material supplied with the consultation, that, in so far as our strategic environmental interests (including but not limited to statutory designated sites, landscapes and protected species, geology and soils) are concerned, that there are unlikely to be significant environmental effects from the proposed plan.</p> <p>We have checked our records and based on the information provided, we can confirm that in our view the proposals contained within the plan will not have significant effects on sensitive sites that Natural England has a statutory duty to protect.</p> <p>As such, we are in agreement that the Biodiversity SPD does not require a SEA. We are also in agreement, based on the information provided in relation to Plan:MK, that a full Appropriate Assessment is not required for this SPD. We are not aware of significant populations of protected species which are likely to be affected by the policies / proposals within the plan. It remains the case, however, that the responsible authority should provide information supporting this screening decision, sufficient to assess whether protected species are likely to be affected. Notwithstanding this advice, Natural England does not routinely maintain locally specific data on all potential environmental assets. As a result the responsible authority should raise</p>

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	<p>environmental issues that we have not identified on local or national biodiversity action plan species and/or habitats, local wildlife sites or local landscape character, with its own ecological and/or landscape advisers, local record centre, recording society or wildlife body on the local landscape and biodiversity receptors that may be affected by this plan, before determining whether an SA/SEA is necessary.</p> <p>Please note that Natural England reserves the right to provide further comments on the environmental assessment of the plan beyond this SEA/SA screening stage, should the responsible authority seek our views on the scoping or environmental report stages. This includes any third party appeal against any screening decision you may make.</p>
Historic England	Historic England agrees with the conclusion of the Council that an SEA is not required.
Environment Agency	We agree with the conclusion that you have reached.

10.2 In light of the comments received from the consultation bodies, it is therefore considered that a SEA is not required.