



Aylesbury Vale District Council

**Strategic Environmental Assessment and Habitats
Regulations Assessment**

For the Ivinghoe Neighbourhood Development Plan

UPDATE – Examination stage

October 2018

Contents

1. Introduction	3
2. Legislative Background	3
3. The Habitats Regulations Assessment (HRA) process	4
4. Criteria for Assessing the Effects of Neighbourhood Development Plans	4
5. Assessment	5
6. Screening Outcome	10
APPENDIX 1– Consultation Responses	11
Summary of response and full responses.	
APPENDIX 2 –Note on the ‘People over Wind’ Court of Justice of the European Union (CJEU) case	

1. Introduction

- 1.1 This screening statement considers whether the contents of the Ivinghoe Neighbourhood Development Plan requires a Strategic Environmental Assessment (SEA) in accordance with the European Directive 2001/42/EC and associated Environmental Assessment of Plans and Programmes Regulations 2004.
- 1.2 The screening process is based upon consideration of standard criteria to determine whether the plan is likely to have “significant environmental effects”. The result of AVDC’s screening process is detailed in this Screening Statement.
- 1.3 The legislative background set out below outlines the regulations that require the need for this screening exercise. Section 4, provides a screening assessment of the likely significant environmental effects of the policies in the Ivinghoe Neighbourhood Development Plan and whether there is a need for a full Strategic Environmental Assessment.
- 1.4 The screening statement will also consider whether the Neighbourhood Development Plan requires a Habitats Regulations Assessment. This is a requirement of Regulation 102 of the Conservation of Habitats and Species Regulations

2. Strategic Environmental Assessment (SEA) and Sustainability Appraisal - Legislative Background

- 2.1 The basis for SEA and Sustainability Appraisal (SA) legislation is the European Directive 2001/42/EC. This 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’¹.
- 2.2 The Planning and Compulsory Purchase Act 2004 required SA to be produced for all Local Development Documents to meet the requirement of the EU Directive on SEA. It is considered best practice to incorporate requirements of the SEA Directive into an SA.
- 2.3 In some cases SEA will be required for Neighbourhood Plans, however a SA is not a requirement for a Neighbourhood Development Plan. Part of meeting the ‘Basic Conditions’ is to show how the plan achieves sustainable development. The Sustainability Appraisal process is an established method and a well recognised ‘best practice’ method for doing this. It is therefore advised, where an SEA is identified as a requirement, an optional SA should be incorporated with SEA, this is so

¹‘A Practical Guide to the Strategic Environmental Assessment Directive’
<https://www.gov.uk/government/publications/strategic-environmental-assessment-directive-guidance> (ODPM 2005)

not just the environmental aspects of sustainability are considered, but instead social and economic aspects of sustainability are also considered. This should be at a level of detail that is appropriate to the content of the Neighbourhood Development Plan

3. The Habitats Regulations Assessment (HRA) process

- 3.1 The application of HRA to land-use plans is a requirement of the Conservation of Habitats and Species Regulations 2010, the UK's transposition of European Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (the Habitats Directive).
- 3.2 The HRA process assesses the potential effects of a land-use plan against the conservation objectives of any European sites designated for their importance to nature conservation. These sites form a system of internationally important sites throughout Europe and are known collectively as the 'Natura 2000 network'.
- 3.3 European sites provide valuable ecological infrastructure for the protection of rare, endangered or vulnerable natural habitats and species of exceptional importance within the EU. These sites consist of Special Areas of Conservation (SAC), designated under the Habitats Directive and Special Protection Areas (SPA), designated under European Directive 2009/147/EC on the conservation of wild birds (the Birds Directive). Additionally, Government policy requires that sites designated under the Ramsar Convention (The Convention on Wetlands of International Importance, especially as Waterfowl Habitat) are treated as if they are fully designated European sites for the purpose of considering development proposals that may affect them.
- 3.4 Under Regulation 102 of the Habitats Regulations, the assessment must determine whether or not a plan will adversely affect the integrity of the European sites concerned. The process is characterised by the precautionary principle. The European Commission describes the principle as follows:

