

West Berkshire Council

**Delivering Investment from Sustainable Development
Supplementary Planning Document**

**Strategic Environmental Assessment Screening Report
& Habitat Regulations Assessment Screening Report**

December 2012

1. Introduction

- 1.1 This document sets out the Council's determination under Regulation 9 (1) of the Environmental Assessment of Plans and Programmes Regulations 2004 as to whether a Strategic Environmental Assessment (SEA) is required for the Delivering Investment from Sustainable Development Supplementary Planning Document (SPD).
- 1.2 It also considers whether a Habitats Regulation Assessment to consider potential impacts on sites of European importance for Nature Conservation is necessary.

2. SEA legislative requirements

- 2.1 European Directive 2001/42/EC¹ is the legislative basis for SEA, and it was transposed into UK law by the Environmental Assessment of Plans and Programmes Regulations (2004)².
- 2.2 Under these requirements, plans that set the framework for future development consent of projects must be subject to an environmental assessment. This is to determine if the plan, in this case the SPD, will have any significant effects on the environment.
- 2.3 There are exceptions to this requirement for plans that determine the use of a small area at local level, and for minor modifications if it has been determined that the plan is unlikely to have significant environmental effects.
- 2.4 In accordance with the provisions of the SEA Directive and Regulation 9 (1) of the Environmental Assessment of Plans and Programmes Regulations 2004, the Council must determine if a plan requires an environmental assessment. If the Council determines that a SEA is not required, then under Regulation 9 (3) it must produce a statement that sets out the reason for this determination. This screening report is the Council's Regulation 9 (3) statement.
- 2.5 The 2004 Planning and Compulsory Purchase Act³ sets out the requirement for the Council to undertake Sustainability Appraisal on all Development Plan Documents. Sustainability Appraisal considers the environmental and social impacts of a plan as well as the economic impacts.

¹ European Directive 2001/42/EC: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:197:0030:0037:EN:PDF>

² Environmental Assessment of Plans and Regulations 2004: http://www.legislation.gov.uk/uksi/2004/1633/pdfs/uksi_20041633_en.pdf

³ Planning and Compulsory Purchase Act 2004: http://www.legislation.gov.uk/ukpga/2004/5/pdfs/ukpga_20040005_en.pdf

- 2.6 However, under the Town and Country Planning (Local Development) (England) (Amendment) Regulations 2009⁴, Sustainability Appraisal is no longer required to be carried out for SPDs. Despite this, it is still necessary to determine the need for SEA.

3. Background to the Delivering Investment from Sustainable Development SPD

- 3.1 The Council originally produced in 2004 Supplementary Planning Guidance (SPG) called 'Delivering Investment from Sustainable Development' (see: <http://www.westberks.gov.uk/index.aspx?articleid=4436> for further details). Since 2004 the SPG has been regularly updated to reflect changes in policy and service user requirements, and in 2008 a material update took place.
- 3.2 The SPG sets out the Council's overall approach to the provision of developer contributions and other forms of planning obligation in support of development plan policies. It also sets out the forms of development from which the Council will seek contributions, the nature of what will be sought and the scale of development from which particular types of contribution will be sought. The SPG comprises a Core Guidance Paper, supported by a set of topic papers which set out details of the contributions and obligations which the Council will seek on a topic basis. The current set of supporting topic papers cover the following matters:
1. Affordable Housing
 2. Transport
 3. Education
 4. Public Libraries
 5. Community Facilities
 6. Health Care Provision
 7. Open Space
 8. Recycling Facilities
 9. Environmental Enhancements
 10. Archaeology, Conservation and the Historic Environment
 11. Provision of Fire and Rescue Infrastructure
 12. Preventing Crime and Disorder
 13. Adult Social Care
- 3.3 The Council is proposing to make factual updates to the contents of the SPG. These changes will reflect:
- the introduction of the National Planning Policy Framework in March 2012⁵ (and subsequent revocation of various Planning Policy

⁴ Town and Country Planning (Local Development) (England) (Amendment) Regulations 2009: http://www.legislation.gov.uk/ukxi/2009/401/pdfs/ukxi_20090401_en.pdf

⁵ National Planning Policy Framework (paragraph 173): <http://www.communities.gov.uk/documents/planningandbuilding/pdf/2116950.pdf>

Guidance documents, Planning Policy Statements and in particular Circular 05/2005);

- the Community Infrastructure Levy Regulations 2010⁶ as amended by the Community Infrastructure Levy (Amendment) Regulations 2011⁷, the draft Community Infrastructure Levy (Amendment) Regulations 2012⁸, and any other relevant provisions;
- the adoption of the West Berkshire Core Strategy in July 2012⁹; and
- changing information on costs.

3.4 It is not considered that these changes will materially change the substance of the policies that apply. However, because SPGs have been phased out, the document will now be adopted as a Supplementary Planning Document (“SPD”) in accordance with the Planning Act 2004 and the associated guidance.

