



**Elmbridge**  
Borough Council  
*... bridging the communities ...*

**Determination Statement under Article 9 of the  
Environmental Assessment of  
Plans and Programmes Regulations  
2004**

In response to the  
Strategic Environmental Assessment and  
Habitat Regulations Assessment Screening Report for the  
Developer Contributions Supplementary Planning Document  
(SPD) and Design and Character SPD, June 2011

## **1. Introduction**

- 1.1 This statement sets out the Council's determination under Regulation 9 (1) of The Environmental Assessment of Plans and Programmes Regulation 2004 on whether or not a Strategic Environmental Assessment is required for the Developer Contributions Supplementary Planning Document (SPD) and the Design and Character SPD.

## **2. Sustainability Appraisal**

- 2.1 The 2004 Planning and Compulsory Purchase Act and associated Regulations made all local development documents subject to sustainability appraisal, which met the requirements of the EU Directive on Strategic Environmental Assessment (SEA). However, the 2008 Planning Act removed the requirement for sustainability appraisal of supplementary planning documents. Therefore, in line with the current regulations, the Council will not carry out a Sustainability Appraisal for the SPDs. However, despite this, it is still necessary to determine the need for SEA.

## **3. Strategic Environmental Assessment**

- 3.1 Under the requirements of the European Union Directive 2001/42/EC, Planning Authorities must conduct a Strategic Environment Assessment of all DPDs and SPDs. But there are circumstances when a SEA is not required. The publication 'A Practical Guide to the Strategic Environmental Assessment Directive (2005) OPDM' outlines plans should be 'screened' to determine whether exceptions might apply.
- 3.2 The SEA Directive requires SEA for plans which (i) "determine the use of small areas at a local level" or which are (ii) "minor modifications" to plans, only when these are determined to be likely to cause significant environmental effects.
- 3.3 In accordance with the provisions of the SEA Directive and the Environmental Assessment of Plans and Programmes Regulations (2004) (Regulation 9 (1)), the Council must determine if a plan requires an environmental assessment. Where the Borough Council determines that SEA is not required then under Regulation 9(3) the Council must prepare a statement setting out the reasons for this determination. This statement is the Borough Council's Regulation 9(3) statement

## **4. Habitats Regulations Assessment**

- 4.1 A Habitats Regulations Assessment is required to determine whether a plan or project would have significant adverse effects upon the integrity of internationally designated sites of nature conservation importance, or Natura 2000 sites. The need for HRA is set out within the EC Habitats Directive 92/43/EEC and transposed into British Law by Regulation 102 of the Conservation of Habitats and Species Regulations 2010.
- 4.2 It is considered that the Developer Contributions and Design and Character SPDs alone are not likely to have a significant adverse effect on any European site. In considering whether the document could work in combination with other plans and

programmes, the potential effects of the document 'in combination' have been considered through the Council's previous Habitats Regulations Assessment work for the Core Strategy. Any in combination effects identified were either screened out or appropriate avoidance and mitigation measures secured. Please see the Screening Report June 2011 for the full account.

## **5. The SEA Screening Process**

- 5.1 The process for determining whether or not an SEA is required is called screening. In order to screen, it is necessary to determine if a plan will have significant environmental effects using the criteria set out in Annex II of the Directive and Schedule I of the Regulations. A determination cannot be made until the three statutory consultation bodies have been consulted: The Environment Agency, Natural England and English Heritage.
- 5.2 The screening report was subject to consultation from 20 June to 18 July 2011.
- 5.3 Within 28 days of making its determination the authority must publish a statement, such as this one, setting out its decision. If it determines that an SEA is not required, the statement must include the reasons for this.

## **6. Scope of the Developer Contributions SPD**

- 6.1 The Developer Contributions SPD will ensure that the appropriate amount of infrastructure and affordable housing is provided to meet the objectives of the Core Strategy. The document will be produced in three parts in order to meet the separate legislative requirements but will eventually be collated to form a single charging document. The three parts will comprise: Community Infrastructure Levy – Charging Schedule, Affordable Housing Delivery Guidance and Thames Basin Heaths Mitigation Strategy.
- 6.2 The Community Infrastructure Levy – Charging Schedule will set out a tariff for the collection of contributions from new development for items of infrastructure such as education, transport, play space etc. The document is required to go through an examination process. It will supplement Core Strategy Policies CS16: Social and Community Infrastructure, and CS28: Implementation, which are included on the Core Strategy webpage at <http://www.elmbridge.gov.uk/planning/policy/corestrategydpd.htm>
- 6.3 The Affordable Housing Delivery Guidance will support the delivery of affordable housing through the planning process, providing clarity and guidance to developers on the delivery of affordable housing through developer contributions including financial contributions and S106 agreements. The document will have the status of an SPD and will address the following issues:
  - Local definition of affordable housing
  - What types of development the policy applies to
  - Where and how affordable housing should be provided

