

Appendix L: Section 106 Planning Obligations/Community Infrastructure Levy SPD Habitats Regulations Assessment

No.	Title
Appendix A	Examiner's Report on the Southwark CIL Revised Draft Charging Schedule (RDCCS)
Appendix B	Southwark Community Infrastructure Charging Schedule
Appendix C	Regulation 123 List
Appendix D	Southwark CIL Infrastructure Plan (available on the website)
Appendix E	Southwark CIL Updated equalities Analysis (available on the website)
Appendix F	Southwark CIL Consultation Report (available on the website)
Appendix G	Section 106 Planning Obligations and Community Infrastructure Levy (CIL) Supplementary Planning Document (SPD)
Appendix H	SPD Consultation Report (available on the website)
Appendix I	SPD Updated Equalities Analysis (available on the website)
Appendix J	SPD Table of Modifications (available on the website)
Appendix K	SPD Draft Adoption Statement (available on the website)
Appendix L	SPD Habitats Regulations Assessment (available on the website)
Appendix M	SPD Sustainability Appraisal Screening Assessment and Statement of Reasons (available on the website)

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1 Introduction

- 1.1 This report presents the findings of a screening exercise undertaken to determine whether stages 2 and 3 of the Habitats Regulations Assessment (HRA) process are needed for the Section 106 Planning Obligations and Community Infrastructure Levy (CIL) Supplementary Planning Document (SPD). The council has also undertaken a separate Strategic Environmental Assessment Screening Assessment for the document.
- 1.2 The SPD does not create new policy. It provides guidance on how existing policies in the Southwark Plan, Core Strategy and London Plan will be applied in the borough. An HRA screening exercise has been carried out for the parent documents i.e. Core Strategy, Canada Water Area Action Plan (AAP), Peckham and Nunhead AAP and Aylesbury AAP.


2 The need for Habitats Regulations Assessment

- 2.1 In October 2005, the European Court of Justice ruled that HRA must be carried out on all planning policy documents in the UK. The purpose of HRA of planning policies is to ensure that the protection and integrity of European sites¹ (also known as the Natura 2000 network) is part of the planning process at the regional and local level. It is the responsibility of the Local Planning Authority (LPA) to ensure that the HRA process is carried out in accordance with the Habitat Directive (Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora and Directive 2009/147/EC on the conservation of wild birds) and Regulation 102 of the Conservation of Habitats and Species Regulations 2010 (as amended) (the 'Habitats Regulations').
- 2.2 The Habitats Regulations requires that authorities assess the effects of land use plans on European sites to determine whether there will be any 'likely significant effects' (LSEs) on any Natura 2000 sites as a result of the plan's implementation (either on its own or in combination with other plans or projects). If there are LSEs there will be a need for the authority to undertake an Appropriate Assessment to determine whether or not there will be any adverse effects on the sites' integrity.
- 2.3 Guidance from the Department of Communities and Local Government (DCLG) on Appropriate Assessment² states that: 'The purpose of Appropriate Assessment (AA) of land use plans is to ensure that protection of the integrity of 'European sites' is a part of the planning process at a regional and local level.

¹ Strictly, 'European sites' are any Special Area of Conservation (SAC) from the point at which the European Commission and the UK Government agree the site as a 'Site of Community Importance' (SCI); any classified Special Protection Area (SPA); any candidate SAC (cSAC); and (exceptionally) any other site or area that the Commission believes should be considered as an SAC but which has not been identified by the government. However the terms is also commonly used when referring to potential SPAs (pSPAs), to which the provisions of Article 4 (4) of Directive 2009/147/EC (the new wild birds directive) are applied; and to possible SACs (pSACs) and listed RAMSAR Sites, to which the provisions of the Habitats Regulations are applied a matter of government policy (NPPF para 118) when considering development proposals that may affect them. The Natura 2000 network is therefore used in this report in its broadest sense, as an umbrella term for all of the above designated sites.

² Planning for the Protection of European Sites: Appropriate Assessment Guidance For Regional Spatial Strategies and Local Development Documents, DCLG, August 2006

- 2.4 The DCLG guidance summarises the AA process prescribed in Article 6(3) and (4) of the Habitats Directive into three main stages:
1. likely significant effects (AA task 1);
 2. appropriate assessment and ascertaining the effect on site integrity (AA task 2);
 3. mitigation and alternative solutions (AA task 3); and
- *imperative reasons of overriding public interest.*
- 2.5 The test to identify whether a plan option is 'likely to have a significant effect' on a European site is also referred to as 'screening'. This determines whether stages 2 and 3 of the HRA are required.

