

Oaksey Neighbourhood Plan (First Review) 2018-2036

Oaksey
Parish
Council



HRA Screening April 2023

oaksey  village

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HRA Screening - April 2023

The First Review of the Oaksey Neighbourhood Plan produced as a Modification Proposal in accordance with the Neighbourhood Planning Regulations 2012

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The Parish Council received professional planning support from NEIGHBOURHOOD-PLAN.CO.UK during the production of this Neighbourhood Plan.



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*Note - the documents marked * have been updated or are new documents as part of the First Review to take account of the Modification Proposal; the other documents which supported the original version of the Neighbourhood Plan remain valid and do not need to be updated*

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Introduction

1. The Parish Council have undertaken this Habitats Regulation Assessment Screening Request. It is the role of Wiltshire Council as the Local Planning Authority (LPA) to undertake a screening of the Neighbourhood Plan under the Habitats Regulations. This document has been produced to assist the LPA undertake the screening in collaboration with the three designated environmental bodies, namely the Environment Agency; Natural England; and Historic England.
2. The Neighbourhood Plan needs to consider whether a Habitats Regulation Assessment (HRA) in accordance with the Conservation of Habitats and Species Regulations 2017 would be required. There is a need to assess the likelihood of proposals or policies within a Neighbourhood Plan having a significant effect on the 'National Sites Network' consisting of areas designated as Special Areas of Conservation (SAC) or Special Protection Areas (SPAs). Consideration of the internationally designated Ramsar sites is also necessary; many Ramsar sites are also SACs or SPAs.
3. A Neighbourhood Plan must also comply with the Habitat Regulations which aim to protect and improve Europe's most important habitats and species.
4. There is a need to assess the likelihood of proposals or policies within a Neighbourhood Plan having a significant effect on the 'National Sites Network' consisting of areas designated as Special Areas of Conservation (SAC) or Special Protection Areas (SPAs). Consideration of the internationally designated Ramsar sites is also necessary; many Ramsar sites are also SACs or SPAs. The Neighbourhood Plan Area does contain part of the 'National Sites Network' namely part of the North Meadow and Clattinger Farm Special Area of Conservation.

HRA on the Existing Neighbourhood Plan

5. A HRA screening request was made by Oaksey Parish Council to Wiltshire Council to determine whether or not the contents of the original Oaksey Neighbourhood Development Plan required a Habitats Regulation Assessment and an Appropriate Assessment.
6. A HRA needs to be undertaken for certain development plans that would have a significant environmental effect. A HRA may be required for a Neighbourhood Plan, dependant on what the plan is proposing.
7. For Oaksey, it is the responsibility of Wiltshire Council to determine whether a HRA is required. To make this decision Wiltshire Council are required to consult with three statutory consultation bodies: Natural England, Environment Agency and Historic England.



8. Consideration was given as to whether the Oaksey Neighbourhood Development Plan required a Habitats Regulation Assessment. The Conservation of Habitats and Species Regulations 2017 require that Development Plans undergo an assessment to determine whether or not the Local Plan will have a significant effect on 'National Sites Network' or Ramsar sites.
9. For Oaksey, the Neighbourhood Plan Area does include part of the North Meadow and Clattinger Farm Special Area of Conservation (SAC). Covering a slightly larger area including Mallard Lake is the Clattinger Farm Sites of Special Scientific Interest (SSSI). Outside of the Neighbourhood Plan area but within around 250m of the Plan Area boundary also lies the Cotswold Water Park SSSI. Internationally designated wildlife sites (SACs/SPAs/Ramsar) are accorded the highest level of protection under European legislation. The purpose of the screening assessment is to ascertain whether there is potential for implementation of the Neighbourhood Plan to have significant effect on any such site.
10. The Habitats Regulations Assessment of land use plans relates to Special Protection Areas (SPAs), Special Areas of Conservation (SAC) and Ramsar Sites. SPAs were sites first classified in accordance with Article 4 of the EC Directive on the conservation of wild birds (79/409/EEC), more commonly known as the Birds Directive. They were classified for rare and vulnerable birds, listed in Annex I to the Birds Directive, and for regularly occurring migratory species. These SPA sites are now designated under the Wildlife & Countryside Act 1981 (as amended) and the Conservation (Natural Habitats, & c.) Regulations 2010 (as amended).
11. SACs were previously classified in accordance with EC Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (the Habitats Directive). Article 3 of this Directive requires the establishment of a European network of important high-quality conservation sites that will make a significant contribution to conserving the 189 habitat types and 788 species identified in Annexes I and II of the Directive. These sites are now designated under the Conservation of Habitats and Species Regulations 2017 (as amended).
12. Ramsar Sites are designated under the International Convention on Wetlands of International Importance especially as Waterfowl Habitat (the Ramsar Convention, Iran 1971 and amended by the Paris Protocol 1992). Although Ramsar Sites are not protected in law by domestic UK legislation as a matter of policy government has decreed that unless otherwise specified procedures relating to SPAs and SACs will also apply to Ramsar Sites. The Habitats Regulations Assessment of land use plans relates to Special Protection Areas (SPAs), Special Areas of Conservation (SAC) and Ramsar Sites. SPAs are sites classified in accordance with Article 4 of the EC Directive on the conservation of wild birds (79/409/EEC), more commonly known as the Birds Directive. They are classified for rare and vulnerable birds, listed in Annex I to the Birds Directive, and for regularly occurring migratory species.
13. The Oaksey Neighbourhood Plan contains part of a National Sites Network site within its boundary. No cumulative effects with other plans or programmes are likely in the view of Oaksey Parish Council, the relevant Qualifying Body. Whilst the original Neighbourhood Plan did allocate land for development, it was not considered that it will lead to issues in terms of increased recreational disturbance, water resources or water quality. The SAC and SSSI already fall within the Cotswold Water Park an area where Core Policy 54 of the Wiltshire Core Strategy seeks to balance recreational use of the lakes against the need to