- Calculation of financial contributions
  - Tenure size and mix
  - Financing and securing
  - Keeping affordable housing affordable
  - Viability and flexibility
  - What to include in an application
- 6.4 The SPD will support the implementation of Core Strategy Policy CS21: Affordable Housing.
- 6.5 The Thames Basin Heaths Mitigation Strategy will set the Council's approach to mitigating the adverse effects of new residential development on the Thames Basin Heaths through the provision of Suitable Alternative Natural Greenspace and Strategic Access Management and Monitoring on the SPA itself. This will be funded by a tariff which will be applied to all new dwellings within 5km of the Thames Basin Heaths. The document will have the status of an SPD and will replace the current Interim Mitigation Strategy for Elmbridge adopted in 2007 and support Core Strategy Policy CS13: Thames Basin Heaths Special Protection Area.

## **7. Scope of the Design and Character SPD**

- 7.1 The Design and Character SPD is a practical tool guiding communities, developers and planning professions through the design process before designing proposals and submitting planning applications. The SPD will not contain new policies or proposals, or influence the spatial distribution of housing and/or employment sites. The objective of the SPD is to promote high quality design that contributes to sustainable development.
- 7.2 The SPD will provide further detail and guidance to supplement Core Strategy Policies CS17 – Local Character, Design and Density, CS19 – Housing type and size and CS27 – Sustainable Buildings and is aimed at all those involved in the submission and determination of planning applications where design is a key issue. The SPD will be structured to include the following:
- Area characterisation studies for each of the eight urban settlements in the Borough, which explore elements such as typology, types of buildings, materials, views etc.
  - A SWOT analysis highlighting examples of well-designed development, poorly designed development, opportunities for growth and potential threats to sensitive areas in the Borough, with the use of accompanying case study examples.
  - Local design guidance for each locality.
  - A section that relates to the general principles of design. This will include place making and sustainable design including movement and accessibility.
- 7.3 None of the above documents will contain any new policies or proposals, or influence the delivery or spatial distribution of development.

## 8. SEA Determination and Reasons for Determination

8.1 Before making a determination under regulation 9 the three consultation bodies were consulted. The responses received are set out in Table 1 below.

**Table 1- Comments Received by Consultation Bodies**

Consultation Body	Comments
English Heritage	No comment received.
Environment Agency	<p>I understand that the intention of these documents is to provide detail on the broad policy set out in the core strategy. This could have either positive or negative impacts on the given sustainability objectives set out in the original sustainability appraisal. Furthermore, detailed design policy could well have indirect impacts on matters such as water quality, flood risk and biodiversity. For example, a design policy, which requires the use of SUDS could well have positive impacts on flood risk and water quality objectives.</p> <p>In respect of the developer contributions towards SPA/SAC/RAMSAR mitigation measures, there could be both positive and negative impacts depending of the infrastructure that is sought in respect of the development. In particular, the location, type and amount of any given infrastructure could well have both positive and negative impacts on environmental entities.</p> <p>You as an authority will also need to be satisfied that your SPDs deliver any requirements by way of mitigation for any negative effects that may have been set out in the Sustainability Appraisal for the core strategy.</p> <p>You have an up to date and recent SA report, which was produced, for your recent core strategy examination. <u>I would therefore suggest that this is reviewed to determine if there were any specific mitigation measures required to be incorporated in to these relevant SPDs to deal with negative effects. I would also suggest that an informal assessment of the final draft SPD against the original sustainability objectives would be useful to determine whether any residual negative impact existed.</u> This would be a brief exercise to ensure the final SPD continues delivery against the original sustainability objectives set out as a part of your core strategy.</p> <p>It would be difficult to determine at this stage whether the final SPDs would have a positive or negative impact but I</p>

