

Draft for Consultation from  
28/11/2016 until 16/1/2017



# Planning Obligations Supplementary Planning Document



Strategic Environmental Assessment and  
Habitat Regulation Screening Report <sub>1</sub>

# Planning Obligations Supplementary Planning Document- November 2016

## Strategic Environmental Assessment and Habitat Regulation Screening Report

### How to comment on this Document

You are invited to make comments on the draft Planning Obligations Supplementary Planning Document and any of the documents that support it as listed below:

- Strategic Environmental Assessment and Habitat Regulations Screening Report
- Equalities Impact Assessment
- Consultation Statement

These documents are available online at <http://eastdevon.gov.uk/planning/planning-policy/planning-obligations-supplementary-planning-document-spd/> and at the Council Offices in Sidmouth. Copies of the draft plan will be sent to the following libraries.

- Axminster
- Budleigh Salterton
- Clyst Vale
- Colyton
- Exmouth
- Honiton
- Lyme Regis
- Ottery St Mary
- Seaton
- Sidmouth.

The feedback we receive on this draft document will be used to inform any subsequent revisions.

You can comment:

by email at [localplan@eastdevon.gov.uk](mailto:localplan@eastdevon.gov.uk)

or by post to: Planning Policy, East Devon District Council, The Knowle, Station Road,  
Sidmouth, EX10 8HL

**All comments should be received by the end of 16/1/2017 so that they can be taken into account before the next stage. Comments will be available to view on our website.**