protect and enhance biodiversity. The Neighbourhood Plan is required to be in general conformity with the Wiltshire Core Strategy.

14. The Government published Planning Practice Guidance (Reference ID: 41-073-20190509) states: *“A qualifying body is strongly encouraged to consider the environmental implications of its proposals at an early stage, and to seek the advice of the local planning authority on whether the Environmental Assessment of Plans and Programmes Regulations 2004 are likely to apply. Neighbourhood plans may also require assessment in relation to the Habitats Regulations 2017. A neighbourhood plan proposal must provide sufficient information to enable a competent authority to undertake an appropriate assessment or to screen it to determine whether an appropriate assessment is necessary. If an appropriate assessment is required then this will engage the need for a strategic environmental assessment.”*
15. Wiltshire Council and the Independent Examiner agreed in relation to the original Neighbourhood Plan agreed with the conclusion of the Parish Council that based on the provisions of the Conservation of Habitats and Species Regulations 2017, that the Neighbourhood Plan will not have an adverse effect on the integrity of any internationally designated sites either on its own or in combination with any other plans. Therefore, an Appropriate Assessment was not required.
16. It is necessary to consider now whether the Oaksey Neighbourhood Plan First Review requires a new SEA and HRA incorporating an AA or whether the conclusions of the existing documents remain valid. The First Review of the Oaksey Neighbourhood Plan in legal terms is produced as a ‘Modification Proposal’ in accordance with the Neighbourhood Planning Regulations 2012¹. What that means is it modifies and updates the existing Neighbourhood Plan. The First Review of the Neighbourhood Plan now looks to extend the plan period from 2026 through to 2036, which requires various matters to be updated and the First Review adds policy content on climate change and energy.



The Modifications Proposal

17. As the Oaksey Neighbourhood Plan First Review is technically a ‘modification proposal’ then for consultation under Regulation 14 and for submission under Regulation 15, it is necessary to produce ‘a statement setting out whether or not the qualifying body consider that the modifications contained in the modification proposal are so significant or substantial as to change the nature of the neighbourhood development plan which the modification proposal would modify’ - colloquially sometimes called a modification statement. We have produced a short separate statement to accompany the Neighbourhood Plan as part of the overall document suite, called ‘Explanatory Statement’.
18. The Oaksey Neighbourhood Plan First Review will replace in entirety the current Oaksey Neighbourhood Plan that was made in 2019.
19. In summary the modifications made to the current Oaksey Neighbourhood Plan to form the Oaksey Neighbourhood Plan First Review are:

