

Neighbourhood Planning
Guidance Note 9

Habitat Regulations Assessment

April 2013 - Revised June 2015



This guidance note explains the process which the Neighbourhood Planning team will follow when undertaking the Habitat Regulations Assessment of your Neighbourhood Development Plan, if one is needed.

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Environmental Assessment of your Neighbourhood Development Plan

The two Environmental Assessments which are relevant to Neighbourhood Development Plans are:

- Habitat Regulations Assessment (HRA); and
- Strategic Environmental Assessment (SEA)

There may be a requirement for at least one of these to be carried out on your Plan, and if a HRA is required then a SEA will also be required.

This guidance note introduces the Habitat Regulations Assessment, which can help the policies and proposals within your Neighbourhood Development Plan not only meet the European Regulations but also contribute towards sustainable development.

Habitat Regulations Assessment

There is a network of protected sites across Europe, which includes Special Areas of Conservation (SACs), Special Protection Areas (SPAs) and RAMSAR Sites. These are designated for their flora, fauna or birds under the Habitats Directive or the Birds Directive, respectively. Collectively these are known as European Sites.

All plans and projects, which may have a *significant effect* on designated European Sites are required to undertake a HRA. These assess this effect on the flora and fauna that are listed, as the reason for the designation, otherwise known as the “effect on site features of integrity”.

Neighbourhood Development Plans may only proceed to examination where it has been ascertained that there are no ‘Likely Significant Effects’.

Within Herefordshire there are four European Sites. These are designated as Special Areas of Conservation (SACs). They are:

- Downton Gorge
- The River Clun
- The River Wye
- The Wye Valley Woodlands

There are also European Sites outside of

Herefordshire, which Neighbourhood Development Plans may need to have regard to.

A list and map showing these can be found within Appendix 1.

Plans have to be assessed through the HRA process both on their own and in combination with other plans and projects in circulation.

In legal terms, Herefordshire Council remain responsible for ensuring that European Sites are not subject to any adverse effects on their integrity. Therefore any HRAs required for Neighbourhood Development Plans should be undertaken either by, or in conjunction, with Herefordshire Council.

In order to assist you in preparing your Neighbourhood Development Plan, in line with the Regulations, the Neighbourhood Planning team will work with you to undertake the HRA. This will help highlight any likely issues which could affect a European Site, and would need addressing if your plan is to progress to the independent examination

How will the Neighbourhood Planning team undertake the Habitat Regulations Assessment of Neighbourhood Development Plans?

An initial screening will be undertaken after a Neighbourhood Area has been designated to assess the proximity of any European Sites within, or which could be affected by proposals within, the Neighbourhood Area.

If this initial screening identifies European Sites that are in the proximity of your Neighbourhood Area then a full HRA will be required. Through continual engagement the Neighbourhood Planning team will then work with your parish council throughout the development of your Plan to ensure that you can demonstrate how these environmental concerns have been addressed and integrated into the revisions of the plan and that your proposals will not lead to ‘Likely Significant Effects’ upon a European Site.

The independent examiner will be looking for confirmation that this has taken place in order to agree that the plan has reached the basic conditions and recommend passage to the referendum.

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HRA Process

The flow diagram in Appendix 2 may assist in understanding the HRA process.

As highlighted, the process of undertaking a HRA is to identify the likely impacts upon a European Site from a Neighbourhood Development Plan, either alone or in combination with other projects or plans. The key will be the assessment of how significant these impacts would be.

Initial HRA Screening

A map and Initial Screening Report will be produced for you by the Neighbourhood Planning team. This will identify any European Sites which will need to be taken into account when producing your Neighbourhood Development Plan as any policies and proposals could have an effect upon them.

If the Neighbourhood Area is considered to be outside the relative proximity to any European Site, then no Likely Significant Effects can be assumed, unless developments proposed later on within the Neighbourhood Development Plan are Screened as possibly having effects.

If the Neighbourhood Area is considered to be within relative proximity to any European Site, then Likely Significant Effects could be possible on these European Sites from any future Neighbourhood Development Plan. Therefore a Full HRA Screening and a Strategic Environmental Assessment will be undertaken.

