



Powys County Council

Powys Local Development Plan

**Habitats Regulations Assessment:
Screening of the Inspector's Matters
Arising Changes**

April 2018



Introduction

Following submission of the Powys Local Development Plan (LDP) to the Welsh Government an independent examination was undertaken to assess the soundness of the LDP. The LDP Examination in Public commenced in January 2017 and a Pre-hearing Meeting was held on 7th February 2017. A series of Hearing Sessions subsequently took place between 28th March 2017 and 10th January 2018. The Inspector's Report on the Examination into the Powys Local Development Plan 2011 – 2026 was received on the 14th March 2018.

The Report concluded that, subject to the recommended Matters Arising Changes (MACs) and Inspector's Matters Arising Changes (IMACS) set out in Appendix A and B of the Report, the Powys LDP provides an appropriate basis for the planning of the County up to 2026.

A number of changes were identified as needed to meet legal and statutory requirements and to ensure that the Plan is sound. The Inspector concluded that these changes would not alter the thrust of the Council's overall strategy and would not undermine the Assessments and Appraisals (including Habitats Regulations Assessment) previously carried out by the Council.

The main changes are summarised as:

- The restructuring of the explanatory text to ensure that the strategy arising from the key issues, vision and objectives is coherently expressed;
- An increase in the amount of new affordable housing to be built over the Plan period;
- The provision of a policy framework for strategic resources and assets, biodiversity and the landscape that is clear, coherent and consistent with national policy;
- Clarification of where new housing development can take place within the County;
- The deletion of the housing allocation at Llangynog Glebe, Llangynog in order to ensure compliance with the requirements of national policy in respect of flood risk;
- Expounding on the approach to be taken to assessing proposals for alternative uses on employment sites;
- Establishing measures for considering proposals in relation to home working and farm diversification;
- The revision of Policy RE1 to ensure that the Plan provides a clear, consistent and cohesive framework for the generation of renewable and low carbon energy from a range of sources;
- The provision of a comprehensive policy framework for the management of waste and minerals related developments; and
- The establishment of a clear, cohesive and realistic monitoring framework.

As part of the ongoing Habitats Regulations Assessment (HRA) process the IMACs have been reviewed. This document outlines the findings of the HRA Screening of the IMACs. The HRA process for the LDP has produced the following reports to date:

- Habitats Regulations Assessment Screening Report (June 2015)
- Habitat Regulation Assessment Screening of Focussed Changes (January 2016)
- Habitat Regulation Assessment Screening of Further Focussed Changes (October 2016)
- Habitat Regulation Assessment Screening of Matters Arising Changes and Minor Matters Arising Changes (September 2017)
- Habitat Regulation Assessment Screening of Inspector's Matters Arising Changes (March 2018) – This Report

This report should be read in conjunction with the Inspector's Report on the Examination into the Powys Local Development Plan 2011 – 2026 (March 2018) and associated Appendices, Powys Local Development Plan 2011 – 2026 1/4/2011 to 31/3/2026 Composite Version incorporating Matters

Arising Changes (September 2017), Powys Local Development Plan 2011 – 2026 Deposit Draft with Focussed Changes and Further Focussed Changes (October 2016) as well as the previous HRA Assessment Reports.

Almost all of the recommended changes were put forward by the Council in response to matters discussed during the examination, these changes were assessed under the Habitat Regulations Assessment Screening of Matters Arising Changes and Minor Matters Arising Changes (September 2017). None of the MACs or Minor Matters Arising Changes (mMACs) were judged to have the potential to affect any of the European designated sites, above or beyond those potential impacts already considered in the previous HRA assessments. No changes were considered to result in a Likely Significant Effect, when considering the existing mitigation measures provided for by the LDP in its policies, on any of the European Sites considered (identified in the HRA Screening Report (June 2015)) either alone or in combination with other plans or projects.

The Inspector's Report on the Examination into the Powys Local Development Plan 2011 – 2026 identified a number of IMACs (summarised in Appendix B of the Inspector's Report), therefore the changes made to the Plan by the IMACs have been subject to a screening assessment to consider the nature and significance of the changes and whether the changes proposed would affect or alter the conclusions of the previous HRA Screening Assessments.

