



Northumberland
County Council

**HABITATS REGULATIONS
ASSESSMENT REPORT
JANUARY 2023**

OF

**NEWBIGGIN BY THE SEA
NEIGHBOURHOOD PLAN
SUBMISSION DRAFT
DECEMBER 2022**

Habitats Regulations Assessment Report, January 2023
of
Newbiggin by the Sea Neighbourhood Plan
Submission Draft (December 2022)

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Habitats Regulations Assessment Report, March 2022 of Newbiggin by the Sea Neighbourhood Plan Submission Draft (December 2022)		
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1. Introduction

Purpose of the Habitats Regulations Assessment Report

- 1.1 Newbiggin Town Council are leading the preparation of a neighbourhood development plan (the Plan) to provide locally specific planning policies intended to address issues identified as being important to the local community, particularly where those issues are perceived as not being adequately addressed through existing planning policies.
- 1.2 As the 'competent authority' under the Conservation of Habitats and Species Regulations 2017 (as amended), Northumberland County Council is required to assess development plans through the HRA process. The purpose of a HRA is to assess possible effects of development plans on the nature conservation interests of sites designated under the Habitats and Wild Birds Directives. These sites consist of Special Areas of Conservation, Special Protection Areas and also include Ramsar Sites. The HRA process is an iterative process and the integration of the HRA process as part of the preparation of development plans is fundamental to the plan making process as policies in the plan can potentially affect designated sites.
- 1.3 HRA is an iterative process and the remaining stages will be completed alongside and will inform preparation of the Plan. The screening opinion provided in this Report will be reviewed once the Plan is submitted to the County Council to ensure that any revisions to policies arising following the pre-submission consultation stage do not result in any variation to this opinion.

Format of the Habitats Regulations Assessment Report

- 1.4 This HRA Report establishes the scope of and the process for completing the HRA of the Newbiggin by the Sea Neighbourhood Plan and undertakes an assessment of the Newbiggin by the Sea Neighbourhood Plan Submission Draft dated December 2022. The HRA Report includes the following:
 1. HRA requirements and process.
 2. Stage 1A: Identifies the European sites.
 3. Stage 1B: Identifies the Trend Analysis.
 4. Stage 1C: Analysis of proposals and policies in the Newbiggin by the Sea Neighbourhood Plan - Identification of Likely Significant Effects
 5. Stage 1D: Consideration of other plans and projects
 6. Stage 2: Appropriate Assessment
 7. Conclusion
 8. BibliographyAppendices

Habitats Regulations Assessment Consultation

- 1.5 It is a requirement of the Habitats Regulations to consult the appropriate nature conservation statutory body (Natural England). Consultation has taken place and Natural England confirm their agreement with the County Council, in their email dated 16th May 2022 (see appendix 1) that the Newbiggin by the Sea Neighbourhood Plan can be screened out of further stages of assessment. Further consultation is not considered to be necessary as the changes to the plan since that consultation are matters of wording and details around consultation and have no possible different potential effects on European Sites.
- 1.6 This HRA report will be issued to Newbiggin Town Council and the Steering Group to assist in supporting the submission of their Plan to the County Council and to assist the independent examination of the Plan in due course.

2. Habitats Regulations Assessment Requirements and Process

- 2.1 When a member of the European Union, the UK was bound by the terms of the Council Directive 79/409/EEC on the Conservation of Wild Birds (the Birds Directive) and the Council Directive 92/43/EEC on the conservation of natural habitats and wild flora and fauna (the Habitats Directive).

These are implemented in the UK through the Conservation (Natural Habitats &c) Regulations which provide for the protection of areas of European importance for wildlife, in the form of Special Areas of Conservation (SACs), designated under the Habitats Directive, and Special Protection Areas (SPAs), designated under the Birds Directive. Collectively, these are termed European sites, and the overall network of European sites is termed Natura 2000.

Following the withdrawal of the UK from the European Union the Conservation of Habitats and Species Regulations 2017 as amended by the Conservation of Habitats and Species (Amendment) (EU exit) Regulations 2019, extends the legal protection of European sites after Brexit.

- 2.2 The UK is also a signatory to the Convention on wetlands of international importance especially as waterfowl habitat, which was signed in Ramsar, Iran in 1971. Areas designated under this Convention are called Ramsar sites. Although Ramsar sites are not European sites as a matter of law, the Government has chosen as a matter of policy to protect and manage them by applying the same procedures to them. Consequently, Ramsar sites are treated as European sites in practice.
- 2.3 Articles 6(3) and 6(4) of the Habitats Directive states the following concerning European sites:

“Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. In the light of the conclusions of the assessment of

the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public.

If, in spite of a negative assessment of the implications for the site and in the absence of alternative solutions, a plan or project must nevertheless be carried out for imperative reasons of overriding public interest, including those of a social or economic nature, the Member State shall take all compensatory measures necessary to ensure the overall coherence of Natura 2000 is protected. It shall inform the Commission of the compensatory measures adopted.”

2.4 Regulation 105(1) of the Conservation of Habitats and Species Regulations 2017 states that

“Where a land use plan -

(a) is likely to have a significant effect on a European site in Great Britain 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,

the plan-making authority for that plan shall, before the plan is given effect, make an appropriate assessment of the implications for the site in view of that site’s conservation objectives.”

Regulation 106 of the Regulations states;

“106.—(1) A qualifying body (i.e. Parish Council, or body designated as a Neighbourhood Forum) which submits a proposal for a Neighbourhood development plan must provide such information as the competent authority may reasonably require for the purposes of the assessment under regulation 105 or to enable it to determine whether that assessment is required.”

2.5 The purpose of a HRA is to demonstrate that a land-use plan (or other plan or project) will not have any adverse effects on the integrity of any European sites. The assessment determines whether the plan would adversely affect the integrity of any European site in terms of its conservation objectives. Where adverse effects are identified alternative solutions should be identified and the plan modified to avoid any adverse effects. The Planning Authority can adopt the plan only after having ascertained that it will not adversely affect the integrity of a European site.

