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Penrith

Neighbourhood Development Plan

Environment Report

January 2019

Kirkwells

The Planning People

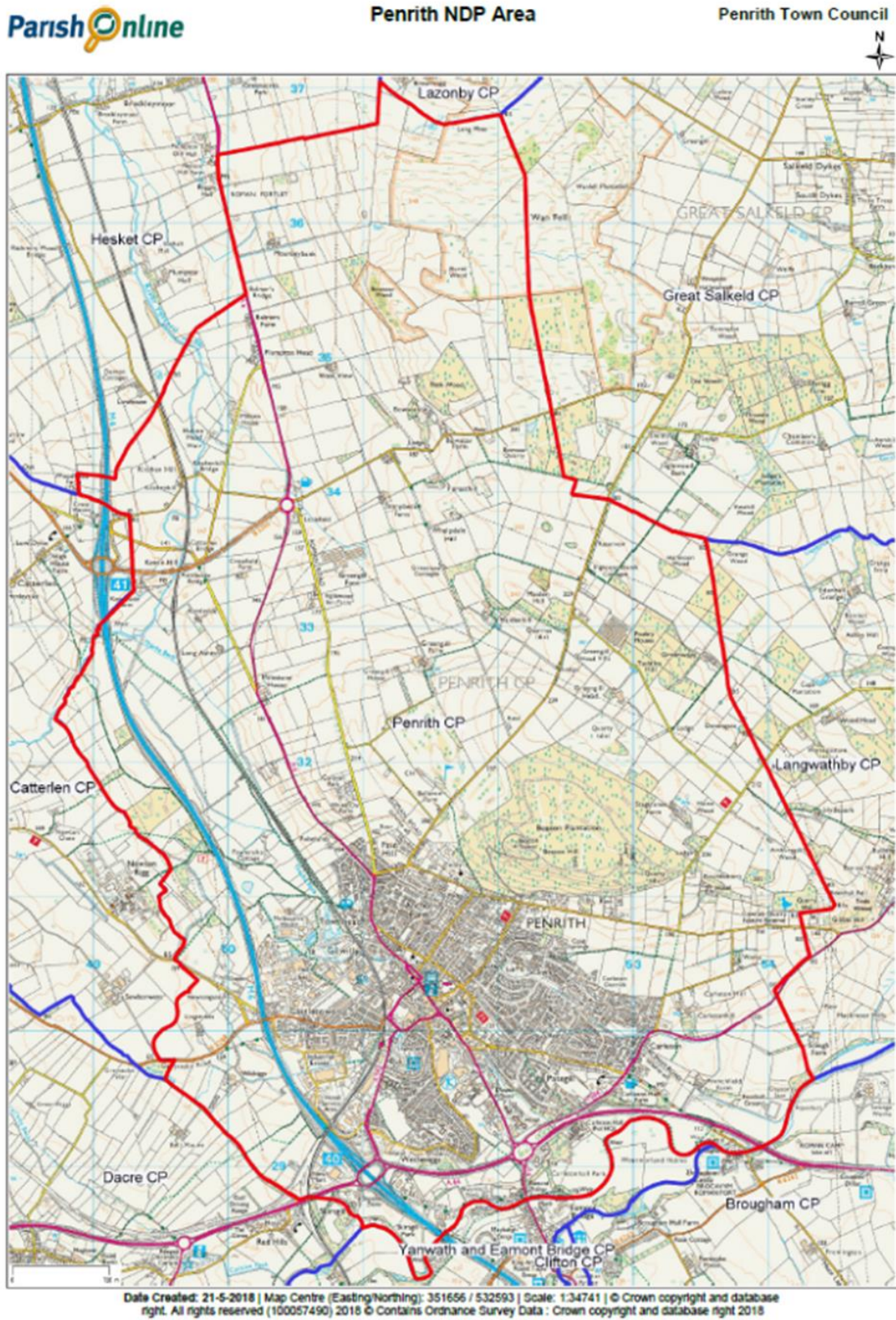
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1.0 Introduction