The majority of the IMACs relate to amendments, addition or deletion of criterion within policies and consequential changes to supporting text, the purpose of these changes has been identified as required to meet legal and statutory requirements and to ensure the Plan is sound and satisfies the requirements of section 64(5) of the Planning & Compulsory Purchase Act 2004 and meets the tests of soundness in Chapter 2 of PPW.

The screening process identified one new policy created as a result of the IMACs; this new policy is a replacement of Policy RE1 as proposed under MAC 123. The Inspector concluded that the definition of the requirements in relation to Policy RE1 proposed under MAC 123 were imprecise and, as a consequence, likely to promote uncertainty. As a consequence, MAC 123 as proposed by the Council was not accepted by the Inspector and a new policy has been identified through IMAC 5 to provide a more precise policy framework for assessing proposals for renewable and low carbon energy. As the policy proposed by IMAC 5 is new to the Plan it has been identified as requiring HRA Screening to determine whether it would result in a Likely Significant Effect to any of the European Sites.

None of the IMACs were judged to have the potential to affect any of the European designated sites, above or beyond those potential impacts already considered in the previous HRA assessments. No changes are considered to result in a Likely Significant Effect, when considering the existing mitigation measures provided for by the LDP in its policies, on any of the European Sites considered (identified in the HRA Screening Report (June 2015)) either alone or in combination with other plans or projects.

It is therefore concluded that an Appropriate Assessment of the implications of the Plan as a result of the IMACs for the European Sites considered, in view of their conservation objectives, is not necessary in this case, in accordance with regulation 105 of the Conservation of Habitats and Species Regulations 2017.

Screening of Inspector's Matters Arising Changes

The review and screening of the IMACs has found that the majority of the changes identified by the Inspector seek to provide further clarification, ensure consistency and accuracy, and ensure conformity with higher level (national) planning policy guidance.

As such, the content of these policies has been assessed in previous HRA Screening Assessments (June 2015, January 2016, October 2016, September 2017) and were found not result in a Likely Significant Effect to any of the European Sites (identified in the HRA Screening Report (June 2015)) either alone or in combination with other Plans or projects, and the changes would therefore, not result in any changes to the findings of the Draft Deposit HRA Screening Reports (June 2015, January 2016, October 2016 and September 2017).

The screening process identified one new policy created as a result of the IMACs and because this policy is new to the Plan it was identified as requiring HRA Screening to determine whether it would be likely to result in a Likely Significant Effect to any of the European Sites.

Further details of the HRA Screening of the IMACs is provided below and in Appendix 1.

IMAC 1

Further revision of Policy DM14 and to amend paragraphs 4.2.61, 4.2.66 and 4.2.68.

The changes have been made to provide certainty and clarity about the application of the policy and to ensure that the policy and supporting text is consistent with and complies with the requirements of national policy.

The amendments to the policy do not contain information new to the Plan, instead the policy information has been presented in a different format to that in previous versions of the Plan. Changes also provide clarity, coherence and consistency throughout the Plan.

The change will have no effect on the outcome of the previous HRA assessments. No further HRA Screening Required.

IMAC 2

Deletion of allocated site P34 HA1 - Llangynog Glebe, Llangynog from the Plan and consequential changes to Policies SP1, H1 (A) and Appendix 1 and Inset Map P34 / Llangynog.

The Inspector concluded that due to a portion of the proposed access road of the allocated site being located within a designated C2 Flood Zone, the area of land subject to the constraint being critical to the delivery of the site, there are no appropriate flood mitigation measures and no alternative access arrangements are available the allocation would be contrary to TAN 15.

TAN 15 categorises residential development, including site specific transportation infrastructure, as being highly vulnerable development. Paragraph 6.2 of the advice note makes clear that highly vulnerable development should not be located within a designated C2 Flood Zone.

The removal of the allocated site P34 HA1 from the Plan will have no effect on the outcome of the previous HRA assessments. No further HRA Screening Required.

IMAC 3

Deletion of the reference to WTR, SINC, Road Verge Nature Reserves and LWS contained in Policy DM2 (3C), as amended by MAC 41 and consequential deletion of paragraph 4.2.8.