¹ <https://www.legislation.gov.uk/ukxi/2012/637/contents>

General Updates

- General updating of references, links and data where available for example to account for website link changes and Census 2021 data;
- The current Neighbourhood Plan was examined against the 2012 version of the NPPF; therefore, it has been necessary to do some general updating of references to NPPF paragraph numbers to account for the 2021 version alongside the updating of Planning Practice Guidance references where appropriate;
- General text updated to refer to the First Review;
- General text updated regarding the emerging Local Plan Review and progress on adjacent Neighbourhood Plans;
- Paragraphs and Maps renumbered where necessary;
- Sections 8 and 9 have been updated to reflect the latest community initiatives and the latest position on community facilities in the Parish;
- Section 10 on the Natural Environment has been updated to refer to the designation of Special Areas of Conservation and Special Protection Areas (SACs & SPAs) post leaving the EU;
- Various tables have been updated to reflect the additional Policies 18 and 19 that have been added;
- The Section on Economy has been amended to cover Economy, Renewable Energy and Climate Change Mitigation;
- The Monitoring and Review section has been updated to reflect the First Review;
- Glossary has been updated where necessary to reflect changes in the NPPF Glossary.

Objectives

- Objective A has been updated to reflect the fact that the housing site allocation in the original Neighbourhood Plan has been delivered and to address climate change mitigation.

Plan Period

- Plan period end amended from 2026 to 2036 to take account of emerging Local Plan Review and consequential new emerging strategic housing requirement;
- Section 7 on Housing has been updated to reflect the emerging strategic housing requirement and the baseline indicative housing figure from Wiltshire Council given to the Parish Council to plan for the period 2016 to 2036.

Settlement Boundary

- The settlement boundary has been updated to take into account the development of the Pond site on The Street which has now been built.

Policy Amendments

- Policy 3 (Holiday Accommodation, Leisure and Recreation) has been slightly reworded for clarity. It has also amended to refer additionally to working with Wiltshire Council and the operators of Oaksey Park to improve pedestrian and cycle linkages between the village and Oaksey Park to enhance accessibility and active travel opportunities for the existing residents of Oaksey Park;
- Map 6 - Important Views and Vistas has been added to support Policy 5 (Views and Vistas), the views and vistas were already shown in the character appraisal maps but a separate plan adjacent to the policy aids clarity;
- Policy 9 (Opportunities for Enhancement) has been updated to remove reference to Bendy Bow as an area for enhancement to reflect the fact that the housing site allocation has now been constructed and has delivered the enhancement. A consequential amendment has been made to Map 19 in the character appraisal. An update regarding the progress made on enhancing The Well Garden has been included;

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- Section 4 and Policy 10 has been amended in title from ‘Highways Impact’ to ‘Highways and Travel’. The policy has been added to with reference to Active Travel and Rural Lane Character;
- A new Policy 14 (Housing Delivery) has been added to reflect the emerging strategic housing requirement and the baseline indicative housing figure from Wiltshire Council given to the Parish Council to plan for the period 2016 to 2036;
- The previous Policy 15 that allocated the housing site at Bendy Bow has been deleted because the site has been delivered and completed on the ground. Map 11 has been updated to illustrate the before and after position of the housing layout at Bendy Bow;
- The previous Policy 14 has been renumbered Policy 15 (New Housing);
- An Aerial Photo identifying the Features Considered Important to the Overall Setting of Oaksey Parish has been added to support Policy 17 (Setting of Oaksey Village);
- Section 13 on Renewable Energy and Climate Change Mitigation added;
- New Policy 18 (Climate Change Mitigation) has been added, this covers a locally distinctive strategy to address climate change including renewable or low-carbon energy generation, electric vehicle charging and surface water management;
- New Policy 19 (Energy Efficiency) has been added, this sets out a locally distinctive strategy to address energy efficiency in new and existing properties.

20. Having regard to the advice in Planning Practice Guidance² it is the view of Oaksey Parish Council that the ‘modifications’ fall within the scope of “*Material modifications which do not change the nature of the plan or order would require examination but not a referendum. This might, for example, entail the addition of a design code that builds on a pre-existing design policy, or the addition of a site or sites which, subject to the decision of the independent examiner, are not so significant or substantial as to change the nature of the plan.*” (Planning Practice Guidance Reference ID; 41-106-20190509)



21. As the current Oaksey Neighbourhood Plan had already planned for housing growth and had allocated a significant site, the alteration to the plan period does not require additional housing land to be identified. Therefore, the change of plan period does not change the amount of housing identified from that in the current Neighbourhood Plan.
22. The general updates are predominantly factual and do not materially change the content of the Neighbourhood Plan.
23. The policy amendments principally either arise from the issue of clarity for implementation or relate to the introduction of an overall approach towards climate change mitigation which includes various strands including active travel, energy efficiency, renewable and low-carbon energy and management of surface water. Although two new policies have been added the issues they raise were to an extent covered previously by the Design Guidelines in the Character Appraisal and Policy 4 (Design of New Development and Local Distinctiveness). Climate change is also addressed within the strategic policy content of the Wiltshire Core Strategy and national policy in the NPPF. As such this is not a completely new topic area.