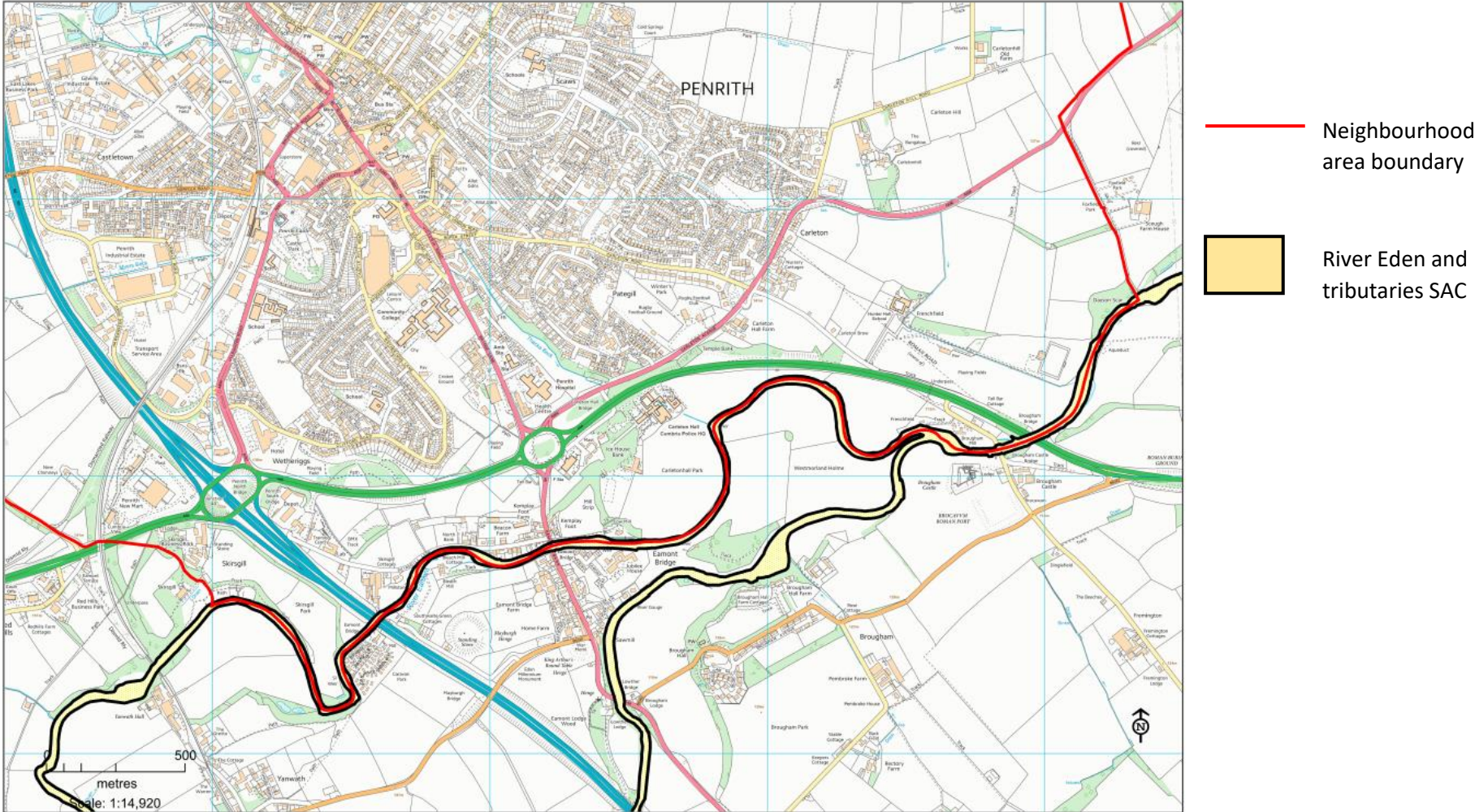
- 1.1 Strategic Environmental Assessment (SEA) is a systematic and comprehensive process for evaluating the environmental effects of a plan or programme in order to ensure that the environmental implications of decisions are taken into account before any such decisions are made. The need for the environmental assessment of plans and programmes is set out in the EU Directive 2001/42/EC, known as the SEA Directive.
- 1.2 Under this Directive, Neighbourhood Development Plans may require SEA, but this is very much dependent upon the content of the Plan. For plans which "determine the use of small areas at local level" or are "minor modifications" to existing plans, the Directive only requires SEA where they are likely to have significant environmental effects. The expressions "small area" and "local level" are not defined in the Directive and must be interpreted in relation to the nature and scope of a particular plan. Screening is needed to determine whether such plans are likely to have significant environmental effects.
- 1.3 Annex II of the Directive lists criteria for determining the likely significance of the environmental effects of plans and to be used in a screening exercise. The findings of the exercise must be subject to consultation with Historic England, the Environment Agency and Natural England. The results of the screening process must be detailed in a Screening Statement, made available to the public.
- 1.4 This Screening Report is an assessment as to whether the contents of the Regulation 14 Draft Penrith Neighbourhood Development Plan published in December 2018 requires a Strategic Environmental Assessment in accordance with the Directive. The area covered by the Penrith Neighbourhood Development plan is shown on Map 2. This screening also determines whether the Neighbourhood Development Plan requires a Habitats Regulations Assessment (HRA) in accordance with Article 6(3) and (4) of the EU Habitats Directive and with Regulation 61 of the Conservation of Habitats and Species Regulations 2010 (as amended). An HRA is required when it is deemed likely that there will be significant adverse effects on protected European Sites (Natura 2000 sites) as a result of the implementation of a plan/project.