2.6 When preparing a suite of development plan documents, it is important that the HRA is undertaken in a way that is proportionate to the level of the document. The European Commission’s own guidance on the application of the test of likely significant effect accepts that policies in a plan that are no more than general policy statements or which express the general political will of an authority cannot be likely to have a significant effect on a site.¹

¹ European Commission, 2000, *Managing Natura 2000 Sites: The provisions of Article 6 of the Habitats Directive 92/43/EEC* section 4.3.2 at

http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/provision_of_art6_en.pdf

2.7 This issue (for Local Plans) has also been addressed in the High Court case of Feeney, in which the judge stated that:

*“A Local Plan is a high level strategic document and the detail falls to be worked out at a later stage. Each appropriate assessment must be commensurate to the relative precision of the plans at any particular stage and no more. There does have to be an appropriate assessment at the Local Plan stage, but such an assessment cannot do more than the level of detail of the strategy at that stage permits”*²

- 2.8 Therefore, there is a balance to be struck between being sufficiently rigorous in the assessment of potential effects, and undertaking a lot of unnecessary work or even causing a plan to fail the appropriate assessment test of ‘adverse effect on site integrity’ on the basis of risks that are more hypothetical than real, or risks that are too poorly defined at the Plan stage to be meaningfully assessed at this stage. Therefore some potential effects may be noted at this stage as requiring more detailed assessment at another stage of plan-making.
- 2.9 The Feeney case has also provided helpful guidance concerning the role of protective policies for European sites or protective wording within policies. It is clear that a general protective policy in itself cannot be regarded as adequate mitigation for any significant effects, because planning applications must be determined in accordance with the Development Plan. Therefore relying too heavily on a general protective policy can just create internal conflicts with other policies within the Plan.
- 2.10 However, an element of a policy that safeguards European sites or a policy qualifying a particular proposal so as to avoid likely significant effect has been found to be permissible³, as has adopting something in principle that will not actually happen if the protective condition or qualification is not being satisfied⁴. However, it is essential that such safeguards are sufficiently specific that they are not just general safeguards apply to a range of European sites and a range of effects.
- 2.11 In the case of Neighbourhood Plans, in many cases the plan will identify the acceptability criteria for developments in a plan area, relating to location, design or the composition of types of development; with the exact detail of the resulting developments agreed via the development management process (where they are determined in accordance with the Neighbourhood Plan, the Local Plan and the National Planning Policy Framework). In most cases, the neighbourhood plan will not identify additional housing or land allocations to the Local Plan, but will set acceptability criteria. Therefore, in many cases it would be appropriate to rely on a more detailed Habitats Regulations Assessment, with more detailed mitigation measures, at a later stage or lower level of plan making. This is particularly relevant within Impact Risk Zones for European sites where certain developments are likely,

² Sean Feeney v Oxford City Council and the Secretary of State CLG para 92 of the judgment dated 24 October 2011 Case No CO/3797/2011, Neutral Citation [2011] EWHC 2699 Admin <http://www.oxford.gov.uk/Library/Documents/Barton%20AAP/Barton%20AAP%20CD%207.20.1%20Appendix%20Feeney%20v%20OC%202011.pdf>

³ Feeney; paragraphs 88, 90 and 92

⁴ Feeney; paragraph 96

alone or in combination, to have a likely significant effect on the site without mitigation.

Assessment Methodology to meet the requirements of the Habitats Directive

2.11 The Council has adopted the following assessment methodology to meet the requirements of the Habitats Directive:

Stage One – Screening

This comprises an initial analysis to determine whether the Newbiggin by the Sea Neighbourhood Plan is likely to have a significant effect on any European sites. The Newbiggin by the Sea Neighbourhood Plan will require appropriate assessment unless it is certain that it will not have a significant effect on any European sites.

- Stage 1A: Identification of European sites relevant to the assessment, and analysis of them in terms of reasons for designation, factors affecting their integrity and trends affecting them.
- Stage 1B: Identification of underlying trends that could affect the integrity of sites.
- Stage 1C: Analysis of the Newbiggin by the Sea Neighbourhood Plan objectives, proposals and proposed policies in terms of their possible adverse effects on the integrity of European sites, examination of options and alternatives to avoid or reduce these effects.
- Stage 1D: Identification of other plans and projects relevant to the assessment, to identify any likely in-combination effects. Article 6(3) of the Habitats Directive requires that plans and projects likely to have a significant effect on a European site *alone or in combination with other plans or projects* shall be subject to appropriate assessment.

The ruling of the Court of Justice of the European Union in case C-323/17 *People over Wind* in given in April 2018 has had a profound effect on the approach to screening. Prior to this ruling it was established practice to take account of mitigation measures included in a plan or project when determining if that plan or project was likely to have a significant effect. However, paragraph 40 of the ruling states that:

Article 6(3)... 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 concerning, of a plan or project, it is not appropriate, at the screening stage, to take account of measures intended to avoid or reduce the harmful effects of the plan or project on that site'

Accordingly, the benefit of measures intended to avoid or reduce the harmful effects of a plan or project must be disregarded when determining whether it is likely to have a significant effect on a European site.

Where required:

Stage Two – Appropriate Assessment

Determination of whether any proposals or policies in the Neighbourhood Plan identified at the screening stage as having a likely significant effect would have an adverse effect on the integrity of any European sites, in view of the conservation objectives for those sites and the nature of the likely significant effect that has been identified. Modifications to those proposals or policies are identified to avoid any adverse effects on site integrity.

If mitigation is not possible and adverse effects on site integrity remain, the process must proceed to Stage Three

Stage Three – Alternative Solutions

The identification of alternative solutions to the relevant proposals or policies so as to avoid adverse effects on the integrity of European sites. The plan must then be modified in light of these findings.

