



**South Hams
District Council**

Habitat Regulations Assessment

**South Hams District Council
Local Development Framework**

Planning Obligations SPD

July 2008

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1. Introduction

This document has been produced to determine whether policies and proposals of the South Hams Local Development Framework (LDF) Planning Obligations (PO) Supplementary Planning Document (SPD) will have a significant adverse impact on nearby Natura 2000 sites – and if so to identify necessary mitigation measures.

The PO SPD provides guidance to supplement the Core Strategy, particularly policy CS8: Infrastructure Provision. The SPD does not contain new policies or proposals it only sets out the Council's process for securing planning obligations in relation to new development. The objective of the SPD is to provide clarity to developers, the local authority, local residents and other stakeholders regarding the basis on which planning obligations will be sought.

1.1 Background

The Directive 92/43/EEC on the Conservation of Natural Habitats and Wild Flora and Fauna – the 'Habitats Directive' provides legal protection for habitats and species of European importance. Article 2 of the Directive requires the maintenance or restoration of habitats and species of interest to the EU in a favourable condition. This is implemented through a network of protected areas referred to as Natura 2000 sites.

Articles 6(3) and 6(4) of the Habitats Directive require Appropriate Assessment of plans and projects likely to have a significant effect on a European site. This means that the effects of such plans/projects on Natura 2000 sites need to be assessed to ensure that the integrity of these sites is maintained. The PO SPD is such a plan. The requirement to undertake an Appropriate Assessment in relation to a land-use plan is further consolidated by The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007 under Regulation 85a.

The Natura 2000 sites are of two types – Special Area of Conservation (SAC) and Special Protection Areas (SPA). SAC's are designated for mainly habitat features, whereas SPA's are designated for bird species. Each Natura 2000 site has a number of qualifying features, for which conservation objectives have been developed.

The purpose of a Habitat Regulations Assessment (HRA) is to assess the impacts of a land-use plan against the conservation objectives of the Natura 2000 Site. The assessment must determine whether the plan would adversely affect the integrity of the site in terms of its nature conservation objectives. Where negative effects are identified other options should be examined to avoid any potential damaging effects.

The Habitats Directive applies the precautionary principle to SPA's and SAC's. Plans can only be permitted having ascertained that there will be no adverse effect on the integrity of the site(s) in question. Plans may still be permitted if there are no alternatives to them and there are imperative reasons of overriding public interest as to why they should go ahead. Previous rulings show that these cases are rare. In such cases, compensation will be necessary to ensure the overall integrity of the site network.

The requirement to undertake HRA of Local Development Framework plans was clarified at the national level in March 2006 as now defined in the 2007 Regulations. The requirement was set out in a letter from the Office of the Deputy Prime Minister which was followed by draft guidance on "Planning for the Protection of European Sites: Appropriate Assessment" issued by the Department for Communities and Local Government (DCLG) in August 2006. At the time of writing the 2007 Regulations are still only supported by the draft guidance of August 2006. .

1.2 Methodology

DCLG (2006) guidance on Planning for the Protection of European Sites: Appropriate Assessment (consultation document) recommends a 3 stage process:

1. **Screening.** Determining whether the plan 'either alone or in combination with other plans or projects' is likely to have a significant effect on a European site
2. **Appropriate Assessment.** Determining whether, in view of the site's conservation objectives, the plan 'either alone or in combination with other plans or projects' would have an adverse effect (or risk of this) on the integrity of the site. If not, the plan can proceed.
3. **Mitigation & Alternatives.** Where the plan is assessed as having an adverse effect (or risk of this) on the integrity of a site, there should be an examination of mitigation measures and alternative solutions. If it is not possible to identify mitigation and alternatives, it will be necessary to establish the '*imperative reasons of overriding public interest*' (IROPI). This is not considered a standard part of the process and will only be carried out in exceptional circumstances.

All 3 stages of the process are referred cumulatively as Habitat Regulations Assessment, to clearly distinguish the whole process from the step within it referred to as the Appropriate Assessment.

1.3 Consultation with Natural England

Natural England has been positively engaged in the Habitats Regulations Assessment of the South Hams Local Development Framework.

The Council has maintained an open dialogue with Natural England throughout the process and this has included assessing and commenting on Habitat Regulations Assessments on a variety of adopted and emerging DPDs.

