

# **Habitats Regulations Assessment (Screening) of the Penrith Neighbourhood Development Plan**

April 2021

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**For:**  
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## Quality Management

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# 1 Introduction

- 1.1 Certain designated protected sites for nature conservation in the UK are of exceptional importance for the conservation of important species and natural habitats. These sites are designated as Special Areas of Conservation (SAC), Special Protection Areas (SPA) and Ramsar Sites. These designated sites are sometimes known as European protected sites because they are considered to be important in a European context. The purpose of Habitats Regulation Assessment (HRA) of land use plans is to ensure that protection of the integrity of these specially protected sites is an integral part of the planning process at a regional and local level.

Article 63 of the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 dealing with the conservation of protected sites states that:

*“A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for, a Plan or Project which:*

- (a) is likely to have a significant effect on a Designated site or a Designated 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 that site,*

*must make an Appropriate Assessment of the implications of the plan or project for that site in view of that site’s conservation objectives*

The Penrith Neighbourhood Development Plan is regarded as a Plan which could be considered to potentially have a significant effect on one or more specially protected sites and should therefore be subject to Assessment.

The process of Assessment is often referred to as a ‘Habitats Regulations Assessment’.

- 1.2 Habitats Regulation Assessments (HRAs) can be seen as having a number of discrete stages:

- Stage 1 - Screening
- Stage 2 – Appropriate Assessment
- Stage 3 – Assessment of Alternatives
- Stage 4 – Assessment where no alternatives are available

This document summarises Stage 1 of the Habitats Regulation Assessment process and contributes (in part) to the fulfilment of the statutory duty of the Council as regards Article 63. That is, it is an Opinion on whether the Penrith Neighbourhood Development Plan may have a significant effect on the special interest of any designated protected sites.

## 1.3 Stage 1 – Screening

The purpose of the Screening stage of the HRA process is to initially identify the risk or the possibility of significant adverse effects on a designated site which could undermine the achievement of a site’s conservation objectives and which therefore require further detailed examination through an Appropriate Assessment. If risks which might undermine a site’s conservation

objectives can clearly be ruled out (based on the consideration of objective information), a proposal will have no Likely Significant Effect (LSE) and no Appropriate Assessment will be needed.

In order for an objective, policy or an allocation in a Plan to be Screened Out of the HRA process a conclusion must be reached beyond reasonable scientific doubt that the policy or allocation will not have an LSE on a designated site or its qualifying features.

Case law has established in relation to Screening that:

- An effect is likely if it *‘cannot be excluded on the basis of objective information’* (Waddenzee C127-02 ∞ 45). This requires consideration and a conclusion made against known and presented data/survey or results/scientific evidence ( eg literature review).
- An effect is significant if it *‘is likely to undermine the conservation objectives’* [of the Designated protected site (Waddenzee (C127-02 ∞ 48)]. This excludes from consideration other impacts not related to the qualifying features and their conservation objectives.
- In undertaking a screening assessment for likely significant effects *‘it is not that significant effects are probable, a risk is sufficient, but there must be credible evidence (see above) that there is ‘a real, rather than a hypothetical, risk’* Boggis v Natural England & Waveney District Council. This refines the understanding of the ‘precautionary principle’ as it applies to the Habitats Regulations.
- The Sweetman (case C258-11) also offers some simple guidance that the screening step *‘operates merely as a trigger’*, in order to progress to further Assessment stages through the process.

#### 1.4 Stage 2 – Appropriate Assessment

In 2017 the decision of the Court of Justice of the Designated Union (People over Wind, case C323/17) concluded that it was not appropriate within the Screening Stage to consider measures that would mitigate for impacts on the qualifying or designated features of the Natura 2000 site. This ruling has resulted in an update to the Regulations.

In a Stage 2 Appropriate Assessment, evidence and detail should be considered which can demonstrate that a Plan, including any embedded measures or additional mitigation, can result in a conclusion that there would be no ‘adverse effect on integrity’ (AEOI), when considering a designated sites conservation objectives.

In applying the Stage 2 Appropriate Assessment the relevant competent Authority – in this case the Local Authorities concerned - must also consider whether there is a relevant planning mechanism (which may apply at a different level of the planning hierarchy) which can secure the necessary mitigation via either conditions or obligations.