“If a preliminary scientific evaluation shows that there are reasonable grounds for concern that a particular activity might lead to damaging effects on the environment, or on human, animal or plant health, which would be inconsistent with protection normally afforded to these within the European Community, the Precautionary Principle is triggered.”
- 3.5 Decision-makers then have to determine what action/s to take. They should take account of the potential consequences of no action, the uncertainties inherent in scientific evaluation, and should consult interested parties on the possible ways of managing the risk. Measures should be proportionate to the level of risk, and to the desired level of protection. They should be provisional in nature pending the availability of more reliable scientific data.
- 3.6 Action is then undertaken to obtain further information, enabling a more objective assessment of the risk. The measures taken to manage the risk should be maintained so long as scientific information remains inconclusive and the risk is unacceptable.

3.7 The hierarchy of intervention is important: where significant effects are likely or uncertain, plan makers must firstly seek to avoid the effect through for example, a change of policy. If this is not possible, mitigation measures should be explored to remove or reduce the significant effect. If neither avoidance, nor subsequently, mitigation is possible, alternatives to the plan should be considered. Such alternatives should explore ways of achieving the plan's objectives that do not adversely affect European sites.

3.8 If no suitable alternatives exist, plan-makers must demonstrate under the conditions of Regulation 103 of the Habitats Regulations, that there are Imperative Reasons of Overriding Public Interest (IROPI) to continue with the proposal. The following European site was identified using a 20km area of search around the Ivinghoe Neighbourhood Area as well as including sites which are potentially connected (e.g. hydrologically) beyond this distance:

- Chiltern Beechwoods SAC

4. Criteria for Assessing the Effects of Neighbourhood Development Plans

4.1 Criteria for determining the likely significance of effects referred to in Article 3(5) of Directive 2001/42/EC are set out below²:

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:

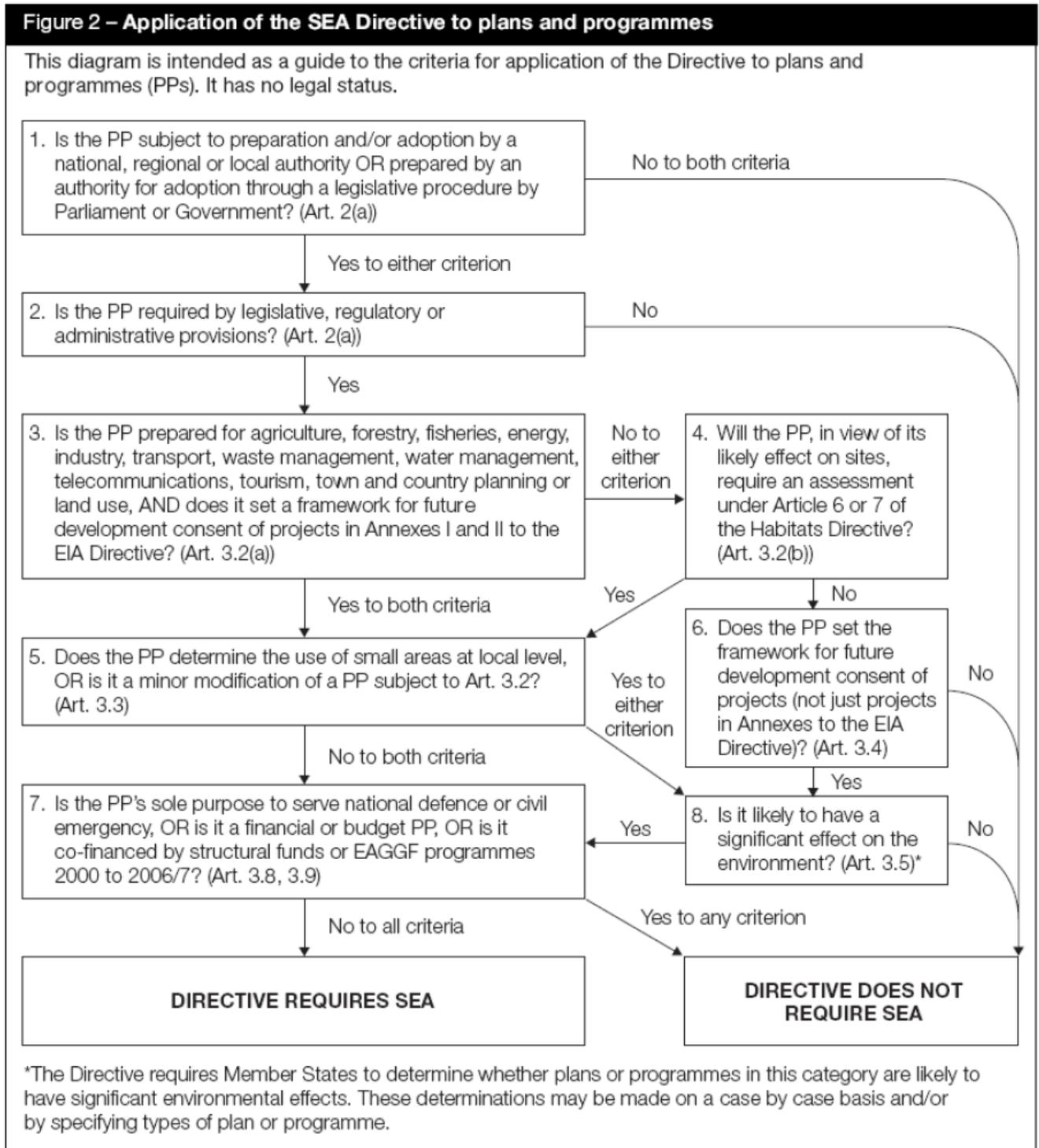
- the probability, duration, frequency and reversibility of the effects,
- the cumulative nature of the effects,
- the transboundary nature of the effects,
- the risks to human health or the environment (e.g. due to accidents),
- the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected),
- the value and vulnerability of the area likely to be affected due to:

