

SPELTHORNE BOROUGH COUNCIL

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

Flooding Supplementary Planning Document

1. Introduction

- 1.1 This statement sets out the Council's determination under Regulation 9(1) of the Environmental Assessment of Plans and Programmes Regulations 2004 on whether or not a Strategic Environmental Assessment is required for the Flooding Supplementary Planning Document (March 2012)

2. Sustainability Appraisal

- 2.1 Sustainability Appraisal considers the social, economic and environmental effects of a plan. The Town and Country Planning (Local Development) (England) Regulations 2004 required all local development documents to be subject to a Sustainability Appraisal which would also meet the requirements of the EU Directive on Strategic Environmental Assessment (SEA). However, the Planning Act 2008 removed the automatic requirement for Sustainability Appraisal of Supplementary Planning Documents (SPDs). SA is still required for SPDs which have significant social, economic or environmental effects that have not been covered in the SA of the parent development plan document or where the SEA Directive would require one.
- 2.2 The Council has therefore prepared the Flooding SPD in accordance with the 2008 Regulations and has not subjected the plan to a formal Sustainability Appraisal, but has carried out screening to formally 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. However, there are circumstances when an SEA is not required. The publication 'A Practical Guide to the Strategic Environmental Assessment Directive (2005) OPDM' outlines the process by which plans should be 'screened' to determine whether exceptions might apply.
- 3.2 The SEA Directive requires an 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 an SEA is not required then

under Regulation 9(3) it must prepare a statement setting out the reasons for this determination.

4. The Screening Process

- 4.1 To determine whether or not an SEA is required it is necessary to carry out a screening process having regard to the criteria set out in Annex II of the Directive and Schedule 1 of the Regulations (see Appendix 1). A formal determination in accordance with Regulation 9 cannot be made until the three statutory consultation bodies: The Environment Agency, Natural England and English Heritage have been consulted. The responses received are set out in Table 1 below.
- 4.2 Once the Authority has made its determination it must publish within 28 days a statement setting out its decision and the reasons for making it. The determination must be made available to the public and be sent to the three consultation bodies. The relevant SPD may not be adopted before the determination has been made under Regulation 9(1).

5. Scope and Purpose of the Flooding SPD

- 5.1 The Flooding SPD explains in more detail the Council's approach to dealing with development in flood risk areas as set out in Policy LO1 and supporting text of the Council's Core Strategy and Policies Development Plan Document (February 2009).
- 5.2 The SPD is intended to ensure that the Council provides clear guidance on the factors which need to be taken into account in preparing and determining applications for development in areas of flood risk. The SPD in particular provides further guidance on how flood risk may be managed.

Table 1 Details of the Supplementary Planning Document

Responsible Authority	Spelthorne Borough Council
Title of Plan	Flooding Supplementary Planning Document
Parent Document	Core Strategy and Policies Development Plan Document (February 2009)
Purpose of Plan	To explain in more detail the Council's approach to dealing with development in flood risk areas in the Borough.
Period of Plan	Until superseded
Plan Area	Whole Borough

6. Habitats Regulations Assessment

- 6.1 In addition to the SEA screening process 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 an 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.

- 6.2 The Directive states that any plan or project not connected to or necessary for a site’s management, but likely to have significant effects on the integrity of the site shall be subject to appropriate assessment. The screening of the Core Strategy and Policies DPD under the Habitats Regulations concluded that, on its own or “in combination”, the plan would not have any significant effect on the integrity of any of the Natura 2000 sites assessed. Accordingly there is no mechanism for the Flooding SPD, which is based on Policy LO1 of the Core Strategy and Policies DPD, to have any potential adverse impacts, on its own or in combination with other plans, on the integrity of the sites concerned.

7. Consultation Responses

- 7.1 The draft determination was sent to the consultation bodies on 9 March 2012 and the formal responses are set out in Table 1

Table 2 - Responses from the Consultation Bodies

Consultation Body	Comments	Date
English Heritage	From the historic environment perspective, English Heritage does not consider that the SPD requires an SEA and therefore agrees with the Council’s draft conclusions in this respect.	3 April 2012
Environment Agency	Concur with your determination that the Flooding SPD does not require a formal SEA under the SEA Directive because the SPD provides interpretation of existing policy; supplements current guidance and should therefore have no significant environmental effects.	11 April 2012
Natural England	On the basis of the information available, agree with your conclusion that the Flooding SPD does not require an SEA under the SEA Directive.	29 March 2012

8. SEA Determination and Reasons

8.1 The Council has considered the outcome of the screening process set out in Appendix 1 together with the responses from the three consultation bodies and has determined that the Flooding SPD does not require a formal SEA under the SEA Directive for the following reasons:

- a) The SPD is based on Policy LO1 in the Core Strategy and Policies DPD which has been the subject of a full Sustainability Appraisal.
- b) The SPD provides interpretation of existing policy and only supplements current guidance.
- c) The SPD will have no significant environmental effects.

8.2 This determination was made on 2 July 2012.

Appendix 1 - Screening Assessment for the Flooding SPD

Environmental Assessment of Plans and Programmes Regulations 2004

Schedule 1 – Criteria for determining the likely significance of effects on the environment

	SEA Directive Criteria	SBC Response	Is there a significant effect on the environment?
1.	The characteristics of plans and programmes, having regard, in particular, to:		
(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;	The SPD does not set the framework for projects or other activities. It provides guidance on how new development should take account of the need to reduce the risk of flooding.	No
(b)	the degree to which the plan or programme influences other plans and programmes including those in a hierarchy;	The SPD amplifies existing policy and is subordinate to the higher level Core Strategy and Policies DPD.	No
(c)	the relevance of the plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development;	The SPD helps promote sustainable development by reducing the risks associated with flooding, but will not have any significant effects over and above those covered by the higher level policy.	No
(d)	environmental problems relevant to the plan or programme;	Any environmental problems associated with flooding have been addressed in the higher level Policy LO1 and the SPD seeks to clarify the scope of the policy.	No
(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.	The SPD has no direct relevance.	No

	SEA Directive Criteria	SBC Response	Is there a significant effect on the environment?
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 have a positive effect only in relation to any new planning application for new residential development.	No
(b)	the cumulative nature of the effects;	The SPD will have positive effects on reducing any cumulative impact on flooding.	No
(c)	the transboundary nature of the effects;	The SPD will have no transboundary effects.	No
(d)	the risks to human health or the environment (for example, due to accidents);	The SPD seeks to ensure that risk to human health is minimised by mitigating the effects of flooding.	No
(e)	the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected);	The SPD relates only to new development over the Plan period to 2026 and to those parts of the Borough affected by fluvial flooding.	No
(f)	the value and vulnerability of the area likely to be affected due to: <ul style="list-style-type: none"> i. special natural characteristics or cultural heritage; ii. exceeded environmental quality standards or limit values; iii. intensive land-use. 	The SPD will assist in limiting the impact of flooding but will not have any significant effect on the natural characteristics of the area or environmental quality standards.	No
(g)	The effects on areas or landscapes which have a recognised national, Community or international protection status.	The SPD will not have any significant effect on the location of development and therefore has no effect on landscapes or international designations.	No