Consultation on the PO SPD sought the views of Natural England on this draft HRA. This included agreeing:

- The principles, direction and conclusions of this Habitat Regulations Assessment
- The conclusions, if any, reached on any likely significant effect or adverse effect on integrity (AEol) of the Natura 2000 sites
- That the mitigation and avoidance measures, if any, are suitable to avoid AEol of the Natura 2000 sites

The letter confirming that "Natural England does not find fault with the HRA or its conclusions" is available on the Council's website.

2. Screening

The principle aim of this chapter is to ‘screen’ the potential of the PO SPD for any likely impact on the Natura 2000 sites within 15 kilometres of the district boundary.

The screening process aims to be a first sieve of the European sites that this SPD could possibly affect. This section:

- Identifies European sites within 15km of the district boundary and possible effects of the PO SPD (section 2.1);
- Details the scope of the Planning Obligations SPD (section 2.2);
- Summarises what the possible effects of the SPD on those sites could be (Section 2.3);
- Lists existing trends that could affect the sites ‘in combination’ with other LDF proposals (Section 2.4);
- Considers possible effects of the SPD in relation to the ecological requirements of the sites qualifying features (Section 2.5); and
- Considers the specific objectives, visions & policies (and the changes they may cause) generated from these documents that may cause an adverse impact relevant to the Natura 2000 sites, and screen out those that will have no significant effect (Section 2.6 and Table 5).

In undertaking the screening stage of this assessment a highly precautionary approach has been adopted. At this stage no assumptions or allowances have been made for existing regulatory mechanisms (e.g. Environment Agency regulatory role), management structures (e.g. AONB Management Plan) or the South Hams LDFs policies or proposals that seek to conserve or enhance the natural environment.

2.1 European Sites and Possible effects of the Planning Obligations SPD

Table 1 lists the European sites that are within 15 km of the boundary of the district and are shown at map 1.

Table 1: European sites that could possibly be adversely affected by the SPD

| Name of Site | Reasons for Designation |
|--------------------------------|--|
| Plymouth Sound & Estuaries SAC | Sandbanks which are slightly covered by sea water all the time. Estuaries. Mudflats and sandflats not covered by seawater at low tide. Large shallow inlets and bays. Reefs. Shore dock. Allis shad. |
| Tamar Estuaries Complex SPA | Internationally important populations of Avocet & Little Egret |
| South Devon Shore Dock SAC | Vegetated sea cliffs of the Atlantic and Baltic coasts Shore Dock |
| Dartmoor SAC | Northern Atlantic wet heath with <i>Erica tetralix</i> . European dry heath. Blanket bog. Old sessile oak woodlands <i>Ilex</i> and <i>Blechnum</i> in the British Isles. Southern damselfly, <i>Coenagrion mercuriale</i> Otter <i>Lutra lutra</i> Atlantic salmon <i>Salmo salar</i> |
| South Dartmoor Woods SAC | Old sessile oak woodlands <i>Ilex</i> and <i>Blechnum</i> in the British Isles European dry heath |
| Blackstone Point SAC | Shore dock |
| South Hams SAC | Caves not open to the public Greater horseshoe bats <i>Rhinolophus ferrumequinum</i> European dry heaths Dry grasslands Vegetated Sea Cliffs |

Map 1: European Sites within 15km of South Hams Boundary

2.2 Scope of the Planning Obligations SPD

The PO SPD sets out the Council's approach for securing planning obligations in relation to new development. The SPD does not contain new policies or proposals, or influence the spatial distribution of housing and/or employment sites. It sets out the process, mechanisms and guidance associated with securing planning obligations. The objective of the SPD is to provide clarity to developers, the local authority, local residents and other stakeholders regarding the basis on which planning obligations will be sought.

The SPD provides further detail and guidance to supplement Core Strategy policy CS8: Infrastructure Provision, and is aimed at all those involved in the submission and determination of planning applications where planning obligations are required. The processes/mechanisms that the SPD sets out are as follows:

- The Council's approach for assessing a development proposal;
- Policy requirements including the relative importance the Council may place on varying areas of provision;
- The process for negotiating a planning obligation;
- A management fee and legal costs;
- Viability; and
- Monitoring of planning obligations and management fees.

Core Strategy policy CS8: Infrastructure Provision is set out below for information:

Policy CS8: Infrastructure Provision

The infrastructure needed to service and deliver sustainable development must be in place or provided in phase with the development. Where existing infrastructure is inadequate to serve the development, new or improved infrastructure and facilities to remedy deficiencies must be provided. Where provision on-site is not appropriate, off-site provision, or a financial contribution towards it, will be sought.

