

Test Valley Borough Council

**Neighbourhood Development Plans
Strategic Environmental Assessment and Habitat Regulations Assessment Guidance**

December 2016



Introduction

This guide has been prepared by Test Valley Borough Council (TVBC) to assist parish and town councils producing neighbourhood development plans (referred as ‘neighbourhood plans’) in order to explain the approach to comply with certain European Directives.

The Localism Act 2011 requires neighbourhood plans to not breach, and be otherwise compatible with, European Union (EU) and Human Rights obligations. Not every neighbourhood plan will need detailed environmental assessments of the type normally associated with the process of preparing Local Plans. However, it will be important to consider these requirements at an early stage, to ensure that if they are required, they can be prepared alongside the neighbourhood plan and form part of the evidence gathering process.

Background

This guide focuses on two environmental assessment processes – Strategic Environmental Assessment (SEA) and Habitat Regulations Assessment (HRA). While there is some cross over, they involve different legislation and processes. As such, each is considered separately in this document.

Strategic Environmental Assessment (SEA) is a process to ensure environmental considerations are taken into account when preparing plans where there are likely significant effects on the environment. An SEA provides technical details of likely effects of the preferred proposal and alternatives considered, identifies mitigation measures, and includes a monitoring framework to help track any impacts. The SEA process considers impacts on a range of topics, including the natural environment, human population and material assets.

Habitats Regulations Assessment (HRA) is a process to consider whether plans are likely to have a significant effect on certain nature conservation designations of European importance. The main designations considered are Special Areas of Conservation (SACs)¹ and Special Protection Areas (SPAs)^{2,3}. It is also good practice to think about Ramsar sites (wetlands of international importance). Collectively in this note these designations are referred to as ‘international sites’.

You may have also heard of ‘Sustainability Appraisals’ – these documents need to be produced for local plans prepared by the Local Planning Authority but are not required for neighbourhood plans. However, it is advisable to prepare a review of how the neighbourhood plan will contribute to achieving sustainable development (linked to the basic conditions for neighbourhood plans) and this could be done through a Sustainability Appraisal.

¹ Designated under the EU Habitats Directive.

² Classified under the EU Birds Directive.

³ There is also a requirement to consider potential / possible SACs (pSACs), candidate SACs (cSACs) and potential SPAs (pSPAs) which are all sites that are yet to be formally designated as SACs or SPAs.

The National Planning Practice Guidance gives helpful advice about these matters and is worth referring to alongside this guide⁴. The flowchart for how the SEA process fits with the neighbourhood plan development is replicated in Appendix 1 to this report.

Is SEA needed?

In order to check whether SEA is needed for a neighbourhood plan, NDP groups should request a 'screening opinion' from TVBC. This needs to be done at the earliest stage of plan preparation possible.

The request should be accompanied by a report that includes a summary of what the plan is likely to propose (e.g. types of policies, along with the broad quantum and approximate locations of any potential development) and any features of the area that you think might be affected by your neighbourhood plan. The report needs to provide sufficient information to allow TVBC to consider whether the neighbourhood plan is likely to have significant environmental effects.

Once TVBC receives a request for an opinion, the Council will consider the submitted information and undertake consultation with Natural England, the Environment Agency and Historic England (as required by legislation). Having considered the information submitted and any responses from these organisations, TVBC will prepare a letter / statement stating whether SEA is required. In giving its opinion, the Council's opinion will clearly indicate the reasons for such a decision. It will be important that you keep a record of this opinion – if it is stated that SEA is not required, this evidence would need to be submitted alongside the neighbourhood plan as evidence that the basic conditions are satisfied.

Whether SEA is required will depend on the specific circumstances under consideration. For information, national guidance indicates that SEA may be required for neighbourhood plans that – allocate sites for development, contain sensitive natural or heritage assets that may be affected by any proposals in the plan, and where the plan may have a significant effect that has not already been dealt with through the assessment of the Local Plan.

For information, if an 'appropriate assessment' is required through the Habitat Regulations Assessment (HRA), it is likely that SEA will also be required. Therefore it may be beneficial to ask TVBC to consider whether or not an 'appropriate assessment' may be required at the same time as submitting your SEA screening opinion request.