Stage Four – Imperative Reasons of Overriding Public Interest and Compensatory Measures

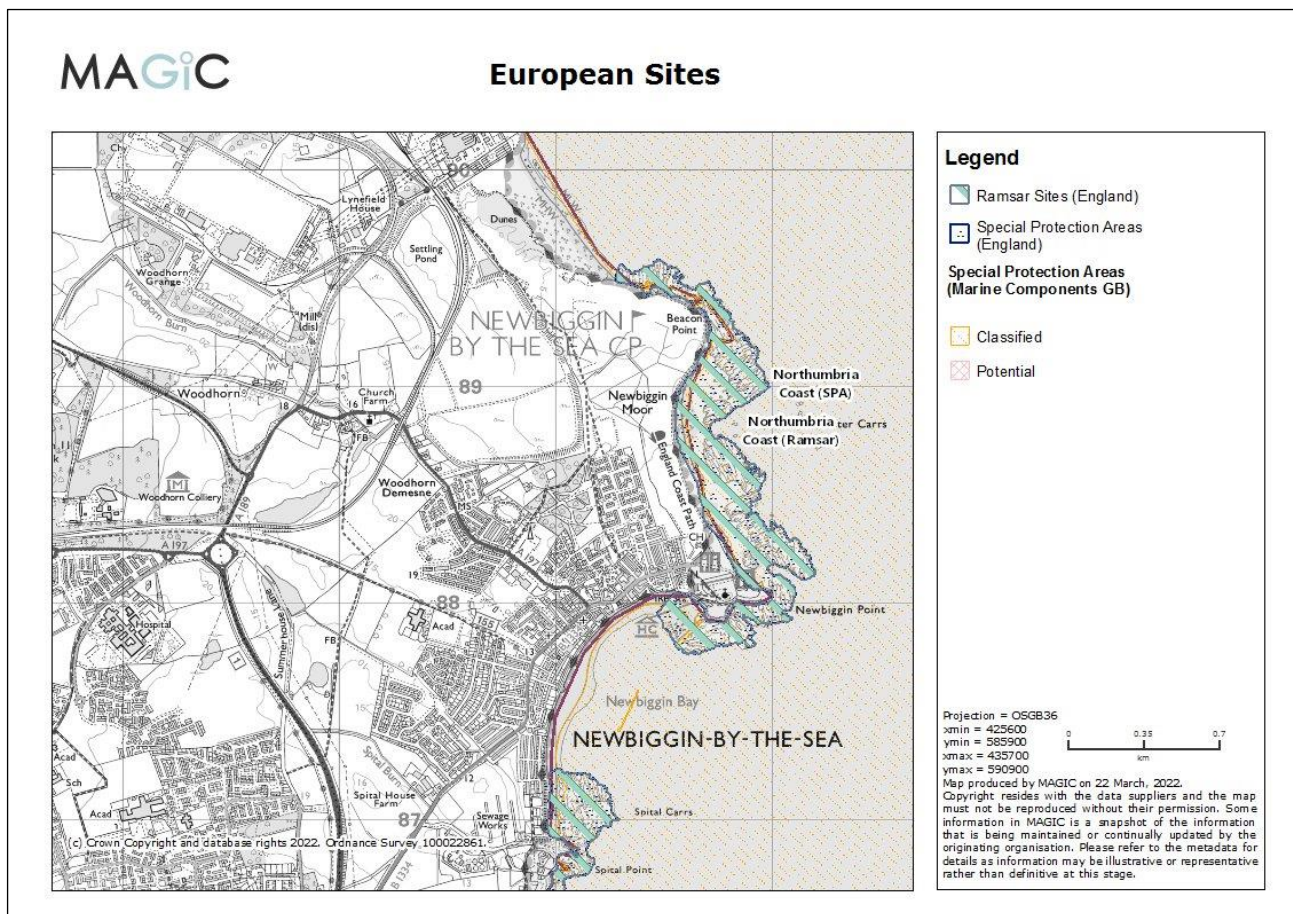
If a plan or project has adverse effects on the integrity of a European site which cannot be avoided or mitigated for and there are no alternative solutions, consideration must be given to whether there are imperative reasons of overriding public interest for proceeding with the plan or project. This stage involves central Government and must be notified to the European Commission. If there are imperative reasons of overriding public interest, compensatory measures must be identified to maintain and enhance the overall coherence of the Natura 2000 network. This will only be in exceptional circumstances and must be supported by strong justification.

3. Stage 1A: Identification of European sites

3.1 The following European sites are wholly or partly within 10km of the plan boundary or are considered to have the potential to be affected by the Plan, and so are within the scope of the Habitats Regulations Assessment:

Special Protection Areas

- Northumbria Coast SPA and Ramsar Site
- Northumberland Marine SPA



Site Analysis

3.2 This stage of the assessment details the reasons that relevant European sites have been designated (the qualifying features), the objectives intended to be achieved by designating and managing the sites, and the environmental conditions that are key to maintaining the integrity of the site. Guidance from the European Commission states that ‘a site can be described as having a high degree of integrity where the inherent potential for meeting site conservation objectives is realised, the capacity for self-repair and self-renewal under dynamic conditions is maintained, and a minimum of external management support is required’ (EC, 2000; para 4.6.3). An asterisk * beside a qualifying feature indicates that the feature is listed as a priority habitat on Annex I of the Habitats Directive.