The Initial Screening Report along with the conclusions, will be sent to the parish council.

Full HRA Screening for emerging draft plan

If your initial screening report indicates that further work will need to be undertaken, then your support officer will inform you at the appropriate stage what this will entail.

It is possible that 'Likely Significant Effects' could emerge at any of the following stages of Plan production:

- emerging objectives;

- proposed options;
- draft policies and proposals;
- draft allocations.

Your support officer will be able to advise you as you go along to minimise the likelihood of 'Significant Effects' emerging during these stages.

When you have created the first draft of your plan and provided it to the Neighbourhood Planning Team the full screening can then commence. In order for the Screening to take place information will need to be shared between the Neighbourhood Planning Team and the parish council developing their Plan.

If it is concluded that no Likely Significant Effects will occur from the Neighbourhood Development Plan proposals then no further HRA is needed.

The Screening involves checking your plans objectives, options, policies, proposals and allocations to see if they are likely to create significant effects on the European Sites.

Once the Screening has taken place the Neighbourhood Planning team will produce a written report that summarises the outcomes of the Screening. This report will act as evidence for you when your Neighbourhood Plan is being examined.

Draft Plan Consultation (Regulation 14 of the Neighbourhood Planning Regulations)

Once the HRA screening report has been completed, you will then be able to proceed to your Regulation 14/draft consultation. During this consultation both your draft plan and the HRA report will be available for comment.

Any comments received during this period will need to be considered within your final draft plan.

The Neighbourhood Planning team can help you assess any changes that are necessary as a result of this consultation with regards to any implications these may have on European Sites.

This is also the stage that you will need to consider the contents of the Scoping Report. You will need to make sure that you address fully any concerns that have been raised in it if they relate

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to any 'Likely Significant Effect' on a European Site.

There is a requirement to produce a statement to explain how you have taken the HRA into account in your plan. The Neighbourhood Planning team will produce an assessment report to assist you with this.

Neighbourhood Development Plan, Plan Proposal Stage (Regulation 15 of the Neighbourhood Planning Regulations)

A Neighbourhood Development Plan cannot have Likely Significant Effects upon any European Site. You will need to demonstrate that this is the case when the plan is submitted under Regulation 15. The HRA Screening done during the development of your Plan will provide this information.

The NDP2 checklist available on the Neighbourhood Planning web pages will assist in submitting your Neighbourhood Development Plan to Herefordshire Council. This should include a HRA Scoping Report.

Appendix 1: List of European Sites and Map showing their location for the HRA of Neighbourhood Development Plans

Downton Gorge

River Clun

River Wye (including the River Lugg)