Box 1 Stages of Habitats Regulations Assessment	
<p>Stage 1 – Screening: This stage identifies the likely impacts upon a European Site of a project or plan, either alone or 'in combination' with other projects or plans, and considers whether these impacts are likely to be significant.</p> <p>Stage 2 – Appropriate Assessment: Where there are likely significant effects, this stage considers the effects of the plan or project on the integrity of the relevant European Sites, either alone or 'in combination' with other projects or plans, with respect to the sites' structure and function and their conservation objectives. Where it cannot be concluded that there will be no adverse effects on sites' integrity, it is necessary to consider potential mitigation for these effects.</p> <p>Stage 3 – Assessment of Alternative Solutions: Where adverse effects remain after the inclusion of mitigation, this stage examines alternative ways of achieving the objectives of the project or plan that avoid adverse impacts on the integrity of European Sites.</p> <p>Stage 4 – Assessment Where No Alternative Solutions Exist and Where Adverse Impacts Remain: This stage assesses compensatory measures where it is deemed that the project or plan should proceed for imperative reasons of overriding public interest (IROPI). The EC guidance does not deal with the assessment of IROPI.</p>	 <p>HABITATS REGULATIONS ASSESSMENT (HRA)</p>

3 Identifying likely significant effects (LSEs)

- 3.1 The first stage, screening for HRA, will determine if planning policy and guidance documents are likely to have a significant effect on the conservation objectives of the Natura 2000 sites. This will determine whether stages 2 and 3 of the HRA are required. In considering whether the plan policy, guidance or site is likely to have a significant effect on a Natura 2000 site, it should be noted that a site may be located either within or outside the area covered by the plan as significant effects may be incurred in cases where the area of the plan is some distance away.
- 3.2 When considering the LSEs of a policy, it is recognised that some policy 'types' cannot effect any European sites. Different guidance documents suggest various classification and referencing systems to help identify those policies that can be safely screened out to ensure the HRA focuses on the policies with any potential to result in LSEs. Table 2.1 summarises the characteristics of policies that can usually be screened out.

Table 2.1 Policy ‘types’ that can usually be screened out

Broad Policy Type	Notes
General statements of policy	The European Commission recognises* that plans or plan components that are general statements of policy or political aspirations cannot have significant effects
General design / guidance criteria	A general ‘criteria based’ policy expresses the tests or expectations of the plan-making body when it comes to consider particular proposals, or relate to design or other qualitative criteria which do not themselves lead to development (e.g. controls on building design).
External plans / projects	Plans or projects that are proposed by other plans and are referred to in the plan being assessed for completeness
Environmental protection policies	Policies designed to protect the natural or built environment will not usually have significant or adverse effects

* EC, 2000, Managing Natura 2000 sites: the provisions of Article 6 of the ‘Habitats’ Directive 92/43/EEC April 2000 at 4.3.2

- 3.2 If, following screening, significant adverse impacts are anticipated, a ‘full’ HRA considers the potential for impacts in more detail and whether alternative measures can be adopted. If there are no viable alternatives, the planning policy can only be implemented if there are ‘imperative reasons of overriding public interest’.

4 Methodology

- 4.1 The legal requirement to undertake HRAs is set out in the Habitats Directive. However, there is no standardised method for undertaking an HRA. The council has followed the screening method used on the HRA of the London Plan iterations (2009 and 2013) and also the methodology used to prepare the HRA for the Core Strategy (2011) and subsequent planning documents.
- 4.2 This methodology used is based primarily on the draft guidance by Tydesley and Associates prepared for Natural England - ‘The Assessment of Regional Spatial Strategies and Sub Regional Strategies under the Provisions of the Habitats Regulations’ (2006).

