

## **The Rushmoor Plan**

### **Draft 'Development Affecting Public Houses' Supplementary Planning Document**

#### **Strategic Environmental Assessment (SEA)**

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

#### **Habitats Regulations Assessment (HRA)**

Screening Statement – Determination under Regulation 102 of the Conservation of Habitats and Species Regulations 2010.

#### **Final Determination**

**February 2015**



## **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 'Development Affecting Public Houses' Supplementary Planning Document (SPD). This statement also sets out the Council's determination as to whether Appropriate Assessment is required under Regulation 102 of the Conservation of Habitats & Species Regulations 2010.

### **Strategic Environmental Assessment**

- 1.2 Under the requirements of the European Union Directive 2001/42/EC (Strategic Environmental Assessment (SEA) Directive) and Environmental Assessment of Plans and Programmes Regulations (2004) specific types of plans that set out the framework for future development consent of projects must be subject to an environmental assessment.
- 1.3 There are exceptions to this requirement for plans that determine the use of a small area at a local level and for minor modifications if it has been determined that the plan is unlikely to have significant environmental effects.
- 1.4 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 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. The need for SEA is considered under Section 3 of this report.

### **Sustainability Appraisal**

- 1.5 Under separate legislation (the Planning and Compulsory Purchase Act 2004 and associated Regulations), the Council is required to carry out a Sustainability Appraisal (SA) for all Development Plan Documents. This considers the social and economic impacts of a plan as well as the environmental impacts.
- 1.6 In accordance with current Regulations (Town & Country Planning (Local Development)(England)(Amendment) Regulations 2012) SA is not required to be carried out for SPD. However, despite this, it is still necessary to determine the need for SEA.

### **Habitats Regulations Assessment**

- 1.7 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/EC and transposed into British Law by Regulation 102 of the Conservation of Habitats and Species Regulations 2010. In accordance with Article 6 of the Habitats Directive (92/43/EEC) and Regulation 102 of the Conservation of Habitats and Species Regulations 2010 the Borough Council must determine if a plan requires Appropriate Assessment. Section 4 of this report deals with the need for Habitats Regulation Assessment.

## **2 Scope of the ‘Development Affecting Public Houses’ SPD**

- 2.1 The scope of the SPD is to provide further guidance in relation to how the Council determines planning applications that would result in the loss of a public house to uses that fall outside of permitted development rights.
- 2.2 The SPD will help to implement the following Core Strategy Policy:
- Policy CP10 – Infrastructure Provision

## **3 Strategic Environmental Assessment (SEA)**

### **The SEA Screening Process**

- 3.1 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.
- 3.2 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.

### **SEA Determination and Reasons for Determination**

- 3.3 This section will be completed following consultation with the three statutory consultation bodies and will set out their responses and the Council’s determination as to whether or not an SEA is required.

Table 1 – Comments received by Consultation bodies

<b>Consultation Body</b>	<b>Comments</b>
Natural England	Thank for you for consulting Natural England on the above document.  I can confirm the NE agrees with the conclusions in the document, and make no further observations or comments.
Environment Agency	No comments received.
English Heritage	Having reviewed the Draft Determination, English Heritage agrees with the Council’s conclusion that the Development Affecting Public Houses SPD is unlikely to have any significant environmental effects. We therefore also agree with the Council that a Strategic Environmental Assessment is not required for the SPD.

Table 1 – SEA Screening for the Development Affecting Public Houses SPD

Criteria (from Annex II) of SEA Directive and Schedule I of Regulations)	Rushmoor Borough Council's Response
<b>Characteristics of the plan or programme</b>	
a) The degree to which the plan or programme sets a framework for projects and other activities, either with regards to the location, nature, size and operating conditions or by allocating resources.	The framework is set by higher level policy in the Core Strategy (CP10). The SPD will be used to take account of specific issues relating to the loss of public houses and elaborates on existing policy. The SPD will not set the framework for the allocation or levels of development within the Borough over the Local Plan period or set the framework for individual projects.
b) The degree to which the plan or programme influences other plans and programmes including those in a hierarchy.	The SPD is an implementation tool for delivering already adopted development plan policies at a higher tier which have already been subject to SA/SEA.
c) The relevance of the plan or programme for the integration of environmental considerations, in particular with a view to promoting sustainable development.	No relevance.
d) Environmental problems relevant to the plan or programme.	The SPD will have no impact on environmental issues.
e) The relevance of the plan or programme for the implementation of Community (EU) legislation on the environment (for example plans and programmes linked to waste management or water protection).	No relevance.
<b>Characteristics of the effects and of the area likely to be affected</b>	
a) The probability, duration, frequency and reversibility of the effects.	The SPD will not in itself set out or bring forward development plans or projects. It will solely set out guidance for considering the loss of public houses across the Borough.
b) The cumulative nature of the effects	The SPD will seek to ensure that the community is able to meet its day-to-day needs through the appropriate retention of social infrastructure.
c) The transboundary nature of the effects	Given the nature of the SPD and being local to Rushmoor, it is considered that no transboundary effects will arise.
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 SPD will cover the whole of the geographic area of Rushmoor, however the focus will be solely on public house sites.
f) The value and vulnerability of the area likely to be affected due to: i) Special natural characteristics or cultural heritage; ii) Exceeding environmental quality standards or limit values; ii) Intensive land-use	Given the nature of the document:  i) None; ii) None; iii) None.
g) The effects on areas or landscapes which have recognised national, community or international protection status.	No effect.