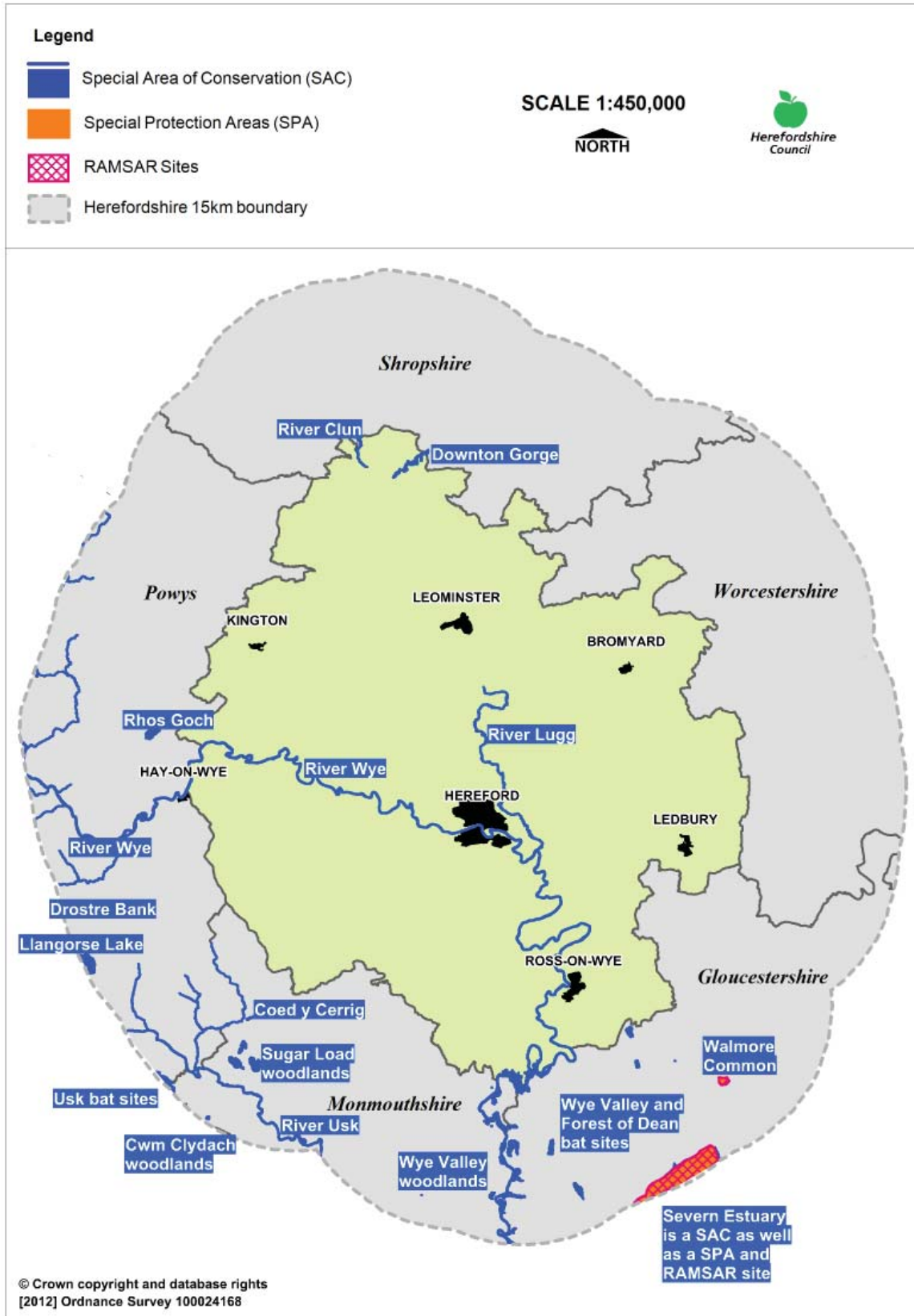
Usk Bat Sites

Wye Valley & Forest of Dean Bat Sites

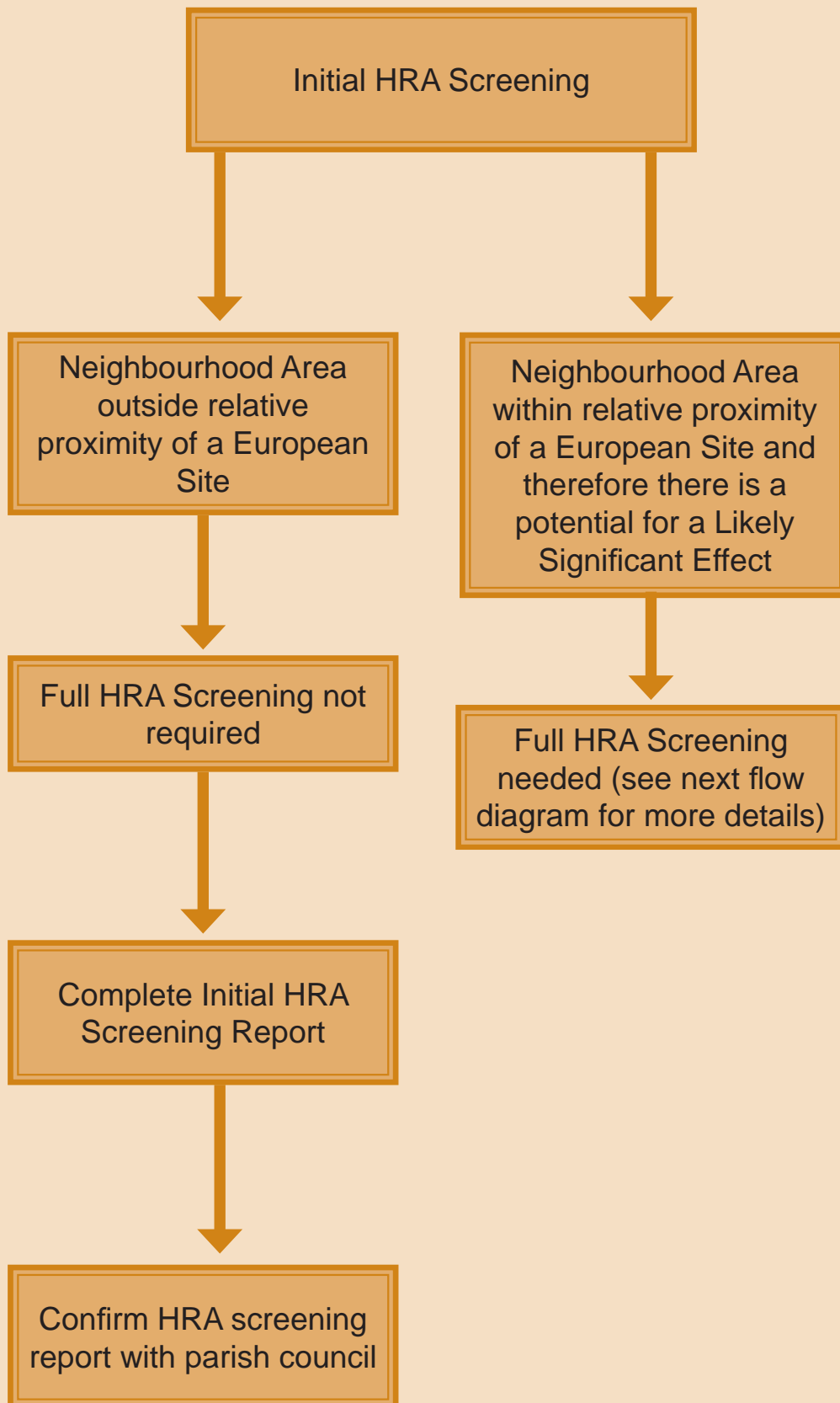
Wye Valley Woodlands

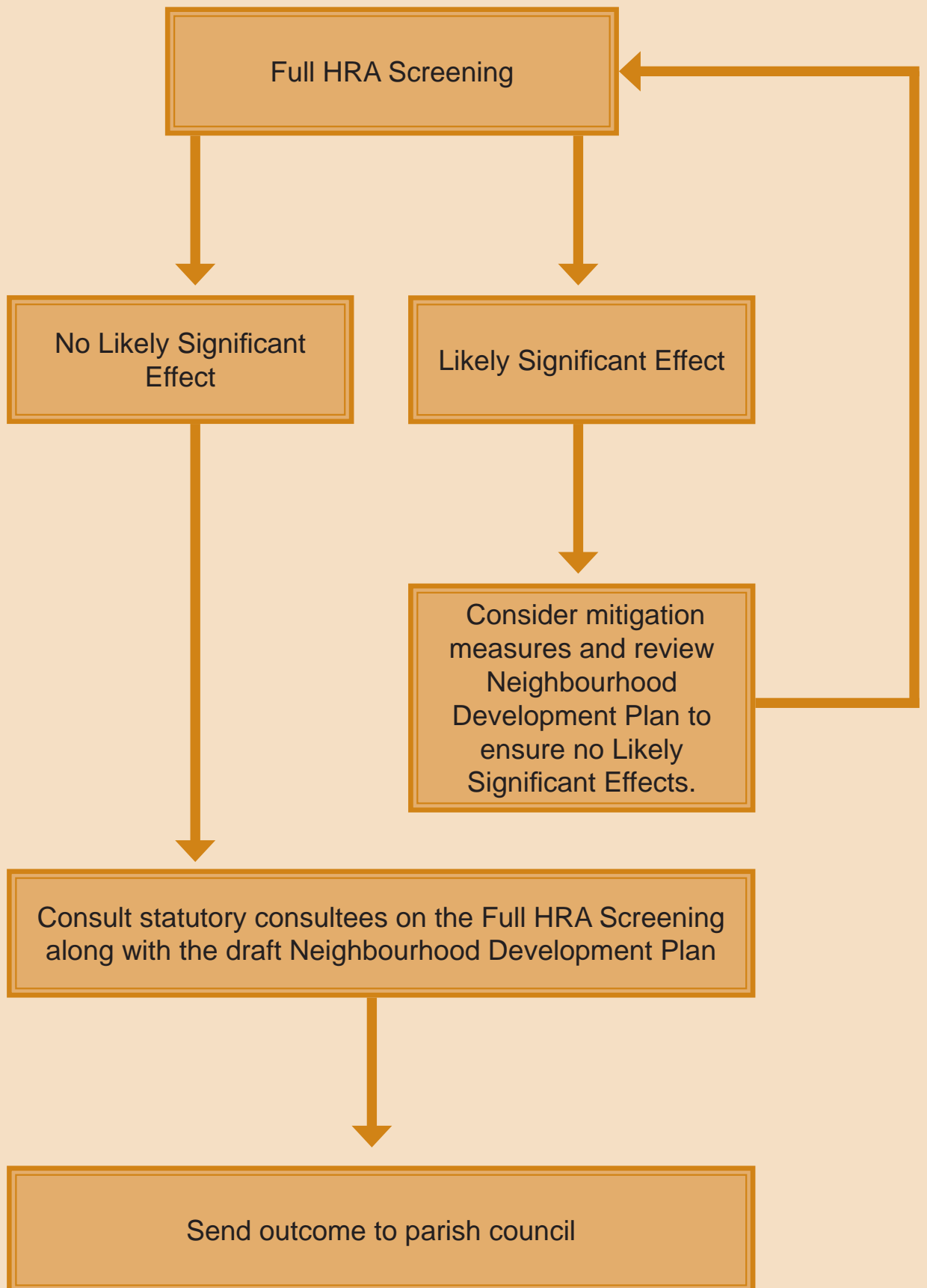
Map 1 shows all European Sites in and around Herefordshire. However, for Neighbourhood Planning purposes only the above listed European Sites are relevant for the HRA of Neighbourhood Development Plans in accordance with the Local Plan (Core Strategy) HRA.

Map 1: European Sites in Herefordshire and Surrounding Counties



Appendix 2: HRA process for Neighbourhood Development Plans





Neighbourhood Planning guidance notes available:

Deciding to produce a Neighbourhood Development Plan

1. Which is the right tool for your parish
2. What is a Neighbourhood Development Plan
3. Getting started
4. A guide to procedures
5. Funding

Plan Production

6. Developing a Vision and Objectives
7. Generating options
8. Writing planning policies
9. Environmental Assessment
10. Evidence base and information requirements
11. Implementation and Monitoring
12. Best practice community engagement techniques
13. Statutory consultees
14. Writing a consultation statement
15. Planning and other legislation
16. Web enabling your plan
17. Using OS based mapping
18. Glossary of planning terms

Topics

19. Sustainable Water Management in Herefordshire
20. Guide to settlement boundaries
21. Guide to site assessment and choosing allocation sites
22. Meeting your housing requirements
23. Conservation issues
24. Recreational areas
25. Renewable energy
26. Transport issues
27. Community Infrastructure Levy

Additional Guidance

28. Setting up a steering group
29. Creating a questionnaire
30. Community facilities
31. Conformity with the Local Plan (Core Strategy)
32. Examinations of Neighbourhood Development Plans
33. Guide to Neighbourhood Development Plan Referendums
34. Tourism
35. Basic Conditions
36. Your plan - Contributing to sustainable development