Site	Qualifying Features	Conservation Objectives	Key Environmental Conditions to Support Site Integrity
Northumbria Coast SPA and Ramsar Site	Internationally important breeding populations of little tern and arctic tern Internationally important wintering populations of purple sandpiper and turnstone	To maintain in (or restore to) favourable condition the sand dunes for the breeding populations of little tern and arctic tern; To maintain in (or restore to) favourable condition rocky shores with boulder and cobble beaches for wintering purple sandpiper and turnstone.	All features – no significant increase in human disturbance or that caused by off-lead dogs. Maintenance of sparsely vegetated dunes for nesting (little tern). Extent and quality of rocky shore feeding and roosting habitat (purple sandpiper and turnstone)
Northumberland Marine SPA	Internationally important breeding populations of Annex 1 species: Sandwich tern Roseate tern Common tern Arctic tern Little tern Common guillemot Atlantic puffin An internationally important seabird assemblage of over 20,000 birds	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; <ul style="list-style-type: none"> • 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.	Not available yet

4. Stage 1B: Analysis of Trends

- 4.1 Trends are influences on a European site other than other plans and projects, which have influenced it and are likely to continue to influence it. It is important that relevant trends are considered alongside the plan that is subject to Habitats Regulations Assessment and other plans and projects, in order to identify the factors which, in combination, may be affecting a European site.
- 4.2 The following trends have been identified as being relevant to this Habitats Regulations Assessment:
- Air quality
 - Water quality and hydrology
 - Tourism and recreation
 - Large scale development
 - Climate change
 - Non-native invasive species

Air Quality

- 4.3 The most significant pollutants in the UK are as follows:

Sulphur Dioxide SO₂

- 4.4 The main sources of SO₂ are power stations and industrial combustion processes burning large quantities of fossil fuels.

- 4.5 Wet and dry deposition of SO₂ acidifies soils and fresh waters, thereby altering the composition of plant communities by causing a decline in species intolerant of more acid conditions. The significance of impacts depends on the levels of deposition and the buffering capacity of the receiving environment; basic environments have a higher buffering capacity while acid soils and waters have a much lower buffering capacity and so are more severely affected.

Nitrogen Oxides NO_x (nitrate (NO₂), nitrogen oxides (NO₃) and nitric acid (HNO₃))

- 4.6 NO_x are mainly produced by combustion, with about a quarter of UK emissions from power stations, half from vehicle exhausts and the rest from industrial and domestic combustion.

- 4.7 Deposition of NO_x can lead to acidification of soils and freshwater. As with SO₂, the degree of harm depends on the level of deposition and on the buffering capacity of these environments. NO_x can also lead to the eutrophication of soils and waters, leading to the competitive exclusion of sensitive species as more vigorous ones take advantage of the increased nutrient levels.

Ammonia (NH₃)

- 4.8 Ammonia is released during the decomposition of animal wastes, and adverse effects are caused by eutrophication, mainly within or near intensive livestock rearing environments in the lowlands.

4.9 Levels have been greatly increased by the development of intensive livestock rearing systems during the twentieth century. However recent agricultural policy reforms and the introduction of agri-environment schemes are likely to facilitate a reverse in this trend.

Low Level Ozone O₃

4.10 A secondary pollutant generated by photochemical reactions from NO_x and volatile organic compounds.

4.11 Concentrations of O₃ exceeding 40 ppb are toxic to humans and wildlife, altering the species composition of semi-natural habitats.

Underlying Trends in Air Pollution

4.12 The National Expert Group on Transboundary Air Pollution report of 2001 *Transboundary Air Pollution: Acidification, Eutrophication and Ground-Level Ozone in the UK* reported the following findings:

1. Total SO₂ emissions have decreased substantially in recent decades due to a decline in heavy industry, a decreasing contribution of coal burning in electricity generation, selection of lower sulphur coals for this purpose and cleaner burning of fossil fuels in power stations. Direct effects on vegetation have been virtually eliminated
2. Critical loads for acidification were exceeded in 71% of UK ecosystems in 1997, but this is forecast to drop to 47% by 2010, by which time NO_x will have replaced SO₂ as the major contributor.
3. Critical loads for eutrophication were exceeded in 25% of sensitive grasslands and 55% of heathland in 1995-97. This is expected to drop to 20% and 40% respectively, due to decreasing NH₃ and NH₄ emissions.
4. Overall, current deposition of nitrogen is probably changing the composition of vegetation in many nutrient-poor (acidic) habitats, and these changes may not be readily reversible.

4.13 Although technological advances have reduced NO_x emissions from vehicle engines, increasing traffic levels are likely to cause NO_x levels to start to increase again, and NO_x levels are identified as a problem for sensitive sites adjacent to major transport routes.

4.14 Vehicle use is likely to continue to increase in Northumberland for a number of reasons; rising levels of car ownership, increasing levels of economic activity, increasing levels of tourism, population growth (albeit at a very modest level). The Design Manual for Roads and Bridges⁵ includes an equation describing the characteristic decrease in pollutant concentrations with increasing distance from roads. Based on this and other research, it is considered that NO_x emissions generated within 200m of a European site which has interest features which are vulnerable to nitrogen deposition need to be considered in Habitats Regulations Assessments.

⁵ <http://www.dft.gov.uk/ha/standards/dmrb/vol11/section3/ha20707.pdf>

Water Quality

- 4.17 Parts of rural Northumberland are not served by mains sewerage, resulting in the usage of non-mains systems such as septic tanks and package treatment plants. Their proper functioning is dependent on appropriate maintenance by their owners, which isn't always kept up, potentially resulting in a large number of small sources of pollution that can be hard to trace and manage.
- 4.18 Increased algal growth is of concern in Budle Bay, where it is adversely affecting the intertidal sand and mudflats which are an interest feature of the Berwickshire and North Northumberland Coast SAC and, by displacing eelgrass beds, adversely affecting Lindisfarne SPA by reducing the quality and quantity of feeding habitat of grazing wildfowl such as light-bellied Brent goose, wigeon and whooper swan. The reasons for the increased algal growth in this area have not been clearly determined; however, nutrient input from diffuse agricultural pollution in the Tweed catchment is likely to be a significant factor.

Hydrology

- 4.20 The supply of water in Northumberland is divided into two water resource zones, Kielder WRZ and Berwick and Fowberry WRZ. The Kielder WRZ serves most of the population of Northumberland and is supplied via river systems and reservoirs. For the most part, there are no water availability issues within this WRZ, primarily due to the very substantial supplies at Kielder Reservoir; however, both the rivers Coquet and Font have been identified as experiencing water availability issues. The Berwick and Fowberry WRZ is supplied primarily from an underlying aquifer, and supply shortages have been experienced during periods of high demand. Water abstraction for agriculture occurs from the Tweed catchment rivers, potential impacts on the SAC are being managed through abstraction licence reviews.