² Source: Annex II of SEA Directive 2001/42/EC

- 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.

5. Assessment

5.1 The diagram below illustrates the process for screening a planning document to ascertain whether a full SEA is required.



5.2 The table below shows the assessment of whether the Ivinghoe Neighbourhood Development Plan will require a full SEA. The questions below are drawn from the above diagram which sets out how the SEA Directive should be applied.

Stage	Y/ N	Reason
1. Is the plan 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	The Neighbourhood Development Plan will be 'made' by a Local Planning Authority, Aylesbury Vale District Council. The Plan is prepared by the relevant Qualifying Body, although modifications to the plan can be carried out by the Local Planning Authority once the Plan has been submitted, if necessary to meet the basic conditions.
2. Is the plan required by legislative, regulatory or administrative provisions? (Art. 2(a))	N	The Neighbourhood Development Plan is an optional plan produced by Ivinghoe Parish Council.
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? (Art 3.2(a))	N	The Neighbourhood Development Plan is prepared for town and country planning purposes, but it does not set a framework for future development consent of projects in Annexes I and II to the EIA Directive (Art 3.2(a)).
4. Will the plan, in view of its likely effect on sites, require an assessment for future development under Article 6 or 7 of the Habitats Directive? (Art. 3.2 (b))	N	The neighbourhood plan area does include significant areas of Natura 2000 sites (Special Areas of Conservation or Special Protection Areas). However these areas are in the south of the parish (2km to Ivinghoe village or 5.5km to Ivinghoe Aston). The plan is understood to be primarily concerned with proposals and policies covering the areas in and around the settlements of Ivinghoe and Ivinghoe Aston. Therefore there would not be any impact on the Natura 2000 sites. This impact can be subject to re-screening at the Pre Submission, Submission and Referendum stages of the plan.
5. Does the plan determine the use of small areas at local level, OR is it a minor modification of a plan subject to Art. 3.2? (Art. 3.3)	Y	The Neighbourhood Development Plan is not proposing to make any housing allocations. Policy HSG1 (submission Plan, as examined) sets out that housing development would only be acceptable within the settlements of Ivinghoe and Ivinghoe Aston, on brownfield sites contiguous with existing housing. The Pre Submission draft plan may contain Local green space designations - these could be identified though these would not change the current use