Map 1. Penrith Neighbourhood Plan area which is subject to the SEA screening process



- 1.5 A judgment has been handed down by the European Court, Case C-232/17 *People Over Wind and Peter Sweetman versus Coillte Teoranta*, henceforth “People Over Wind”. This concerns how screenings such as this take into account any impact on protected European sites. The southern boundary of the neighbourhood area is formed, in part, and runs parallel with the River Eden Special Area of Conservation (Map 2).
- 1.6 This judgement has ruled that “it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on the site”.
- 1.7 The Regulation 14 Draft Penrith Neighbourhood Development Plan has been prepared to be in general conformity with the strategic planning policies in the Eden Local Plan 2104-2032.

Map 2. River Eden and Tributaries SAC in Relation to the Penrith Neighbourhood Area



2.0 Legislative Background

Strategic Environmental Assessment

- 2.1 The SEA Directive was transposed into English law by the Environmental Assessment of Plans and Programmes Regulations 2004 (SEA Regulations)¹. Detailed guidance on these regulations can be found in the Government publication, A Practical Guide to the Strategic Environmental Assessment Directive (ODPM 2005)².
- 2.2 The Planning and Compulsory Purchase Act 2004 requires local authorities to produce Sustainability Appraisals (SAs) for all Development Plan Documents in order to meet the requirement of the SEA Directive and it is considered best practice to incorporate the requirements of this Directive into a Sustainability Appraisal (National Planning Policy Framework, paragraph 165). As a neighbourhood development plan is not a Development Plan Document, it does not legally require a Sustainability Appraisal. However, there are instances where a SEA would need to be undertaken in order to meet the requirements of the SEA Regulations.
- 2.3 Consequently, to establish whether the Neighbourhood Development Plan might give rise to significant environmental effects, it is necessary to screen the plan (see Section 5).

Habitats Regulations Assessment.

- 2.4 Schedule 2 of the Neighbourhood Planning (General) Regulations 2012 makes provision in relation to the Habitats Directive. The Directive requires that any plan or project likely to have a significant effect on a European site must be subject to an Appropriate Assessment. In relation to this, paragraph 1 sets out a basic condition that the making of a neighbourhood development plan is not likely to have a significant effect on a European site. Paragraph 4 indicates that a qualifying body 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 or to enable them to determine whether an assessment is required.
- 2.5 The legislation requires that, where there is a risk of a significant effect on a European site, either individually or in combination with other plans or projects then the plan should progress from HRA screening to an Appropriate Assessment.