Tourism and Recreation

- 4.21 Tourism is concentrated in certain areas of the county, especially the coast. Disturbance can be a significant impact arising from coastal recreation, with potential adverse impacts on nesting and feeding tern species, feeding and roosting migratory and winter waders and wildfowl and on fragile dune communities. Dogs, especially off-lead animals, increase the effect of casual disturbance of birds by walkers.
- 4.22 European sites at particular risk of disturbance impacts include the Northumbria Coast SPA and Ramsar Site, Lindisfarne SPA and Ramsar Site and the North Northumberland Dunes SAC. European sites vulnerable to disturbance from increasing visitor numbers include the North Pennines SPA.
- 4.23 Improvements in treatment of sewage arising from coastal settlements in order to meet Urban Waste Water Treatment Directive obligations will help to ensure that increasing visitor numbers do not contribute to the eutrophication of intertidal and subtidal habitats.

Large Scale Development

- 4.24 Development of land is occurring at a comparatively modest pace in Northumberland, with the bulk of housing and industrial development occurring in and adjacent to the settlements of south-east Northumberland, on the periphery of the Tyneside conurbation. New development causes a range of impacts that can affect European sites, including increased or changing patterns of air pollution from changing or increasing vehicle uses, and increases in water demand and in waste arisings. Urban expansion can also cause loss of or increased disturbance to land which is used as high tide and night time roosts by bird species which are key features of the coastal SPAs, and it can increase disturbance within these SPAs, for example through increased recreational use of the intertidal zone and through light pollution. Recreational disturbance such as dog walking can be a particular problem when new residential development occurs close to the Northumbria Coast SPA and Ramsar Site; feeding opportunities for turnstone and purple sandpiper are already restricted by the tides and the limited daylight of winter, so lost feeding time and increased energy use evading perceived predators could be significant. Some high tide and night time roost sites used by these species are known to occur in close proximity to development, but overall knowledge of the location of roost sites is incomplete. There is currently a high degree of uncertainty about the breeding locations of the golden plover that winter on the Northumberland Coast; however, adverse effects on the wintering populations could affect the integrity of the North Pennines Moors SPA or other SPAs that they breed in.
- 4.25 Demand for particular types of building stone, for markets within and outwith Northumberland, can create demand for particular sites to be quarried. In Northumberland, demand for dimensional building stone is generally for sandstone, with a low likelihood of significant effects on European sites.
- 4.26 The highest quality concreting sands and gravels in Northumberland are derived from igneous rocks, and so occur in the north of the county, in valleys of rivers which are within the River Tweed SAC. Potential significant effects include releases of silt or pollutants to the watercourses and hydrological changes arising from water abstraction for processing.

Climate Change

- 4.27 Changes in climate arising from increasing levels of atmospheric CO₂ are very complex and difficult to predict. However, increasingly warm dry summers and mild, stormy winters along with rising sea levels seem to be the most likely trends. Possible impacts on European sites include the following:
- coastal squeeze, as habitats such as saltmarshes and sand dunes are caught in a decreasing amount of space between rising sea levels on their seaward side and human land uses on their landward side. This is likely to affect all coastal European sites, but effects will be felt first and most severely on European sites with intertidal habitats and dunes, which are Berwickshire and North Northumberland Coast SAC, Tweed Estuary SAC, North Northumberland Dunes SAC, Lindisfarne SPA and Ramsar Site, Northumbria Coast SPA and Ramsar Site. Increased depths of water due to sea level rise may also affect coastal reefs and caves in the Berwickshire and North Northumberland Coast SAC.

- distribution patterns of many species affected by shifts in their 'climate space' (the geographic area which has the appropriate climate for that species) which may have impacts on coastal sites.
- increasing rates of colonisation by new species, including pests and diseases
- higher summer water temperatures, with consequent decrease in levels of dissolved oxygen and increases in levels of primary productivity and decay processes.

4.28 Measures likely to assist in reducing the impacts of or in adapting to climate change include habitat restoration to improve 'ecosystem services', and land use change to facilitate the movement of communities and species. Examples of ecosystem services include the hydrological functioning of blanket bogs in absorbing large quantities of water from rainfall and gradually releasing it to watercourses, and the flood storage function of river floodplains. The hydrological function of blanket bogs in the uplands of Northumberland and surrounding areas has been adversely affected by the excavation of drainage ditches, especially during the 1950s – 1970s, and through afforestation. Projects to block ditches and restore afforested bogs are underway in the North Pennines and the Border Uplands, but are of a small scale compared to the areas affected. The area of functional floodplain in Northumberland has been greatly reduced over a long time period as flood defences have been put in place for settlements and farmland; however, increasingly severe winter storms will increase the need for it. Coastal realignment (the setting back of coastal defences) has the potential to allow coastal habitats such as saltmarsh to migrate landwards rather than being lost to coastal squeeze; projects are currently underway at Alnmouth and Goswick through the Northumberland Foreshores Project which will demonstrate the potential of this approach, although again these are of very limited scale compared to the problem.

4.29 The issue of facilitating the movement of communities and species in response to movements in their climate space is complex, as they vary greatly in their ability to make such movements and their requirements that they have in order to do so; accordingly such changes are likely to be chaotic rather than simple, with more adaptable species and less specialist communities faring much better than more demanding and specialist ones. It is unclear whether beneficial land management practices can be initiated on a significant enough scale to assist in this process; however, those activities that are most likely to have a beneficial effect in this respect include restoring existing habitats to good condition to maximise their resilience, and increasing ecological connectivity by increasing the overall extent of semi-natural vegetation in the wider countryside; reinforcing and expanding features that act as links and corridors such as watercourses and their associated riparian habitats; increasing the density of networks of habitats such as wetlands, semi-natural grasslands and native woodlands; and managing farmland in a way that integrates food production and wildlife conservation. This requires that nature conservation is planned and implemented at a landscape scale, rather than on the traditional site-by-site basis.