	<p>would agree that, subject to the above underline recommendations being carried out, the SPDs themselves would be unlikely to have a negative impact upon environmental matters related to our remit. For this reason, subject to the above, a full SEA/SA should not be necessary for these two SPDs. Natural England should provide comments on Habitats Regulations Assessment.</p>
<p>Natural England</p>	<p><i>Developer Contributions SPD</i>          With regard to the Developer Contributions SPD, we are pleased this SPD will support the implementation of the council's Thames Basin Heaths Special Protection Area (TBHSPA) Mitigation Strategy. We note the SPD will also include Affordable Housing Delivery Guidance, including where delivery will occur.</p> <p>We understand that affordable housing will be exempt from providing contributions to the TBHSPA Mitigation Strategy and that the Strategy will be adjusted accordingly to ensure sufficient funding is collected to maintain sufficient Suitable Alternative Natural Greenspace (SANG) to avoid a likely significant effect on the SPA from future residential development. Notwithstanding this, Natural England expects delivery of affordable housing to be in accordance with the TBHSPA strategy particularly in terms of specified geographical locations, and in calculating and monitoring capacity of existing SANG as identified in the strategy. Provided affordable housing is delivered in accordance with the TBHSPA Mitigation Strategy, and given that this SPD will not introduce new policies or proposals to those set out in the Core Strategy, Natural England concurs with the screening conclusion that the SPD will not have a likely significant effect on European sites including Thames Basin Heaths SPA. As such we concur a detailed Appropriate Assessment under the Conservation of Habitats and Species Regulations 2010 or an SEA are not required.</p> <p><i>Design and Character SPD</i>          Given that the Design and Character SPD aims to achieve the objectives of the Core Strategy and will not introduce new policies or proposals to those set out in the Core Strategy, Natural England concurs with the conclusions made that a detailed Appropriate Assessment or SEA will not be required.</p>

## **9. Conclusion**

- 9.1 On the basis of the screening process, it is the Council's opinion that the Developer Contributions SPD and the Design and Character SPD do not require an SEA under the SEA Directive and The Environmental Assessment of Plans and Programmes Regulations (2004). This is because there will be no significant environmental effects arising from their implementation and that they supplement national guidance. In making this determination, the Borough Council has had regard to Schedule I of the Regulations and comments made by the Consultation Bodies.
- 9.2 Appendix 1 sets out the process for determining if the SPDs will have significant environmental effects using the criteria set out in Annex II of the Directive and Schedule I of the Regulations. Please see the Screening Report June 2011 for the full evaluation.
- 9.3 This determination has been made on **17<sup>th</sup> August 2011**

**Appendix 1**

**Table 1: Screening Assessment for the Developer Contributions SPD**

SCHEDULE 1 Regulations 9(2)(a) and 10(4)(a)

CRITERIA FOR DETERMINING THE LIKELY SIGNIFICANCE OF EFFECTS ON THE ENVIRONMENT

**1. The characteristics of plans and programmes, having regard, in particular, to—**

<p>(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;</p>	<p>The Developer Contributions SPD does not set the framework for development with regard to its size, the activity nature or operating conditions. The plan will introduce a levy on all development where it has a negative impact on local infrastructure. It will highlight within the charging schedule the projects that will be required to meet the additional demands placed on it by development.</p>
<p>(b) the degree to which the plan or programme influences other plans and programmes including those in a hierarchy;</p>	<p>The SPD does not influence other plans or programmes in the LDF. It provides supplementary guidance on policies already outlined in the Core Strategy (Policy CS28), which have been subject to SA/SEA.</p>
<p>(c) the relevance of the plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development;</p>	<p>The SPD supports the integration of environmental considerations by supporting the implementation of the TBH mitigation strategy. The plan also ensures more sustainable development by ensuring that sufficient infrastructure is provided to meet the needs created by new development.</p>
<p>(d) environmental problems relevant to the plan or programme; and</p>	<p>There is potentially an impact on policies in the Core Strategy aimed at improving environmental efficiency of residential properties. However, viability testing should ensure that environmental improvements and the necessary infrastructure improvements can be collected whilst ensuring that development remains viable.</p>



<p>(e) the relevance of the plan or programme for the implementation of Community legislation on the environment (for example, plans and programmes linked to waste management or water protection).</p>	<p>The Plan will not impact on EC legislation on the environment as it does not seek to deliver additional development only ensure that development pays for the necessary infrastructure improvements required to support the population growth it creates.</p>
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**2. Characteristics of the effects and of the area likely to be affected, having regard, in particular, to—**