¹ http://www.legislation.gov.uk/ukxi/2004/1633/pdfs/ukxi_20041633_en.pdf

² https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/7657/practicalguidesea.pdf

3.0 Penrith Neighbourhood Development Plan

- 3.1 The purpose of the Penrith Neighbourhood Development Plan is to provide a set of statutory planning policies to guide development within the neighbourhood area over the period to 2032 and has been prepared by a steering group on behalf of the qualifying body, Penrith Town Council (Map 1).
- 3.2 The eight objectives of the Penrith Neighbourhood Development Plan are:

OBJECTIVE 1: Sustainable Development

To ensure that all development in the town is sustainable and meets the needs of the present without compromising the ability of future generations to meet their own needs and to promote and pursue a transition to a low carbon economy.

OBJECTIVE 2: Housing

To support a level of high-quality housing that retains Penrith's identity and encourages high levels of social interaction, meets housing needs and helps to retain the local population, especially young people.

OBJECTIVE 3: Greenspaces

To protect greenspaces that have been identified as important to both wellbeing and the local community.

OBJECTIVE 4: Culture and Leisure

To ensure the town's range of leisure and recreation facilities are enhanced and protected, with a particular focus on wellbeing, and meeting the needs of young people.

OBJECTIVE 5: Wellbeing

To protect health and community facilities and ensure that these have the capacity to support any needs generated by new development and a changing population.

OBJECTIVE 6: Town Centre Car Parking

To reduce on-street car parking by providing modern car parking infrastructure appropriate to the size and role of Penrith.

OBJECTIVE 7: Traffic Management

To address current traffic management issues and ensure that these are not exacerbated by new development.

OBJECTIVE 8: Penrith Town Centre

To conserve the historic and notable buildings and improve the appearance of Penrith town centre; increasing its attractiveness as a place to visit for both the local community and visitors.