Invasive Species

4.30 Thousands of non-native species have become established in the UK, having been brought here either intentionally or accidentally by people. A small proportion of non-

native plants have become highly invasive, displacing native vegetation and forming dense single-species stands of little value to wildlife. Similarly, a few such animals are displacing native species, either directly or via pests or diseases that they have brought with them. Significant problems within European sites are as follows:

- Pirri-pirri bur is adversely affecting dune grassland within the North Northumberland Dunes SAC.
- *Spartina* (a saltmarsh grass) is adversely affecting mudflats within the Berwickshire and North Northumberland Coast SAC and Lindisfarne SPA.
- Japanese knotweed and giant hogweed is displacing native riparian vegetation in the River Tweed SAC and many other rivers.
- Pacific oyster *Crassostrea gigas*, a non-native invasive species is currently being farmed within Lindisfarne SPA and Ramsar Site, Northumberland Marine SPA and the Berwickshire and North Northumberland Coast SAC.

5. Stage 1C: Analysis of proposals and policies in the Newbiggin by the Sea Neighbourhood Plan - Identification of Likely Significant Effects

- 5.1 The objectives, policies and community actions contained within the Newbiggin by the Sea Neighbourhood Plan have been evaluated to identify where there could be a likely significant effect on the interest features of European sites.

Paragraph 182 of the states that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.

- 5.2 The following European sites are within the boundary of the Plan. The Northumbria Coast SPA/Ramsar and the Northumberland Marine SPA are present within the site boundary. There are no additional European Sites within a 10km zone of influence from the plan boundary. Each European Site is underpinned by a number of component Sites of Special Scientific Interest.

Special Protection Areas

- Northumbria Coast
- Northumberland Marine SPA

Ramsar Sites

- Northumbria Coast

5.3 Current Condition of Designated Sites and Threats to Site Integrity

Site	Qualifying Features	Current Condition of Component SSSIs within 10km of the Plan boundary	Threats to Site Integrity
Northumbria Coast SPA/Ramsar Site	Internationally important breeding populations of little tern and arctic tern Internationally important wintering populations of purple sandpiper and turnstone	100% of the underlying SSSI units are assessed as being in favourable condition.	All features –significant increase in human disturbance or that caused by off-lead dogs. Loss of sparsely vegetated dunes for nesting (little tern). Changes to the extent and quality of rocky shore feeding and roosting habitat (purple sandpiper and turnstone)
Northumberland Marine SPA	Internationally important breeding populations of Annex 1 species: Sandwich tern Roseate tern Common tern Arctic tern Little tern Common guillemot Atlantic puffin An internationally important seabird assemblage of over 20,000 birds	Not available yet	Not available yet

Assessment of the Plan Policies:

- 5.4 Objectives – as general aspirations these are not considered to have potential impacts on European Sites.
- 5.5 Policy N1 Design concerns the criteria for the acceptability of proposals and is not considered to have any potential impact on European Sites.
- 5.6 Policy N2 – Coastal Mitigation this is an environmental protection policy provided as mitigation for recreational impacts on European Sites and is therefore screened out. This is considered as mitigation in the Appropriate Assessment.
- 5.7 Policy N3 – Local Green Space Environmental Protection Policy – screened out.
- 5.8 Policy N4 - Newbiggin by the Sea Conservation Area – This policy is a general criteria for testing the acceptability or sustainability of proposals regarding their design. There is no likely negative significant effect on European Sites. Screened out.
- 5.9 N5 – Housing Site Allocations

This policy sets out the circumstances in which housing development would be supported should it come forward. Any net increase in housing (either residential or tourist accommodation) within the 10km buffer of the coast will bring additional recreational disturbance to coastal sites, and impact upon the interest features for which those sites are designated.

Should such development come forward, mitigation (as provided at Policy N2) will be required to ensure that it does not have an adverse effect on the integrity of the Northumbria Coast SPA. Accordingly, it is necessary to conclude that this policy is likely to have a significant effect on European sites.

- 5.10 N6 – Community Services and Facilities - concerns the criteria for the acceptability of proposals and is not considered to have any potential impact on European Sites.
- 5.11 N7 – Sustainable Transport and New Development - concerns the criteria for the acceptability of proposals and is not considered to have any potential impact on European Sites.
- 5.12 N8 – Rights of Way concerns the criteria for the acceptability of proposals and is not considered to have any potential impact on European Sites.
- 5.13 Community Actions- screened out.

5.14 Screening of Policies to Assess Likely Significant Effect.

Policies likely to lead to a net increase in residential units or disturbance to coastal habitats		
Policy N5 Housing Site Allocations		
Interest Feature:	Potential hazard:	Mechanism of effect/impact (including the probability that the interest feature will be affected, and the magnitude, duration and reversibility of the effect)
Purple Sandpiper and turnstone (Northumbria Coast SPA and Ramsar Site)	Disturbance of feeding or roosting birds during winter.	<p>The nearest part of the SPA/Ramsar is within the plan boundary, with good road linkages and parking from the inland parts of the plan area. This is well within the distance used for activities such as daily dog walks and so the increased population resulting from the development could result in increased recreational disturbance.</p> <p>This would lead to increased footfall on beaches and rocky shore by walkers/dog walkers which shall potentially increase disturbance of wintering birds, particularly associated with rocky shore. Other disturbance impacts may arise from angling, water sports and bait digging. Evidence indicates that disturbance from off-lead dogs can be the biggest single source of disturbance, probably because off-lead dogs can range widely from owner, at speed and can be perceived by coastal birds as a direct predator.</p> <p>The magnitude of the disturbance effect over the long term on a population level is unknown, not least because bird the population is influenced by many factors. However increased levels of disturbance can reduce time spent foraging, lead to wasted energy avoiding perceived threats and ultimately has potential to reduce an individual's fitness to survive and breed.</p> <p>Given the main risk of increased recreational activities resulting from the development without mitigation there would be a likely significant effect arising from disturbance to turnstone and purple sandpiper.</p>