		of the land.
6. Does the plan set the framework for future development consent of projects (not just projects in annexes to the EIA Directive)? (Art 3.4)	Y	The Neighbourhood Development Plan will set a framework for future development consents of projects.
7. Is the plans 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? (Art 3.8, 3.9)	N	The purpose of the Neighbourhood Development Plan is not for any of the projects listed in Art 3.8, 3.9.
8. Is it likely to have a significant effect on the environment? (Art. 3.5)	N	The Neighbourhood Development Plan is not allocating any sites for development and would seek to restrict future housing to brownfield sites and within the settlements of Ivinghoe and Ivinghoe Aston.
1 (a) 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	N	The Ivinghoe Neighbourhood Plan will set out a spatial vision for the designated Neighbourhood Area and provide objectives and policies to guide sustainable development coming forward. However the plan is not allocating any sites for development.
1 (b) the degree to which the plan or programme influences other plans or programmes including those in a hierarchy.	N	The Ivinghoe Neighbourhood Plan, where possible, will respond to rather than influence other plans or programmes. A Neighbourhood Plan can only provide policies for the area it covers while the policies at the District and National level provide a strategic context for the Ivinghoe Neighbourhood Plan to be in general conformity with. None of the policies in the Neighbourhood Plan have a direct impact on other plans in neighbouring areas.
1 (c) the relevance of the plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development	N	Proposals to be set out in the Ivinghoe Neighbourhood Plan will look to balance environmental, social and economic considerations of sustainable development. However the Ivinghoe Neighbourhood Plan recognises that for rural communities such as Ivinghoe, the importance of the surrounding environment is particularly acute. It is considered that the Ivinghoe Neighbourhood Plan in its sensitive and mitigating policies to address constraints may have a positive impact on local environmental assets and places valued by local people in the Neighbourhood Area.
1(d) environmental problems relevant to the plan	N	Ivinghoe Neighbourhood Plan areis not allocating any land for development and is

		unlikely to give rise to significant additional car movements. There are no Air Quality Management Areas within or near to the Neighbourhood Area.
1 (e) 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)	N	The Ivinghoe Neighbourhood Plan is to be developed in general conformity with the AVDLP, the Minerals and Waste Core Strategy Plan and national policy. The plan has no relevance to the implementation of community legislation.
2 (a) the probability, duration, frequency and reversibility of the effects	N	As the Ivinghoe Neighbourhood Plan is not proposing to allocate land for development there is unlikely to be any significant environmental change involved in meeting the needs of people living and working in the parish. Any future development in the parish will be restricted to land in and around Ivinghoe and Ivinghoe Aston villages on brownfield sites and contiguous with existing housing. It is highly unlikely these will be significant and have any irreversible damaging environmental impacts associated with the Ivinghoe Neighbourhood Plan.
2 (b) the cumulative nature of the effects	N	It is highly unlikely there will be any negative cumulative effects of the policies, rather it could potentially have moderate positive effects. Any impact will be local in nature.
2 (c) the trans boundary nature of the effects	N	Effects will be local with no expected impacts on neighbouring areas.
2 (d) the risks to human health or the environment (e.g. due to accidents)	N	No risks have been identified.
2 (e) the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected)	N	The Neighbourhood Area covers an area which is 1,861ha and contains a population is of 965 residents (2011 census). The neighbourhood plan is not allocating any land for development and would restrict future housing to be within existing Ivinghoe or Ivinghoe Aston villages on brownfields sites contiguous with existing housing.
2 (f) 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 (iii) intensive land-use	Y	The Ivinghoe Neighbourhood Plan is not allocating any sites for development and would seek to restrict future housing to brownfield sites and within the settlements of Ivinghoe and Ivinghoe Aston. There is a large part (1,024 ha) of Ivinghoe parish in an Area of Outstanding Natural Beauty. There are also 215 ha of various

			<p>adjacent Sites or Special Scientific Interest and 203ha of two areas of Special Areas of Conservation. There are 52ha of Ancient Woodland in the south of the parish on different sites. Significant areas of Ivinghoe village are within a Conservation Area.</p> <p>The plan has the opportunity as it evolves into the Pre Submission plan version to include objectives and policies to enhance the natural and cultural heritage, for example provide greater support in design policies and the allocated sites to enhance the setting of heritage, heritage assets and green spaces. There could also be specific policies to enhance recreation areas, green corridors and protect trees and hedgerows which will have a positive effect environmentally and help protect the rural character of Ivinghoe.</p>
	<p>2 (g) the effects on areas or landscapes which have a recognised national, community or international protection status</p>	<p>Y</p>	<p>There is a large part (1,024 ha) of Ivinghoe parish in the Chilterns Area of Outstanding Natural Beauty, a nationally designated landscape recognised by the community. The plan is not going to allocate any land for development and the only areas where housing would be supported is in existing settlements of Ivinghoe and Ivinghoe Aston on brownfield sites contiguous with existing housing.</p>

6. Screening Outcome for Ivinghoe Neighbourhood Development Plan

No Sustainability Appraisal required.