**Respondents names and addresses are not confidential.**

# Planning Obligations

## Supplementary Planning Document

### Strategic Environmental Assessment and Habitat Regulations Assessment

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### Draft Screening Report

Prepared by Officers of East Devon District Council

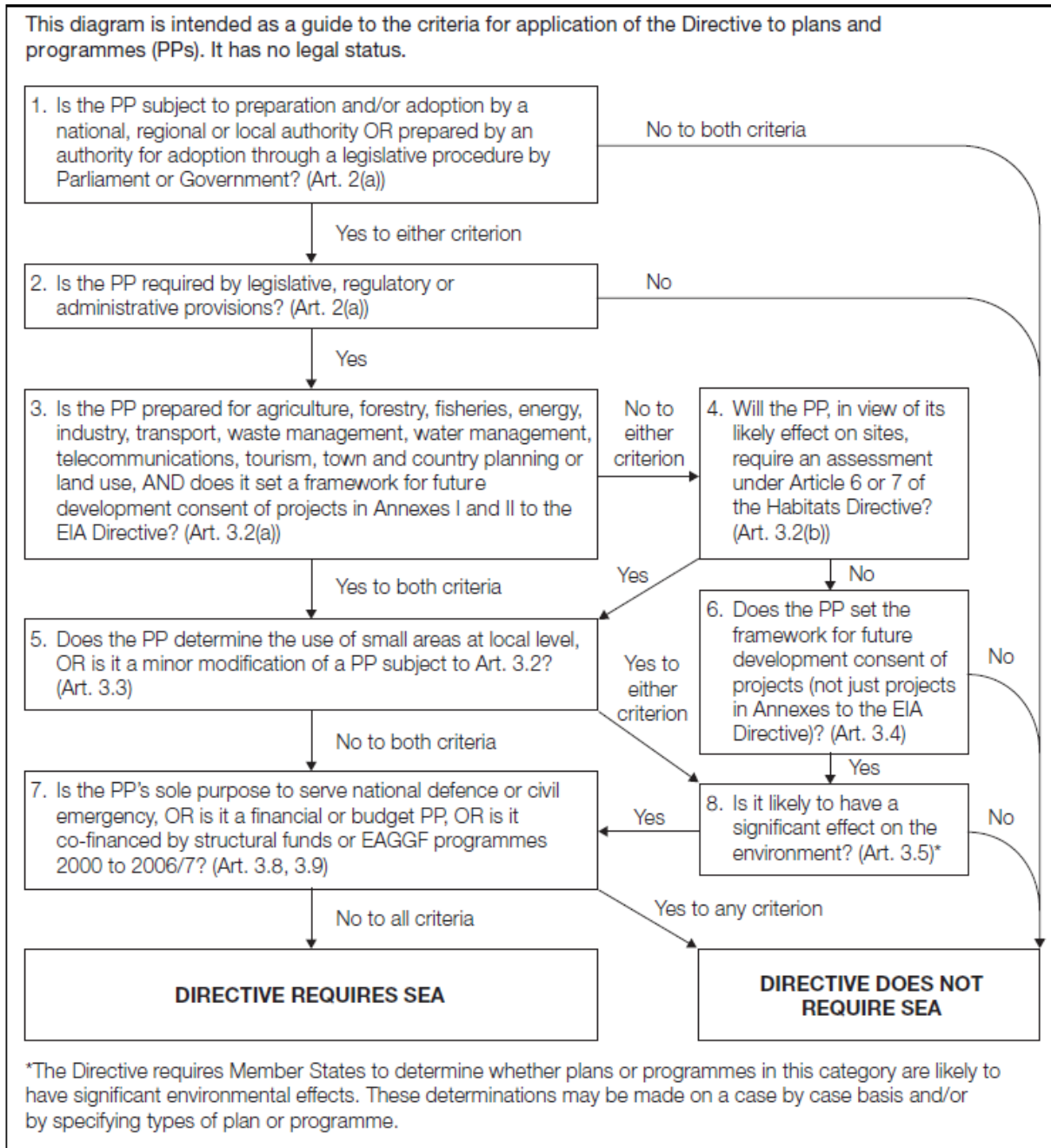
#### 1.0 Introduction

- 1.1 The purpose of this report is to assess the draft proposals in the Planning Obligations Supplementary Planning Document (hereafter referred to as the SPD) to determine whether it 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. An SEA is required under this legislation for all plans which may have a significant effect on the environment.
- 1.2 This report will also screen to determine whether or not the SPD requires a Habitats Regulations Assessment (HRA) in accordance with Article 6(3) of the EU Habitats Directive and with Regulation 61 of the Conservation of Habitats and Species Regulations 2010. An HRA is required when it is deemed that the implementation of the SPD is likely to cause significant negative effects on protected European Sites (Natura 2000 sites).
- 1.3 The conclusion of the assessment is that the SPD is unlikely to have a significant effect on the environment so an SEA is not required to accompany it. It is also unlikely to have a negative impact on any Natura 2000 sites so should not be subject to HRA.
- 1.4 This report has been sent to the three statutory consultees designated in the Regulations (Historic England, Environment Agency and Natural England) to elicit their views on the findings. When responses are received a final report will be produced to incorporate their comments.

## 2.0 SEA screening

- 2.1 The basis for Strategic Environmental Assessments and Sustainability Appraisal legislation is European Directive 2001/42/EC and 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' (ODPM 2005).
- 2.2 The objective of SEA is *'to provide for a high level of protection of the environment and contribute to the integration of environmental considerations into the preparation and adoption of development plans.... with a view to promoting sustainable development'* EU Directive 2001/42/EC (Article 1).
- 2.3 Although there is no definitive guidance stating that a SPD will require an SEA, Local Authorities are legally obliged to consider whether an SEA is required.
- 2.4 To ascertain if SEA is required, a "screening" exercise has been undertaken by East Devon District Council evaluating the proposals the SPD against the criteria set out in the SEA Directive. This criterion is set out in the SEA Directive and can be found in Figure 1.
- 2.5 Should the screening report reach the conclusion that that plan will have a significant impact on the environment; a full SEA should be undertaken.
- 2.6 If the conclusion is that a full SEA is not required, any significant variations or additions to the SPD will also be subject to screening.
- 2.7 An SEA has been undertaken as part of the adopted East Devon Local Plan 2013-2031 and has been taken into account whilst undertaking this screening assessment.

**Figure 1: Application of the SEA Directive to plans and programmes**



Source: A Practical Guide to the Strategic Environmental Assessment Directive, 2005 - [http://www.ehsni.gov.uk/bm\\_sea\\_practicalguide.pdf](http://www.ehsni.gov.uk/bm_sea_practicalguide.pdf)

### 3.0 Planning Obligations Supplementary Planning Document

3.1 Planning obligations are required to make many types of development acceptable. The requirement and amount due varies depending on the type of development, the location and any mitigation works which need to be carried out. This guidance adds detail to the Policies of the East Devon Local Plan, particularly Strategy 50- Infrastructure Delivery, and clarifies the circumstances in which planning obligations will be sought. The SPD is based on Government guidance and research and on the best practice experience of our own and neighbouring Local Authorities.

3.2 As the guidance is specific to individual sites it is considered very unlikely to have a significant environmental effect. Some items of infrastructure, or works to mitigate environmental harm, may be substantial in nature but these have already been considered through the Local Plan process (in producing policies which allocate growth or determine where it will be acceptable) or will be addressed through planning applications. This guidance does not propose specific items of infrastructure or other detailed matters to be covered by planning obligations. Should this circumstance change it will be important to rescreen the SPD to take any changes into account.

**Figure 2:** Screening assessment against the criteria for whether the SPD requires an SEA.

Stage	Y/N	Reason
Is the SPD 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 Plan will be prepared and adopted by East Devon District Council as part of the Development Framework.
Is the SPD required by legislative, regulatory or administrative provisions? (Art. 2(a))	Y	The SPD meets the characteristics set out in the Government's Practical Guide to the SEA Directive in that that it will be publicly available, prepared in a formal way and involve consultation with interested parties.
Is the SPD prepared for agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use, <b>AND</b> 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 SPD is prepared for Town and Country Planning and land use but, whilst some obligations may provide development of a scale that would fall within Annex II of the EIA Directive at a local level, the guidance does not specifically plan for or allow it.
Does the SPD determine the use of small areas at local level, OR is it a minor modification of a PP subject to Art. 3.2? (Art. 3.3)	N	The SPD will not determine the use of small areas at a local level.
Is it likely to have a significant effect on the environment? (Art. 3.5)	N	See screening assessment for environmental effects in figure 3 of this report.

