

**Appendix 2: Draft Rushcliffe Design Code Supplementary
Planning Document – Sustainability
Appraisal and Appropriate Assessment
Screening Opinion Report**



**Draft Rushcliffe Design Code
Supplementary Planning Document**

**Strategic Environmental Assessment
and Appropriate Assessment**

Screening Opinion Report

Date TBD

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1 Introduction

- 1.1 This screening report has assessed the contents of the Draft Rushcliffe Design Code Supplementary Planning Document (SPD) in order to identify potential environmental impacts that would require a Strategic Environmental Assessment in accordance with the European Directive and associated Environmental Assessment of Plans and Programmes Regulations 2004. If significant modifications are made following consultation on the draft SPD or advice from statutory consultees, the plan will be screened again to identify environmental impacts.
- 1.2 It also determines whether or not the contents of the draft SPD would require a Habitats Regulations Appropriate Assessment in accordance with European Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora, i.e. the 'Habitats Directive' and the associated Conservation of Habitats and Species Regulations 2010 (otherwise known as the 'Habitats Regulations').
- 1.3 European Directives have been transposed into national law through UK legislative statutory instruments (further details of which will be provided in section 2 below) to determine whether they would have significant environmental effects (SEA) or have an impact on any internationally designated wildlife sites (HRA). This has resulted in the SPD needing to be screened in relation to whether it needs to be supported by a Strategic Environmental Assessment and / or a Habitats Regulations Assessment (HRA), i.e. an 'appropriate assessment'.
- 1.4 It should be noted that the adopted Rushcliffe Local Plan Part 1: Core Strategy (December 2014) has been subject to a full Strategic Environmental Assessment and Sustainability Appraisal in accordance with the legislation, as well as an appropriate assessment scoping report in relation to the Habitats Regulations (which concluded that a full Appropriate Assessment of it would not be required). As this SPD provides additional guidance that delivers the Rushcliffe Design Code requirements as set out in the Core Strategy (notably Policy 10 Design and Enhancing Local Identity), these assessments will be taken into account in providing this screening opinion.
- 1.5 In addition, the Local Plan Part 2: Land and Planning Policies was adopted in October 2019. This document is also supported by a Sustainability Appraisal which includes the Strategic Environmental Assessment, and Habitats Regulations Assessment. These will also be taken into account where appropriate.

- 1.6 This screening report details whether the draft SPD is likely to require an SEA or HRA. It is concluded that a Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment are not required to accompany the draft SPD. Details of the reasoning behind these conclusions are provided within sections 4 and 5 of this report.
- 1.7 This SEA and HRA Screening Opinion will be sent to the three statutory consultees (Historic England, Natural England, and Environment Agency) to seek their views on its contents.

2 Legislation

2.1 Strategic Environmental Assessment

2.1.1 The basis for requiring Strategic Environmental Assessment is European Directive 2001/42/EC and was transposed into English Law by the Environmental Assessment of Plans and Programmes Regulations 2004.

2.1.2 Detailed guidance of these Regulations can be found in the Government publication, 'A Practical Guide to the Strategic Environmental Assessment Directive' (ODPM 2005). Further information on SEA is contained within the Government's National Planning Practice Guidance.

2.1.3 The objective of the SEA Directive (2001/42/EC) is set out in Article 1 therein, which states:

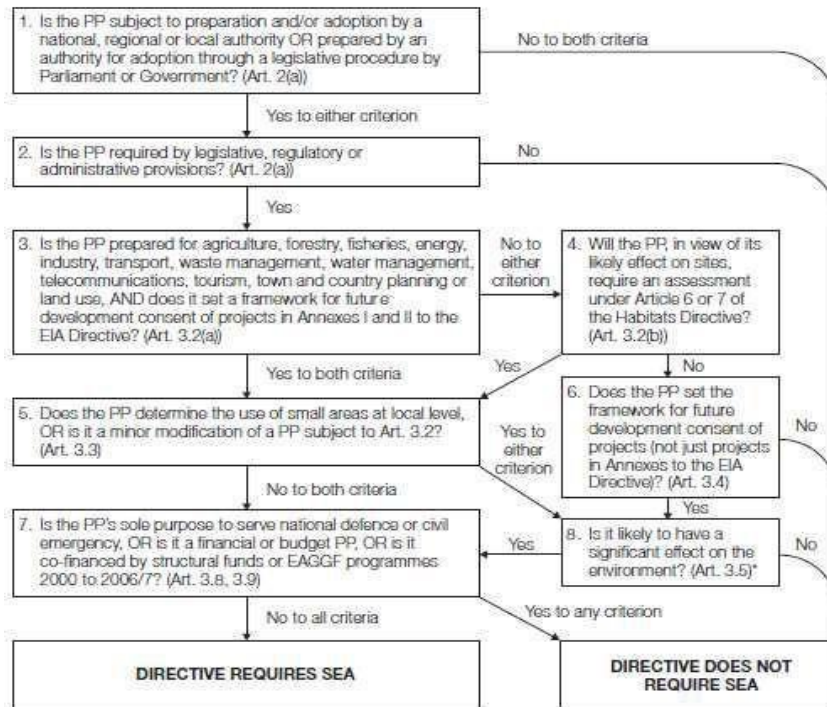
'The objective of this Directive is to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development, by ensuring that, in accordance with this Directive, an environmental assessment is carried out of certain plans and programmes which are likely to have significant effects on the environment.'