- 6.1 The Ivinghoe Neighbourhood Development Plan is not allocating any sites for development and is also likely to contain a number of policies to control environmental effects including restricting development to within the existing settlements of Ivinghoe and Ivinghoe Aston on brownfields sites contiguous with existing housing. When taken together (as is required by law) with relevant policies from the Local Plan policy and national planning policy, it is not considered that the plan would be likely to give rise to significant environmental effects. On this basis a Sustainability Appraisal to meet the requirements for Strategic Environmental Assessment is not considered to be needed .

No Habitats Regulations Assessment Screening required.

- 6.2 The plan, which does not allocate any land for development, is not anticipated to have a significant effect on Chiltern Beechwoods SAC. The plan seeks to restrict future housing growth to within the existing settlements of Ivinghoe and Ivinghoe Aston on brownfields sites contiguous with existing housing. Vulnerabilities of the SAC are not likely to be exacerbated by an increase in population (e.g. air quality, visitor disturbance, recreation), there are no anticipated likely significant effects of the Neighbourhood Plan policies or areas for development on Chiltern Beechwoods SAC. The Neighbourhood Plan is not likely to lead to adverse effects on any European sites alone or in combination. There is no requirement to prepare an appropriate assessment.

APPENDIX 1– Consultation Responses on the Revised Screening (October 2018)

Dear Sir/Madam

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.

Natural England does not have any further comments on the Ivinghoe Neighbourhood Plan HRA Re-screening.

For any further consultations on your plan, please contact: consultations@naturalengland.org.uk.

Yours faithfully

Victoria Kirkham

Consultations Team
Natural England
County Hall
Spetchley Road
Worcester WR5 2NP

www.gov.uk/natural-england

We are here to secure a healthy natural environment for people to enjoy, where wildlife is protected and England's traditional landscapes are safeguarded for future generations.

In an effort to reduce Natural England's carbon footprint, I will, wherever possible, avoid travelling to meetings and attend via audio, video or web conferencing.

APPENDIX 2 – Note on the ‘People over Wind’ Court of Justice of the European Union (CJEU) case

- A2.1 This Appendix provides an update to the HRA Screening in light of the recent ‘People over Wind’ Court of Justice of the European Union (CJEU) case³ which ruled that *where there would be* likely significant effects at the HRA Stage 1 Screening stage, mitigation measures (specifically measures which avoid or reduce adverse effects) should be assessed as part of an Appropriate Assessment, and should not be taken into account at the screening stage.
- A2.2 AVDC has noted that the level development being planned for in the Ivinghoe Parish Neighbourhood Plan and policy framework of development being contained within two settlement boundaries as Examined is not significantly different to that previously screened (an early version of the Pre Submission IPNP, early 2017).
- A2.3 AVDC considers that in re-applying the criteria in para 4.1 of this HRA Screening on the likely the screening outcome and considering the ‘People over Wind’ CJEU case, there would be *still no likely significant effect* because the plan is substantively the same as that assessed in 2017 and as described in para 6.2 of the HRA Screening i.e. there are no land allocations and development coming forward is restricted to within settlement boundaries for Ivinghoe and Ivinghoe Aston.
- A2.4 AVDC therefore considers there is no reason to alter the screening outcome identified in para 6.2 of this report and the neighbourhood plan is not anticipated to have a significant effect on Chiltern Beechwoods SAC.

³ Case C 323/17, REQUEST for a preliminary ruling under Article 267 TFEU from the High Court (Ireland), made by decision of 10 May 2017, received at the Court on 30 May 2017, in the proceedings People Over Wind, Peter Sweetman