3.3 In order to deliver these objectives, the Plan sets out a number of planning policies. These cover the following:

Policy 1 – Sustainable Development

Policy 2 – Environmentally Sustainable Design

Policy 3 – Energy use and reducing Carbon Emissions

Policy 4 – Accessibility and Social Inclusion

Policy 5 – Conservation Areas in Penrith

Policy 6 – High Quality New Homes

Policy 7 – Housing Type and Mix

Policy 8 – Identifying and Protecting Local Green Spaces

Policy 9 – Protecting and Enhancing Sport, Leisure and Recreation Facilities

Policy 10 Protecting and Enhancing Health and Community Facilities

Policy 11 – Walking and Cycling

Policy 12 – Traffic Management

Policy 13 – Penrith Town Centre Improvements

Policy 14 – Shopfront Design

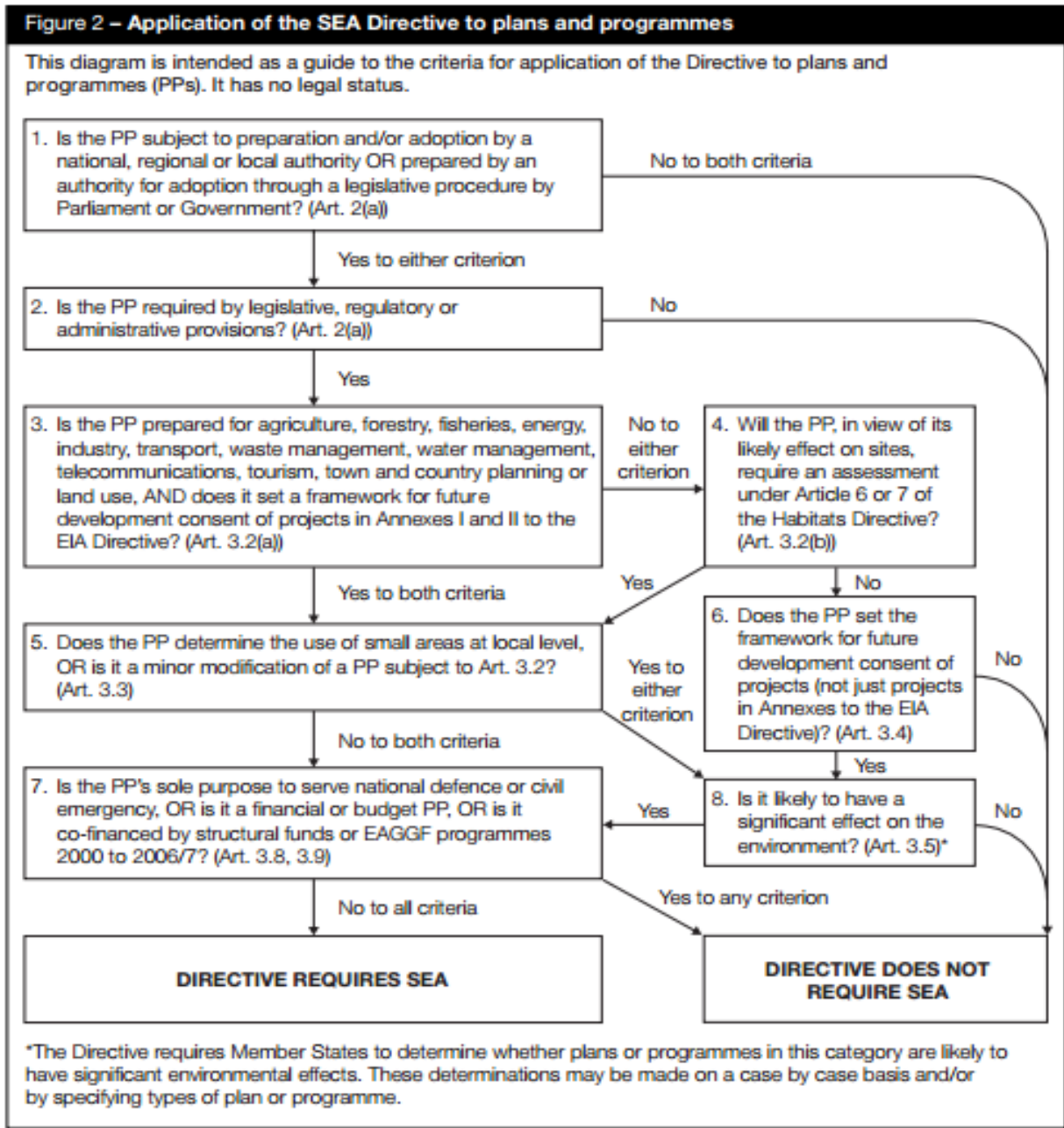
3.4 It is a requirement of the Town and Country Planning Act that neighbourhood development plans must be in general conformity with the strategic policies of the Local Plan. Penrith lies within Eden District and must, therefore, be in general conformity with the Eden Local Plan 2014-2032. The Eden Local Plan was subject to a full Sustainability Appraisal which incorporated a SEA assessment and this previously completed SEA has been taken into account in undertaking the screening assessment of the Penrith Neighbourhood Development Plan.

4.0 Screening Process

4.1 It is the purpose of this report to assess whether the policies in the Regulation 14 Draft Penrith Neighbourhood Development Plan are likely to have 'significant environmental effects'. This screening assessment has been undertaken in two parts:

- The first part assesses whether the neighbourhood development plan requires SEA in accordance with the flow chart set out below
- The second part considers whether the neighbourhood development plan is likely to have a significant effect on the environment, using criteria set out in Schedule 1 of the EU SEA Directive and the Environmental Assessment of Plans and Programme Regulations 2004 (see section 2)

4.2 Government guidance, as set out in 'A Practical Guide to the Strategic Environmental Assessment Directive', identifies the following approach to be taken in determining whether SEA is required:



4.3 This process has been followed and the findings are set out in the table below:

Table 1: Establishing the Need for Strategic Environmental Assessment

Stage	Y/N	Reason
1. Is the plan or programme (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))	Y	Neighbourhood Development Plans may be prepared under the provisions of the Town and Country Planning Act 1990, as amended by the Localism Act 2011. They are drawn up by a qualifying body, which, in the case of Penrith, is the Town Council. The Plan is subject to independent examination and referendum. If the Plan receives 50% or more 'yes' votes at referendum, it will be 'made' by the local planning authority (Eden District)
2. Is the PP required by legislative, regulatory or administrative provisions? (Art. 2(a))	N	The preparation of a Neighbourhood Development Plan is discretionary. However, once 'made', it will form part of the statutory Development Plan for the area and will be used in the determination of planning applications. It is therefore considered necessary to answer the following questions to determine further if a SEA is required.
3. Is the Plan 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? (Article 3.2(a))	Y	The Neighbourhood Development Plan has been prepared for town and country planning and land use and sets out a framework for future development in Penrith. Once 'made', the NDP would form part of the statutory development plan, and will be used when making decisions on planning