2.1.4 To establish if a 'plan' or 'programme' needs to be accompanied by a full SEA, a "screening" assessment is required against a series of criteria set out in the SEA Directive. These are illustrated in Figure 1 below.

2.1.5 National Planning Practice Guidance states that an SEA will only be required in exceptional circumstances.¹

¹ Paragraph: 008 Reference ID: 61-008-20190315

Figure 1: Criteria against which the requirement for SEA to be screened



2.1.6 Assessing the significance of the environmental effects (as set out within stage 8 of Figure 1 above) that an SPD will have depends on the requirements within it. The criteria for assessing significance are referred to in Article 3.5 and set out within Annex II of the SEA Directive, as shown below:

Figure 2: Criteria for assessing significance

1. The characteristics of plans and programmes, having regard, in particular, to
 - The degree to which the plan or programme sets a framework for projects and other activities, either with regards to location, nature, size and operating conditions or by allocating resources;
 - The degree to which the plan or programme influences other plans and programmes including those in a hierarchy;
 - The relevance of the plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development;
 - Environmental problems relevant to the plan or programme;
 - 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)
2. Characteristics of the effects and of the area likely to be affected, having regard, in particular, to
 - The probability, duration, frequency and reversibility of the effects;
 - The cumulative nature of the effects;
 - The transboundary nature of the effects;
 - The risks to human health or the environment (e.g. due to accidents);
 - The magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected);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.

2.2 Habitats Regulations Assessment

2.2.1 A Habitat Regulations Assessment (HRA) is required for a plan or project to assess the potential implications for European wildlife sites, i.e. 'European sites' or 'Natura 2000 sites'. It explores whether the implementation of a plan or project would harm the habitats or species for which the European sites are designated. The European sites are:

- Special Protection Areas (SPAs) – designated by the Birds Directive (79/409/EEC as amended and 2009/147/EC), and:
- Special Areas of Conservation – designated by the Habitats Directive (92/43/EEC).

2.2.2 In addition to SPAs and SACs, Ramsar sites are designated under the Ramsar convention. The Ramsar convention's mission is to conserve and sustainably utilise wetland habitats. Although Ramsar sites are not covered by the Habitats Regulations, as a matter of Government Policy, they should be treated in the same way as European wildlife sites (i.e. SPAs and SACs). European wildlife sites and Ramsar sites are collectively known as internationally designated wildlife sites.

2.2.3 The basis for requiring a Habitats Regulations Assessment stems from the European Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora. This has been transposed into UK legislation by the Conservation of Habitats and Species Regulations 2010.

3 Rushcliffe Design Code Supplementary Planning Document

- 3.1 If adopted, the Rushcliffe Design Code SPD will provide guidance on the application of Local Plan Part 1: Core Strategy Policy 10 (Design and Enhancing Local Identity) in particular and pertinent national policy and guidance within the National Planning Policy Framework and Planning Practice Guidance. Its role is to provide code and guidance to support the delivery of well-designed new development.
- 3.2 The table below lists those issues and design topics that the SPD addresses:

Design issues covered in the SPD
Rural development
Design process and masterplanning
Street hierarchy and servicing
Householder proposals
Infill and intensification
Multi-dwellings and taller buildings
Landscape matter
High Street and retail development

4. Rushcliffe Design Code SPD SEA screening assessment

- 4.1 The issues and guidance in the draft SPD (those listed in Section 3) have been used to undertake this screening exercise against the criteria in Figures 1 and 2 in Section 2 above. If the content of the SPD is amended significantly following consultation and prior to adoption, the SPD would be subject to a further screening exercise to explore whether any significant effects would occur.
- 4.2 An SEA was completed as part of the adopted Rushcliffe District Council Local Plan Part 1 (Core Strategy) (December 2014) and submitted Local Plan Part 2 (Land and Planning Policies) and this has been taken into account in this screening assessment.
- 4.3 Table 1 (below) outlines the results of the assessment against the criteria in Figures 1 and 2 in Section 2.

Table 1: SEA Criteria for determining whether an Environmental Report is required.