In the case of a high level Strategic Plan the level of detail in land use plans concerning developments that will be permitted under the Plan at some time in the future is rarely sufficient to allow the fullest quantification of potential adverse effects. It is therefore necessary to be cognisant of the fact that HRAs

for plans can be tiered, with assessments being undertaken with increasing specificity at lower tiers. This is in line with DCLG guidance and court rulings that the level of detail of the assessment, whilst meeting the relevant requirements of the Habitats Regulations, should be 'appropriate' to the level of plan or project that it addresses.

Government guidance says:

*"The scope and content of an appropriate assessment will depend on the nature, location, duration and scale of the proposed plan or project and the interest features of the relevant site. 'Appropriate' is not a technical term. It indicates that an assessment needs to be proportionate and sufficient to support the task of the competent authority in determining whether the plan or project will adversely affect the integrity of the site."*

That is, the Plan must make every effort to ensure that no Objectives, Policies or Allocations will cause harm to the special nature conservation interest of designated sites. But where some doubt remains as to whether harm will occur the Plan must show that sufficient safeguards will be in place in other levels of the planning hierarchy to ensure that no harm will be caused to the special interest of Designated sites.

A precautionary approach should always be taken.

The advice of Advocate-General Kokott to the Designated Court of Justice (9th June 2005, Case C-6/04) is relevant. She commented that:

*"It would ...hardly be proper to require a greater level of detail in preceding plans [rather than planning applications] or the abolition of multi-stage planning and approval procedures so that the assessment of implications can be concentrated on one point in the procedure. Rather, adverse effects on areas of conservation must be assessed at every relevant stage of the procedure to the extent possible on the basis of the precision of the Plan. This assessment is to be updated with increasing specificity in subsequent stages of the procedure"*

## 1.5 In Combination Assessment

The Habitats Regulations also include a requirement for an assessment not only for a Plan alone but also for consideration of any LSE in combination with other projects or plans. An 'in combination' assessment should be undertaken for any impact which is shown to have an effect even where it might be considered '*de minimis*' for the plan in isolation. In the application of the in combination test projects or plans are also considered to include reasonably foreseeable proposals (RFP), which may include projects, plans or schemes which have not concluded their passage through the development planning process, whether they are in full or outline or include other strategic planning documents.

The implication of 'in combination' considerations for a plan with the scale of the Penrith Neighbourhood Development Plan may be profound, since a very wide range of other plans and proposals may be influenced by the operation of the Penrith Neighbourhood Development Plan and *vice versa*. It would be practically impossible for a detailed analysis to be undertaken of every possible plan or proposal which may be influenced by the Penrith

Neighbourhood Development Plan in isolation. Instead, this Screening Assessment has taken a high level precautionary approach and assumed that any LSE arising from the operation of the Penrith Neighbourhood Development Plan would be likely to result in in-combination effects.

#### 1.6 **The Competent Authority – identification and roles**

Under the terms of the Habitats Regulations the role of the competent authority is the body which undertakes the assessment of likely significant effects (LSE). This is usually the Local Planning Authority in relation to the preparation of Plans or the consideration of planning applications, but may also be another statutory body who has authority and powers to permit, consent or licence activities ( eg the Environment Agency).

Eden Council and Penrith Town Council are considered to be the competent authorities in this case.

Natural England as the statutory government advisor in these matters also has a role in the process to ensure that the Plan will not have any likely significant harmful effects on Designated sites. Natural England have advised the Councils during the preparation of this HRA.

A recent Judicial Review (*R (Preston) v Cumbria County Council [2019] EWHC 1362*) concerning a project level HRA ruled that a Local Planning Authority cannot rely on the future decisions and assessment of another permitting competent authority within their own conclusions on the Screening (Stage 1) and must give consideration of sufficient securing measures (Stage 2 – Appropriate Assessment) at the time of their own determination of an application for development.

Government guidance in this regard which seems relevant to plans, outline proposals or operations which might require an additional consent/permit from a third party indicates: -

*“a competent authority is permitted to grant a plan or project consent which leaves the applicant free to determine subsequently certain parameters relating to the construction phase, only if that authority is certain that the consent includes conditions that are strict enough to guarantee that those parameters will not adversely affect the integrity of the site.”*

While this Plan, and the HRA, are at a high tier of the planning process, this is important when considering any necessary mitigation for identified effects.

#### 1.7 **The Greater Manchester Ecology Unit**

The Greater Manchester Ecology Unit (GMEU) is a specialist shared ecological adviser to Local Authorities across North West England. GMEU has prepared this Screening Opinion. Natural England and the JNCC were consulted for information on the conservation objectives and favourable condition tables for the designated sites concerned (the information supplied is summarised below).