Stage	Y/N	Reason
		applications which could include development which may fall under Annex I and II of the EIA directive.
4. Will the Plan, in view of its likely effects on sites, require an assessment for future development under Article 6 or 7 of the Habitats Directive? (Article 3.2(b))	?	The Neighbourhood Development Plan could potentially have impacts on sites covered by the Habitats Directive. However, this requires individual assessment of a Plan (see section 6 of this document).
5. Does the Plan determine the use of small areas at local OR is it a minor modification of a PP subject to Article 3.2? (Article 3.3)	Y	The Neighbourhood Development Plan could be used in the determination of planning applications for the development of small sites at the local (neighbourhood) level through the implementation of the plan's criteria based development management policies, but the plan does <u>not</u> allocate small sites or areas for development.
6. Does the Plan set the framework for future development consent of projects (not just projects in annexes to the EIA Directive)? Article 3.4)	Y	A Neighbourhood Development Plan forms part of the development plan for the area within which it is made and will be used in the assessment of planning applications. It, therefore, helps to set, alongside other development plan documents, the framework of policies for helping to determine future development at a local level.
7. Is the Plan's sole purpose to serve the national defence or civil emergency, OR is it a financial or budget PP, OR is it co-financed by structural funds or EAGGF programmes 2000 to 2006/7? (Article 3.8, 3.9)	N	Not applicable
8. Is it likely to have a significant effect on the environment? (Article 3.5)	?	A Neighbourhood Development Plan could

Stage	Y/N	Reason
		potentially have an effect on the environment. However, whether this is significant depends on the proposals in the Plan. An individual screening assessment of the Neighbourhood Development Plan is required (see section 5 of this document)

5.0 Screening Assessment

- 5.1 The results of the preceding assessment indicate that, depending upon the content of a neighbourhood development plan, a Strategic Environmental Assessment may be required. For this reason, neighbourhood development plans should be assessed, individually, in order to determine their likely significant effects on the environment.
- 5.2 The criteria for determining the likely significant effects referred to in Article 3 (5) of Directive 2001/42/EC are set out in Annex II of the SEA Directive and Schedule 1 of the Regulations. The proposals within individual neighbourhood development plans will need to be assessed against these criteria:
1. The characteristics of plans and programmes, having regard, in particular, to:
 - the degree to which the plan or programme sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources,
 - the degree to which the plan or programme influences other plans and programmes including those in a hierarchy,
 - the relevance of the plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development,
 - environmental problems relevant to the plan or programme,
 - the relevance of the plan or programme for the implementation of Community legislation on the environment (e.g. plans and programmes linked to waste-management or water protection)
 2. Characteristics of the effects and of the area likely to be affected, having regard, in particular, to:
 - the probability, duration, frequency and reversibility of the effects,
 - the cumulative nature of the effects,
 - the trans-boundary nature of the effects,
 - the risks to human health or the environment (e.g. due to accidents),
 - the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected),
 - the value and vulnerability of the area likely to be affected due to:
 - special national 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.
- 5.3 The draft policies set out in the Regulation 14 Draft Penrith Neighbourhood Development Plan (December 2018) have been used to undertake this screening

assessment. If the conclusion of the screening exercise is that a SEA is not required, any major changes to the existing policies or introduction of new ones should be subject to a further screening assessment to ensure that significant effects are not likely.