What happens if the opinion advises SEA is required?

If SEA is required then the NDP group will be informed that they will be required to prepare an Environmental Report (the output of the SEA process). In order to prepare this report, the group will need to know what to include. This is undertaken at the 'scoping' stage, which considers the scope and level of detail required.

⁴ <http://planningguidance.communities.gov.uk/blog/guidance/strategic-environmental-assessment-and-sustainability-appraisal/sustainability-appraisal-requirements-for-neighbourhood-plans/>

While there is no legal obligation to prepare a scoping report, it can be a helpful way to pull together information on the context / baseline position for the neighbourhood plan and ensure that the SEA is proportionate. It can help present information required through the SEA process, alongside other evidence gathered as part of the preparation of the neighbourhood plan.

The NDP group can ask TVBC to confirm whether the intended scope of the SEA process is appropriate – ideally this would be done through the submission of a Scoping Report. Where this is undertaken, TVBC is required to consult Natural England, the Environment Agency and Historic England (and give the organisations 5 weeks to respond).

For information, legislation⁵ sets out the range of topics that should be considered through the SEA process. All such topics would need to be considered unless it is justified that they can be scoped out.

Subsequent stages of the SEA process should be integrated into the production of the neighbourhood plan and can be used to provide valuable context, and identify mitigation measures, within the neighbourhood plan. An outline of these stages is provided within Appendix 1 and more information can be provided by TVBC if required.

You should be aware that the Environmental Report prepared through the SEA process needs to be subject to public consultation alongside the draft neighbourhood plan.

Is an HRA needed?

Habitat Regulation Assessment (HRA) is the name given to a multi-staged process that needs to be undertaken for any neighbourhood plan in line with the Conservation of Habitats and Species Regulations 2010. How far you need to go along this process will depend on the potential implications of the emerging neighbourhood plan on the designations that need to be considered.

The first stage is to assess whether the plan is likely to have a significant effect on any international site – this is akin to a ‘screening’ stage. This is a technical process that needs to be based on an understanding of how the international sites could be affected by proposals / policies within the neighbourhood plan, either considered on their own, or when also accounting for other plans, policies and programmes.

If the outcome is that the neighbourhood plan is likely to have a significant effect, then the next stage that needs to be undertaken is called an ‘appropriate assessment’. If appropriate, subsequent stages of the process can be discussed with TVBC.

As with the SEA process, HRA needs to be undertaken alongside the preparation of the neighbourhood plan. It should be given consideration early in the process. For example, you should be thinking about the first screening stage at about the same time you are thinking about screening for the SEA process. If you want TVBC to give you an initial indication of

⁵ <http://www.legislation.gov.uk/ukxi/2004/1633/introduction/made> (see in Schedule 2 of the legislation, point 6).