The Inspector identified that the absence of a detailed list of locally important designated sites in the Plan and the failure to delineate the boundaries of the designated WTR, SINC, Road Verge Nature Reserves and LWS on the proposals map would create uncertainty about the implementation of Policy DM2 and would be contrary to the requirements of national policy.

Changes made to improve the clarity of the Plan. The amendments to the policy do not contain information new to the Plan, instead the policy information has been presented in a different format to that in previous versions of the Plan. Changes also provide clarity, coherence and consistency throughout the Plan as well as to meet the requirements of national policy.

The change will have no effect on the outcome of the previous HRA assessments. No further HRA Screening Required.

IMAC 4

Deletion of reference to historic assets of special local interest DM15 (4) and paragraph 4.2.75B.

The Inspector concluded that neither the evidence base, submitted Plan nor the amendments proposed under MAC 35, list the heritage assets in Powys which are to be protected, or clearly signposted where the adopted list of heritage assets can be found. The absence of this information means that the requirements of the Policies SP7 (2vi) and DM15 (4) cannot be implemented. The inclusion of these policies would therefore, be contrary to the requirements of national policy.

Changes made to improve the clarity and effectiveness of the Plan. The amendments to the policy do not contain information new to the Plan, instead the policy information has been presented in a different format to that in previous versions of the Plan. Changes also provide clarity, coherence and consistency throughout the Plan as well as to meet the requirements of national policy.

The change will have no effect on the outcome of the previous HRA assessments. No further HRA Screening Required.

New Policies to the Plan

One new policy was identified as a result of the IMACs, this policy is new to the Plan and therefore, has not been subject to HRA Screening in the previous versions of the Plan.

The Council proposed a new policy regarding Renewable Energy through Matters Arising Change MAC 123, the MAC proposed to provide a revised framework for assessing a range of renewable and low carbon energy proposals within the County.

The proposed Policy RE1 identified by the Council was screened under the Habitat Regulation Assessment Screening of Matters Arising Changes and Minor Matters Arising Changes (September 2017) to determine whether it would be likely to result in a Likely Significant Effect to European Sites (SAC, SPA, and Ramsar Sites) and to determine whether a more detailed Appropriate Assessment would be required. The screening of changes to the LDP Policy RE1 – Renewable Energy made by MAC 123 were assessed as not resulting in any changes to the findings of the Draft Deposit HRA Screening Report (June 2015), the Habitat Regulation Assessment Screening of Focussed Changes (January 2016) or Habitat Regulation Assessment Screening of Further Focussed Changes (October 2016).

Therefore, an Appropriate Assessment was not considered necessary.

The Inspector identified the following concerns with regards to the proposed changes made by MAC 123:

- Criteria 1, 2 and 3 of the revised policy seek to direct wind and solar development to different locations depending on the generating capacity of the proposals however, the definition of these requirements is imprecise and, as a consequence, likely to promote uncertainty.
- Criterion 4 repeats the requirements of some of the policies contained in the Plan which, in addition to being unnecessary, implies a level of prioritisation between policies.

- Criterion 6 seeks to limit the operational time of a scheme and outlines a requirement for infrastructure that has not operated for a period of 6 months to be removed.

As a consequence, the policy proposed by MAC 123 was not accepted by the Inspector and a new policy has been identified through IMAC 5 which is considered to provide a more precise policy framework for assessing proposals for renewable and low carbon energy.

As a new policy to the Plan this needs to be screened to determine whether it would be likely to result in a Likely Significant Effect to European Sites (SAC, SPA, and Ramsar Sites) and to determine whether a more detailed Appropriate Assessment would be required. Full details of the new policy wording can be found in Appendix B of the Inspector's Report on the Examination into the Powys Local Development Plan 2011 – 2026 (March 2018).

IMAC 5

Delete policy and replace with new Policy RE1 relating to renewable energy.

Criterion 1 of the revised Policy sets out a strategic approach to the siting of Wind Energy Development based on the scale of the proposed energy generation.

Criterion 2 of the new policy set outs a strategic approach to the siting of Solar Photovoltaic Energy Development based on the scale of the proposed energy generation

The identification of Solar LSAs has been made based on the results and recommendations of the *Powys Renewable Energy Assessment (REA) 2017* (AECOM) and *Landscape Sensitivity Study 2017* (ENPLAN).