GMEU ecologists, who are familiar with the designated sites concerned and their special interests, reviewed the ecological information for the sites. The key vulnerabilities and sensitivities of the Designated sites concerned are well understood by GMEU allowing for an informed assessment of the possible



effects of the Plan, and any specific aims, objectives and policies contained in the Plan.

GMEU has prepared a number of HRAs for District-level Local Plans and Strategies, prepares HRAs for individual planning applications on a regular basis and is often consulted on HRAs prepared by others.

### 1.8 **Scope of the Assessment**

This report has Screened the overall Visions and Objectives of the Plan and the key Policies described in the Plan.

## 2 **Description of the Plan**

### 2.1 The Plan being Screened is the Penrith Neighbourhood Development Plan Regulation 16 Draft (2020).

Penrith's Neighbourhood Development Plan will help to guide development in the administrative area of Penrith Town Council until 2032. The Plan will sit alongside the Eden District Local Plan and will influence and control development in the administrative area of Penrith.

The Eden Local Plan has identified and allocated sites and areas for future development in the Town, including new housing allocations (Fig 1). The Neighbourhood Development Plan makes reference to these sites rather than promoting independent allocations of its own.

The Plan aims to influence and control the detail of development within these already identified sites and areas.

The Eden Local Plan (2014-32), including allocations for future development, has been subject to separate *Appropriate Assessment (Ref JBA Consulting July 2018)*. Notably, this Assessment concluded that the implementation of the Eden Local Plan would not have any adverse effects on any designated sites.



**Fig 1 Sites and Areas allocated for development in the Eden Local Plan in relation to the River Eden SAC. These sites have previously been assessed in the HRA of the Local Plan. Blue hatch = allocation, orange hatch = SAC**

**Since the Penrith Neighbourhood Development Plan will need to make reference to the Eden Local Plan, and in particular to sites and areas allocated for development in the Local Plan, this conclusion is considered to be material to this Screening Opinion**

The Eden Local Plan includes Policies which, in the opinion of the HRA of the Local Plan, will serve to avoid and mitigate any potentially harmful effects on designated sites which may arise through development of identified allocations.

Any development in the Penrith administrative area must comply with these Policies.

Relevant Policies in the Eden Local Plan include:

- Policy ENV1 states that any new development will be required to avoid any net loss of biodiversity and indicates that Designated Sites ( eg SAC) will be afforded the highest level of protection.

- Policy DEV5 states that any new development will need to demonstrate that it will protect, and where possible enhance, the natural environment and biodiversity of the local district.
- Policy DEV2 and ENV5 state that developments must incorporate Sustainable Drainage Systems (SuDS), where practicable, to ensure surface water run-off is appropriately managed. Additionally, Policy ENV9 details that developments where they would generate, either in the construction or operation phase, an adverse impact on the quality of ground and surface water will not be permitted.

The above Policies can be considered to be ‘embedded mitigation’ since they are an integral part of a development Plan which must be referred to when implementing the Neighbourhood Development Plan.

The HRA of the Eden Local Plan assumes that project level HRAs will be carried out of any planned developments in Penrith which may have potential impacts on designated sites, and that these HRAs will take into account details concerning how the above Policies are being complied with.

- 2.2 However, it is noted that the HRA of the Eden Local Plan was prepared prior to the ‘Dutch Nitrogen’ case law. Since November 2018 a ruling of the Court of Justice of the Designated Union concerning pollution arising from nitrogen and phosphorous in Holland has led to greater scrutiny of the potential of some developments in the UK to cause pollution from excess nutrients entering water courses and from certain air pollutants.

In some areas where there are designated sites which are particularly sensitive to water and air pollution developments which could affect designated sites, they may be required to demonstrate that they are ‘nitrate neutral’.

This issue has been taken into account in this Screening Opinion because the designated site concerned is vulnerable to water pollution. It is noted that tried and tested methods are available to control water pollution arising from development sites and that mitigation of potential water pollution from sites in Penrith would be achievable, providing that the issue is given due consideration in detailed planning stages.

- 2.3 The Neighbourhood Development Plan specifically addresses the environmental capacity of Penrith, setting out how the Plan can enhance and protect the quality of the natural environment, conserve wildlife and tackle low carbon and flood risk issues, so that growth can be accommodated sustainably.

Sustainable Development is a key theme of the Plan.

Rather than adding any new potential risks of Likely Significant Effects to designated sites, the Plan provides an additional layer of protection for these sites.