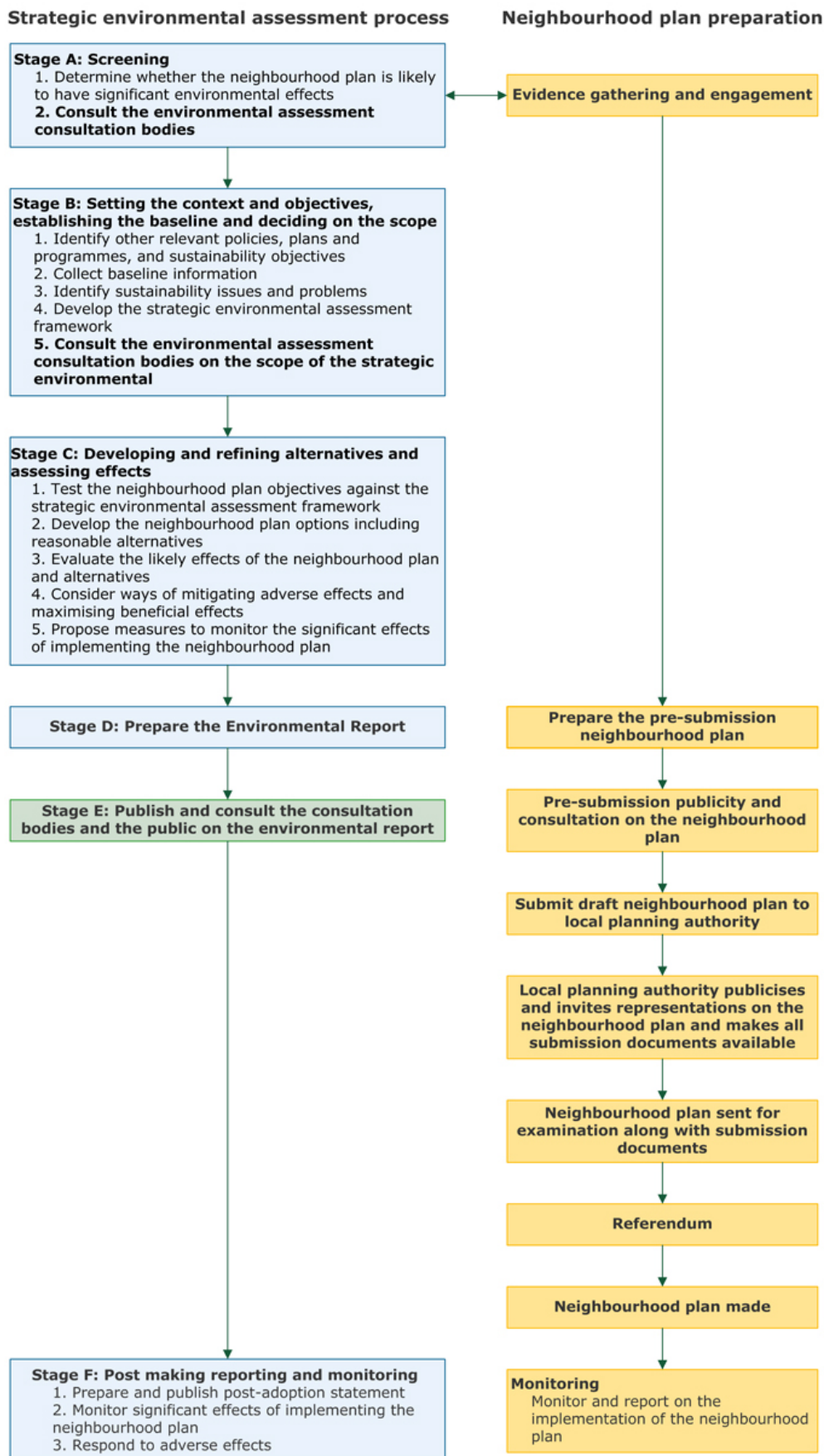
whether an 'appropriate assessment' may be required, this could be flagged up when you request a SEA screening opinion (referred to above).

Natural England is the key consultee for the HRA process and the TVBC would get input from this organisation as appropriate.

Appendix 2 provides a list of the 'international sites' within 10 kilometres of Test Valley, along with maps showing their location.

Appendix 1: Strategic Environmental Assessment and Neighbourhood Plan processes

(Source: National Planning Practice Guidance)