## **Other Considerations**

3.4 In reviewing these criteria and coming to a conclusion, the Council has also had regard to the following:

- The SPD does not present new policies or development proposals but seeks to support and elaborate on existing development plan policies.

## **SEA Conclusion**

3.5 Having regard to the considerations above, the Council considers that the 'Development Affecting Public Houses' SPD is unlikely to have any significant environmental effects and therefore does not require a Strategic Environmental Assessment.

3.6 This determination was made on **10<sup>th</sup> February 2015**.

## **4 Habitat Regulations Assessment Screening Statement**

4.1 This part of the report seeks to determine whether the Council's policies and proposals set out in the 'Development Affecting Public Houses' SPD will have any significant impacts on nearby Natura 2000 sites.

4.2 This SPD will support policies in the adopted Rushmoor Core Strategy. This was subject to a Habitats Regulation Assessment which was prepared in consultation with Natural England. The purpose of HRA is to assess the impacts of plans against the conservation objectives of a European site. The assessment must determine whether the plan would adversely affect the integrity of the site in terms of its conservation objectives. Where adverse effects are identified these effects should be mitigated and other options should be explored.

4.3 The Appropriate Assessment stage of HRA is only required should the preliminary screening assessment not be able to rule out likely significant effect.

4.4 The Directive states that any plan or project not connected to or necessary for a sites management, but likely to have significant effect thereon shall be subject to appropriate assessment. There are 4 distinct stages in HRA namely:

**Step 1:** Screening – Identification of likely impacts on a European site either alone or in combination with other plans/projects and consideration of whether these are significant. This can include the consideration of avoidance measures.

**Step 2:** Appropriate Assessment – consideration of the impact on the integrity of the European Site whether alone or in combination with other plans or projects with respect to the sites structure, function and conservation objectives. Where there are significant effects, step 2 should consider potential mitigation measures.

**Step 3:** Assessment of Alternative Solutions – Assessing alternative ways of achieving the objectives of the plan/project which avoid impacts; and

**Step 4:** Assessment of Compensatory Measures – Identification of compensatory measures should impact not be avoided and no alternative solutions exist and an assessment of imperative reasons of overriding public interest (IROPI) deems that a project should proceed.

- 4.5 Should screening (step 1) reveal that significant effects are likely or effect cannot be discounted because of uncertainty, then it is necessary to move onto step 2: Appropriate Assessment. If step 2 cannot rule out significant effect even with mitigation, then the process moves onto step 3 and finally step 4 if no alternative solutions arise.

#### **Step 1 - Screening**

- 4.6 There are four stages to consider in a screening exercise: -

**Stage 1:** Determining whether the plan/project is directly connected with or necessary to the management of the site;

**Stage 2:** Describing the plan/project and description of other plan/projects that have the potential for in-combination impacts;

**Stage 3:** Identifying potential effects on the European site(s); and

**Stage 4:** Assessing the significance of any effects

#### **Stage 1**

- 4.7 It can be determined that the 'Development Affecting Public Houses' SPD is not directly connected with or necessary to the management of the site.

#### **Stages 2 to 4**

- 4.8 Information about the scope of the SPD can be found in Section 2 of this document. The following tables identify European sites assessed through the Core Strategy HRA process as having the potential to have some likely significant effect and identifies the significance of possible effects from the SPD. The SPD policies will supplement and support Core Strategy policies (already subject to a full HRA) and will not identify any new policies, levels of development or development distribution.

Table 2: Significant Effects Matrix for the Development Affecting Public Houses SPD

Site description/Qualifying Features	Key Environmental Conditions to support site integrity	Possible impacts arising from the SPD	Possible impacts from other plans, trends etc	Is there a significant risk of 'in combination' effects arising from the SPD
<b>Thames Basin Heaths Special Protection Area</b>				
<p>The TBHSPA received full SPA status on 9 March 2005. It covers an area of 8274 ha, consisting of 13 Sites of Special Scientific Interest (SSSI) across Surrey, Hampshire and Berkshire. The habitat consists of both dry and wet heathland, mire, oak birch acid woodland, gorse scrub and acid grassland with areas of rotational conifer plantation. The SPA is of international importance for its heathland birds: nightjar (<i>Caprimulgus europaeus</i>), woodlark (<i>Lullula arborea</i>) and Dartford Warbler (<i>Sylvia undata</i>). It is of European importance because the site qualifies under Article 4.1 of the Birds Directive (79/409/EEC) as it is used by 1% or more of the Great Britain population of a species listed in Annex 1.</p>	<p>Appropriate management; Management of disturbance during breeding season (March to July); Minimal air pollution; Absence or control of urbanisation effects, such as fires and introduction of invasive non-native species; Maintenance of appropriate water levels; Maintenance of water quality</p>	<p>No associated impact arising.</p>	<p>Potential cumulative effects from the Core Strategy on recreational disturbance and air pollution were identified and appropriate mitigation provided. Other impacts relate to recreational pressure from additional development most significantly within 5km of the SPA. Any such proposals are subject to appropriate mitigation.</p>	<p>Not specifically arising from the SPD.</p> <p>In combination effects have been subject to an appropriate assessment as part of the HRA for the adopted Rushmoor Core Strategy.</p>