New development has a cumulative impact on infrastructure, communities and the environment. It often creates the need for additional or improved services and facilities and warrants mitigation measures. If these are not provided the development could have an adverse impact on local amenity and environment. New development should provide for the needs arising from that development and can also be an opportunity to make a positive and sustainable contribution to the local area and its community.

The SPD will assist in implementing local objectives in respect of the provision of sustainable development across the district by contributing towards the delivery of the South Hams Adopted LDF Core Strategy.

2.3 Possible effects of the Planning Obligations SPD

As such, the possible impacts of the PO SPD on the Natura 2000 sites are identified as arising from:

- More development, more activity, more noise, light etc.
- Increased visits to the European sites, possibly with associated disturbance of fauna and impacts on the habitats (e.g. through trampling on the moors, increases in water borne recreation).
- Possible impacts of development on or adjacent to European site leading to physical disturbance or loss.
- Increased traffic, leading to increased air pollution, which could affect habitats / species sensitive to air quality.

- Disruption of movement of species in the wider landscape.
- Increased water supply and discharge, which could, depending on where the water comes from and goes to, affect water levels or water quality within the European sites.
- Additional foul water discharge required by a new development.

2.4 Existing Trends and Possible Future Development

The South West Regional Spatial Strategy (RSS) Sustainability Appraisal report identifies a range of 'likely negative effects' of the draft RSS. Those that could have an 'in combination' effect with the impacts of the PO SPD include:

- Reduction in air quality due to increased car travel within the region
- A gradual increase in light & noise pollution

Table 2 summarises developments in nearby districts that could also lead to 'in combination' impacts with the PO SPD.

Table 2: Plans or projects with potential 'in combination' impacts

| Area | Development Plans or Proposals |
|-----------------------------|--|
| South Hams District Council | <p>Adopted Core Strategy:</p> <ul style="list-style-type: none"> • 6,000 dwellings from 2006-2016 (including 4,000 at the Sherford new community and 500 elsewhere in the Plymouth principal urban area). • 62 hectares of employment land from 2006-2016 (including 20ha Langage Employment Estate and 18ha at Sherford New Community). <p>5,900 dwellings from 2016-2026 (RSS Panel Report: December 2007) Existing permission for Langage Power Station</p> |
| Plymouth City Council | <p>Adopted Core Strategy:</p> <ul style="list-style-type: none"> • 24,500 dwellings between 2006 - 2026 • 130ha of employment land between 2006 – 2026 • Population growth towards 300,000 • Significant focus on waterfront & brown field regeneration. |
| Caradon DC | 6,500 dwellings from 2006-2026 (RSS Panel Report: December 2007) |
| Dartmoor National Park | 1000 dwellings from 2006-2026 (RSS Panel Report: December 2007) |
| Teignbridge DC | 10,400 dwellings from 2006-2026 (RSS Panel Report: December 2007) |
| Torbay | 20,000 dwellings from 2006-2026 (RSS Panel Report: December 2007) |
| West Devon BC | 4,400 dwellings from 2006-2026 (RSS Panel Report: December 2007) |

2.5 Site qualifying features and potential impacts

Table 3 documents the screening process for the SPA's/SAC's potentially affected by the PO SPD, and considers the significance of a range of possible impacts in relation to the individual sites qualifying features. A significant effect is considered to be one that is not trivial or inconsequential, but an effect that is potentially relevant to the sites conservation objectives.