Stage	Yes / No	Reason
1. 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))	Yes (go to Q.2)	The SPD will be adopted by Rushcliffe Borough Council as part of the statutory development plan following consultation on the draft SPD.
2. Is the SPD required by legislative, regulatory, or administrative provisions? (Art. 2(a))	Yes (go to Q.3)	The preparation and adoption of an SPD is optional. However, once adopted by Rushcliffe Borough Council, it will become a material consideration during the determination of planning applications. It is therefore important that the screening process considers whether the SPD is likely to have a significant effect and hence whether an SEA is required.
3. Is the SPD prepared for agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use <u>AND</u> does it set a framework for future development consent of projects in Annexes I and II to the EIA Directive? (Art 3.2(a))	No (go to Q.4)	SPD seeks to help ensure developments (which accord with the Local Plan) complies with the Rushcliffe Design Code as far as is possible (based on applicable Local Plan requirements). It does not set a framework for future consents of either Annex I or Annex II of the EIA Directive, which are, as a rule major infrastructure, agricultural or tourism and leisure developments.

Stage	Yes / No	Reason
4. Will the SPD, in view of its likely effect on sites, require an assessment under Article 6 or 7 of the Habitats Directive? (Art. 3.2 (b))	No (go to Q.6)	Screening by Rushcliffe BC of development sites in Core Strategy and Land and Planning Policies did not identify any impacts on habitats. Notwithstanding this, the provision of Rushcliffe Design Code is unlikely to have implications upon internationally protected sites. As the SPD does not contain 'policies', including allocations and the Borough is a considerable distance from the nearest internationally protected site or prospective site, it is concluded that it is also unlikely to significantly affect them (see HRA screening below).
6. Does the SPD set the framework for future development consent of projects (not just projects in annexes to the EIA Directive)? (Art 3.4)	Yes (go to Q.8)	<p>Although the SPD does not form part of the development plan, it is a material consideration that will inform decisions on those applications where Core Strategy Policy 10 (Design and Enhancing Local Identity) in particular is applicable.</p> <p>Whether the plan requires a full SEA will depend on whether the policies would have a significant effect on the environment.</p>
8. Is the SPD likely to have a significant effect on the environment? (AnAnex II of the European Directive 2001/42/EC on the assessment of certain plans and programmes on the environment sets out the criteria for determining the likely significance of effects on the environment. This section will assess the SPD against these criteria)	No	<p>The SPD will not have a significant effect on the environment.</p> <p>The SPD does not allocate sites or contain criteria which will influence the location of development. These policy decisions were taken through the Local Plan process.</p> <p>Rather the SPD seeks to help ensure developments (which accord with the Local Plan) conform with the Design Code as far as is possible (based on applicable Local Plan requirements). The provision of Rushcliffe Design Code will not have significant (negative) effects on biodiversity, historic environment, landscape, natural resources, water or flooding, or air quality.</p> <p>The provision of well design development should have a positive effect on human health and wellbeing.</p>
SEA IS NOT REQUIRED		

Conclusion

- 4.4. On the basis of the SEA screening exercise in Table 1 above, it is considered that significant effects are unlikely and therefore, the draft Rushcliffe Design Code SPD does not require a Strategic Environmental Assessment (SEA).
- 4.5. Overall the SPD would have neutral or even positive effect on the environment (on health and wellbeing).
- 4.6. If, following consultation on the draft SPD, modifications to the SPD have

implications for the environment, these should be screened again to ensure a full SEA is not required.

5 Rushcliffe Design Code SPD HRA appropriate assessment screening

5.1. This is the Habitats Regulations Assessment (HRA) of the draft Rushcliffe Design Code SPD. It accompanies the draft SPD and comprises the screening of likely significant effects of this guidance (which is a material consideration when determining planning applications) on designated and prospective European or internationally protected nature conservation sites.

5.2. As the SPD is subordinate to the adopted Local Plan Part 1 (Core Strategy) and Local Plan Part 2 (Land and Planning Policies), provided the SPD does not amend the policies within them (which it cannot), the conclusions of their respective HRAs provides a clear indication of the likelihood of significant effects upon an internationally designated site.

Local Plan Part 1: Core Strategy

5.3. Rushcliffe Borough Council adopted the Core Strategy in December 2014. This Development Plan Document contains strategic land allocations and planning policies which determine the minimal level of development at Ruddington. The Core Strategy also contains general policies on sustainable development, climate change, green belt, housing mix and tenure, design, transport, green infrastructure and biodiversity.

5.4. In accordance with the European Habitats Directives and Conservation of Habitats and Species Regulations 2017, the Core Strategy underwent a Habitats Regulations Assessment which determined that the plan would not significantly affect any European protected nature conservation site.

Local Plan Part 2: Land and Planning Policies

5.5. Local Plan Part 2 was adopted in October 2019, it was submitted for examination with a HRA Screening that concluded that the Plan would not result in likely significant effects alone or in combination. An addendum to the HRA assessed whether the Court of Justice of the European Union (12 April 2018) affected this conclusion. It was determined that it did not.

5.6. The conclusion that the Plan would be unlikely to have significant effects was supported by Natural England, was not challenged at examination. The

inspector agreed with this conclusion.

Screening of Likely Significant Effects

- 5.7. Given the conclusions of the Local Plan HRAs it is unlikely that a subordinate SPD, which accord with the policies within the Local Plan, would significantly affect an internationally protected nature conservation site and trigger the requirement for an appropriate assessment.