Interest Feature:	Potential hazard:	Mechanism of effect/impact (including the probability that the interest feature will be affected, and the magnitude, duration and reversibility of the effect)
Sandwich tern Roseate tern Common tern Arctic tern Little tern (Northumberland Marine SPA)	Disturbance of feeding terns during the summer by terrestrial recreation.	Theoretical risk of increase disturbance by recreation on sandy beach areas upon shallow water feeding areas close to the shore. However as the area of the SPA is very large alternative feeding areas are readily available, therefore the effect of disturbance shall be very limited. In addition terns are relatively tolerant, maintaining feeding behaviour offshore. Accordingly the effect of disturbance is unlikely to be significant and so this can be screened out.
Sandwich tern Roseate tern Common tern Arctic tern Little tern (Northumberland Marine SPA)	Disturbance of feeding terns during the summer by marine recreation, particularly powered craft such as jet skis.	<p>There is a risk of increase disturbance by recreation particularly with powered craft in areas of shallow water that terns may use to forage. Little tern preferentially use shallower waters for foraging so theoretically may be more susceptible to this impact. However the southern alongshore extent for foraging for little tern is about 6km.</p> <p>The number of launch points for powered craft are restricted. These launching points are regulated through licences and boats operated under a code of conduct. Furthermore, the area of the SPA is very large, therefore other feeding areas are readily available, therefore the effect of disturbance is unlikely to be significant and so this can be screened out.</p>

Is the effect likely to be significant?	
a) Alone? (explain conclusion, e.g. in relation to <i>de minimus</i> criteria)	Northumberland Marine SPA – No – <i>de minimus</i> Northumbria Coast SPA and Ramsar Site – there is a credible risk of an effect and so in the absence of objective evidence demonstrating that there will not be it has to be concluded that there is a likely significant effect.
b) In combination with other plans or projects?	Yes, for Northumbria Coast SPA and Ramsar. All proposed housing development within the coastal buffer zone for the full length of the European sites (Berwick to Crimdon) contribute to in-combination effects.
Conclusion:	Northumbria Coast SPA and Ramsar Site: Yes - appropriate assessment required Northumberland Marine SPA: No - screened out

- 6. Stage 1 D Identification of other plans and projects relevant to the assessment, to identify any likely in-combination effects.**
- 6.1 Policy ND5 is screened in because of the potential impact of housing growth on the Northumbria Coast SPA and so will be taken forward to Appropriate Assessment.
- 6.2 Where significant impacts on a European site can only be avoided with mitigation, as a competent authority Northumberland County Council must consider the Implications of Case C 323/17 in the Court of Justice of the European Union (People over Wind). The ECJ provided a ruling to the Irish Courts in the above case on 12th April 2018 in response to a request for a ruling to answer the following question: *‘Whether, or in what circumstances, mitigation measures can be considered when carrying out screening for appropriate assessment under Article 6(3) of the Habitats Directive?’*
- 6.3 The ruling was: *‘Article 6(3)... 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 measures intended to avoid or reduce the harmful effects of the plan or project on that site.’*
- 6.4 As such, it is not possible to conclude at the screening stage that additional housing sites will not have significant effects on Coastal European Sites and the policies and objectives related to those sites require Appropriate Assessment, at which stage the mitigation measures can be considered. Accordingly, an appropriate assessment is required to determine if the above policies will have an adverse effect on the integrity of the interest features of the Northumbria Coast SPA and Ramsar Site.
- 6.5 None of the other policies will have any effect on any European sites and therefore cannot contribute to in-combination effects.

**APPROPRIATE ASSESSMENT OF
NEWBIGGIN BY THE SEA
NEIGHBOURHOOD PLAN
SUBMISSION DRAFT (DECEMBER 2022)**

7. Stage 2: Appropriate Assessment

- 7.1 The screening assessment of the Newbiggin by the Sea Neighbourhood Plan identified that the following objectives and policies are likely to have a significant effect on the Northumbria Coast SPA and Ramsar Site.
- N5 Housing Site Allocations
- 7.2 The housing numbers are estimated to be between 144 and 173. Measured against the existing threshold (condition of the designated sites and their interest features) and taken cumulatively and in-combination with other plans and projects a significant effect is likely. Accordingly, an appropriate assessment is required to determine if the above policies will have an adverse effect on the integrity of the interest features of the Northumbria Coast SPA and Ramsar Site.
- 7.3 The same potential impact arises from each of these policies, which is the cumulative increase in recreational disturbance arising from increased housing numbers within the coastal zone of influence. Disturbance primarily arises from recreational activities such as walking and sea angling, with off-lead dogs being a particular concern because they range more widely than their owners and because the birds, as species that feed and roost on the ground, have to have a strong predator avoidance response to mammals such as fox and wolf, and therefore domestic dogs. Repeated disturbance causes birds to waste foraging time monitoring what they perceive to be potential predators, and to waste energy repeatedly taking flight to avoid them, and this can affect them in a range of ways that ultimately can affect their survival rates.
- 7.4 The assessment is summarised in the table below.