- 5.4 The table below sets out the assessment of policies in the Penrith Neighbourhood Development Plan in relation to the criteria outlined earlier:

Table 2: Assessment of the Likelihood of Significant Effects on the Environment

Criteria for determining the likely significance of effects	Is the Penrith NDP likely to have a significant environmental effect?	Justification for Screening Assessment
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.	No	The Penrith Neighbourhood Development Plan sets a local policy framework for development proposals. It supports the implementation of policies in the adopted Eden Local Plan 2014-2032 which have already been subject to SEA as part of the Sustainability Appraisal.
The degree to which the plan or programme influences other plans and programmes including those in a hierarchy.	No	The Penrith Neighbourhood Development Plan must be in general conformity with the policies in the development plan – Eden Local Plan 2014-2032. The Penrith Neighbourhood Development Plan supports the implementation of higher tier policies by setting more detailed policy, in line with these higher level policies, at the neighbourhood level and, as such, is not considered to have a significant influence on these higher level plans and programmes.
The relevance of the plan or programme for the integration of environmental considerations in particular with a view to	No	The Penrith Neighbourhood Development Plan contributes to the achievement of sustainable development at the neighbourhood level. Policies set out in the Plan protect assets of

Criteria for determining the likely significance of effects	Is the Penrith NDP likely to have a significant environmental effect?	Justification for Screening Assessment
promoting sustainable development.		local environmental value, including the Conservation Areas, and Local Green Spaces. The Plan seeks to promote more sustainable forms of design and development. The likelihood of significant effects on the environment is, therefore, minimised and will be managed, alongside other development plan policies. The PNDP includes no specific proposals that will impact on the River Eden and Tributaries SAC.
Environmental problems relevant to the plan or programme.	No	The Penrith Neighbourhood Development Plan does not propose development of itself but seeks to manage sustainably the development of others. It is possible that existing environmental problems may be improved or eradicated through the implementation of the Plan's policies.
The relevance of the plan or programme for the implementation of Community legislation on the environment (e.g. plans and programmes linked to waste management or water protection).	No	The Penrith Neighbourhood Development Plan must be in general conformity with the higher level plan – the Eden Local Plan 2014-2032. This has had regard to European Community legislation on the environment. Consequently, the policies of the Neighbourhood Development Plan are not considered to be relevant to the implementation of EC legislation. Waste Management is not a matter for neighbourhood development plans.
The probability, duration, frequency and reversibility of the effects.	No	Some development is likely over the plan period meaning that some environmental change will take place. However, the Plan policies

Criteria for determining the likely significance of effects	Is the Penrith NDP likely to have a significant environmental effect?	Justification for Screening Assessment
		are designed to ensure that any new development proposed by others will be sustainable and any environmental impacts minimised. The PNDP includes no specific proposals that will impact on the River Eden and Tributaries SAC.
The cumulative nature of the effects.	No	The Neighbourhood Development Plan's policies are unlikely to have significant cumulative impacts on the local environment, they are criteria based and do not propose development. They seek to manage the development of others.
The trans-boundary nature of the effects	No	The policies in the Penrith Neighbourhood Development Plan are unlikely to have significant environmental impacts on neighbouring areas, including protected European sites.
The risks to human health or the environment (e.g. due to accidents).	No	No significant risks to human health or the environment as a result of the Plan's policies have been identified. The Plan is likely to improve human health by protecting local green spaces; and by protecting leisure, sport and recreation facilities.
The magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected)	No	The Penrith Neighbourhood Development Plan is concerned with development within the neighbourhood area. The geographical area covered by the Plan is 3,064.27 hectares and the neighbourhood area has a population of 15,487 (2011 Census). The potential for environmental impacts is likely to be limited and minimal

Criteria for determining the likely significance of effects	Is the Penrith NDP likely to have a significant environmental effect?	Justification for Screening Assessment
<p>The value and vulnerability of the area likely to be affected due to:</p> <ul style="list-style-type: none"> - 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. 	<p>No</p>	<p>The neighbourhood plan area is mixed urban/rural in character and its natural heritage assets include part of the River Eden SAC Cowraik Quarry LNR/SSSI, Wan Fell SSSI and River Eden and Tributaries SSSI (part).</p> <p>There are 277 entries on the National Heritage List for England in the neighbourhood area. Penrith has two Conservation Areas – Penrith Conservation Area and Penrith New Streets.</p> <p>The Penrith Neighbourhood Development Plan is unlikely to adversely affect the value and vulnerability of the area in relation to its natural or cultural heritage. In fact, its policies provide greater support to enhance the natural and cultural assets of the area.</p>

5.5 Based on the SEA Screening Assessment set out in Table 2 above, the conclusion is that the Regulation 14 Draft Penrith Neighbourhood Development Plan will not have significant effects in relation to any of the criteria set out in Schedule 1 of the SEA Regulations, and therefore does not need to be subject to SEA.