Appendix 2: International Sites within 10km of Test Valley

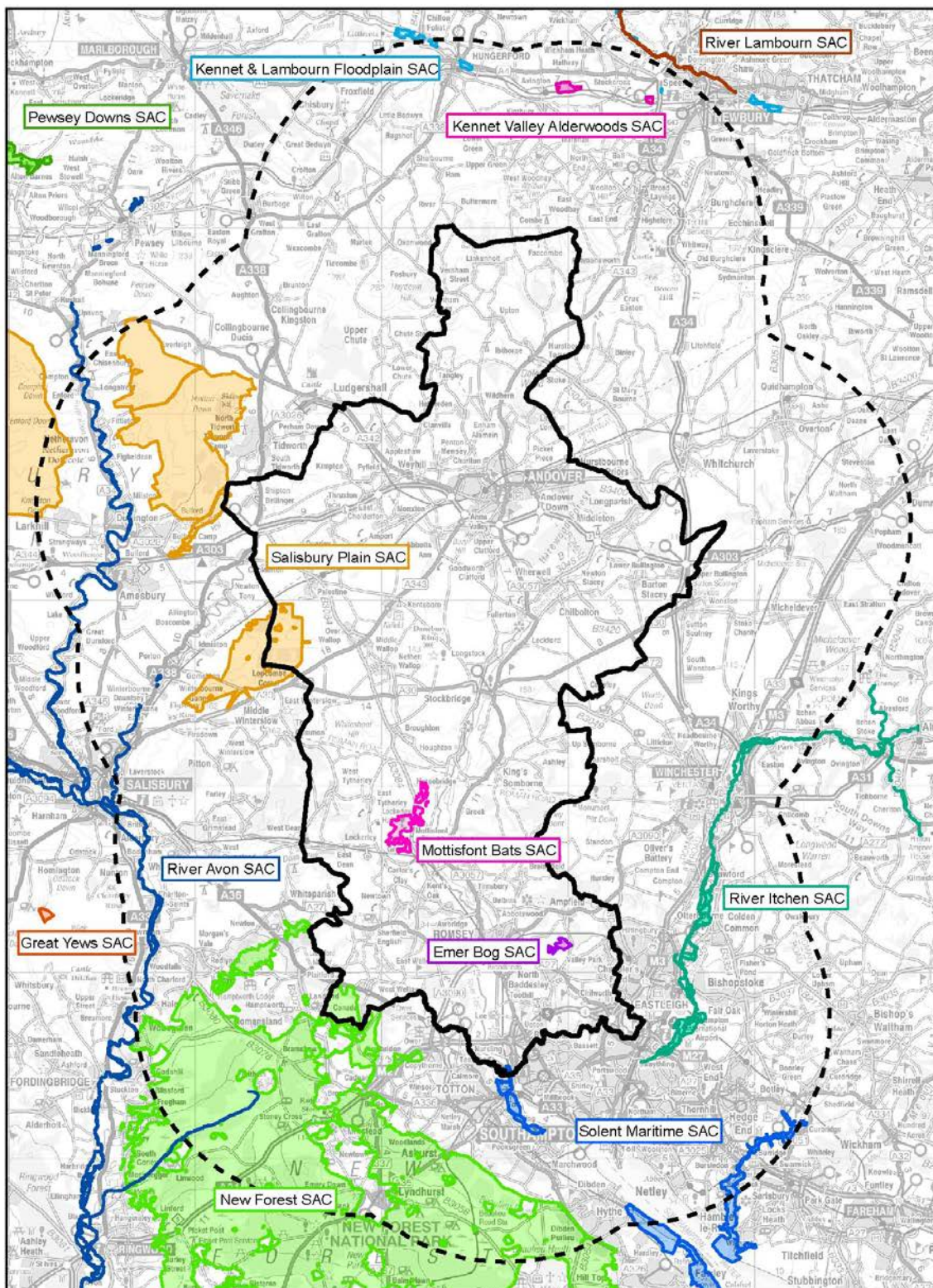
Nature Conservation Site	Designation		
	SAC	SPA	Ramsar
<i>Sites within or partially within Test Valley</i>			
Emer Bog	✓		
Mottisfont Bats	✓		
New Forest	✓	✓	✓
Porton Down	✓	✓	
Salisbury Plain	✓	✓	
Solent Maritime	✓		
Solent and Southampton Water		✓	✓
<i>Sites wholly outside Test Valley but within 10 kilometres</i>			
Kennet and Lambourn Floodplain	✓		
Kennet Valley Alderwoods	✓		
River Avon	✓		
River Itchen	✓		
Solent and Dorset Coast		*	

*At the time this guide was published this site was identified as a potential SPA.