- 2.4 The Plan also includes specific proposals for protecting greenspaces, trees, hedgerows and wildlife.

### 3 The Designated sites concerned

- 3.1 This Screening exercise has first screened designated protected sites to decide which of these sites are most likely to be affected by development in Penrith. When assessing the impact of a Plan on designated sites it is important to consider the impact on sites not only within the administrative area covered by The Plan but also those which fall outside The Plan boundary, as these could still potentially be affected by the implementation of the Plan.
- 3.2 In carrying out this initial screening process the Assessment has considered the main possible sources of effects on the designated sites arising from the Plan, possible pathways to the designated sites and the effects on possible sensitive receptors in the designated sites. Only if there is an identifiable source, a pathway and a receptor is there likely to be a significant effect.
- 3.3 Possible sources and pathways for effects arising from development implemented as a result of Plan adoption, and used in the screening of Designated sites, were considered to include:
- Land take (direct habitat loss)
  - Cultivation (agriculture)
  - Diffuse and localised air pollution including dust and odour
  - Noise disturbance
  - Light spill or shading
  - Human presence/disturbance
  - Emissions to water (surface or ground water) containing pollutants or sediments
  - Ground water depression or flow interception
  - Decrease in surface water run-off eg through interception in a void
  - Increase in surface water run-off
  - Introduction and spread of invasive species
  - Effects on functionally linked land\*
  - Changes to predator/prey relationships

*\* Areas of land or sea outside of the boundary of a Designated site may be important ecologically in supporting the populations for which the site has been designated or classified. Occasionally impacts to such habitats can have a significant effect upon the species interest of such sites, where these habitats are considered to be 'functionally linked' to the site. Functionally linked land may be located at very large distances from the relevant designated site; for example in the case of some seabird species the nesting/overwintering sites may be within a designated site but the feeding areas or important stop-over locations may be located many km away.*

- 3.4 Guidance from the Environment Agency (EA) concerning distances at which significant effects on Designated sites are caused by water or air pollution has been taken into account during the screening of Designated sites. The EA has set recommended buffer zones for certain types of ‘most damaging’ operation (in particular, waste treatment operations) that are in part applicable to other types of operation. Outside of these buffer zones significant effects on Designated sites arising from water and air pollution are considered unlikely to arise. The largest (most cautious) buffer zone considered by the EA is 10 km; that is, most operations with the potential of causing direct water and/or air pollution impacts located further than 10 km from the boundary of a Designated site are considered very unlikely to have a significant effect on the special interest of that site.

Natural England also publish SSSI ‘Impact Risk Zones’ (IRZs) providing guidance on the types of development which should be considered for their possible impacts on SSSIs and which impacts should be considered. Since all designated sites are also designated as SSSIs, IRZs have also been taken into account when screening designated sites which could be affected by the Plan.

- 3.5 Since the Penrith Neighbourhood Development Plan is a high-level strategic plan the main impacts on designated sites may be diffuse and cumulative rather than direct impacts. Certain potential diffuse or indirect sources will be more likely to result from the Plan than more direct sources of harm.

These sources include:

- diffuse water pollution
- changes to hydrology
- spread of invasive species *and*
- recreational pressures.

- 3.6 Taking all of the above the above into account, only one Designated site has been Screened In to the Assessment:

- **River Eden Special Area of Conservation (SAC). The SAC includes tributaries of the main river and Ullswater.**

The main sections of the River Eden SAC which may be affected by development in Penrith are the River Eamont and the River Lowther which flow to the south of the Town.

Other designated sites within Cumbria, North Lancashire and Yorkshire are either too distant to fall under the influence of the Plan, too distant for measurable effects to be discernible, or no apparent pathways exist between the Plan area and the designated sites.

### 3.7 **Reasons for the selection of the River Eden SAC**

#### **Important Habitats –**

- Oligotrophic to mesotrophic standing waters with vegetation of the *Littorelletea uniflorae* and/or of the *Isoëto-Nanojuncetea*

- Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitriche-Batrachion* vegetation
- Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*)

Important Species –

- White-clawed (or Atlantic stream) crayfish *Austropotamobius pallipes*
- Sea lamprey *Petromyzon marinus*
- Brook lamprey *Lampetra planeri*
- River lamprey *Lampetra fluviatilis*
- Atlantic salmon *Salmo salar*
- Bullhead *Cottus gobio*
- Otter *Lutra lutra*

Natural England's conservation objectives for the River Eden SAC are:

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

To 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

(source – Natural England)

#### **4. Initial Screening of potential Likely Significant Effects (LSE)**

4.1 Given the special nature conservation of the River Eden SAC the most likely potentially harmful LSE are considered to be:

- Water pollution (from surface waters, foul water and ground waters)
- Changes to hydrological conditions (increases or decreases in water levels and flows)
- Introduction of invasive species
- Recreational pressures

Source - JNCC

#### 4.2 **Water Pollution**

Pollutants of water courses can be highly mobile and can have discernible impacts on receptors distant from the source.