² <https://www.gov.uk/guidance/neighbourhood-planning--2#updating-neighbourhood-plan>

Conclusion

24. The Habitats Regulations Assessment (HRA) as required under Conservation of Habitats and Species Regulations 2017 require that Development Plans undergo an assessment to determine whether or not the Local Plan will have a significant effect on 'National Sites Network' or Ramsar sites.
25. A Habitats Regulations Assessment (HRA) in the form of an Appropriate Assessment may also be required to accompany the Neighbourhood Plan where the policies and proposals of the plan may give rise to significant effects on internationally designated wildlife sites. The process to establish whether a HRA is necessary starts with a screening exercise to determine whether any internationally designated sites might be exposed to likely significant effects as a result of implementation of the Neighbourhood Plan and therefore whether further stages of the HRA process are required. The screening process by the LPA must have regard to the European Court of Justice Judgement in the case of *People Over Wind & Sweetman v Coillte Teoranta*.
26. The impact of that case can be summarised as "In April 2018, in the case *People Over Wind & Sweetman v Coillte Teoranta* ("People over Wind"), the Court of Justice of the European Union clarified that it is not appropriate to take account of mitigation measures when screening plans and projects for their effects on European protected habitats under the Habitats Directive. In practice this means if a likely significant effect is identified at the screening stage of a habitats assessment, an 'Appropriate Assessment' of those effects must be undertaken."
27. The Government has now made regulations through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018. These came into force on 28 December 2018 and now allow neighbourhood plans in areas where there could be likely significant effects on a European protected site to be subject to an 'Appropriate Assessment' to demonstrate how impacts will be mitigated, in the same way as would happen for a draft Local Plan or planning application.
28. The Neighbourhood Plan includes no site allocations for development which would in combination with other site allocations in the Development Plan result in a potentially cumulative effect on any 'National Sites Network' or Ramsar sites. The Neighbourhood Plan is local in nature and scope, its policies are in conformity with National Planning Policy and the strategic policies of the Wiltshire Core Strategy.
29. The SAC/SPA/Ramsar sites are protected, conserved and enhanced by adopted planning policies in the Local Plan to 2036. The Wiltshire Core Strategy has been subject to Sustainability Appraisal (meeting Strategic Environmental Assessment requirements) and appropriate assessment under the Habitat Regulations Assessment. The Neighbourhood Plan does not conflict with any policies in this document and will have limited additional effect.
30. The criteria for determining if an individual policy, or a combination of policies, would have a likely significant effect, and require assessment, are based on the characteristics



of the relevant designated site and the objectives set by Natural England. The main factors to consider are:

- Development on or adjacent to the designated site destroying part or all of the site, or changing the ecological functioning of the site (e.g. disrupting water flows or migration routes)
- Increased public recreation, causing disturbance to birds, damage to vegetation, increased littering / flytipping or leading to management compromises (e.g. grazing being restricted).
- Reduction in water levels or flow, from increased water demand in the district requiring greater water abstraction
- Reduction of water quality, from increased discharges of sewage and surface water drainage, or from pollution incidents, either during, or after, construction

31. The Neighbourhood Plan is considered in itself to have only a limited impact on the North Meadow and Clattinger Farm Special Area of Conservation as the closest site in the 'National Sites Network'.

32. The Neighbourhood Plan does not envisage any scale of growth beyond that being planned for in the Wiltshire Core Strategy and the emerging Wiltshire Local Plan Review. The policies will ensure that opportunities for additional unplanned growth is limited. As such the Neighbourhood Plan is unlikely to result in significant increases in public recreation, water demand, or discharges of sewage or surface water drainage. The Neighbourhood Plan intends to secure the retention and expansion of other open space and local green space across Sawtry which can provide suitable opportunities for public recreation which will help to limit any need to utilise the SAC. Impacts from the Wiltshire Core Strategy and the emerging Wiltshire Local Plan Review have been assessed separately and appropriate changes or mitigation put in place.