3.5 The SPD, when adopted, will continue to provide landowners and developers with guidance on the type and scale of developer contributions required to support new development in West Berkshire. The document will supplement the policies set out in the adopted development plan, which includes the South East Plan (for the moment) and the Core Strategy and the saved policies of the Local Plan.

4. The SEA Screening Process

4.1 Changing the SPG to an SPD requires the Council to look at whether a SEA is required; this is known as the screening process. The screening is based on the criteria set out in Annex II of European Directive 2001/42/EC and Schedule 1 of the Environmental Assessment of Plans and Programmes Regulations 2004, and considers the likely significant effects as a result of the SPD.

5. SEA determination and reasons for determination

5.1 The Council has assessed the SPD against the criteria set out within Annex II of European Directive 2001/42/EC and Schedule 1 of the Regulations (as summarised in Table 5.1 below). In particular, the SPD will only provide supplementary guidance. The development plan policies in the South East Plan and in the Core Strategy have already been subject to Sustainability Appraisal (SA) and SEA.

⁶ Community Infrastructure Regulations (2010):

http://www.legislation.gov.uk/ukxi/2010/948/pdfs/ukxi_20100948_en.pdf

⁷ Community Infrastructure Levy (Amendments) Regulations 2011:

http://www.legislation.gov.uk/ukxi/2011/987/pdfs/ukxi_20110987_en.pdf

⁸ Draft Community Infrastructure Levy (Amendment) Regulations 2012:

http://www.legislation.gov.uk/ukdsi/2012/9780111529270/pdfs/ukdsi_9780111529270_en.pdf

⁹ Adopted West Berkshire Core Strategy (July 2012):

<http://www.westberks.gov.uk/CHttpHandler.ashx?id=31506&p=0>

Table 5.1: Assessment of the likely significant effects (screening)

Criterion (from Annex II of SEA Directive and Schedule 1 of Regulations)	West Berkshire Council's Response
1. Characteristics of the SPD, having regard, in particular, to:	
The degree to which the SPD sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources	The SPD will not set a framework for the allocation, size, activity or operating conditions of development within the District or set a framework for individual projects. The SPD will supplement national regulations and policy (as detailed in section 3 above), policy S6 (Community Infrastructure) of the South East Plan, and policies CS5 (Infrastructure Requirements and Delivery), CS6 (Provision of Affordable Housing), CS13 (Transport), CS14 (Design Principles), CS18 (Green Infrastructure) and CS19 (Historic Environment and Landscape Character) of the adopted West Berkshire Core Strategy.
The degree to which the SPD influences other plans and programmes including those in a hierarchy	The SPD will provide guidance on policy S6 of the South East Plan, and policies CS5, CS6, CS13, CS14, CS18 and CS19 of the Core Strategy, which has already been subject to SA / SEA. The SPD will therefore not influence other plans or programmes in the Local Development Framework (LDF) / Local Plan; rather, it is influenced by higher tier plans.
The relevance of the SPD for the integration of environmental considerations in particular with a view to promoting sustainable development	The SPD has relevance to the integration of environmental considerations and the promotion of sustainable development by allowing the Council to secure contributions to any necessary social, environmental and community infrastructure to meet the needs created by the new development.
Environmental problems relevant to the SPD	The Council expects new development to improve the quality of the environment, but not to resolve existing deficiencies. The SPD will, where appropriate, require contributions towards environmental enhancements.
The relevance of the SPD for the implementation of [European] Community legislation on the environment (e.g. plans and programmes linked to waste management or water protection)	The SPD will not impact on EU legislation on the environment. It seeks the relevant infrastructure improvements to support demands from new development as opposed to seeking to deliver new development.

Criterion (from Annex II of SEA Directive and Schedule 1 of Regulations)	West Berkshire Council's Response
2. Characteristics of the effects and of the area likely to be affected [by the SPD], having regard, in particular, to:	
The probability, duration, frequency and reversibility of the effects	By setting out the approach to be taken to using developer contributions to fund the required infrastructure from developments, the SPD will not be guiding or bringing forward development plans or projects. The SPD will require contributions or mitigation measures for any developments which require environmental enhancements thereby mitigating any potential negative impacts.
The cumulative nature of the effects	The SPD will enable the Council to secure environmental enhancements where necessary to mitigate new development providing a cumulative beneficial effect by reducing pressure on existing provision.
The transboundary nature of the effects	Developer contributions will be local to West Berkshire. Nearby communities will also benefit from enhancements to the West Berkshire environment.
The risks to human health or the environment (e.g. due to accidents)	It is considered that the SPD presents no risks to human health or the environment.
The magnitude and spatial extent of the effects	The SPD will be part of the LDF for the District and affects all relevant planning applications in terms of developer contributions to mitigate the local impact in line with the Community Infrastructure Levy Regulations, rather than setting a framework for development.
<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 	None. These are dealt with through the planning application process.
The effects on areas or landscapes which have recognised national, community or international protection status	None. These are dealt with through the planning application process.