Maps of the location and extent of these designations can be found at:

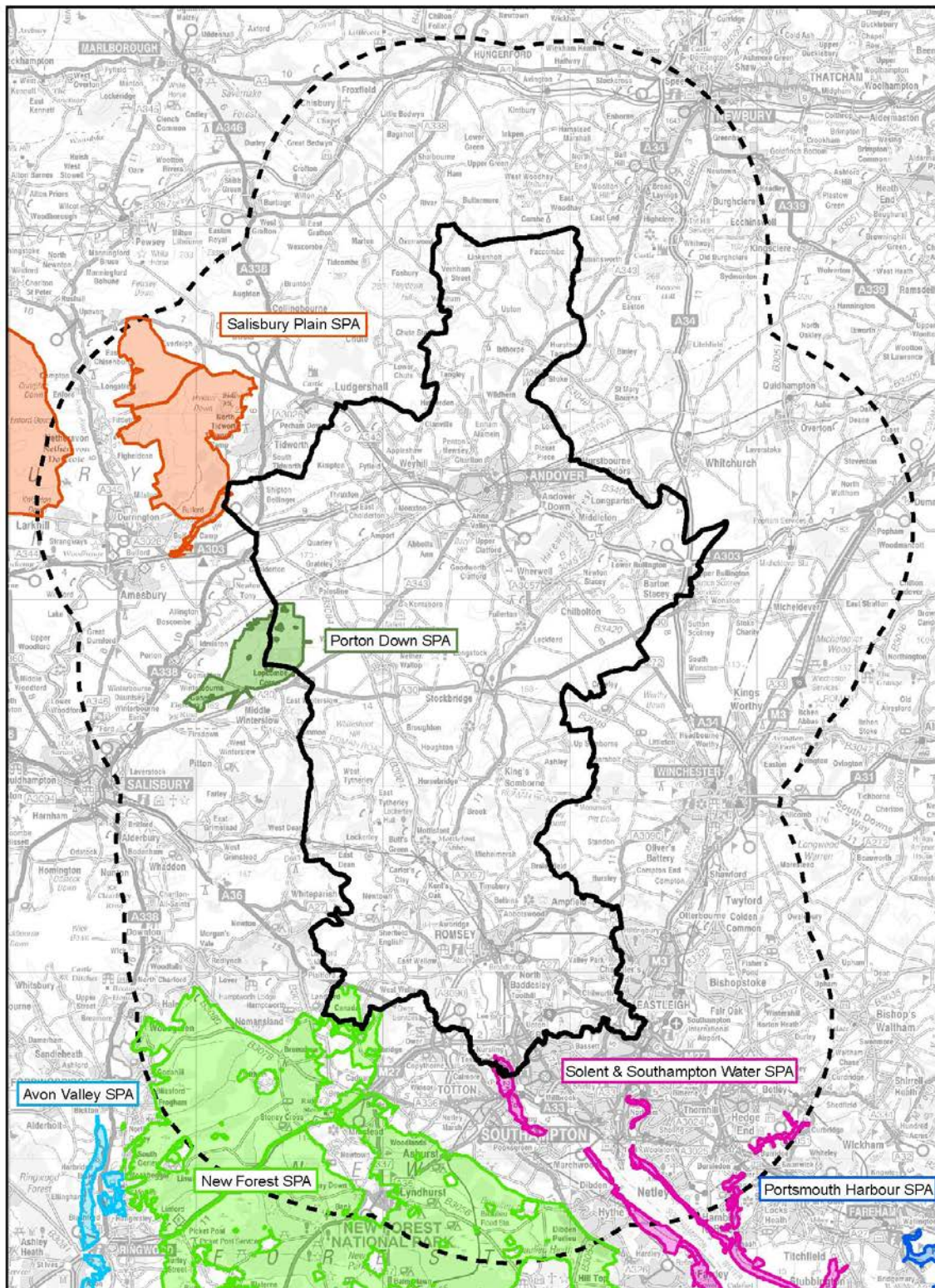
<http://www.magic.gov.uk/MagicMap.aspx>

Maps of the SACs, SPAs and Ramsar sites included in the above list (with the exception of the Solent and Dorset Coast pSPA) are provided on the next few pages.



N Special Areas of Conservation (SACs) within 10 km of the Test Valley Borough Boundary.

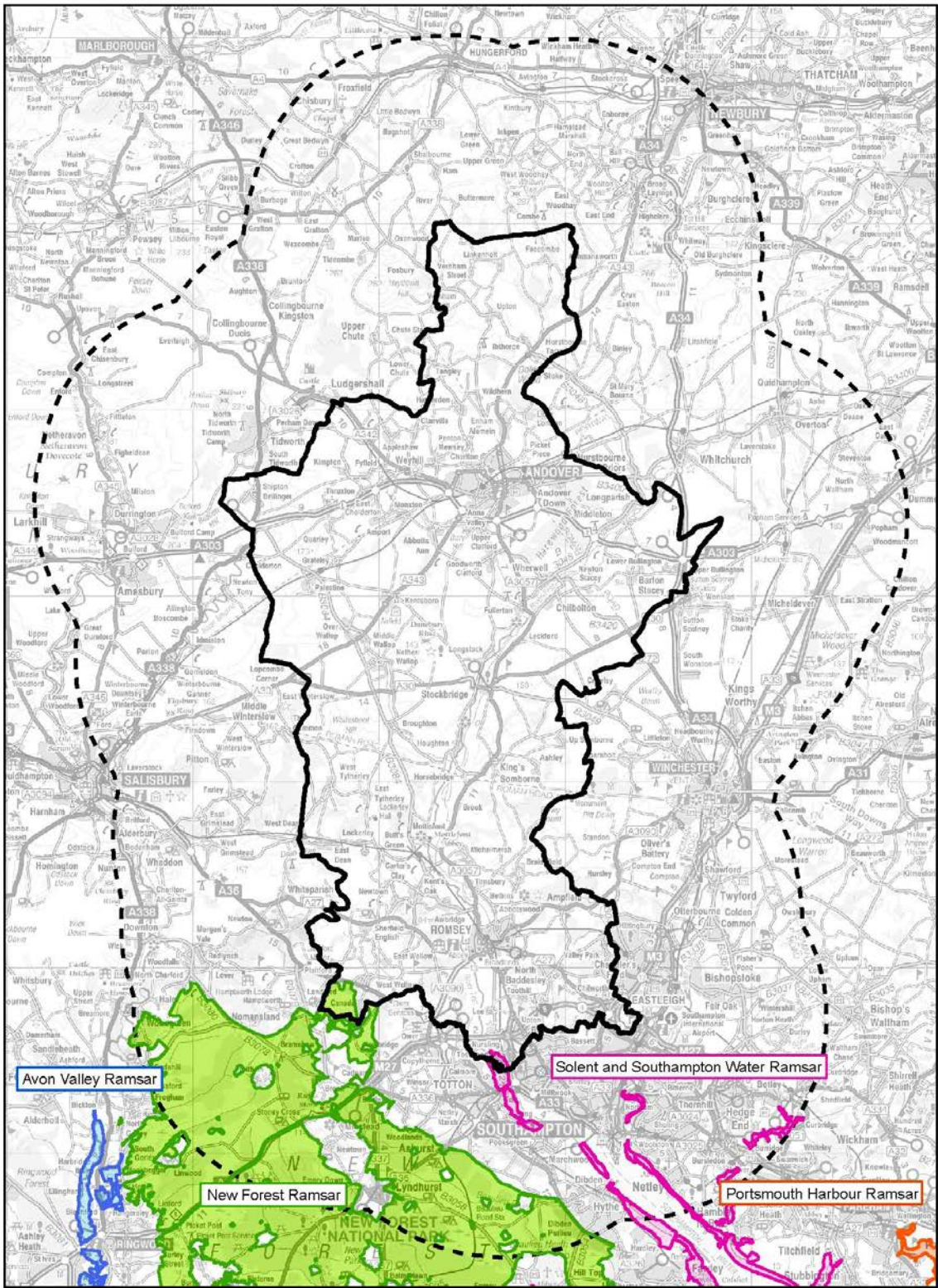
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N Special Protection Areas (SPAs) within 10 km of the Test Valley Borough Boundary.

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[Note this map does not show the Solent and Dorset Coast pSPA]




Ramsar Sites within 10 km of the Test Valley Borough Boundary.
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