33. Other sites in the 'National Sites Network' are relatively distant from the Neighbourhood Plan Area, so impacts will be limited.

34. As a result of the screening assessment request above, based on the provisions of the Conservation of Habitats and Species Regulations 2017, the Parish Council as set out above concludes that the Neighbourhood Plan will not have an adverse effect on the integrity of any internationally designated sites either on its own or in combination with any other plans. Therefore, an Appropriate Assessment is not required.

35. Having regard to all matters and the reasoning set above, the Parish Council as the qualifying body is of the view that the modifications are not so significant or substantial as to change the nature of the plan.

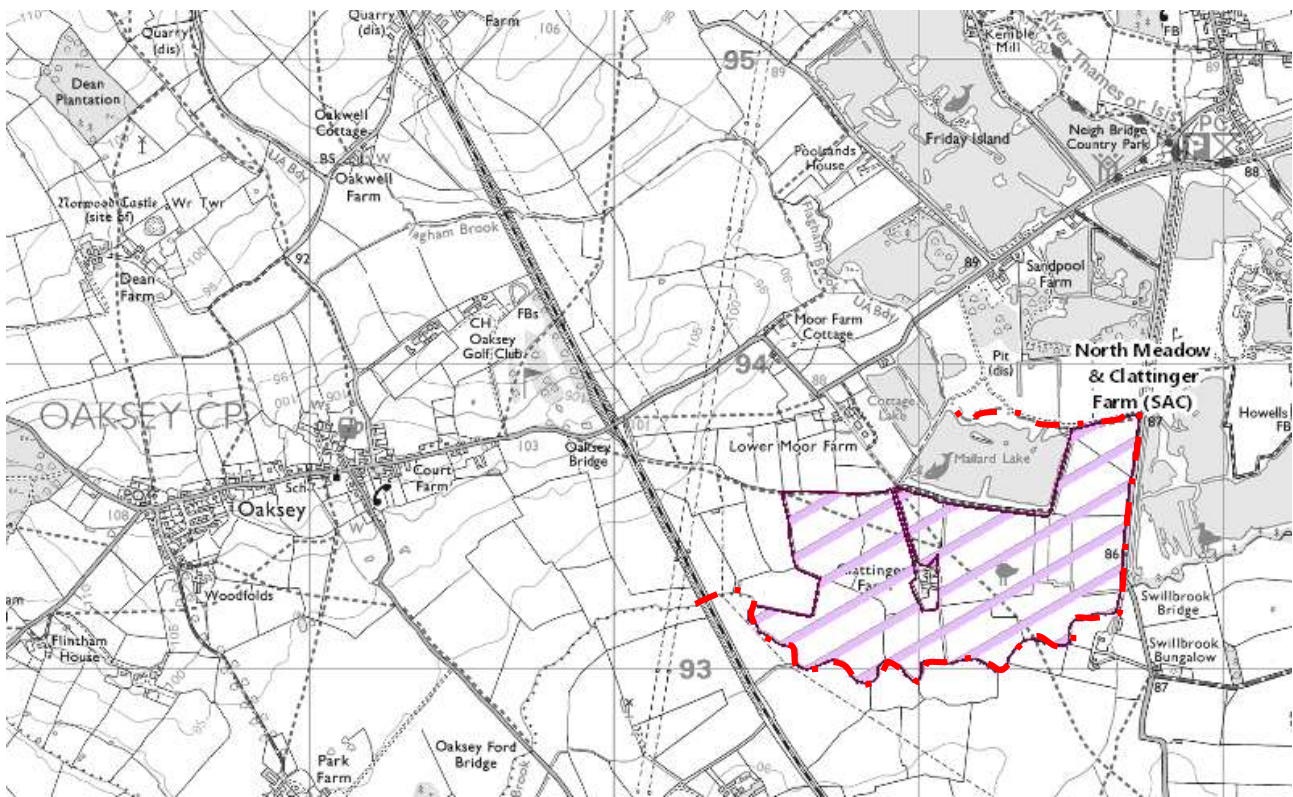
36. Accordingly, it is the view of the Parish Council that it remains the position that the modifications in the First Review do not trigger the need for an Appropriate Assessment.

37. Given the nature of the modifications in the First Review there is considered to be no adverse effects on the North Meadow and Clattinger Farm Special Area of Conservation, alone or in- combination with other plans and projects.