Site description/Qualifying Features	Key Environmental Conditions to support site integrity	Possible impacts arising from the SPD	Possible impacts from other plans, trends etc	Is there a significant risk of 'in combination' effects arising from the SPD
<b>Thursley, Ash, Pirbright and Chobham SAC</b>				
<p>The Thursley, Ash, Pirbright &amp; Chobham Common SAC was designated in April 2005. It consists of 4 SSSI's 3 of which also form part of the TBHSPA. The qualifying Annex 1 habitats are: Wet heathland with cross leaved heath Dry heaths Depressions on peat substrates.</p>	<p>Appropriate management; Managed recreational pressure; Minimal Air pollution; Absence or control of urbanisation effects, such as fires and introduction of invasive non-native species; Maintenance of appropriate water levels; Maintenance of water quality</p>	<p>No associated impact arising.</p>	<p>Potential cumulative effects from the Core Strategy on recreational disturbance, air pollution, water abstraction and water quality were identified and appropriate mitigation provided. Other impacts relate to recreational pressure from additional development most significantly within 5km of the SPA. Any such proposals are subject to appropriate mitigation.</p>	<p>Not specifically arising from the SPD. In combination effects have been subject to an appropriate assessment as part of the HRA for the adopted Rushmoor Core Strategy.</p>
<b>Thursley, Hankley and Frensham Commons SPA</b>				
<p>The SPA is of international importance for its heathland birds: nightjar (<i>Caprimulgus europaeus</i>), woodlark (<i>Lullula arborea</i>) and Dartford Warbler (<i>Sylvia undata</i>). It is of European importance because the site qualifies under Article 4.1 of the Birds Directive (79/409/EEC) as it is used by 1% or more of the Great Britain population of a species listed in Annex 1.</p>	<p>Appropriate management; Management of disturbance during breeding season (March to July); Minimal air pollution; Absence or control of urbanisation effects, such as fires and introduction of invasive non-native species; Maintenance of appropriate water levels; Maintenance of water quality</p>	<p>No associated impact arising.</p>	<p>Potential cumulative effects from the Core Strategy on recreational disturbance and air pollution were identified and appropriate mitigation provided. Other impacts relate to recreational pressure from additional development most significantly within 5km of the SPA. Any such proposals are subject to appropriate mitigation. Possible cumulative impact on air pollution from</p>	<p>Not specifically arising from the SPD. In combination effects have been subject to an appropriate assessment as part of the HRA for the adopted Rushmoor Core Strategy.</p>

Site description/Qualifying Features	Key Environmental Conditions to support site integrity	Possible impacts arising from the SPD	Possible impacts from other plans, trends etc	Is there a significant risk of 'in combination' effects arising from the SPD
			development across local authorities but this is not worsened by the SPD and appropriate mitigation provided within the Core Strategy.	

<b>Thursley &amp; Ockley Bogs Ramsar Site</b>				
Thursley and Ockley Bogs is a valley mire complex that lies within the Thursley, Hankley and Frensham Commons SSSI. It qualifies under the Ramsar site criteria as it supports a community of rare wetland invertebrate species including notable numbers of dragonflies, and it is one of the few sites in Britain to support all six native reptile species.	Appropriate management; Managed recreational pressure; Minimal air pollution; Absence or control of urbanisation effects, such as fires and introduction of invasive non-native species; Maintenance of appropriate water levels; Maintenance of water quality	No associated impact arising.	Possible potential cumulative effects from the Core Strategy on recreational pressure, water abstraction and water quality were identified and subsequently screened out. Other impacts relate to pressure from additional development in other authorities most significantly within 5km of the SPA. Any such proposals are subject to appropriate mitigation.	Not specifically arising from the SPD. In combination effects have been subject to an appropriate assessment as part of the HRA for the adopted Rushmoor Core Strategy.

4.9 The SPD is also considered to have no significant effect on the following sites. These sites were all assessed as part of the Core Strategy Appropriate Assessment and considered to be too far from the Borough for there to be any recreational impact:

- East Hampshire Hangars SAC
- Wealdon Heaths Phase 2 SPA
- Shortheath Common SAC
- Windsor Forest and Great Park SAC

### **HRA Screening Conclusion**

- 4.10 On the basis of the above and having regard to the scope of the SPD and the considerations set out in paragraph 3.4 of this report the Council considers that this SPD will not have a significant adverse effect on any Natura 2000 sites and that a full appropriate assessment is therefore not required. The SPD will support the delivery of Core Strategy policies which have been subject to a full Assessment, including any in-combination effects with other plans.