PART A: The Proposal			
1. Type of Plan: Neighbourhood Plan		2. Author/Lead: Newbiggin by the Sea Town Council	
3. Brief description of proposal: Newbiggin by the Sea Neighbourhood Plan (Submission Draft December 2022) covering the Town Council and local community's priorities for a presently undefined period. <ul style="list-style-type: none"> N5 Housing Site Allocations The policy supports a net increase in residential units within the 10km zone of influence for coastal sites.			
4. European site name(s):		Northumbria Coast SPA and Ramsar Site	
5. List of interest features: <u>Northumbria Coast SPA and Ramsar Site</u> Internationally important breeding population of little tern and arctic tern Internationally important migratory and wintering populations of purple sandpiper and turnstone			
PART B: Identification of effects being considered and relevant features affected			
Significant effect being considered (attribute affected)	Affected qualifying feature(s)	Favourable condition target(s) for relevant feature(s) based on conservation objectives set for SPA/ Ramsar	Contribution of attribute(s) to site integrity (ecological structure and functioning of site)
Increasing levels of recreational disturbance in Northumbria Coast SPA	Non-breeding populations of: Turnstone Purple sandpiper	Restrict the frequency, duration and/or disturbance affecting roosting, foraging, feeding, moulting and/or loafing birds so that they are not significantly disturbed.	Direct effect on qualifying feature therefore inherent to site integrity

Significant effect being considered (attribute affected)	Affected qualifying feature(s)	Favourable condition target(s) for relevant feature(s) based on conservation objectives set for SPA/ Ramsar	Contribution of attribute(s) to site integrity (ecological structure and functioning of site)	
Increasing levels of recreational disturbance in Northumbria Coast SPA and Ramsar Site	Breeding populations of: Little tern Arctic tern Roseate tern	Restrict the frequency, duration and/or disturbance affecting roosting, nesting, foraging, feeding, moulting and/or loafing birds so that they are not significantly disturbed.	Direct effect on qualifying feature therefore inherent to site integrity	
PART C: Assessment				
Significant effect being considered (attribute affected)	Adverse Effect of proposal alone on attribute and/or feature and in relation to conservation objective for the feature	Adverse Effect of proposal in combination with other plans or projects, on attribute and /or feature	Can adverse effects be avoided?	Adverse effect on integrity; long term, short term. Yes, no or uncertain?
Northumbria Coast SPA and Ramsar Site - Increasing levels of recreational disturbance - direct effect on purple sandpiper and turnstone (qualifying features)	Disturbance arises from a range of recreational activities, such as walking, dog-walking, rockpooling and sea angling. Disturbance reduces foraging time and increases energy expenditure because birds have to spend more time engaging in vigilance and escape activities.	Disturbance arises from a range of recreational activities, such as walking, dog-walking, rockpooling and sea angling. Disturbance reduces foraging time and increases energy expenditure because birds have to spend more time engaging in vigilance and escape activities. Reduced food intake combined with increased energy expenditure decreases	Policy N2 requires mitigation via a contribution to the Coastal Mitigation Service	No

	Reduced food intake combined with increased energy expenditure decreases fitness, which in turn increases mortality at the wintering grounds or on migration, or results in birds arriving at their breeding grounds in poorer condition, reducing their productivity.	fitness, which in turn increases mortality at the wintering grounds or on migration, or results in birds arriving at their breeding grounds in poorer condition, reducing their productivity.		
Northumbria Coast SPA and Ramsar Site - Increasing levels of recreational disturbance - direct effect on little tern and arctic tern (qualifying features)	Recreational disturbance arising from a single housing development is unlikely to have a significant effect on the SPA/Ramsar Site	Disturbance arises from a range of recreational activities, especially walking, dog-walking and general beach recreation. Disturbance at or near the nest can cause adults to temporarily leave eggs or young, exposing them to increased predation risk; disruption to provisioning visits by adults, reducing food intake by the young; loss of eggs to trampling damage and nest abandonment. All of these impacts reduce productivity.	Policy N2 requires mitigation via a contribution to the Coastal Mitigation Service	No

PART D: County Council's Conclusion

CAN IT BE ASCERTAINED THAT THE PLAN OR PROJECT WILL NOT ADVERSELY AFFECT THE INTEGRITY OF THE EUROPEAN SITE(S)?

YES.

This is a plan supporting residential development within the 10km coastal buffer zone where recreational disturbance is likely. Mitigation is proposed for this in Policy N2, which requires any new development within the coastal impacts buffer to contribute to the Coastal Mitigation Service or provide alternative effective mitigation.

Therefore, there are no likely adverse impacts on site integrity on the Northumbria Coast SPA and Ramsar Site.

8. Conclusion.

- 8.1 This is a record of the determination as to whether the Newbiggin by the Sea Neighbourhood Plan Submission Draft (December 2022) is likely to have a significant effect on any European sites, as required under Regulation 106 of the Conservation of Habitats and Species Regulations 2017 as amended.
- 8.2 Policy N5 is likely to have a significant effect on the Northumbria Coast SPA/Ramsar Site for the reasons identified in Section 5 of this Report. Accordingly an appropriate assessment has been undertaken of this objective and these policies.
- 8.3 In accordance with Regulation 106 of the Conservation of Habitats and Species Regulations 2017 as amended, Northumberland County Council concludes that the Newbiggin by the Sea Neighbourhood Plan Submission Draft (December 2022) will have an adverse effect on the integrity of European sites without mitigation.
- 8.4 Policy N2 provides mitigation for recreational disturbance impacts on the Northumbria Coast SPA/Ramsar Site.
- 8.5 As such, it can be concluded that the Newbiggin by the Sea Neighbourhood Plan Submission Draft (December 2022) will not have adverse impacts on the site integrity of the Northumbria Coast SPA and Ramsar Site.
- 8.6 Natural England confirmed their agreement with this conclusion in their email dated 16th May 2022 (see appendix 1). As there have been no significant changes to the policies within the plan Natural England have not been reconsulted.
- 8.7 However, it should be noted that this is an iterative process, and any significant subsequent changes to the Plan will need to be subject to further Habitats Regulations Assessment which will include further consultation with Natural England.

ADF
11/01/2023

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Appendix 1. Comments from Natural England

2022-05-19 388613 HRA consultation for Newbiggin by Sea NP

 **Pemberton, Lewis**
To: Ann Deary-Francis


Mon 16/05/2022 09:20

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Good morning Ann,

Thank you for referring the above Neighbourhood Plan HRA.

We welcome the policy requiring a contribution to Northumberland's Coastal Mitigation Strategy. We have no other comments to add.

Best wishes,

Lewis Pemberton
Lead Adviser - Sustainable Development

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