Table 3: Significant effects matrix for the Planning Obligations SPD

| Site | Qualifying Features | Possible impacts arising from the PO SPD | Is there a risk of significant effect? | Possible impacts from other trends, plans etc | Is there a significant risk of In combination effects? |
|--------------------------------|--|---|--|--|--|
| Plymouth Sound & Estuaries SAC | Sandbanks which are slightly covered by sea water all the time. Estuaries. Mudflats and sandflats not covered by seawater at low tide. Large shallow inlets and bays. Reefs. Shore dock. Allis shad. | Toxic or non toxic contamination – changes in water quality due to changes in runoff regimes & increased pressure on existing water treatment works | Yes | Impacts on water quality upon the SAC due to development in Plymouth, Caradon & West Devon | Yes |
| | | Physical Damage – increased threats to seagrass beds by / recreational pressures of anchoring & mooring. | Yes | Increased recreational pressures due to development in Plymouth, Caradon & West Devon | Yes |
| | | Biological disturbance – Impacts of increased demand for recreational angling | Yes | Increased recreational pressures due to development in Plymouth, Caradon & West Devon | Yes |
| | | Loss of habitat due to small scale, unallocated land claim applications | Yes | Similar pressures for small scale land claim developments in Plymouth & Caradon | Yes |
| Tamar Estuaries Complex SPA | Little Egret 9% passage population in the UK & 8.4% wintering population; Avocet 15.8% of the wintering population in the UK. | Non-physical disturbance - increased noise & visual presence associated with recreational disturbance | Yes | Development in Plymouth, Caradon & West Devon could also increase recreational pressures upon the European Marine Site | Yes |
| | | Biological disturbance - (e.g. impacts of bait digging / shore crab fishery | Yes | Population growth in sub region may increase bait digging activity within the Tamar catchments | Yes |
| | | Toxic or non toxic contamination – changes in water quality due to changes in runoff regimes & increased pressure on existing water treatment works | Yes | Impacts on water quality upon the SAC due to development Plymouth, Caradon & West Devon | Yes |

| Site | Qualifying Features | Possible impacts arising from the PO SPD | Is there a risk of significant effect? | Possible impacts from other trends, plans etc | Is there a significant risk of In combination effects? |
|----------------------------|--|---|--|--|--|
| | | Loss of habitat due to small scale, unallocated land claim applications | Yes | Similar pressures for small scale land claim developments in Plymouth & Caradon | Yes |
| South Devon Shore Dock SAC | Vegetated sea cliffs of the Atlantic and Baltic coasts Shore Dock | Physical damage - Increased recreational pressure | Limited - shore dock and qualifying vegetated sea cliffs are confined to areas not normally associated with high visitor pressure, however some recent evidence strengthens consideration that visitor pressure may impact on species numbers. | Development in Plymouth, Caradon & West Devon could also increase recreational pressures upon this European Site | No |
| Dartmoor SAC | Northern Atlantic wet heath with <i>Erica tetralix</i> . European dry heath. Blanket bog. Old sessile oak woodlands <i>Ilex</i> and <i>Blechnum</i> in the British Isles. Southern damselfly, <i>Coenagrion mercuriale</i> Otter <i>Lutra lutra</i> Atlantic salmon <i>Salmo salar</i> | Physical damage - Increased recreational pressure causing damage due to trampling / fire Increased water extraction Air Pollution - changes in air quality may have detrimental effect on blanket bog, Old sessile oak woods, wet heaths and dry heath features Water quality changes – impacts on breeding & migratory salmon populations & otter | Yes Yes Yes Yes | Development in Plymouth, Caradon & West Devon could also increase recreational pressures upon this European Site Development in Plymouth, Caradon & West Devon could also increase water demand within the sites catchments Langage Power Station General reduction in air quality due to increased car travel within the region Development in Plymouth, Caradon & West Devon could also increase water use within the sites catchments | Yes Yes Yes Yes |

| Site | Qualifying Features | Possible impacts arising from the PO SPD | Is there a risk of significant effect? | Possible impacts from other trends, plans etc | Is there a significant risk of In combination effects? |
|--------------------------|---|--|---|--|--|
| South Dartmoor Woods SAC | Old sessile oak woodlands <i>Ilex</i> and <i>Blechnum</i> in the British Isles European dry heath | Physical damage - Increased recreational pressure at woodlands at Damage due to trampling / fire. | Yes | Development in Plymouth, Caradon & West Devon could also increase recreational pressures upon this European Site | Yes |
| | | Air pollution | Yes | Langage Power Station General reduction in air quality due to increased car travel within the region | Yes |
| Blackstone Point SAC | Shore dock | Physical damage - Increased recreational pressure | Limited - shore dock is confined to areas not normally associated with high visitor pressure, however some recent evidence strengthens consideration that visitor pressure may impact on species numbers. | Development in Plymouth, Caradon & West Devon could also increase recreational pressures upon this European Site | No |
| South Hams SAC | Caves not open to the public Greater horseshoe bats <i>Rhinolophus ferrumequinum</i> European dry heaths Dry grasslands Vegetated Sea Cliffs | Loss of roosts Disturbance of roosts Loss or change of feeding areas within 5km of Buckfastleigh Caves SSSI or Bulkamore Ironmine SSSI at Rattery Roosts and 6km of Berry Head to Sharkham Point SSSI Roost. Interference and disruption of dispersal corridors. Blade strike from wind turbines | Yes | Development in Teignbridge, Torbay & Dartmoor National Park could increase potential impacts | Yes |