The methodology used to identify Local Search Areas (Solar LSAs) has followed the methodology set out in the Welsh Government's Planning for Renewable and Low Carbon Energy - A Toolkit for Planners September 2015 which includes specific provisions with regards to incorporating Environmental Constraints including European Designated Sites and their associated features into the assessment process. In addition guidance from Natural Resources Wales (NRW) regarding buffer zones with regards to specific mobile features of European Designated Sites has been incorporated into the assessment process.

The identification of Solar LSAs does not provide any guarantee that applications for schemes will be approved within them, nor do they preclude applications from elsewhere in the county from being considered. In addition Solar LSAs are not safeguarded. As such they represent the optimum areas of the county where it is thought such schemes would be most viable (in terms of the stated environmental constraints and availability of resource, etc.).

Criterion 3 of the policy requires proposals for all types of renewal and low carbon energy development either alone or in combination with existing, approved or proposed development to comply with all other relevant policies in the LDP, therefore applications for developments of this nature must comply with the requirements of:

- Policy DM2 – The Natural Environment
Part 1 of Policy DM2 identifies that development proposals which would impact on European Sites would only be permitted where it can be demonstrated that the proposals would comply with the requirements of the Conservation of Habitats and Species Regulations 2017
- Strategic Policy SP7 – Safeguarding Strategic Resources and Assets
The Strategic Policy identifies that proposals must not have an unacceptable adverse impact on strategic resources or assets in the County and their operation. The following have been identified as strategic resources and assets in Powys:

Land designated at international, European and/or national level for environmental protection.

In addition, Supplementary Planning Guidance (SPG) will be produced to support the Renewable Energy policy.

The revised policy has been assessed against the criteria identified in Table 5 of the Draft Deposit HRA Screening Report (June 2015), the revised policy has been found to meet the criteria of Category E2 Lower Tier Assessment – the policy makes provision for a type of development, generally, (and may indicate a broad scale and / or one or more broad locations e.g. a particular part of the Plan area). Some limited uncertainty to the precise nature, scale and type of development. However, any development would be subject to policies contained in the LDP and the requirements of the Conservation of Habitats and Species Regulations 2017 which will ensure that development does not adversely affect European Designated Sites.

In summary, the screening of IMAC 5 Policy RE1 – Renewable Energy have been assessed as not resulting in any changes to the findings of the Draft Deposit HRA Screening Report (June 2015), the Habitat Regulation Assessment Screening of Focussed Changes (January 2016) or Habitat Regulation Assessment Screening of Further Focussed Changes (October 2016).

The changes proposed to LDP Policy RE1 are not considered to result in a Likely Significant Effect to any of the European Sites (identified in the HRA Screening Report (June 2015)) or their associated features either alone or in combination with other Plans or projects when considering the criteria of the Policy itself as well as existing provisions made by the LDP in other policies with regards to the protection of European Designated Sites.

Therefore, an Appropriate Assessment is not considered necessary.

Conclusion

The majority of the IMACs relate to changes to the text of a policy or its supporting text in order to provide clarity and to ensure the Plan is in accordance with the requirements of the National Guidance and Policies.

The screening review process assessed that none of the IMACs to policy wording require further HRA screening. The changes proposed are not considered to be significant and serve to clarify or enhance the policy guidance set out by the Plan.

HRA Screening of the new Policy RE1 as proposed by IMAC 5, has determined that the new policy would not result in a Likely Significant Effect to any European Sites (SAC, SPA, Ramsar Sites) or their associated features, either alone or in combination with other Plans or projects.