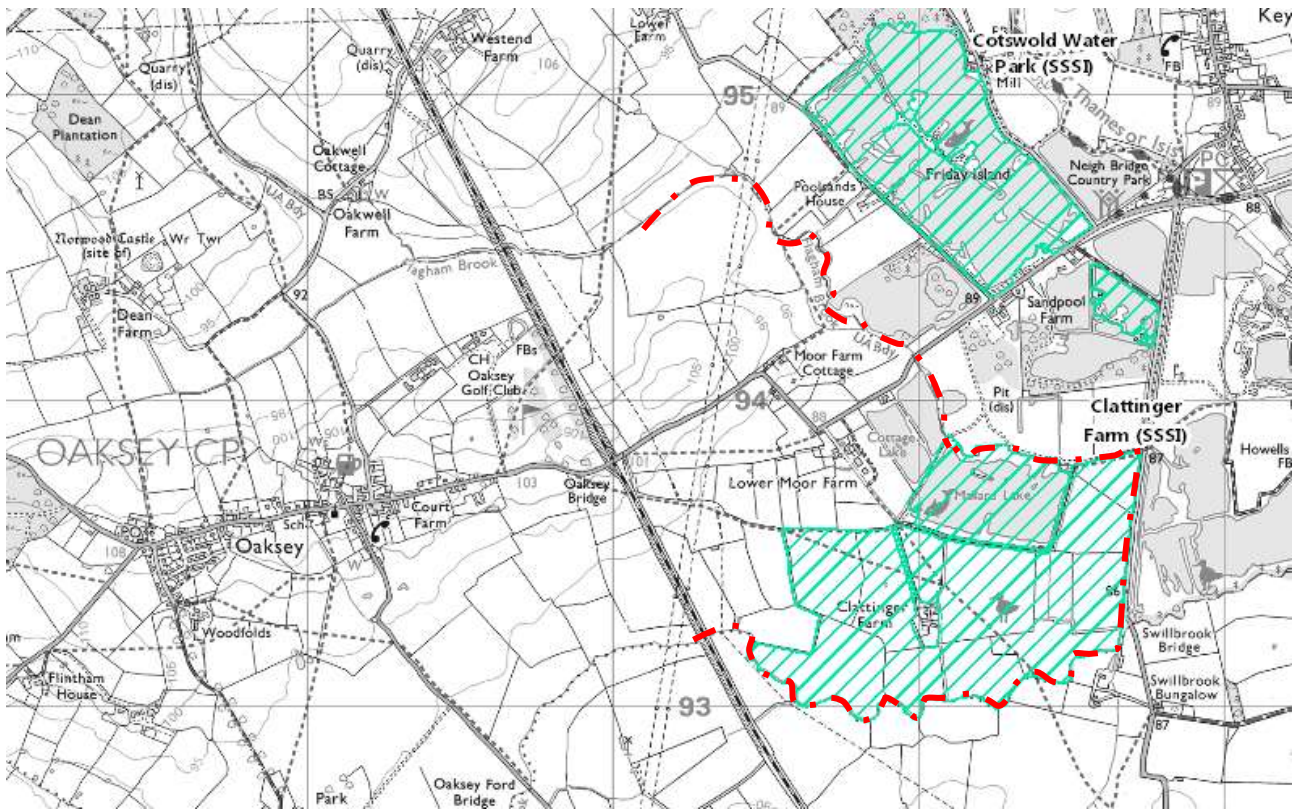
38. For Oaksey, it is the responsibility of Wiltshire Council to determine whether an updated SEA and HRA incorporating an AA is required for the First Review of the Neighbourhood

Plan. To make this decision Wiltshire Council are required to consult with three statutory consultation bodies: Natural England, Environment Agency and Historic England.

Maps of North Meadow and Clattinger Farm SAC, Clattinger Farm SSSI and Cotswold Water Park SSSI



Map 1 - North Meadow and Clattinger Farm SAC
Extract Taken from the Magic.gov.uk website © Defra/Natural England
- - - Oaksey Parish Boundary



Map 2 - Clattinger Farm SSSI and Cotswold Water Park SSSI
Extract Taken from the Magic.gov.uk website © Defra/Natural England
- - - Oaksey Parish Boundary

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Oaksey Neighbourhood Plan is led by a Steering Group made up of
Parishioners and Parish Councillors supported by Oaksey Parish
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