<p>(a) the probability, duration, frequency and reversibility of the effects;</p>	<p>The SPD will identify the impacts on infrastructure from development and the charge that will be levied to ensure that development pays for the costs of providing sufficient infrastructure. By ensuring funding is available for the delivery of Suitable Accessible Natural Greenspace (SANGs) the plan will have a positive effect on the local environment.</p>
<p>(b) the cumulative nature of the effects;</p>	<p>Funding SANG could reduce overall numbers visiting TBH SPA not just new development providing a cumulative beneficial effect.</p>
<p>(c) the transboundary nature of the effects;</p>	<p>Funding for the mitigation of the impacts of development on TBH will support the SPA outside of the Borough. There are no other transboundary effects.</p>
<p>(d) the risks to human health or the environment (for example, due to accidents);</p>	<p>The SPD presents no risks to human health or the environment.</p>
<p>(e) the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected);</p>	<p>The impacts of the SPD will potentially have a positive impact on the Thames Basin Heaths outside of the Borough by funding the delivery of alternative natural green space within Elmbridge.</p>
<p>(f) the value and vulnerability of the area likely to be affected</p>	<p>The SPD will provide financial support to projects that protect and</p>

<p>due to— (i) special natural characteristics or cultural heritage; (ii) exceeded environmental quality standards or limit values; or (iii) intensive land-use; and</p>	<p>improve the natural characteristics and environmental quality.</p>
<p>(g) the effects on areas or landscapes which have a recognised national, Community or international protection status.</p>	<p>The SPD will provide financial support to projects that protect and improve areas designated as Special Protection Areas.</p>

**Table 2: Screening Assessment for the Design and Character SPD**

**SCHEDULE 1 Regulations 9(2)(a) and 10(4)(a)**

CRITERIA FOR DETERMINING THE LIKELY SIGNIFICANCE OF EFFECTS ON THE ENVIRONMENT

1. The characteristics of plans and programmes, having regard, in particular, to—

<p>(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;</p>	<p>The Design and Character SPD will not set the framework for other activities either with regard to the location, nature, size and operating conditions or by allocating resources. It is a response to policy CS17 in the Core Strategy and will provide guidance to ensure new development responds to its local character and is designed to a high quality.</p>
<p>(b) the degree to which the plan or programme influences other plans and programmes including those in a hierarchy;</p>	<p>The Design and Character SPD provides the detail and expands on policy CS17 in the Core Strategy, the higher-level plan. It will not influence other plans or programmes.</p>
<p>(c) the relevance of the plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development;</p>	<p>The Design and Character SPD will include a section on sustainability principles and will promote sustainable development throughout the guidance.</p>
<p>(d) environmental problems relevant to the plan or programme; and</p>	<p>The Design and Character SPD seeks to ensure that development is locally responsive, sustainable and built to a high quality. There are no environmental problems relevant to the plan.</p>
<p>(e) the relevance of the plan or programme for the implementation of Community legislation on the environment (for example, plans and programmes linked to waste management or water protection).</p>	<p>The SPD has no relevance to the implementation of Community legislation on the environment</p>

2. Characteristics of the effects and of the area likely to be affected, having regard, in particular, to—

(a) the probability, duration, frequency and reversibility of the effects;	The SPD will not impact on the probability, duration, frequency and reversibility of the effects of the area.
(b) the cumulative nature of the effects;	These will be positive in terms of improving the design of new development in the Borough.
(c) the transboundary nature of the effects;	There are no transboundary issues
(d) the risks to human health or the environment (for example, due to accidents);	The SPD presents no risks to human health or the environment.
(e) the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected);	The magnitude and spatial extent of the effects is very small as the SPD seeks to improve the design quality of developments that are due to come forward.
(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 or limit values; or (iii) intensive land-use; and	The SPD seeks to encourage high quality designed development in the urban area and will not effect the value and vulnerability of the area in terms of i) special natural characteristics or cultural heritage; (ii) exceeded environmental quality standards or limit values; or (iii) intensive land-use; and
(g) the effects on areas or landscapes, which have a recognised national, Community or international protection status.	The SPD will have no effects on areas or landscapes, which have a recognised national, Community or international protection status.