### Directive Does Not Require SEA

3.3 Under step 8 of the Application of the SEA directive (Figure 1), in order to establish whether a plan requires an SEA, it was necessary to conduct a thorough assessment of whether the SPD was likely to have a significant effect on the environment.

3.4 The table below sets out the criteria by which the site allocation in the SPD should be judged, as outlined in Article 3.5 of the SEA Directive.

**Figure 3:** Environmental impact screening assesment

<b>Criteria for determining the likely significance of effects (Schedule 1 of SEA regulations)</b>	<b>Is the SPD likely to have a significant environmental effect?</b>	<b>Justification for Screening Assessment</b>
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.	<b>N</b>	The SPD adds detail to Strategy 50 of the East Devon Local Plan. The Local Plan requires planning obligations to mitigate the impacts of some new development and the guidance explains when and how this will apply. The SPD explains the requirements for environmental (and other) improvements which will reduce the harm which could otherwise occur.
The degree to which the plan or programme influences other plans and programmes including those in a hierarchy.	<b>N</b>	The SPD adds detail to the adopted East Devon Local Plan and conforms to national policies. It must also be compatible with EU law and the ECHR obligations. It is not considered to have a particular influence on any plans other than the planning applications that will need to conform to it.
The relevance of the plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development.	<b>N</b>	The SPD contributes towards the achievement of sustainable development by explaining the requirement for mitigating harm.
Environmental problems relevant to the plan or programme.	<b>N</b>	There are no significant environmental problems that the SPD is likely to impact.
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).	<b>N</b>	These community legislation types are not relevant to the SPD and will not need to be considered at this stage. They are matters for the Local Plan and specific planning applications.
The probability, duration, frequency and reversibility of the effects.	<b>N</b>	The SPD will not directly cause any effects.
The cumulative nature of the effects.	<b>N</b>	The SPD will not directly cause any effects.
The trans-boundary nature of the effects.	<b>N</b>	The SPD will not directly cause any effects.
The risks to human health or the environment (e.g. due to accidents).	<b>N</b>	The SPD will not directly cause any effects.

The magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected).	<b>N</b>	The SPD will not directly cause any effects.
The value and vulnerability of the area likely to be affected due to: 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.	<b>N</b>	The SPD does not address the location of sites as this is addressed in the Local Plan and through planning applications.

### 3.5 Conclusion

3.6 The SPD does not require a Strategic Environmental Assessment



#### 4.0 Habitat Regulations Screening Assessment

- 4.1 The draft SPD has been used to undertake this initial screening assessment. As the conclusion is that a full Habitat regulations screening is not required, any variations or additions to the Document may require a further screening. A screening report was produced as part of the production of the adopted Local Plan and has been taken into account in undertaking this screening assessment.
- 4.2 The Conservation (Natural Habitats &c.) Regulations 1994 (The Habitats Regulations) transpose the requirements of the European Habitats Directive 92/43/EEC into UK law. The Habitats Directive and Regulations afford protection to plants, animals and habitats that are rare and vulnerable in a European context.
- 4.3 Habitats Regulations Assessment (HRA) is a systematic process through which the performance of a plan or project can be assessed for its likely impact on the integrity of a European Site. European Sites, also referred to as Natura 2000 sites, consist of Special Protection Areas (SPA), Special Areas of Conservation (SAC); Potential Special Protection Areas and candidate Special Areas of Conservation (pSPA and cSAC); and listed or proposed Ramsar sites.
- 4.4 Article 6(3) of the Habitats Directive states:
- ‘Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans and projects, shall be subject to appropriate assessment of its implications for the site in view of the site’s conservation objectives’.
- 4.5 As the SPD covers the whole of East Devon, it is relevant to all of the European Sites in the District.
- 4.6 Natural England will be consulted on this document by the District Council.

#### Screening Criteria Questions

1. Is the SPD directly connected with, or necessary to the management of a European site for nature conservation?

*No*

2. Does the SPD propose new development or allocate sites for development?

*The SPD does not propose development- the numbers and criteria against which planning applications for development will be assessed is already established in the adopted East Devon Local Plan. The SPD supports and adds detail to the Local Plan Policies by explaining the circumstances in which planning obligations will be sought. A detailed assessment of potential impacts will be carried out when specific development is proposed through planning applications and the planning system.*

*The objectives in the SPD accord with the Local Plan for the District which is subject to an HRA. A screening opinion was provided by Land Use Consultants early in the Plan production process and an*

*HRA was completed by Footprint Ecology before, and informed, the adopted Local Plan. It indicated that the Local Plan will have sufficient policy provisions to enable the subsequent delivery of necessary measures to avoid and mitigate adverse effects on the integrity of European Sites.*

*It is considered that, whilst proposals may come forward which could affect European Sites, this will be considered through any planning application and mitigation measures are in place.*

3. Are there any other projects or plans that together with the SPD could impact on the integrity of a European Site?

*No*

#### **4.7 Conclusion**

4.8 The SPD does not require a Habitat Regulation Assessment.

4.9 The SPD is unlikely to have an adverse effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2010 (d), alone or in combination with other plans and projects. It does not propose a level of development significantly over and above that in the adopted Local Plan (which was itself subject to HRA).