5.6 The main reasons for this conclusion are:

- The Penrith Neighbourhood Development Plan supports the implementation of policies in the adopted Eden Local Plan 2014-2032 which has already been subject to SEA through the Sustainability Appraisal and assessed as having no significant environmental effects.
- The Penrith Neighbourhood Development Plan is a lower tier plan in the hierarchy of planning documents for the area, and therefore has limited influence on other plans or programmes.
- The Plan is concerned with development at the neighbourhood level. Its impacts are therefore unlikely to be strategic.
- The Plan does not allocate sites for development.

- Through its policies, the Penrith Neighbourhood Development Plan seeks to avoid or minimise negative environmental effects.

6.0 HRA Screening

- 6.1 The Habitats Regulations Assessment (HRA) refers to the assessment required for any plan or project to assess the potential impacts against the conservation objectives of Natura 2000 wildlife sites. This assessment must determine whether a plan would adversely affect, or is likely to affect, the integrity of a site(s) in terms of its nature conservation objectives.
- 6.2 Under Criterion 4 of Table 1: Assessing the Need for SEA, it was concluded that the Neighbourhood Development Plan may have an impact upon internationally designated sites and as such a 'case by case' assessment is required.
- 6.3 The HRA process is generally divided into three stages. The initial stage of the process is the screening stage and determines if there are any likely significant effects or risk of significant effects possible as a result of the implementation of the plan. If there are significant effects the plan will need to undertake an Appropriate Assessment. The screening process should provide a description of the plan (see earlier) and an identification of the Natura 2000 sites which may be affected by the plan and assess the significance of any possible effects on the identified sites.
- 6.4 Penrith contains part of one Natura 2000 site River Eden and Tributaries SAC (Map 2). There are also a number of other such sites some distance from the neighbourhood area that could potentially be affected by the Eden Local Plan 2014-2032 and this has been subject to an Appropriate Assessment. The Appropriate Assessment considered the potential effects of the policies and proposals in the Eden Local Plan 2014-2032 on the integrity of the district's European protected sites.
- 6.5 The Regulation 14 Draft Penrith Neighbourhood Development Plan policies are considered to be in general conformity with those in the Eden Local Plan 2014-2032 which has been subject to Appropriate Assessment. This confirms that the Eden Local Plan 2104-2032 will not result in adverse effects on the integrity of any European site. It is therefore concluded that no further work will be required in relation to the Penrith Neighbourhood Development Plan in order to comply with the Habitat Regulations. Specifically, in terms of the River Eden and Tributaries Special Area of Conservation the Plan does not put forward proposals that will impact on the SAC. This conclusion is drawn without considering the need for any mitigation or measures to avoid or reduce harmful effects arising from the plan on the SAC.

7.0 Conclusions and Recommendations of the Screening Assessments

7.1 This report sets out the assessment of the need for the Regulation 14 Draft Penrith Neighbourhood Development Plan to be subject to Strategic Environmental Assessment as required by the SEA Directive and Appropriate Assessment as required by the Habitats Directive.

7.2 The assessment of both of these requirements has been undertaken on the Regulation 14 Draft Neighbourhood Development Plan which was published in November 2018. As such if the content of the Neighbourhood Development Plan is significantly changed there may be the need for a further screening exercise to be undertaken on any modified version of the Neighbourhood Development Plan.

Strategic Environmental Assessment (SEA)

7.3 In relation to the requirement for the regulation 14 Draft Penrith Neighbourhood Development Plan to be subject to Strategic Environmental Assessment, it is concluded in the assessment undertaken in Section 5 of this report that the Plan in its current form is unlikely to have significant environmental effects and therefore SEA will not be required.

Habitat Regulations Assessment (HRA)

7.4 In terms of the requirement for the Regulation 14 Draft Penrith Neighbourhood Development Plan to be subject to Habitat Regulations Assessment, the appraisal set out in Section 6 of this report concludes that no further work will be required in order to comply with the Habitat Regulations.

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