2.6 Planning Obligations SPD Policy Review

Review Criteria

To refine the focus of the assessment a detailed review of the PO SPD has been undertaken. This identified the policies within the document that:

- a) have no effect on the Natura 2000 sites
- b) could possibly have an effect on the Natura 2000 sites
- c) would be likely to have a significant effect on the Natura 2000 sites

This screening of the potential effects of the documents used the criteria set out in Table 4. These criteria are based on the approach proposed in 'The Assessment of Regional Spatial Strategies and Sub-regional strategies under the provisions of the Habitats Regulations' Draft Guidance - English Nature (August 2006). They have been modified to reflect the content & characteristics of the PO SPD.

The assessment below, only considered sections 6 and 7 of the SPD as these are the sections that contained guidance on how planning obligations will be sought.

Table 4: Habitat Regulations Assessment - Screening criteria for the PO SPD

| Effect of PO SPD on Natura 2000 sites | Criteria Number | Rationale |
|---|-----------------|---|
| No significant adverse effect on the Natura 2000 sites (Shown green on Table 5) | 1 | The policy will not itself lead to development (e.g. it relates to design or other qualitative criteria for development, or it is not a land use planning policy)*. |
| | 2 | No development could occur through this policy alone, because it is implemented through sub-ordinate policies, which are more detailed and therefore more appropriate to assess for their effects on European Site, and associated sensitive areas. |
| | 3 | The policy is intended to conserve or enhance the historic or natural environment, including biodiversity, and enhancement measures will not be likely to have any effect on a European Site or the policy steers a quantum or type of development that can have no foreseeable, direct or indirect effect upon the Natura 2000 sites*. |
| Possible adverse effect on the Natura 2000 sites (shown yellow on Table 5) | 4 | The policy steers a quantum or type of development towards, or encourages development in, an area that includes a European Site or an area where development could possibly indirectly affect a European Site. |
| Likely to have a significant adverse effect on Natura 2000 sites (shown Red on Table 5) | 5 | The policy makes provision for a quantum, or type of development that in the location(s) proposed would be likely to have a significant effect on a European Site. The proposal must be subject to appropriate assessment to establish, in light of the site's conservation objectives, whether it can be ascertained that the proposal would not adversely affect the integrity of the site. |

* The SPD sets out qualitative criteria; it documents the process/mechanisms for securing planning obligations. Further details are set out in section 2.2.

Policy Review Results

Table 5 displays the results of applying the criteria shown above to the PO SPD.

Table 5: Policy Impact Matrix

| Natura 2000 Site Planning Obligations SPD | | | Plymouth Sound & Estuaries SAC | Tamar Estuaries Complex SPA | South Devon Shore Dock SAC | Dartmoor SAC | South Dartmoor Woods SAC | Blackstone Point SAC | South Hams SAC |
|---|--|-----------------|---|---|----------------------------|--|---|--------------------------|--|
| Section | Name | Criteria Number | Physical Disturbance or Loss Water Quality and abstraction Recreational Disturbance | Blade Strike Physical Disturbance or Loss Water Quality and abstraction Recreational Disturbance | Recreational Disturbance | Air Quality Water Abstraction Recreational Disturbance | Air Quality Recreational Disturbance | Recreational Disturbance | Loss or Disturbance to roosts Loss or Disturbance to foraging areas Interference and disruption of dispersal corridors Blade Strike |
| 6 | Development Management Negotiation a Planning Obligation | 1/3 | | | | | | | |
| 7 | | 1/3 | | | | | | | |

2.7 Conclusions – Habitat Regulations Assessment - Screening Stage

In conclusion, the SPD does not contain new policies or proposals it only sets out the Council's process for securing planning obligations in relation to new development. The SPD will have no significant adverse impact on the integrity of Natura 2000 sites. Moreover, without the SPD in place it could lead to development having an adverse effect upon amenity, safety, or the environment.

Any new development in the west of the district should contribute towards mitigating against harm from off-site recreational impact on the Tamar Estuary. The level of contribution and distribution will be set out in the relevant DPD HRAs (i.e. the Sherford Area Action Plan or the Plymouth Urban Fringe DPD) and/or any relevant planning application.

Finally, if a HRA of an individual site proposal identifies an impact on a Natura 2000 site that can be mitigated through a section 106 agreement this SPD is the means of delivery.