In this area the most likely source of water pollution is considered to be from agriculture. Agricultural operations are not generally in control of the Plan.

The most likely source of water pollution arising as a result of Plan operation is the potential discharge of foul water to water courses and surface water pollution arising from runoff, both impacts which can occur as a result of development. Where proposed developments within Penrith are considered to have the potential to result in this type of diffuse pollution arising and affecting a designated site, these have been assessed in this report.

Tried and tested measures exist to avoid water pollution from development sites from whatever source, and these measures would be required to be applied to developments in Penrith by existing Local Plan policies.

#### 4.3 **Invasive Species**

Of particular concern for the Eden are the plants Himalayan balsam, Japanese knotweed and Giant Hogweed and the animals American signal crayfish and a fish parasite called *Gyrodactylus salaris*.

Tried and tested measures exist to control any spread of invasive species from development , and these measures would be required to be applied to developments in Penrith by existing Local Plan policies.

#### 4.4 **Hydrology**

Hydrological changes can be caused by water abstraction lowering water levels and increased run-off and rainfall causing increased water flows. In Penrith abstraction is most likely to be associated with agricultural operations not in the control of the Plan. Increased water levels arising from surface water run-off which could potentially arise from development in Penrith would be controlled both by Policies in the Eden Local Plan and by the presumption for Sustainable Development which is a key objective of the Plan being Screened.

#### 4.5 **Recreational Pressures**

The protection and improvement of local greenspaces and the improvement of facilities in the Town for local people are key objectives of the Neighbourhood Plan. These measures will mitigate any potential need for local people to need to travel beyond the Town boundaries for recreation.

## Screening Summary Tables

**Table 5.1 – Screening of Plan Objectives**



**Screened out (no Likely Significant Effects on Designated Sites)**



**Screened In for further Assessment**

Objective	Brief Summary	Comments	Screening Outcome
<b>1 Sustainable Development</b>	To ensure that all development in the town is sustainable and meets the needs of the present without compromising the ability of future generations to meet their own needs and to promote and pursue a transition to a low carbon economy.	Potentially positive effects on designated sites, particularly through the avoidance of pollution.	<b>No Likely Significant Effect</b>
<b>2 Housing</b>	To support a level of high-quality housing that retains Penrith's identity, meets housing and social needs encouraging younger people to remain in the area and enhance local population growth.	This Objective does not specify the numbers or locations of new homes, rather it will control the design and sustainability of new homes. Numbers and locations of planned new homes are described in the Eden Local Plan which has been separately Assessed. The Objective has the potential to contribute to the avoidance of potentially harmful effects arising from water pollution by encouraging / requiring sustainable design.	<b>No Likely Significant Effect</b>



Objective	Brief Summary	Comments	Screening Outcome
<b>3 Greenspaces</b>	To protect greenspaces that have been identified as important to both wellbeing and the local community	Potentially positive effects on designated sites by encouraging informal recreation close to the town rather than closer to the River Eden SAC.	<b>No Likely Significant Effect</b>
<b>4 Culture and Leisure</b>	To ensure the town's range of leisure and recreation facilities are enhanced and protected with a particular focus on wellbeing and meeting the needs of young people.	Potentially positive effects on designated sites by encouraging informal recreation close to the town rather than closer to the River Eden SAC.	<b>No Likely Significant Effect</b>
<b>5 Wellbeing</b>	To protect health and community facilities and ensure that these have the capacity to support any needs generated by new development and a changing population.		<b>No Likely Significant Effect</b>
<b>6 Town Centre Parking</b>	To promote the vibrancy, accessibility and permeability of the town centre, including by cars, by providing adequate car parking for local people and visitors.		<b>No Likely Significant Effect</b>
<b>7 Traffic Management</b>	To address current traffic management issues and ensure that these are not exacerbated by new development.	This Objective does not include proposals for new roads	<b>No Likely Significant Effect</b>
<b>8 Penrith Town Centre</b>	To conserve the historic and notable buildings and improve the appearance of Penrith town centre and its attractiveness as a place to visit for both the local community and visitors.	Potentially positive effects on designated sites by encouraging visits in and close to the town rather than closer to the River Eden SAC.	<b>No Likely Significant Effect</b>