Appendix 1. SCREENING OF INSPECTOR'S MATTERS ARISING CHANGES

IMAC Reference	Plan Section	Policy/ Paragraph Reference in Powys Local Development Plan 2011 – 2026 Deposit Draft with Focussed Changes and Further Focussed Changes (October 2016)	Policy/Paragraph Reference in Powys Local Development Plan 2011 – 2026 Composite Version incorporating Matters Arising Changes (September 2017)	Nature of Proposed Change	Reason for Change/Evidence	Additional HRA Screening Required?
IMAC 1	Policies for Making Planning Decisions - Development Management Policies	Policy DM14, as amended by MAC 60, and paragraphs 4.2.61 and 4.2.66 and 4.2.68.	Policy DM12 and paragraphs 4.2.63 and 4.2.68 and 4.2.70.	Further revision of Policy DM14 as amended by MAC 60 and to amend paragraphs 4.2.66 and 4.2.68	To provide clarity about the application of the policy and to ensure that it complies with the requirements of national policy.	The change relates to the deletion of text and insertion of new text into the policy which does not alter its potential to impact upon a European Site, beyond that assessed in the original HRA of the deposit LDP. No further HRA Screening Required.
IMAC 2	Topic Based Policies - Housing	Policy H1 (A), Strategic Policy SP1, Appendix 1 and Inset Map P34 / Llangynog	Policy H2, Strategic Policy SP1, Appendix 1 and Inset Map P34 / Llangynog	Deletion of P34 HA1 - Llangynog Glebe, Llangynog and make consequential changes to Policies SP1, H1 (A) and Appendix 1.	To ensure that the Plan complies with the requirements of national policy.	The change relates to the removal of housing allocation site in Llangynog, the deletion of the site does not alter the Plans potential to impact upon a European Site, beyond that assessed in the original HRA of the deposit LDP. No further HRA Screening Required.
IMAC 3	Policies for Making Planning Decisions - Development Management Policies	Policy DM2 (3C) as amended by MAC 41 and paragraph 4.2.8	Policy DM2 (3C) and paragraph 4.2.8	Deletion of the references to WTR, SINCS, Road Verge Nature Reserves and LWS contained in Policy DM2 (3C) and consequential deletion of paragraph 4.2.8	The absence of a detailed list of locally important designated sites in the Plan and the failure to delineate the boundaries of the designated WTR,	The change relates to the deletion of text from the policy which does not alter its potential to impact upon a European Site, beyond that assessed in the original HRA of the deposit LDP. No further HRA Screening Required.

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					SINCs, Road Verge Nature Reserves and LWS on the proposals map would create uncertainty about the implementation of Policy DM2 and would be contrary to the requirements of national policy.	
IMAC 4	Policies for Making Planning Decisions - Development Management Policies	Policy DM15 (4) and paragraph 4.2.75B	Policy DM13 (4) and paragraph 4.2.78	Deletion of reference to historic assets of special local interest DM15 (4) and paragraph 4.2.75B.	In order to ensure conformity with the requirements of national policy	The change relates to the deletion of text from the policy which does not alter its potential to impact upon a European Site, beyond that assessed in the original HRA of the deposit LDP. No further HRA Screening Required.
IMAC 5	Topic Based Policies – Sustainable Energy	Policy RE1	Policy RE1	Delete of Policy RE1 as amended by MAC 123 and insertion of new policy	To provide a more precise policy framework for assessing proposals for renewable and low carbon energy	The new/revised Policy has been assessed against the criteria identified in Table 5 of the Draft Deposit HRA Screening Report (June 2015), the revised Policy has been found to meet the criteria of Category E2 Lower Tier Assessment i.e. the Policy: <i>Makes provision for a type of development, generally, (and may indicate a broad scale and / or one or more broad locations e.g. a particular part of the Plan area). Some limited uncertainty to the precise nature, scale and type of development. However, any development would be subject to policies contained in the LDP and the Habitats Regulations which will ensure that development does not adversely affect European Designated Sites.</i>

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						<p>In summary, the screening of the proposed changes to the LDP Policy RE1 – Renewable Energy have been assessed as not resulting in any changes to the findings of the Draft Deposit HRA Screening Report (June 2015), the Habitat Regulation Assessment Screening of Focussed Changes (January 2016), Habitat Regulation Assessment Screening of Further Focussed Changes (October 2016) or Habitat Regulation Assessment Screening of Matters Arising Changes and Minor Matters Arising Changes (September 2017).</p> <p>The changes proposed to LDP Policy RE1 are not considered to result in a Likely Significant Effect to any of the European Sites (identified in the HRA Screening Report (June 2015)) or their associated features either alone or in combination with other Plans or projects when considering the criteria of the Policy itself as well as existing provisions made by the LDP in other policies with regards to the protection of European Designated Sites. Therefore, an Appropriate Assessment is not considered necessary.</p>
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