- 5.2 Based on these findings, the Council's initial conclusion is that a SEA of the Delivering Investment from Sustainable Development SPD is not necessary under the SEA Directive and Regulations because it has been demonstrated that there will be no significant environmental effects as a result of the SPD.
- 5.3 Nonetheless, a final determination cannot be made until the three statutory bodies (English Heritage, Environment Agency, and Natural England) have commented on this SEA Screening Report. This SEA Screening Report was subject to such consultation for a five week period which commenced on Friday 2 November 2012 and ran until Monday 10 December 2012. The responses received are shown in Table 7.1. .
- 5.4 In accordance with the Environmental Assessment of Plans and Programmes Regulations 2004, within 28 days of making its determination, the Council shall publish a statement outlining whether a SEA is required or not, with reasoning provided if a SEA is not required.

6. Habitats Regulations Assessment

- 6.1 A Habitats Regulations Assessment (HRA) is required to determine if a land use plan, such as a SPD, would have a significant impact upon the integrity of nature conservation sites of international importance, i.e. Ramsar sites, Special Areas of Conservation (SAC), and Special Protection Areas (SPA). The principal aim of this part of the document is to 'screen' the potential of the "Delivering Investment from Sustainable Development" SPD for its likely effect, either alone or in combination, on these sites.
- 6.2 This is a requirement under EC Habitats Directive 92/43/EEC¹⁰, and has been transposed into British law by Regulation 102 of the Conservation of Habitats and Species Regulations 2010¹¹. The Directive states that any plan or project not connected or necessary to a sites management, but likely to have significant effects, shall be subject to Appropriate Assessment. An Appropriate Assessment determines the impact that plans and projects would have on internationally important nature conservation sites.
- 6.3 Within West Berkshire there are three SACs, and no Ramsar sites or SPAs. However, a very small area of the district falls within the 5km buffer area of the Thames Basin Heaths SPA which Natural England

¹⁰ EC Habitats Directive 92/43/EEC: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:1992L0043:20070101:EN:PDF>

¹¹ Conservation of Habitats and Species Regulations 2010: http://www.legislation.gov.uk/ukxi/2010/490/pdfs/ukxi_20100490_en.pdf

has determined as being needed to regulate development near the SPA.

- 6.4 An Appropriate Assessment of all Core Strategy policies was undertaken to ensure that either alone or in combination with other plans and projects, the policies did not adversely affect any of the SACs or the buffer area for the Thames Basin Heath SPA.
- 6.5 The scope of the SPD has been explained above. Because the SPD will supplement development plan policy (in particular policy CS 5 of the adopted Core Strategy), and the only possible effects would be positive, it is considered unnecessary to carry out an Appropriate Assessment of the SPD. The Council has concluded that the “Delivering Investment from Sustainable Development” SPD in itself will have no significant adverse impact on the integrity on the integrity of nature conservation sites of international importance. Furthermore, it is for individual planning applications (or plans that set the framework for such applications) to undergo HRA.
- 6.6 Further comments were invited upon this assessment from the three statutory bodies. The responses are provided in Table 7.1.

7. Consultation

- 7.1 The consultation responses (from the three statutory bodies) to the SEA and Habitats Regulations Assessment Screening Report are detailed below:

Table 7.1: Consultation responses:

Consultation body	Comments	Action
English Heritage	<p>English Heritage agrees with the Council's initial conclusion that a SEA for this SPD is not necessary, for the reasons set out in the Screening Report.</p> <p>We are pleased to see archaeology, conservation and the historic environment included within the topics for which contributions will be sought from new development set out in the existing SPG, and trust that this will be carried over to the updated SPD.</p> <p>English Heritage has no comments on the Habitat Regulations Assessment Screening Report.</p>	None. English Heritage are in agreement with the Council's conclusions.

Consultation body	Comments	Action
Environment Agency	No issues.	None. The Environment Agency are in agreement with the Council's conclusions.
Natural England	<p>Natural England is satisfied that the Delivering Investment from Sustainable Development SPD will not have any significant environmental impacts, and as such we agree with the conclusion that a Strategic Environmental Assessment is not required.</p> <p>We are also satisfied with the conclusions of the Habitats Regulations Assessment that an Appropriate Assessment of the SPD is not required. We have no further comments to make in view of this consultation.</p>	None. Natural England are in agreement with the Council's conclusions.

8. Conclusion

- 8.1 On the basis of the screening process detailed in this report, it is the Council's opinion that the SPD is unlikely to have significant environmental effects and, as such does not require an SEA under EU Directive 2001/42/EC and The Environmental Assessment of Plans and Programmes Regulations (2004), or a Habitats Regulations Assessment under EC Habitats Directive 92/43/EEC and the Conservation of Habitats and Species Regulations 2010.
- 8.2 This determination has been made on 14th December 2012.