**TABLE 6.1 – Screening of Plan Policies**



Screened out



Screened In for further Assessment

Policy	Screening Outcome
1 Sustainable Development in Penrith	No Likely Significant Effect ( <i>potentially positive effect</i> )
2 Environmentally Sustainable Design	No Likely Significant Effect ( <i>potentially positive effect</i> )
3 Energy Use and Reducing Carbon Emissions	No Likely Significant Effect ( <i>potentially positive effect</i> )
4 Accessibility and Social Inclusion	No Likely Significant Effect
5 Conservation Areas in Penrith	No Likely Significant Effect
6 High Quality New Homes	No Likely Significant Effect ( <i>n.b. this Policy does not specify numbers or locations of new homes rather it will control the design and sustainability of new homes</i> )
7 Housing Type and Mix	No Likely Significant Effect
8 Identifying and Protecting Local Green Spaces	No Likely Significant Effect ( <i>potentially positive effect</i> )

Policy	Screening Outcome
9 Protecting and Enhancing Sport, Leisure and Recreation Facilities	No Likely Significant Effect ( <i>potentially positive effect</i> )
10 Protecting and Enhancing Health and Community Facilities	No Likely Significant Effect
11 Walking and Cycling	No Likely Significant Effect ( <i>potentially positive effect</i> )
12 Traffic Management	No Likely Significant Effect ( <i>n.b. no new roads are planned as part of this Policy</i> )
13 Penrith Town Centre Improvements	No Likely Significant Effect
14 Shopfront Design	No Likely Significant Effect

## 7. In-Combination Assessment

As previously stated in the case of a high-level, large scale Plan such as the Penrith Neighbourhood Development Plan a large number of other plans, strategies and projects could act in combination with the Plan and result in a likely significant effect on designated sites where the Plan operating in isolation would not.

At all stages of the Screening process potential cumulative impacts have been considered.

In particular a precautionary approach which assumes that in-combination effects will occur has been taken in relation to the Screening of –

- Water Pollution effects

Given that any Likely Significant Effects have been ruled out, even at a *de minimis* level, in-combination effects are considered unlikely to occur.

## 8 Conclusions

It is concluded that the developing Penrith Neighbourhood Development Plan will not have any Likely Significant Effects on the special nature conservation interests of the River Eden Special Area of Conservation.

Rather than adding any new potential risks of Likely Significant Effects to designated sites, the Plan provides an additional layer of protection for these sites by adding a further level of control to development within Penrith.

# APPENDIX 1 Response of Natural England

Date: 28 April 2021  
Our ref: 351758  
Your ref: HRA for Penrith Neighbourhood Development Plan



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**BY EMAIL ONLY**

Dear Derek,

## **Penrith Neighbourhood Development Plan Habitat Regulation Assessment**

Thank you for your consultation on the above, dated and received by Natural England on 28 April 2021.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Our remit includes protected sites and landscapes, biodiversity, geodiversity, soils, protected species, landscape character, green infrastructure and access to and enjoyment of nature.

**Based on the information provided, Natural England agree with the conclusion reached through the Greater Manchester Ecology Unit's Habitat Regulations Assessment.**

### **Neighbourhood Development Plan Comments**

Comments made on the 15<sup>th</sup> March 2019 regarding the Regulation 14 Draft of the Neighbourhood Plan are still relevant. Specific comments can be seen in the letter with reference number: 272489.

Although not yet a mandatory requirement it is advisable to define and include a section outlining the Biodiversity Net Gain process. Specific wording was given in the Regulation 14 draft consultation response for the Glossary definition of Biodiversity Net Gain and is included below:

*'Biodiversity Net Gain is development that leaves the natural environment in a measurably better state than it was beforehand. On top of applying the mitigation hierarchy (avoid > minimise > compensate), it requires additional gains in biodiversity to be put in place either on-site or off-site. Gains and losses can be measured using a biodiversity metric, such as the Defra Metric.'*

Should the Neighbourhood Plan be amended in a way which significantly affects its impact on the natural environment, then, please consult Natural England again.

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

For any queries relating to the specific advice in this letter only please contact Niamh Keddy on [Niamh.Keddy@naturalengland.org.uk](mailto:Niamh.Keddy@naturalengland.org.uk). For any new consultations, or to provide further information on this consultation please send your correspondences to [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk).