

## **Charing Neighbourhood Plan**

### **Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) Screening Report and determination**

Prepared by Ashford Borough Council on behalf of Charing Parish Council

**Determination Report – December 2020**

#### **Previous Versions:**

Original – January 2019

October 2020 Update

## Non-technical Summary and Introduction

### Introduction

- 1.1 This report focuses on the screening of the Charing Neighbourhood Plan against the need for a Strategic Environmental Assessment (SEA) and Habitat Regulation Assessment (HRA).

Please note that this report contains an update following the original in 2018. This is a factual update to the HRA Screening Assessment in October 2020 following updated guidance issued by Natural England relating to the Stodmarsh SAC, SPA, Ramsar and SSSI in July 2020 – shown in red text throughout.

### What is an SEA?

- 1.2 A Strategic Environmental Assessment (SEA) is required under European legislation for all plans which may have a significant effect on the environment. This particularly relates to plans which allocate development sites, including Local Plans and Neighbourhood Plans. An SEA is a mechanism for considering and communicating the likely significant effects of a draft Plan, and reasonable alternatives, with a view to avoiding and mitigating negative environmental effects and maximising the positives.
- 1.3 The purpose of SEA is to provide a high level of protection of the environment and to integrate environmental issues into the preparation and adoption of plans with a view to promoting sustainable development.
- 1.4 Not every plan needs an SEA. To determine whether the neighbourhood plan requires an SEA it is necessary to screen the objectives and proposals of the plan to determine whether it is likely to result in significant environmental effects. This can either be the local authority or the qualifying body (i.e. parish/town council or neighbourhood forum).
- 1.5 As part of this screening process it will be necessary to consult the SEA consultation bodies (Historic England, Natural England and the Environment Agency) to get their opinion on whether or not the plan is likely to result in significant environmental effects and therefore whether an SEA is required.
- 1.6 One of the basic conditions (condition 'f') for a neighbourhood plan is that it does not breach, and is otherwise compatible with, EU obligations. To meet this condition with regard to strategic environmental assessment (SEA), a neighbourhood planning group needs to have either a statement of reasons as to why SEA is not required, or, where an SEA is deemed necessary, an environmental report (and non-technical summary) which documents the findings of the SEA.

- 1.7 A neighbourhood plan should be screened as soon as there is sufficient information available to consider whether the proposed content of the plan or its likely intent (e.g. will it allocate development sites or not) are likely to lead to significant effects.
- 1.8 There are two potential outcomes to this screening: either the plan is not likely to result in any significant environmental effects and an SEA is not required, or the plan is deemed to be likely to result in significant environmental effects and that SEA (scoping report and full report) is required.

## **What is HRA?**

- 1.9 A Habitats Regulations Assessment (HRA) is a process which looks at the potential impact of proposals within a plan on internationally designated wildlife sites. For the purpose of the HRA, internationally designated wildlife sites are Special Protection Areas (SPA), Special Areas of Conservation (SAC) and Ramsar wetland sites, which together are also known as 'Natura 2000' sites.
- 1.10 This initial screening stage of the HRA process involves consideration of the reasons for designation and the conservation objectives of each internationally designated wildlife site within a 'reasonable' distance of the particular Neighbourhood Plan Area and the potential impact of the proposals within the draft neighbourhood plan on these.

## **Relevant Ashford Borough Assessments**

- 1.11 The screenings set out in this report are supported by the Appropriate Assessments and screening/scoping exercises previously carried out for the current adopted development plans; Ashford Borough Core Strategy 2008; the Urban Sites and Infrastructure DPD 2012; the Tenterden and Rural Sites DPD 2010, and most recently HRA and SEA/SA work undertaken for the emerging Local Plan 2030, which are published background documents. These most recent reports are available here: <http://www.ashford.gov.uk/local-plan-2030-evidence-base>

## **Consultation and Conclusion**

- 1.12 The draft version of the screening report was produced for consultation with the three statutory consultees, Environment Agency, Historic England and Natural England in December 2018 – January 2019. The responses and views of the statutory consultees are contained within Appendix 2.
- 1.13 Further consultation will take place with Natural England on the October 2020 update following their recently updated advice.
- 1.14 The draft screening report concludes that the proposals in the emerging Charing Neighbourhood Plan are likely to result in significant environmental effects and therefore a Strategic Environmental Assessment is required.

~~4.15 However, the implementation of the proposed Neighbourhood Plan is unlikely to impact upon Natura 2000 sites and therefore it is considered that no Habitats Regulations Assessment/Appropriate Assessment is required.~~

**October 2020 Update:** Following Natural England advice relating to the Stodmarsh Lakes and the impact of new development, it is considered that an Appropriate Assessment **is required** for Charing Neighbourhood Plan. Consultation with NE on this will take place.

## The Charing Neighbourhood Plan Context

- 1.16 Charing Parish is located in the Borough of Ashford, Kent and the whole of the Parish makes up the designated neighbourhood area (see figure 1 below). The Parish is largely rural in nature but is within close proximity to the town of Ashford, the principal town in the borough.
- 1.17 The NP area includes the village of Charing, the principal settlement in the Parish and also the smaller villages of Charing Heath and Westwell Leacon. A number of hamlets, small groupings of properties and farmsteads are also common in the Parish.

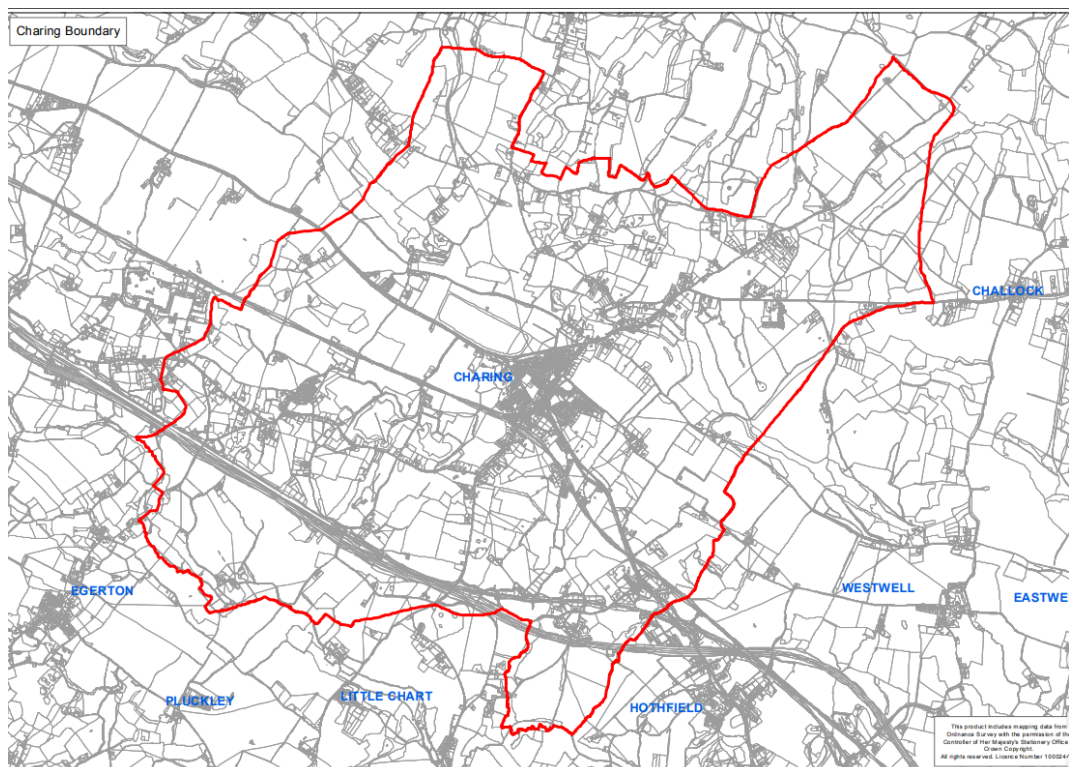


Figure 1: Charing Neighbourhood Area Boundary

- 1.18 Large parts of the Parish are covered by the Kent Downs Area of Outstanding Natural Beauty (AONB). The AONB surrounds the historic village of Charing on three sides and borders Westwell Leacon to the north. The AONB is not of relevance to Charing Heath. A map showing the extent of the AONB in relation to the Parish is contained under Appendix 1.

- 1.19 The Parish has good transport access. The A20 runs through the Parish and connects the village of Charing with Ashford and Maidstone, the county town of Kent. Junction 9 of the M20 is a short drive from the Parish. Also, Charing village has a train station which provides services to London.
- 1.20 The Charing Neighbourhood Plan project is led by a Steering Group whose objectives are to prepare the Plan and to promote or improve the social, economic and environmental well-being of the Parish. The Steering Group has an agreed terms of reference and has met regularly throughout the process.
- 1.21 The Parish Council formally requested that Ashford Borough Council designate the administrative area of Charing Parish on the 3<sup>rd</sup> March 2016. Consultation on this was held between the 18<sup>th</sup> March and the 29<sup>th</sup> April. The Borough Council approved the administrative area for the purposes of Neighbourhood Planning on the 31<sup>st</sup> May 2016.
- 1.22 A draft document has been produced and was shared with the Borough Council in November 2018. The draft NP sets out the broad proposals for the Plan and identifies a number of potential site allocations, please see below.
- 1.23 The draft Plan forms the basis for this screening assessment. Any proposals or policies that substantially differ from those assessed at this point will potentially need re-assessment once they are refined.

### **The scope of the draft Plan**

- 1.24 The following section of the screening sets out the broad scope of the draft plan, as provided by the Steering Group in November 2018. For ease of reference, the draft policies are listed below in the order in which they are found in the Plan itself.
- 1.25 At this stage, no comments are being made by the Borough Council on the scope and contents of the proposed NP. The task merely relates to the screening of the NP based on the information provided.
- 1.26 It is noted that the NP currently suggests a number of development sites which are proposed as 'alternatives' to part of a site identified in the Borough Council's Local Plan to 2030. The merits of this are not debated for the screening exercise, although these alternative sites have been treated as 'additional' sites for screening purposes. In doing so, the screening exercise is able to consider the maximum impact the Neighbourhood Plan could have once implemented.

### **Vision**

- 1.27 The emerging vision for the Charing NP is as follows:

*'In 2030 we hope to have the following: pub/hostel, facilities for young and old, Archbishop's Palace restored, vibrant shops, High Street management, facilities for small businesses e.g. offices, beautiful views, good transport links, easy parking, good traffic management [and] smaller developments.*

*This we translated into the following broad statement of intent. Our vision for the parish of Charing at the end of the plan period is that both new and existing residents will be enjoying the same benefits or greater benefits of living in the village and parish as current residents do in 2017 and that the area will be an even more attractive community in which we live and work'.*

## **Broad Planning Approach/Strategy**

1.28 The emerging broad objectives are as follows:

- Retaining village character and heritage and its beautiful location in the countryside
- Ensure its beautiful views inwards and outwards are not compromised and its public open spaces are protected
- Improved parking
- multi-purpose community centre with attractions for all but especially younger members of society
- Re-establish a pub/restaurant in the heart of the village
- Improved GP facilities and health services in general
- Sustaining retail units in the high street
- Facilities for small businesses to start-up and grow
- Improved traffic management with special attention to HGVs
- Faster broadband
- Avoid sprawling developments to retain village community feel and ensuring mixed housing development for a more inclusive society
- Formal cycle and footpath between Charing and Charing Heath

## **Community well-being draft policies**

### **POLICY C1 ASSETS OF COMMUNITY VALUE**

*Where appropriate the CPC will seek the designation of asset of community value wherever it considers the facility to play a significant role in contributing to the enjoyment of life in the village/parish and the sustainability of the community.*

### **POLICY C2 NEW COMMUNITY CENTRE & IMPROVED SPORTS FACILITIES**

- *The plan for a new Community Centre which will have major indoor sports facilities including badminton, netball, basketball, gymnastics, dance, facilities to create social interaction especially among older residents including activities for older residents to improve their health, a meeting point for public meetings and societies will be supported provided there is ample space for parking (probably 60 cars).*
- *A new community centre with integrated business units will be supported (see business and employment policies)*

- *If further development takes place south of the A20 a new playground for toddlers to 14 years of age should be established south of the A20*
- Proposals to provide additional sports facilities over and above those which already exist and which meet the wider community interest will be encouraged.*

#### **POLICY C3 INFRASTRUCTURE AND UTILITIES**

*New development should ensure that new residents have at least the same access to community facilities as existing residents and shall, as far as is reasonably practicable, preserve or enhance the facilities of the entire community. This shall be achieved through contribution of funding and, where appropriate, land in proportion to the size of each new development to ensure:*

- *New development should ensure that additional needed facilities are in place early in the construction phase in order to avoid deterioration to prevailing and developing services such as health care, education and general resident wellbeing.*
- *New developments should ensure that foul water is safely evacuated through well-constructed drainage systems*
- *New infrastructure services should not generate unacceptable noise, fumes, smell or other disturbance to neighbouring residential properties.*
- *New developments should not lead to traffic congestion or adversely affect the free flow of traffic onto adjoining highways or adversely affect pedestrian safety*
- *New developments should ensure that the current fresh water systems which provide Charing residents and others with drinking water are not put at risk*

#### **POLICY C4 NEW BURIAL GROUND**

*CPC should determine what size and type of cemetery is needed in terms of plots and preferred locations*

*Developers should be made aware of this need and contribute to its establishment*

#### **POLICY C5 COMMUNICATIONS INFRASTRUCTURE**

*Proposals that seek the expansion of electronic communication networks and high speed broadband along with improvements to connectivity will be supported*

*Applications for residential development of five or more dwellings must contain a 'Connectivity Statement' and will provide for suitable ducting to enable more than one service provider to provide a fibre connection to individual properties from connection chambers located on the public highway, or some alternative connection point available to different service providers*

#### **POLICY C6 SHOPPING**

*Proposals for additional retail services in and around The High Street will be supported.*

*Proposals to increase footfall within retail units through the promotion of tourism will be supported.*

*Proposals to improve village parking will be supported providing they do not lead to traffic congestion.*



#### **POLICY C7 HEALTH AND HEALTH CARE**

*Expansion of the GP practice will be supported provided it does not reduce the current service level to existing patients*

*The surgery, which has patients in 19 different villages as well as from Ashford (the catchment area), will need to demonstrate that it has increased car parking proportionate to population growth throughout its current catchment area.*

#### **POLICY C8 EDUCATION**

*New development will need to demonstrate that there is adequate primary and secondary education capacity to meet growth in population in its catchment area*

### **Traffic and transport policies**

#### **POLICY T1 TRAFFIC CONGESTION**

*Proposals that accord with the policies in the Plan and result in improvements to the free flow of traffic in the village and other key areas in the parish will be supported.*

*Proposals requiring planning permission and which seek to increase the number of access points or which would involve an increase in traffic generation will need to demonstrate that they do not further inhibit the free flow of traffic or exacerbate conditions of parking stress, including conflict with larger vehicles and pedestrians.*

*Larger developments, in excess of 15 dwellings or 50 vehicle movements per week or whichever is the greater, should be sited where they have direct access to the A20.*

*Proposals to eliminate or reduce HGVs travelling south from the A20 through Station Road and Pluckley Road will be supported.*

#### **POLICY T2 TRAFFIC MANAGEMENT ON THE A20**

*Developments that produce more than 100 vehicle movements per week should contribute to the cost of appropriate light controlled crossings on the A20 in order to ensure greater safety for pedestrians crossing the A20.*

#### **POLICY T3 TRAFFIC MANAGEMENT STATION ROAD/PLUCKLEY ROAD**

- *Proposals to reduce the number of HGVs will be supported.*
- *Proposals preventing large developments (more than 10 houses) with direct access onto Pluckley Road will be supported.*
- *Relocation of the light controlled pedestrian crossing to the west of the crossroads will be supported as it will improve pedestrian safety.*

#### **POLICY T4 TRAFFIC MANAGEMENT CHARING HILL/A252**

*Any development with direct access to the A252 will only be supported if safe access can be assured*

#### **POLICY T5 PEDESTRIAN FOOTWAYS**

*All new housing developments must when appropriate and practical provide safe pedestrian access to link up with existing or proposed footpaths, ensuring that*



*residents can walk safely with children, prams and buggies to shops, school, bus stops, railway station, surgery and other village facilities.*

#### **POLICY T6 RESIDENTIAL CAR PARKING SPACES**

- *Proposals for all new homes to have off-street parking to meet a minimum standard as follows as specified by DOE:*
- *Apartments Bed sit & 1 bed: 1.5 parking spaces*
- *Apartments 2 bed: 1.75 parking spaces*
- *Apartments 3 bed: 2 parking spaces*
- *Terraced house 1 & 2 bed: 1.75 parking spaces*
- *Terraced house 2 & 3 bed: 2 parking spaces*
- *Semi-detached house 3 bed: 2.25 parking spaces*
- *Semi-detached house 4 bed: 2.5 parking spaces*
- *Detached house 3 bed: 2.5 parking spaces*
- *Detached house 4 bed: 2.75 parking spaces*
- *Detached house 5 bed 3 parking spaces*

#### **POLICY T7 CHARING VILLAGE PARKING**

*There is a requirement for additional car parking for people visiting Charing village and all developers given permission to build new housing should as part of the planning process contribute to the costs of building a new car park.*

*The Plan makes a number of suggestions where a new car park could be situated and relevant authorities and developers should work in harmony to realise a suitable site and develop a car park*

### **Employment creation and business development policies**

#### **POLICY EC1 LOCATIONS SUITABLE FOR THE ERECTION OF BUSINESS UNITS**

*Proposals to develop business units on any of the following sites will be supported*

- *Behind the North Downs garage*
- *Former Morrison's Yard*
- *Parson's Mead*
- *All developments of 20 or more dwellings*

#### **POLICY EC2 Mixed development**

*Mixed developments comprising commercial and domestic properties will be supported in any of the sites listed in Policy EC1 or on alternative sites which do not conflict with policies in this plan*

*All locations requiring 20 or more dwellings should comprise mixed development (residential and commercial)*

#### **POLICY EC3 Community Centre and attached business units**

*The erection of a new community centre to provide a wide range of facilities for all ages with integral commercial business units would be supported.*

*This mixed facility should be developed on any suitable sites.*

#### **POLICY EC4 BROADBAND**

*Proposals to increase broadband speeds across the parish will be welcomed and supported.*

## **Historic, countryside and environment policies**

### **POLICY E1 HISTORIC ENVIRONMENT**

*Any designated historic heritage assets in the parish and their settings, both above and below ground and including listed buildings, and any monuments that may be scheduled or conservation areas that may be created will be conserved and enhanced for their historic significance and their importance to local distinctiveness, character and sense of place.*

*Proposals to reduce visual, audible, volume and other impacts of traffic in the conservation area will be supported.*

*Proposals for development that affect non-designated historic assets will be considered taking account of any harm or loss and the significance of the heritage assets and their setting.*

### **POLICY E2 LISTED BUILDINGS & NON-DESIGNATED HERITAGE ASSETS**

*Proposals that ensure that all Listed Buildings will be protected will be supported.*

*There are a number of non-designated assets that are worthy of protection and these are specified in the Plan.*

### **POLICY E3 THE ARCHBISHOP'S PALACE**

*Proposals for ongoing restoration will be supported.*

*Proposals by experts in the field of restoration to address specific issues will be encouraged.*

### **POLICY E4 GREEN SPACES**

*Proposals for development in any of these designated green public spaces will not be allowed unless they are ancillary to the use of the land for a public recreational purpose or are required for a statutory utility infrastructure purpose.*

*Any development in the setting of the KDAONB will not be permitted if it is harmful to the qualities of the AONB*

*Developments of more than five houses should include a landscape strategy which will incorporate: hard and soft landscaping; tree and hedgerow surveys; measures to protect trees and hedgerows; consideration of both near and distant views of the development from key public vantage points; how open spaces will be managed in the future*

*New developments need to adequately address the potential for ecological impacts to arise and give appropriate consideration to protect designated species and designated areas including the KDAONB, the Conservation Area and public open green spaces.*

## **POLICY E5 VIEWS**

*Developments that significantly detract from the following views into, out of and within the village by failing to respect their distinctive characteristics will not be supported.*

*The following views should be protected:*

*(a) Views of the KDAONB to the west and north from: (i) Pluckley Road (ii) Station Road (iii) Hitherfield (iv) Charing Heath Road*

*(b) Views of the KDAONB to the north and east from (i) The Moat (ii) Ashford Road (iii) Woodbrook (iv) The Hill (v) Pett Lane*

*(c) Views of the KDAONB from the village centre*

*(d) Views into Charing from the KDAONB especially the Pilgrim's Way and especially to the western and eastern perimeters of the village*

*(e) Views of the Archbishop's Palace and Charing Church*

## **Housing policies**

### **POLICY H1 NUMBER OF NEW HOMES**

*The number of new houses constructed and planning permissions granted in the plan period 2011 to 2030 should not exceed 360.*

*All new developments of 9 or more dwellings should have direct access to the A20.*

### **POLICY H2 AFFORDABLE HOMES FOR LOCAL PEOPLE**

- 40% (equating to 144) of total built or planning permission in the plan period 2011 to 2030, comprising*
- 40% (58 houses) social rented*
- 35% (50 houses) shared ownership*
- 15% (22 houses) starter homes*
- 10% (14 houses) discounted market housing*

### **POLICY H3 AFFORDABLE ELIGIBILITY**

*A minimum of 50% of all new affordable housing in Charing provided by the Plan will initially be subject to a local connection and whose needs are not met by the open market.*

*Local connection is defined as a person who has lived in the parish for 5 of the last 8 years and is currently resident there or who has lived in the parish for at least five years and whose parents or children are currently living in the parish and have at least 10 years continuous residency there.*

### **POLICY H4 LOCAL NEEDS HOUSING ON EXCEPTION SITES**

*Proposals for the development of small-scale affordable housing schemes in or around the village where housing would not normally be permitted by other policies will be supported especially where they involve the development of brownfield land.*

### **POLICY H5 TYPE OF HOUSES**

*Approximately two-thirds of new houses on developments of 9 or more new homes should be semi-detached, terraced or bungalows and one third detached properties*

*unless viability or other material consideration show a robust justification for a different mix.*

#### **POLICY H6 SIZE OF HOMES**

- *New developments comprising more than 9 houses should favour smaller houses*
- *The following mix on developments of 9 or more houses will be supported*
- *10% should have one bedroom*
- *40% should have two bedrooms*
- *40% should have three bedrooms*
- *10% should have four or more bedrooms unless viability or other material considerations show a robust justification for a different mix.*

#### **POLICY H7 LIFETIME HOME STANDARDS**

- *A minimum of 10% of housing on sites of 9 dwellings or more must meet current Lifetime Home standards.*
- *On sites of less than 9 new dwellings at least one home must meet these standards.*
- *At least 10% of new houses need to comply with full wheelchair accessibility with 360 degree turnaround space throughout.*

#### **POLICY H8 MIXED DEVELOPMENT**

- *All developments of 20 dwellings and above should be mixed and provide commercial premises.*
- *Commercial premises should account for at least 15% of total individual units*
- *Each commercial unit should be capable of safely occupying 4 employees/workers*

#### **POLICY H9 HOUSING IN CHARING HEATH**

*Small scale developments of less than 10 or less properties will be supported on appropriate sites.*

#### **POLICY H10 VILLAGE CONFINES**

*Enables sustainable development to take place without any of the disadvantages of adhoc urbanisation of the surrounding countryside*

*Prevents intrusion into the countryside through incremental growth*

*Ensures future development is sympathetic in scale, style and location to the form and character of the village*

#### **POLICY H11 BUILDING/EXTENSIONS OUTSIDE VILLAGE CONFINES**

*Sensitive small scale development outside the confines would be considered. Commercial development to create new employment opportunities would be encouraged on existing brownfield sites.*

#### **POLICY H12 INFILL HOUSING**

*Applications for small residential developments on infill and redevelopment sites inside the village confines will be supported where (a) fills a small, restricted gap in the continuity of existing frontage buildings or on other sites within the village confines where the site is closely surrounded by buildings (b) will not involve the outward extension of the built up area of the village (c) is not considered to be backland or unneighbourly development that requires unsuitable access, reduces the privacy of*

*adjoining properties or is inconsistent with the character of the locality, and (d) provides at least one small home with no more than three bedrooms*

*Applications outside the village confines will be considered for single properties no greater than the number of bedrooms in houses either side.*

#### **POLICY H13 GRABBING GARDENS**

*The use of rear gardens for new housing in general will not be supported*

*Where support is given for one new house in a rear garden it must have one less bedroom than the existing house*

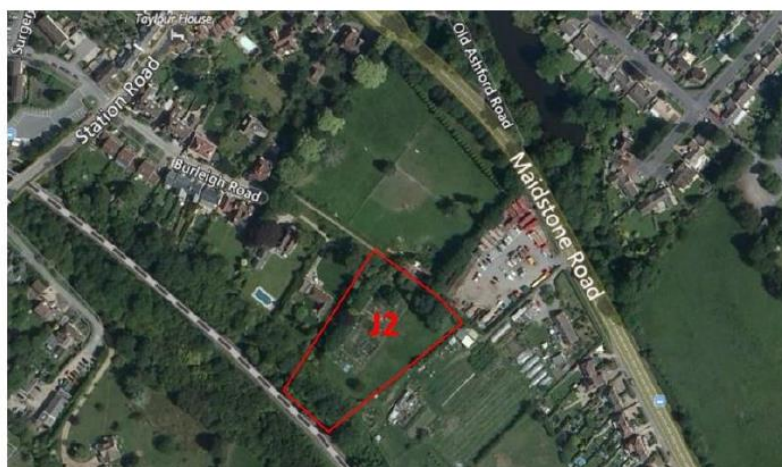
*If support is given for multiple dwellings in a rear garden 50% should not exceed two bedrooms in size.*

### **Potential Housing Site Allocations**

*Land at Parsons Mead (potentially 40 dwellings)*



*Land next to Burleigh Bungalow (potentially 5 dwellings)*



*Threeways Garage (potentially 20 dwellings)*



*Land next to Crofters, Charing Heath (potentially 10 dwellings)*

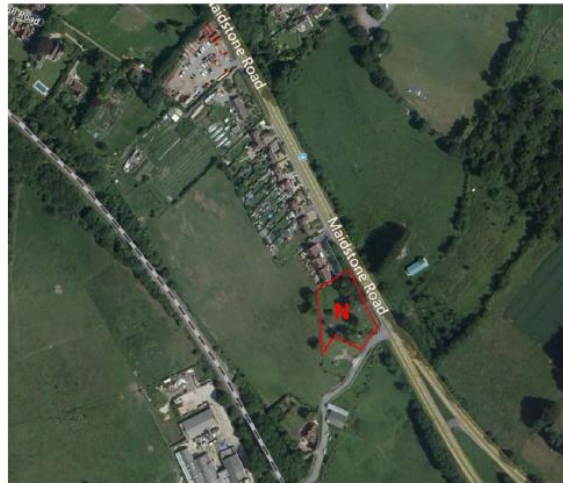


*Church Hill, Charing Heath (potentially 10 dwellings)*



*Land East of Wilkinsons Close (potentially 8 dwellings)*





## Design Policies

### *POLICY D1 GOOD DESIGN*

*Proposals for all forms of new development must plan positively for the achievement of high quality and inclusive design, at the same time demonstrating they have sought to conserve local distinctiveness and the aesthetic qualities of traditional rural settlements and buildings found in and around the KDAONB.*

*Applications proposing unsympathetic designs which fail to respect the connections between people and places, or are inappropriate to its location, or pay inadequate regard to issues raised in this Plan and including valued landscape, village character and biodiversity considerations will be refused.*

*Applications that fail to comply with the recommendations of the Parish Design Statement will not be supported.*

### *POLICY D2 LIGHT POLLUTION*

*Proposals to minimise light pollution will be expected on all new developments*

## 2. Charing SEA Screening Assessment

- 2.1 The basis for Strategic Environmental Assessments and Sustainability Appraisal legislation is European Directive 2001/42/EC and was transposed into English law by the Environmental Assessment of Plans and Programmes Regulations 2004, or SEA Regulations. Detailed Guidance of these regulations can be found in the Government publication “A Practical Guide to the Strategic Environmental Assessment Directive” (ODPM 2005).
- 2.2 To establish if a plan needs to be accompanied by a full SEA, a “screening” assessment is required against a series of criteria set out in the SEA Directive. A



Practical Guide to the Strategic Environmental Assessment Directive<sup>1</sup> sets out in a diagrammatic form the process for screening the Plan against a series of criteria (Appendix 3).

- 2.3 This screening assessment for SEA is set out in Tables 1 and 2 below, and follows the step by step process set out in the practical guidance (Appendix 3).

## Screening Assessment

**Table 1: Utilising the step-by-step guide in relation to the Charing Neighbourhood Plan (see appendix 3)**

1. Is the PP subject to preparation and/or adoption by a national, regional or local authority OR prepared by an authority for adoption through a legislative procedure by Parliament or Government? (Art. 2(a))	Yes	The preparation of and adoption of the NP is allowed under The Town and Country Planning Act 1990 as amended by the Localism Act 2011.  The preparation of the NP is subject to the following regulations: The Neighbourhood Planning (General) Regulations 2012 and The Neighbourhood Planning (referendums) Regulations 2012 <b><i>Move to question 2.</i></b>
2. Is the PP required by legislative, regulatory or administrative provisions? (Art. 2(a))	Yes	Whilst the provision of a Neighbourhood Plan is optional, it will form part of the Development Plan for the Ashford Borough. It is therefore important that the screening process considers whether it is likely to have significant environmental effects and hence whether SEA is required under the Directive. <b><i>Move to question 3.</i></b>
3. Is the PP prepared for agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use, AND does it set a framework for future development consent of projects in Annexes I and II to the EIA Directive? (Art. 3.2(a))	Yes	The Neighbourhood plan, once adopted would form part of a development plan under the town and country planning or land use, AND would set a framework for future development consent of projects <b><i>Move to question 5</i></b>
5. Does the PP determine the use of small areas at local level, OR is it a minor modification of a PP subject to Art. 3.2? (Art. 3.3)	Yes	The NP is suggesting a number of site allocations at a local level. <b><i>Move to question 8.</i></b>
8. Is it likely to have a significant effect on the environment? (Art. 3.5)*	Yes	Given the outcome of this screening it is suggested that the NP might have a significant effect on the environment. <b><i>Move to question 7</i></b>
7. Is the PP's sole purpose to serve national defence or civil emergency, OR is it a financial or budget PP, OR is it co-financed by structural funds or	No	<b><u>Directive requires SEA</u></b>

<sup>1</sup> ODPM September (2005) 'Practical guidance on applying European Directive 2001/42/EC'

EAGGF programmes 2000 to 2006/7? (Art. 3.8, 3.9)		
4. Will the PP, in view of its likely effect on sites, require an assessment under Article 6 or 7 of the Habitats Directive? (Art. 3.2(b))	N/A	See the HRA screening below. Screening concludes that the NP is unlikely to lead to significant effects.
6. Does the PP set the framework for future development consent of projects (not just projects in Annexes to the EIA Directive)? (Art. 3.4)	N/A	The NP is to be used for determining future planning applications.

2.4 This part of the report is to deal specifically with Question 8 of the SEA Directive guidance. The criteria for this assessment is taken from Article 3.5 of the SEA Directive:

**Table 2: Assessment of likelihood of significant environmental effect for Charing Neighbourhood Plan against Art 3.5 criteria (appendix 3)**

SEA Requirement	Assessment
<b>The characteristics of plans and programmes, having regard, in particular, to:</b>	
The degree to which the plan or programme sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources;	<p>The Neighbourhood Plan (NP) sits within the wider framework of the National Planning Policy Framework (NPPF); the relevant parts of the Council's statutory development plan [currently the Core Strategy (2008); Tenterden and Sites DPD (2012) and 'saved' Local Plan policies (2000)] and the emerging Local Plan 2030 policies which is likely to be adopted by Easter 2019.</p> <p>The neighbourhood plan covers a relatively small geographic area. The NP proposes to cover a number of topic based policies and seeks to identify a number of potential areas of land for development. Some of these are within the Charing conservation area and some need to be assessed as to their impact on the AONB and potentially other environmental assets.</p>
The degree to which the plan or programme influences other plans and programmes including those in a hierarchy;	<p>The NP must take into account the National Planning Policy Framework and the plan should be in general conformity with the Council's adopted strategic Local Plan policies.</p> <p>However, it is likely that the NP will not be adopted until after the Local Plan 2030 is adopted by the Council. The NP is therefore required to be in general conformity with the Local Plan 2030.</p> <p>The Neighbourhood Plan does not influence other plans.</p>
The relevance of the plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development;	<p>A NP is required to contribute to the achievement of sustainable development and therefore the likelihood of significant effects on the environment is minimised.</p> <p>The emerging NP contains a number of draft policies which seek to promote sustainable development, in particular in relation to protecting the environment, protection of the distinctive character of the identified character areas including protection of the</p>

SEA Requirement	Assessment
	<p>countryside, Areas of Outstanding Natural Beauty (AONB) and protection of heritage assets including the Conservation Area. In this way, the NP has integrated environmental considerations with a view to promoting sustainable development.</p> <p>However the NP also proposes a number of site allocations which have a potential impact on heritage assets, including the conservation area and potentially impact on environmental assets.</p>
Environmental problems relevant to the plan or programme; and	<p>The plan proposes to include policies covering environmental issues in relation to Areas of Outstanding Natural Beauty, heritage, Local Green Spaces, locally valued views, and high quality design. The plan aims to protect and enhance these environmental designations.</p> <p>At this point, the Plan does not contain specific guidance within the proposed site allocations which demonstrate how any impact from development might be mitigated. Further assessment is needed to test this. There also needs to be a more detailed assessment as to why the sites proposed in the NP have been chosen.</p>
The relevance of the plan or programme for the implementation of Community legislation on the environment (for example, plans and programmes linked to waste management or water protection).	The NP has to be in conformity with the strategic policies of the adopted Local Plan and National Policy. The Local Plan 2030 has had regard to European Community legislation on the environment and therefore this legislation will not be relevant for the Neighbourhood Plan.
<b>Characteristics of the effects and of the area likely to be affected, having regard, in particular, to:</b>	
The probability, duration, frequency and reversibility of the effects;	<p>The NP will contain a number of policies which seek to protect and enhance the environment and secure the retention and enhancement of local employment; services and facilities.</p> <p>The plan also seeks to allocate land for development which is not proposed within the emerging Ashford Local Plan 2030. The Neighbourhood Plan could therefore have an environmental effect and this needs more assessment.</p>
The cumulative nature of the effects;	<p>This assessment has assumed the 'alternative sites' in the NP will come forward as additional development to that planned in the Local Plan 2030.</p> <p>However, it is not considered that an additional 90 dwellings is significant enough to lead to negative cumulative effects.</p>
The transboundary nature of the effects;	<p>Charing borders the Parishes of Challock, Westwell, Little Chart, Pluckley and Egerton. It also borders the borough of Maidstone.</p> <p>However, the scale of the development proposed is not considered sufficient to have any transboundary effects, even if the sites being proposed come forward as additional levels of development to that proposed in the Local Plan 2030.</p>
The risks to human health or the environment (for example, due to accidents);	At this stage, no risks to human health have been identified nor have risks to the environment.

SEA Requirement	Assessment
The magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected);	The geographic area and population of the area the plan covers are relatively small and therefore the magnitude of effects is considered minimal.
The value and vulnerability of the area likely to be affected due to - (i) special natural characteristics or cultural heritage; (ii) exceeded environmental quality standards or limit values; or (iii) intensive land-use; and	<p>The area covered by the NP includes a number of heritage and environmental designations, see Appendix 1 &amp; 2. These include:</p> <ul style="list-style-type: none"> <li>• Area of Outstanding Natural Beauty (Kent Downs AONB),</li> <li>• A number of Listed buildings,</li> <li>• Charing Conservations area,</li> <li>• Areas known to be of archaeological interest and areas with archaeological potential,</li> <li>• Areas of Flood Zone 2 and 3,</li> <li>• Water vulnerability areas,</li> <li>• Ancient Woodland and group TPOs,</li> <li>• Local Wildlife Sites,</li> </ul> <p>The NP proposes to allocate sites for development and the effects on these designations needs to be explored as well as potential mitigation measures might be needed.</p> <p>Overall, it is considered that the Plan does seek to achieve sustainable development through the implementation of topic based policies and site allocations. However the site allocations need to be assessed further, particularly in relation to their location and what mitigation measures might be needed.</p> <p>In addition, the neighbourhood plan area sits within the broader development plan for the borough and is at present covered by Core Strategy (2008) and the Tenterden and Rural Site environment Policies (2010). Development proposals coming forward would be required to be in accordance with the all adopted policies, which include:</p> <ul style="list-style-type: none"> <li>• CS11 Biodiversity and Geological Conservation</li> <li>• CS19 Development and Flood Risk</li> <li>• CS20 Sustainable Drainage</li> <li>• GP12 Protecting the countryside and managing change</li> <li>• EN9 Setting and entrances of towns and villages</li> <li>• EN10 Development on the edge of existing settlements</li> <li>• EN16 Development in conservation areas</li> <li>• EN23 Sites of archaeological importance</li> <li>• EN28 Historic parks and gardens</li> <li>• EN30 Nature conservation sites</li> <li>• EN31 Important habitats</li> <li>• EN32 Important trees and woodland</li> <li>• Policy TRS17 - Landscape character &amp; design</li> <li>• Policy TRS18 - Important Rural Features</li> </ul> <p>The emerging draft Ashford Local Plan 2030 will replace the policies above and includes the following draft policies:</p> <ul style="list-style-type: none"> <li>• ENV1 Biodiversity</li> <li>• ENV3a Landscape Character and Design</li> <li>• ENV3b Landscape Character and Design in the AONBs</li> <li>• ENV4 Light Pollution and Promoting Dark Skies</li> <li>• ENV5 Protecting important rural features</li> <li>• ENV6 Flood Risk</li> <li>• ENV7 Water Efficiency</li> <li>• ENV8 Water Quality, Supply and Treatment</li> <li>• ENV9 Sustainable Drainage</li> </ul>

SEA Requirement	Assessment
	<ul style="list-style-type: none"> <li>• ENV10 Renewable and Low Carbon Energy</li> <li>• ENV11 Sustainable Design and Construction – non-residential</li> <li>• ENV12 Air Quality</li> <li>• ENV13 Conservation and Enhancement of Heritage Assets</li> <li>• ENV14 Conservation Areas</li> <li>• ENV15 Archaeology</li> </ul>

## SEA Screening Assessment Conclusion

- 2.5 The assessment finds that potential negative effects might occur as a result of the Charing Neighbourhood Plan. It is therefore concluded that a full SEA is **required** at this time.

## 3. Habitats Regulations Assessment Screening

- 3.1 The Habitats Regulations Assessment (HRA) refers to the appropriate assessment required for any plan or project to assess the potential implications for European wildlife sites. The HRA therefore looks at whether the implementation of the plan or project would harm the habitats or species for which European wildlife sites are designated. These include:
- Special Protection Areas (SPA) designated under the Birds Directive (79/409/EEC)
  - Special Areas of Conservation (SAC) designated under the Habitats Directive (92/43/EEC)
- 3.2 In addition to SPAs and SACs, Ramsar sites are designated under the Ramsar Convention (Iran 1971 as amended by the Paris Protocol 1992). Although they are not covered by the Habitats Regulations, as a matter of Government policy, Ramsar sites should be treated in the same way as European wildlife sites. These European wildlife sites are often grouped and known as Natura 2000 sites.
- 3.3 The first stage of the HRA process is a “screening” exercise where the details of nearby internationally designated sites are assessed to see if there is the potential for the implementation of the Plan to have an impact on the Natura 2000 site. The sites within 20km of the Charing Neighbourhood Plan boundary are listed below. Additional information, alongside the sites location, are contained under Appendix 1.

**Table 3: International Designated Sites (within 20km)**

SACs	SPA	Ramsar Sites
Blean Complex	The Swale	Medway Estuary and Marshes
Wye & Crundale Downs	Medway Estuary & Marshes	The Swale
Folkestone to Etchinghill Escarpment		Dungeness, Romney Marsh and Rye Bay
Parkgate Down		
Queendown Warren		
North Downs Woodland		

**October 2020 Update:** The Stodmarsh Lakes, which lie east of Canterbury is a SPA, Ramsar site, and SAC. The Neighbourhood Plan area is located within the Stour Valley catchment, which drains through the Stodmarsh Lakes, Map 7. Whilst this designated site lies outside 20km of Neighbourhood Plan area, Natural England have issued advice to areas which cover the Stour catchment, including the parish of Charing. As such it will be important to consider the impact of development proposed through the Neighbourhood Plan on water and environmental quality in the Stodmarsh Lakes.

- 3.4 When screening potential impacts, it is important to recognise the wider context. The Council's Local Plan 2030 identifies a housing need of around 17,000 new dwellings in the borough between 2011 and 2030. It also identifies a number of sites for development and proposes an up to date policy framework to ensure sustainable development is delivered.
- 3.5 In December 2017, a Habitats Regulation Assessment screening exercise was undertaken on the then emerging Local Plan 2030, to determine whether there would likely be any significant effects as a result of its implementation. The screening concluded that an Appropriate Assessment for the Local Plan 2030 would not be required as it would not lead to a likely significant effect on European sites either alone or in combination with other projects and plans. These sites included the Natura 2000 sites listed in table 3 above.
- 3.6 A number of factors led to the conclusion of the HRA screening, as follows:
- None of the proposed site allocations would have a direct impact on any Natura 2030 site,
  - Where a site allocation was in reasonable proximity to a Natura 2000 site, an Environment Assessment was required to support any planning application,
  - A number of natural, informal and formal open space was being proposed to support new development, including 2 strategic Parks which would become a borough wide resource. These would offer accessible and substantial alternatives to any Natura 2000 site,

- All topic based policies were assessed and were either deemed not to be relevant to the issue or that they had suitably taken account of the need to consider the Natura 2000 sites and still promote sustainable development overall.

- 3.7 It should be noted that Natural England were consulted on the then emerging HRA screening assessment of the Local Plan 2030. No objections were raised. Also, the Planning Inspectors currently overseeing the ongoing Examination in Public on the Local Plan 2030 have considered the HRA screening and they have not raised any significant concerns with it, at this time. Should this change, a re-assessment of the Charing NP screening may be required.
- 3.8 With regards to the Charing Neighbourhood Plan specifically, the screening assessment has identified 9 designated Natura 2000 sites within a 20km area. Of these sites, the Wye and Crundale Downs SAC is the closest, approximately 13km away. It is clear that none of the proposed site allocations in the NP would have a direct impact on any Natura 2000 site, given the distances involved.
- 3.9 In terms of indirect impacts, the above context regarding the Local Plan 2030 is relevant. It is not considered that an additional 90 dwellings in Charing, split between a number of sites, would be sufficient – in principle - to alter the conclusions of the Local Plan 2030 HRA screening assessment.
- 3.10 In addition to the above, and as part of the Examination in Public, the Inspectors asked the Council for its comments on the judgement of the Court of Justice of the European Union in the *People over Wind* case. In essence, this case established that it was incorrect to assume that protective measures (mitigation) – in themselves – would mean that an AA was not required, if significant effects would otherwise be likely. If mitigation was needed to ensure significant effects were avoided, then an AA should be produced and the necessary mitigation measures identified through that process.
- 3.11 In response (June 2018), the Council have stated that the conclusions of the HRA screening into the Local Plan remains valid as the relevant topic policies of the Local Plan 2030 contain specific requirements that development needs to adhere to, in order to be acceptable. This will ensure only sustainable development is delivered and inappropriate development is avoided.
- 3.12 The Council also stated that mitigation – in itself – was not a factor that was raised in the HRA screening conclusion, when it concludes that significant effects are unlikely. It did not rely on protective measures to reach that conclusion. The Council considers that these elements are materially different to those raised in the *People over Wind* judgement.
- 3.13 The full response from the Council on this matter, can be viewed under Appendix 4 below.



- 3.14 The Inspectors have not asked for further clarification on this point, at the time of this screening exercise being conducted (December 2018).

### **Stodmarsh Lakes Update (October 2020)**

As noted in paragraph 3.8 and Table 3, the Stodmarsh Lakes are not located within 20 km of the Neighbourhood Plan. The impact of the Neighbourhood Plan on this internationally designated site has not been considered through the original HRA screening exercise. However Natural England published advice in July 2020 pertaining to the Stodmarsh Lakes, Stour catchment and the environmental degradation considered by development in the Stour catchment.

The Charing Neighbourhood Plan area is within the catchment and therefore according to the Natural England advice, development proposed as part of the Charing Neighbourhood Plan would affect the Stodmarsh Lakes.

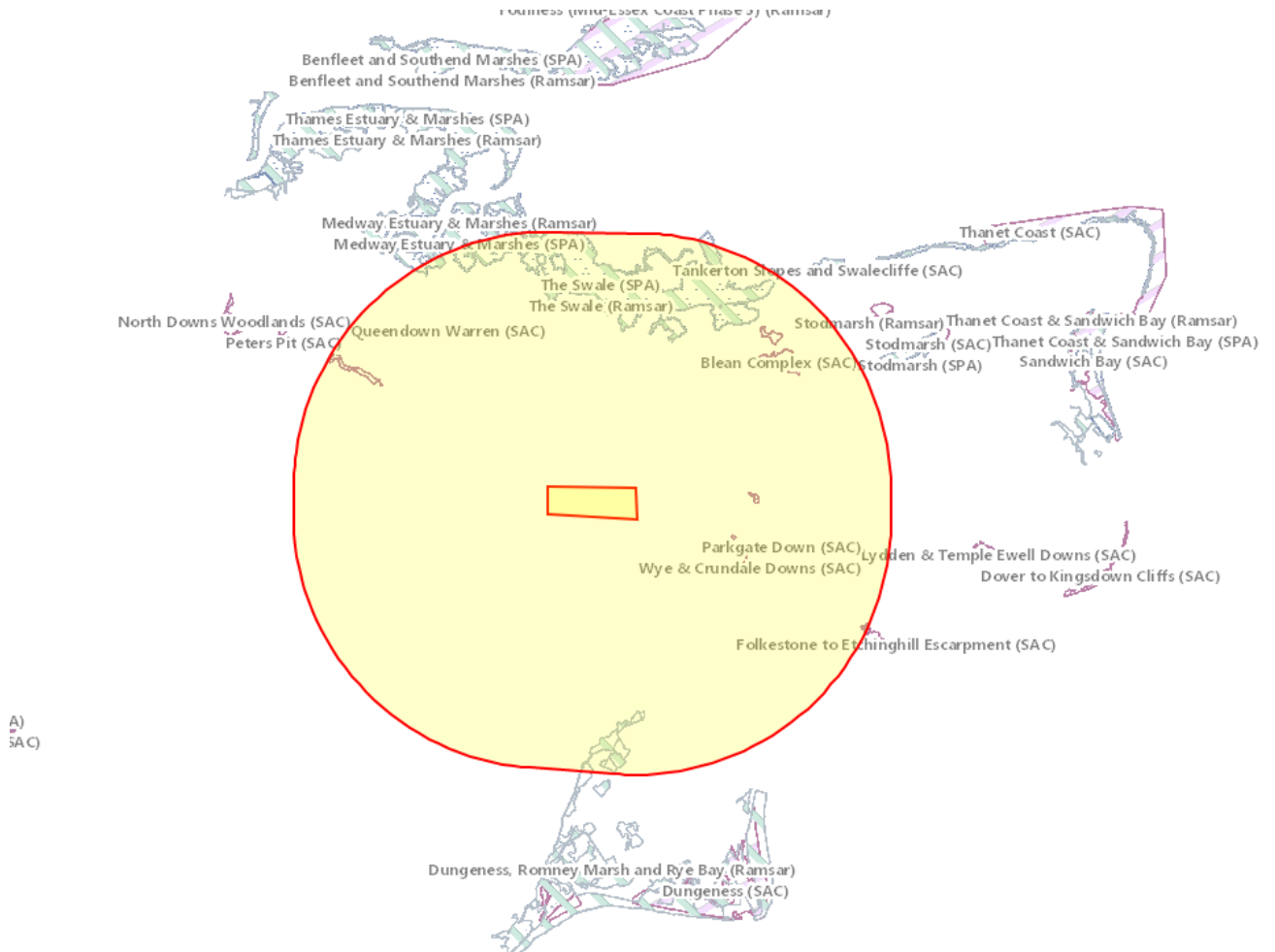
### **HRA Screening Assessment Conclusion**

- ~~3.15 For the reasons above, it is considered that the proposed policies in the Charing Neighbourhood Plan would not be likely to lead to adverse effects in terms of the integrity of the internationally designated sites, alone or in combination with other projects and plans. It is therefore considered that a full HRA of the Charing Neighbourhood Plan is not required.~~

**October 2020:** For the reasons above and following Natural England advice relating to the Stour Catchment and Stodmarsh Lakes in July 2020, it is considered that the proposed policies in the Charing Neighbourhood Plan would be likely to lead to adverse effects in terms of integrity of the internally designated site, Stodmarsh Lakes. It is therefore considered that an Appropriate Assessment of the Charing Neighbourhood Plan **is required**. Natural England support this conclusion.

## Appendix 1: Maps

### Map 1(a) and (b): International Designations (HRA) *Location internationally designated sites within 20km of Charing Heath and Charing*



Source: [www.magic.gov.uk/Magicmap](http://www.magic.gov.uk/Magicmap)

*List within search area*

**Ramsar Sites (England)**

Name MEDWAY ESTUARY & MARSHES - Reference UK11040 - Hectares 4697.93

Name DUNGENESS, ROMNEY MARSH AND RYE BAY - Reference UK11023 - Hectares 7529.24

Name THE SWALE - Reference UK11071 - Hectares 6509.88

**Special Areas of Conservation (England)**

Name WYE & CRUNDALE DOWNS - Reference UK0012831 - Hectares 113.12

Hyperlink <http://jncc.defra.gov.uk/protectedsites/sacselection/sac.asp?eucode=UK0012831>

Name BLEAN COMPLEX - Reference UK0013697 - Hectares 523.52

Hyperlink <http://jncc.defra.gov.uk/protectedsites/sacselection/sac.asp?eucode=UK0013697>

Name PARKGATE DOWN - Reference UK0030338 - Hectares 7.02

Hyperlink <http://jncc.defra.gov.uk/protectedsites/sacselection/sac.asp?eucode=UK0030338>

Name QUEENDOWN WARREN - Reference UK0012833 - Hectares 14.48

Hyperlink <http://jncc.defra.gov.uk/protectedsites/sacselection/sac.asp?eucode=UK0012833>

Name NORTH DOWNS WOODLANDS - Reference UK0030225 - Hectares 287.35

Hyperlink <http://jncc.defra.gov.uk/protectedsites/sacselection/sac.asp?eucode=UK0030225>

Name FOLKESTONE TO ETCHINGHILL ESCARPMENT - 16/11/2018 - 2/2

Reference UK0012835 - Hectares 183.36

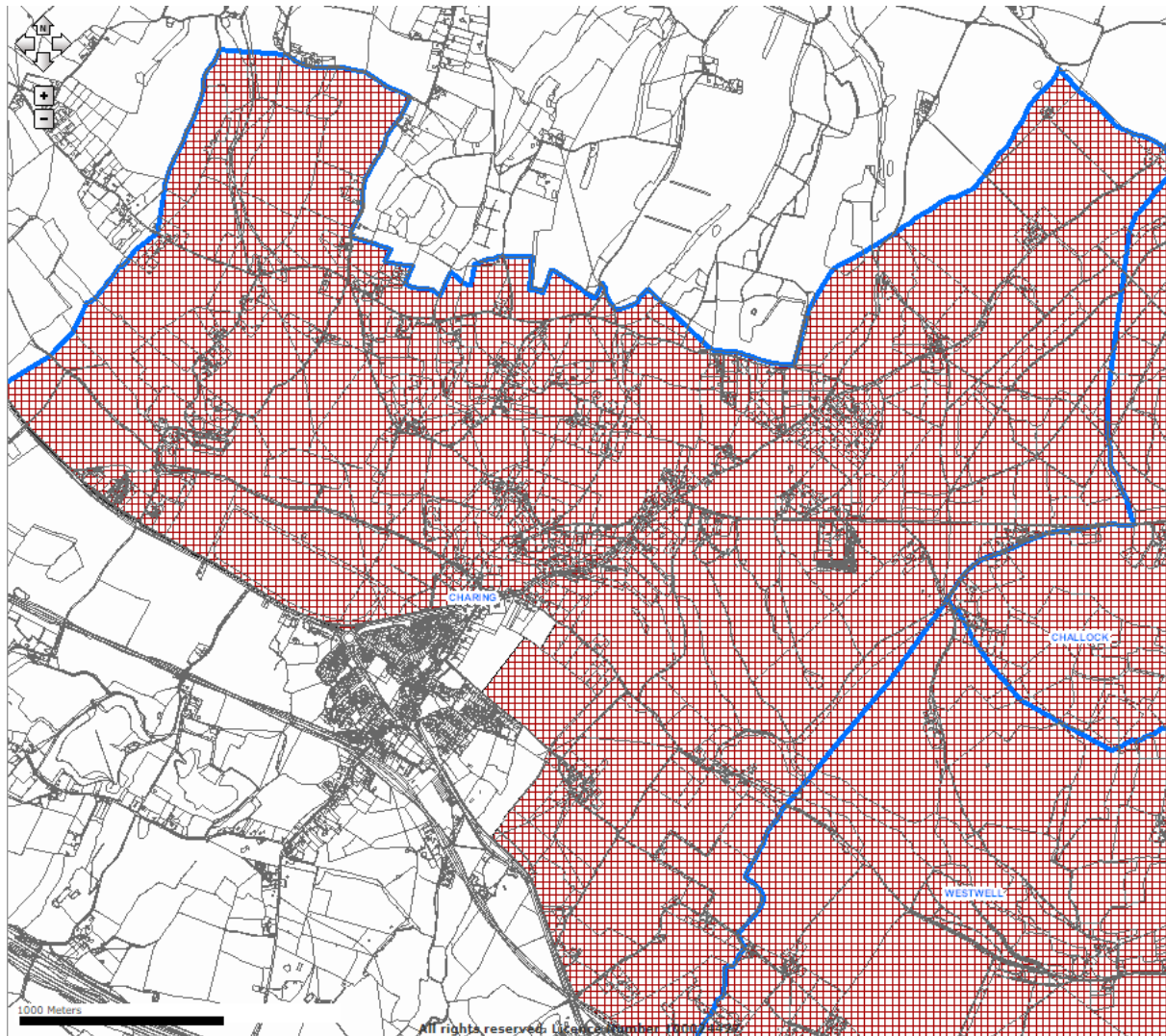
Hyperlink <http://jncc.defra.gov.uk/protectedsites/sacselection/sac.asp?eucode=UK0012835>

**Special Protection Areas (England)**

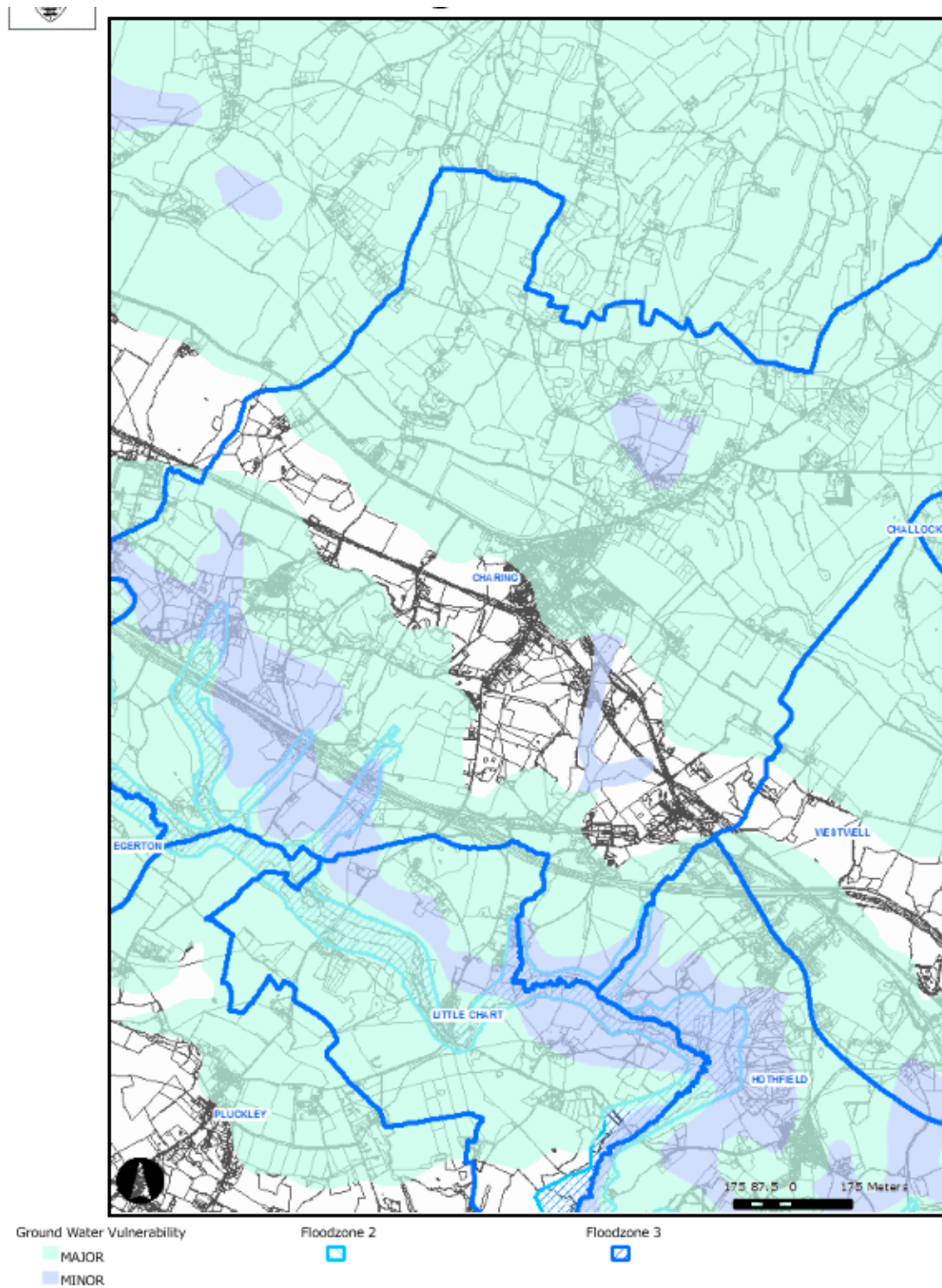
Name MEDWAY ESTUARY & MARSHES - Reference UK9012031 - Hectares 4686.32

Name THE SWALE - Reference UK9012011 - Hectares 6509.88

**Map 2: Extent of the AONB coverage across Charing Parish**

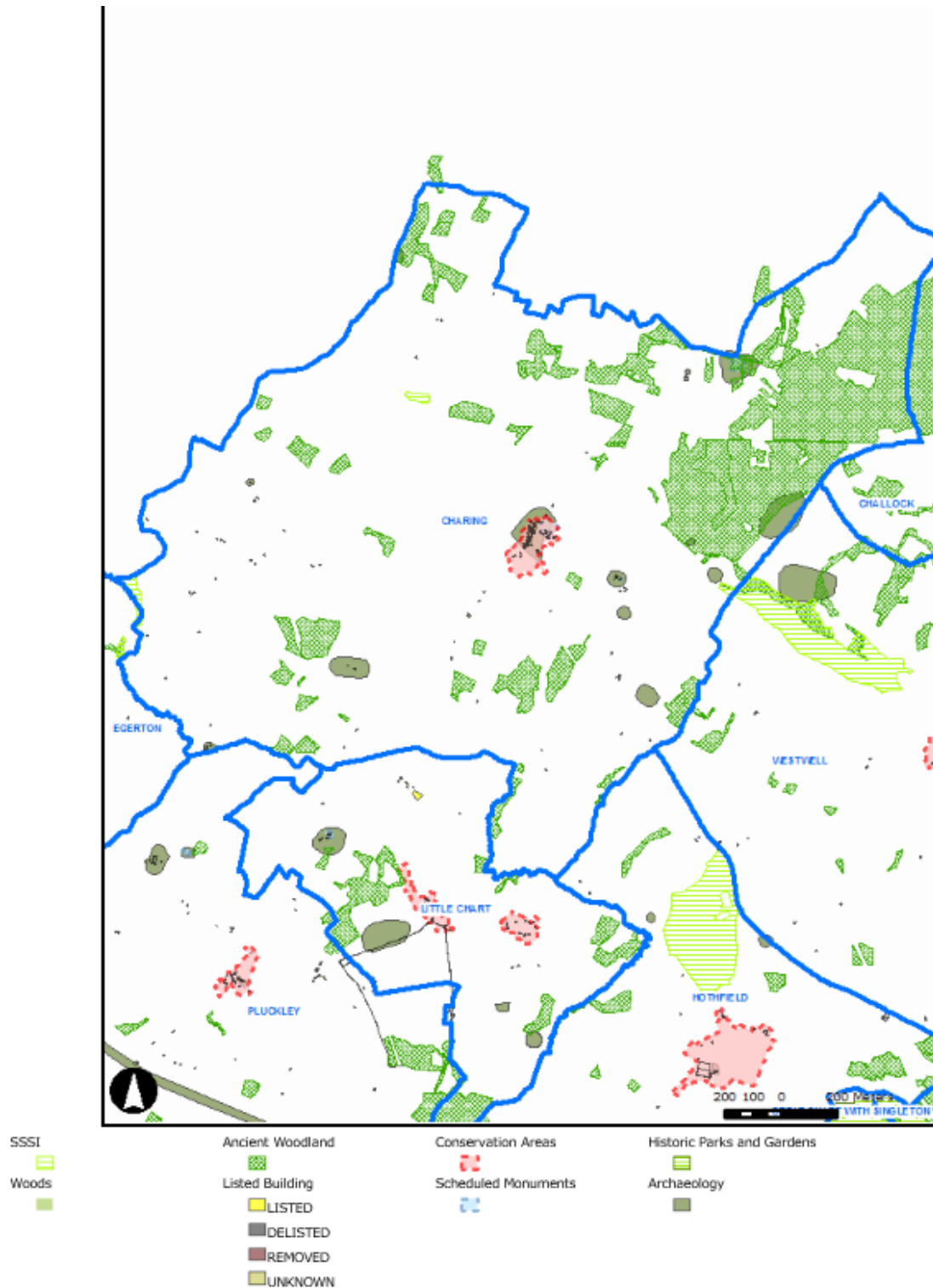


**Map 3: Flooding and Ground Water vulnerability in Charing Parish**





**Map 4: Environmental & Heritage Designations**

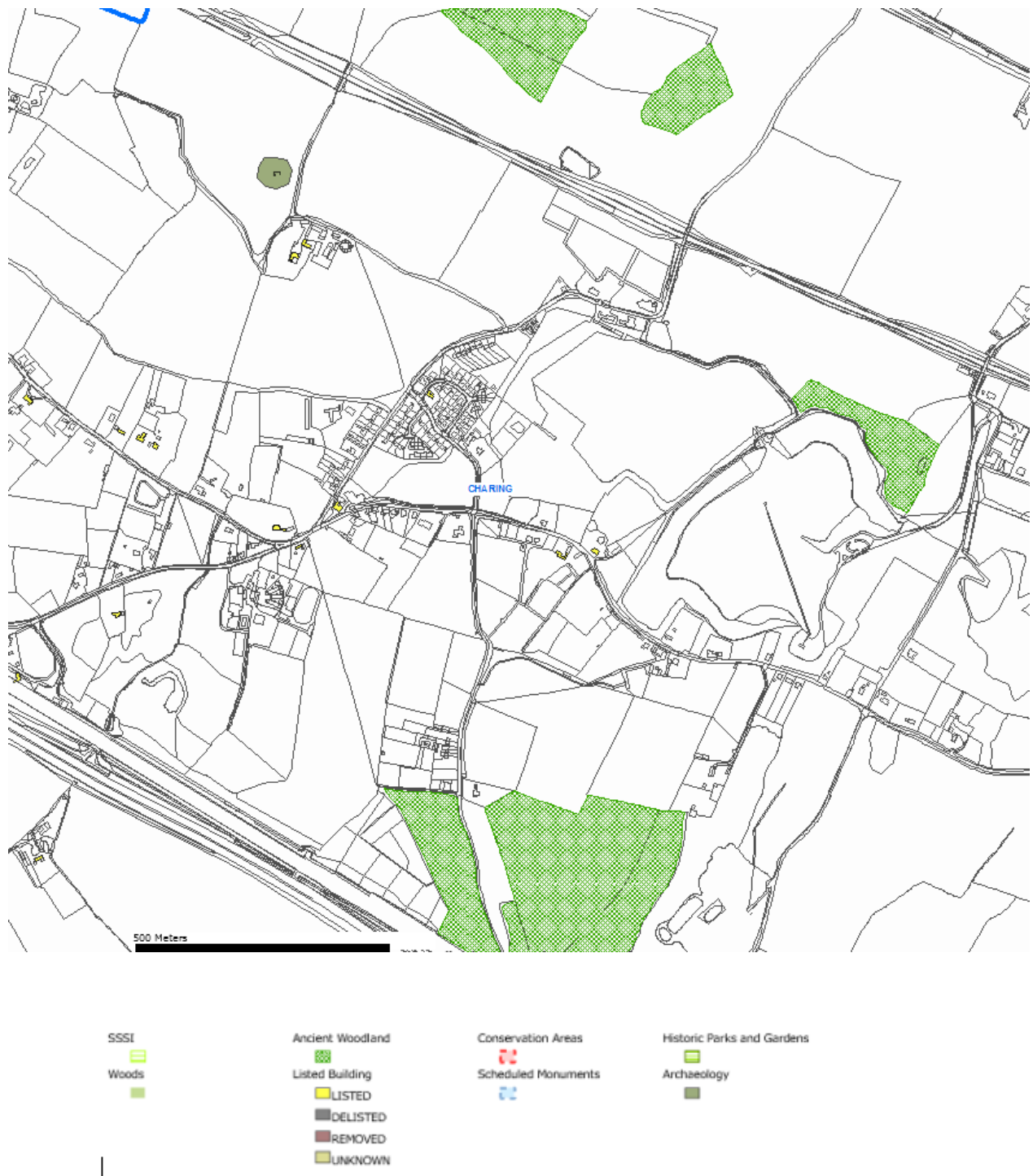


**Map 5: Charing Village: Environmental and Heritage Designations**

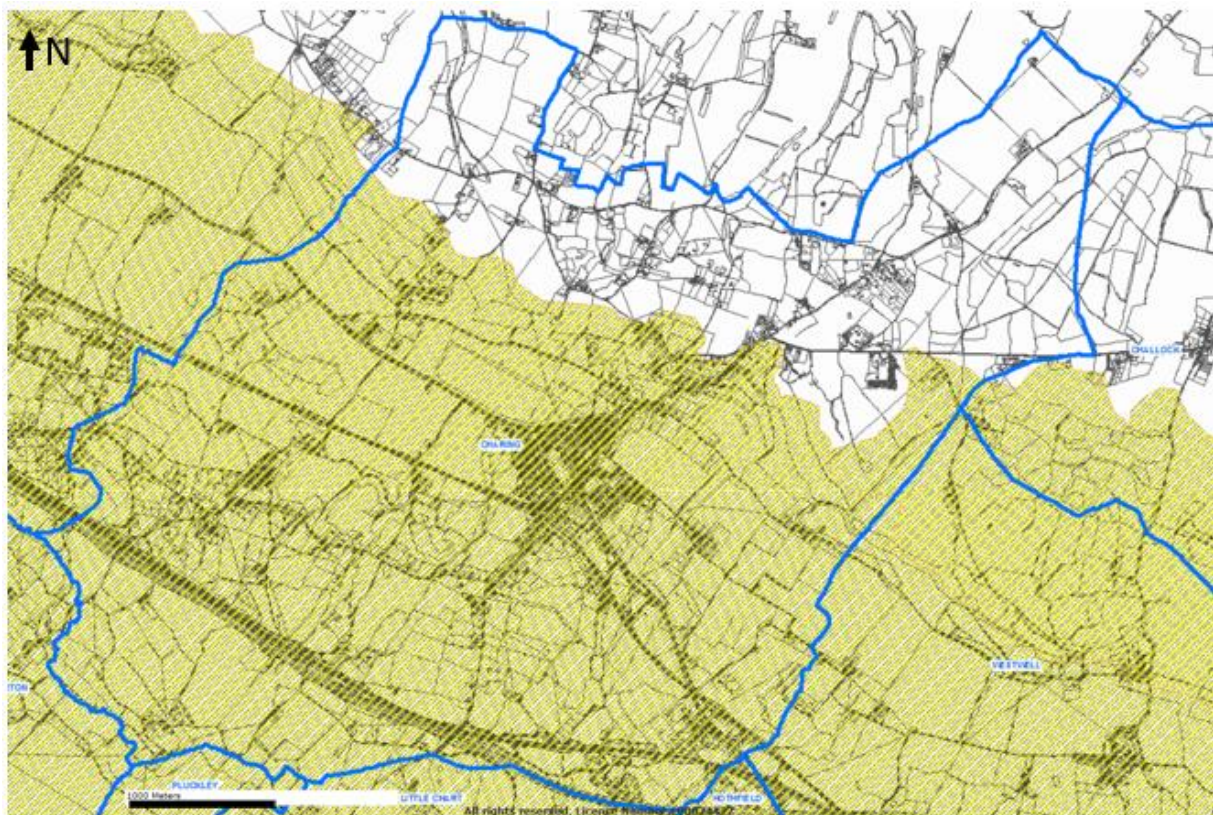




**Map 6: Charing Heath Village Environmental and Heritage Designations**



**October 2020 update - Map 7: Stour Catchment**



- Key
- Stour catchment
  - Parish boundary

## Appendix 2: Response from Statutory Consultees

Response from Statutory Consultees on the contents of this screening report  
(December 2018 – January 2019 consultation).

### *Historic England*



Fri 25/01/2019 16:04

Lloyd Sweet, Robert <Robert.LloydSweet@HistoricEngland.org.uk>

Fw: Charing Neighbourhood Plan - screening

To Daniel Carter

This message was sent with High importance.

Dear Mr Carter

Thank you for consulting Historic England on the draft screening report for SEA of the Charing Neighbourhood Plan. I am happy to confirm that we agree with the Council's view that the plan does have potential for significant likely effects for the environment within areas of interest to Historic England. In particular the proposed allocation of sites for housing within the conservation area.

Assessment of the suitability of the plan proposals (including alternatives that have been considered in the plan making process) should help to identify potential mitigation measures that might be necessary to offset adverse impacts or potential conflict between plan policies or with other plans, policies or proposals. However, this will also need to be based on evidence of the current condition of the plan area's historic environment and heritage assets. This may require providing additional information such as a review of the conservation area's current condition and existing issues to determine whether any proposals and reasonable alternatives would result in cumulative impacts. We would be pleased to provide guidance on undertaking a rapid assessment of the conservation area's condition based on the process used for our annual conservation area survey in the absence of a formally prepared conservation area appraisal.

As an observation we are not sure that the comments in table 2, that the additional allocations provided by the draft places would not result in cumulative harm, is justified where two or more allocations either within the conservation area or in its setting could have a cumulative impact, potentially exacerbating existing issues, such as traffic burdens, noise or light pollution.

These comments are without prejudice to those we may wish to make with regard to individual planning applications.

We hope these comments are of assistance but would be pleased to answer any queries relating to them.

Yours sincerely

Robert Lloyd-Sweet

Rob Lloyd-Sweet | Historic Places Adviser | South East England | Historic England

Eastgate Court | 195 – 205 High Street | Guildford | Surrey | GU1 3EH

### *Natural England*

Strategic Environmental Assessment and Habitats Regulation Assessment  
Screening Report for the Charing Neighbourhood Plan  
Determination Report – December 2020

Date: 25 January 2019  
Our ref: 267317  
Your ref: Charing Neighbourhood Plan - Strategic Environmental Assessment  
(SEA) and Habitats Regulation Assessment (HRA)



**BY EMAIL ONLY**

Customer Services  
Hornbeam House  
Crewe Business  
Park  
Electra Way  
Crewe  
Cheshire  
CW1 6GJ

T 0300 060 3900

Dear Daniel Carter,

Thank you for consulting Natural England for comments on the draft Strategic Environmental Assessment (SEA) and Habitat Regulation Assessment (HRA) screening report, for the Charing Neighbourhood Plan.

Natural England accepts your conclusion that there are not likely to be any significant effects on the designated sites. This decision is based on the current understanding of the possible locations of proposed developments in the context of the location and sensitivities of designated habitats (and landscapes).

If the Neighbourhood Plan changes, and there is the potential for environmental impacts, Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) screening exercises may need to be undertaken.

I hope you find these comments helpful. If there are issues I have not covered, please let me know and I will respond as quickly as possible. Please quote the following reference number for future communication about this consultation: 267317.

Yours sincerely

Amy Croombs  
Sussex and Kent Area Team



Natural England response to October 2020 update

Date: 11 December 2020  
Our ref: 333556



Carly Pettit  
Deputy Team Leader  
Plan Making and Infrastructure  
Spatial Planning Team  
Ashford Borough Council

Customer Services  
Hornbeam House  
Crewe Business Park  
Electra Way  
Crewe  
Cheshire  
CW1 6GJ

T 0300 060 3900

**BY EMAIL ONLY**

Dear Carly Pettit

**Planning consultation: Charing Neighbourhood Plan - updated SEA/HRA screening report**

Thank you for your consultation on the above dated 09 November 2020 which was received by Natural England on the same day.

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.

**Comments on Charing Neighbourhood Plan Strategic Environmental Assessments (SEA) & Habitats Regulations Assessment (HRA) Screening**

We concur with the conclusions of your updated SEA & HRA screening report insofar that an Appropriate Assessment and full SEA is required at this time.

Be advised, our wider view is that where a neighbourhood plan requires an appropriate assessment under the Habitats Directive, Article 3.2 of the SEA Directive also requires a SEA to be undertaken.

In this case, an appropriate assessment is necessary due to net increase in dwellings proposed by the allocations of this plan which would, for reasons detailed in Natural England's [nutrient neutrality methodology](#), have a water quality impact on the Stodmarsh Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar Site. Mitigation measures and a consideration of this plan's nutrient budget may be required to ensure no adverse effect on the site integrity of the Stodmarsh designated sites.

Natural England advises that without suitable mitigation, this plan would result in a significant environmental effect as outlined above. We cannot offer advice on how the relevant legislation should be applied or interpreted and recommend the LPA seeks its own legal advice as to whether a SEA is required in this case. If no significant effects are identified following the HRA process, then it may be prudent to carry out a screening assessment under the SEA Directive to demonstrate where there is consensus on the likelihood of significant environmental effects and any actions proposed to mitigate effects.

If you have any queries relating to the advice in this letter, please contact me on 07554226006 OR 02080266551.

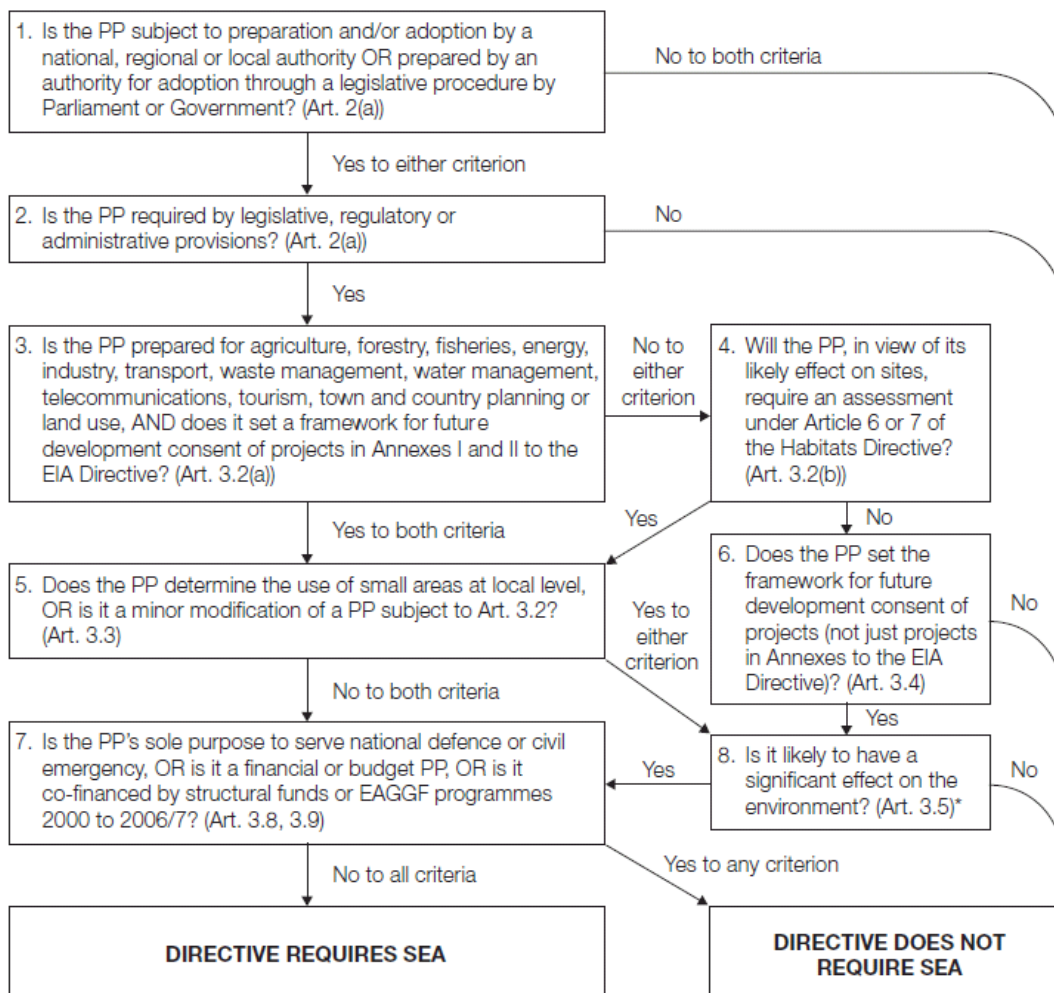
Yours sincerely

Nathan Burns  
Area Team 14 - Kent and Sussex

## Appendix 3 – Extracts from ‘A Practical Guide to the Strategic Environmental Assessment Directive’

**Figure 2 – Application of the SEA Directive to plans and programmes**

This diagram is intended as a guide to the criteria for application of the Directive to plans and programmes (PPs). It has no legal status.



\*The Directive requires Member States to determine whether plans or programmes in this category are likely to have significant environmental effects. These determinations may be made on a case by case basis and/or by specifying types of plan or programme.

**Criteria for determining likely significance of effects on the environment (from Article 3.5 of the SEA Directive)**

1. The characteristics of neighbourhood plans, having regard, in particular, to
  - the degree to which the plan sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources,
  - the degree to which the plan influences other plans and programmes including those in a hierarchy,
  - the relevance of the plan for the integration of environmental considerations in particular with a view to promoting sustainable development,
  - environmental problems relevant to the plan,
  - the relevance of the plan for the implementation of Community legislation on the environment (e.g. plans and programmes linked to waste-management or waste protection).
2. Characteristics of the effects and of the area likely to be affected, having regard, in particular, to
  - the probability , duration, frequency and reversibility of the effects,
  - the cumulative nature of the effects,
  - the trans boundary nature of the effects,
  - the risks to human health of the environment (e.g. due to accidents),
  - the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected),
  - the value and vulnerability of the area likely to be affected due to:
    - special natural characteristics or cultural heritage,
    - exceeded environmental quality standards or limit values,
    - intensive land-use,
    - the effects on areas or landscapes which have a recognised national, Community or international protection status.



## Appendix 4 – Inspectors Questions on HRA and Council response

### HRA OF THE LOCAL PLAN 2030

1. The Inspectors have drawn the Council's attention to the judgment of the Court of Justice of the European Union (CJEU) in the *People over Wind* case. Although there was English case law which took a different view of the issue, there was long-standing European Commission guidance which took the same approach as the CJEU has now endorsed. The CJEU decision is not, therefore, a surprise. The Council had adopted an appropriately precautionary approach to its Habitats Regulations Assessment (HRA).
2. The HRA (SD11) immediately screens out some elements of the Local Plan because it is clear that they are not likely to have a significant effect on a European site. Some elements of the Local Plan are then subjected to further consideration (in Table 2) to judge whether they are likely to have a significant effect on a European site. The conclusion is that the Local Plan is not likely to have a significant effect on a European site and that therefore Appropriate Assessment (AA) is not required.
3. The policies in Table 2 contain protective wording, the effect of which is to prevent adverse effects on protected sites. This is different from policies that require "mitigation" as properly so called, which seeks to avoid or reduce those effects.
4. Whilst the word "mitigation" does appear in SD11, it does not actually refer to avoidance or reduction measures which would qualify as mitigation properly so called. The Local Plan's policies, as assessed in SD11, provide integral and intrinsic protection against any risk of adverse effects, rather than mitigation, and thus were appropriately taken into account. The HRA does not rely on avoidance or reduction measures to conclude that there would be no likely significant effects on the European sites. The HRA did not screen out likely significant effects on the grounds of avoidance or reduction measures.
5. In no case in SD11 is a "mitigation" provision an essential part of the conclusion that, despite the likelihood of significant effects, no AA of the Local Plan is necessary. In that respect, the HRA of the Local Plan is quite unlike the wind farm project in *People over Wind*, in which the conclusion reached by the Irish authority that "an appropriate assessment is not required was ... on the basis of the distance between the proposed [project] and the European sites, and the protective measures" [emboldening added]. Those "protective measures" were planning conditions, whereas Table 2 refers to policy protections that are built into the Local Plan to ensure that inappropriate planning permissions cannot be granted in the first place. The provisions are integral to the Local Plan and its policies.
6. It is confirmed that, in the Council's opinion, the Local Plan does not require AA. The approach taken in SD11 is legally compliant and the requirements of the Habitats Directive and Regulations have been met. The Local Plan will not lead to any likely significant effect on European protected sites.

28<sup>th</sup> June 2018.