5 Identification of relevant sites

- 5.1 Using the Joint Nature Conservation Committee (JNCC) website³, and in line with the methodology employed in the HRA of Further Alterations to the London Plan, the council identified those Natura 2000 sites within a 10km zone extending from the boundary of the borough. SACs, SPAs, RAMSARS and OMSs were included. European sites were scoped into the study if they occurred either wholly or partially within this geographical area. The council identified that there are no Natura 2000 sites in Southwark. Four sites are partially within 10km of Southwark are set out below:

³ www.jncc.gov.uk

Identified conservation sites of EC importance
<u>Sites at least partially in Southwark</u>
None
<u>Sites at least partially within 10km of Southwark</u>
Wimbledon Common (SAC)
Richmond Park (SAC)
Epping Forest (SAC)
Lee Valley (SPA)

5.2 The information for these sites concerning the rationale for EU conservation has been taken from the HRA Screening report on the Consultation draft replacement London Plan (October 2009) which also includes supplementary information in order to assist in considering the vulnerability of sites to potential adverse impacts. This is presented in the table on the following pages.

Site Description table

5.3 This information has been sourced from the HRA Screening report on the Consultation draft replacement London Plan (October 2009). The contents of the table were compiled with reference to the sources listed below, and also informed by consultation with Natural England.

- Site name and location
Obtained from Natural England 'Natura 2000 Forms' and RAMSAR forms from the JNCC website.
- Qualifying Interest (habitats and species)
Denotes the habitats and species for which the sites have been awarded EU conservation status. It is these qualifying features which the HRA must safeguard. This information is obtained from 'Natura 2000' and RAMSAR forms. The qualifying features form the basis of Natural England's 'conservation objectives for the European interest on SSSIs', which were drawn upon for pertinent additional information.
- Conservation objectives
Conservation objectives are set by Natural England (NE) to ensure that the obligations of the Habitats Regulations are met, particularly to ensure that there should be no deterioration or significant disturbance of the qualifying features from their condition at the time the status of the site was formally identified. The conservation objectives are also essential in determining whether the effects of a plan or project are likely to have a significant effect on the qualifying interests of the site.

- Site sensitivities
The key site sensitivities / vulnerabilities for each habitat type were established by reviewing information provided within the conservation objectives for each site and also from site condition monitoring (typically of the underlying Site of Special Scientific Interest (SSSI) designation) and from discussions with Natural England
- Current condition (July 2006 survey)
- Threats
Information pertaining to the potential threats. From Natura 2000, RAMSAR, and Conservation Objectives forms.

Natura 2000 Site	Location	Qualifying Interest (Habitats and Species)	Conservation Objectives	Site Sensitivities	Current Condition (July 2006 condition survey)	Threats
Wimbledon Common SAC (348.31 ha)	<p>Within GLA boundary</p> <p>The following boroughs are within or adjacent to the European sites:</p> <ul style="list-style-type: none"> • Merton • Wandsworth • Richmond upon Thames • Kingston upon Thames 	<p><i>Lucanus cervus</i> (stag beetle)</p> <p>Annex I habitats present as a qualifying feature, but not a primary reason for selection of this site:</p> <ul style="list-style-type: none"> • Northern Atlantic wet heaths with <i>Erica tetralix</i> • European dry heaths 	<p>The conservation objectives for the European interest on the SSSI are to maintain*, in favourable condition, the:</p> <ul style="list-style-type: none"> • European dry heath • Northern Atlantic wet heath with <i>Erica tetralix</i> <p>to maintain*, in favourable condition, the habitats for the population of:</p> <ul style="list-style-type: none"> • Stag beetle (<i>Lucanus cervus</i>) <p>* Maintenance implies restoration if the feature is not currently in favourable condition.</p>	<p>Water quality – e.g. pollution through groundwater and surface run-off sources</p> <p>Water level – maintenance of water table</p> <p>Heavy recreational pressure</p> <p>Spread of non-native / invasive species</p> <p>Scrub encroachment</p> <p>Atmospheric pollution (nutrient deposition and acidification)</p>	<p>Area favourable 40%</p> <p>Area unfavourable but recovering 59%</p>	<p>Site is located in an urban area and experiences intensive recreational pressure which can result in damage, particularly to the sensitive areas of heathland.</p> <p>Air pollution is also thought to be having an impact on the quality of heathland habitat.</p>
Richmond Park SAC (846.68 ha)	<p>Within GLA boundary</p> <p>The following boroughs are within or adjacent to the European sites:</p>	<ul style="list-style-type: none"> • <i>Lucanus cervus</i> (stag beetle) 	<p>The conservation objectives for the European interest on the SSSI are:</p> <p>to maintain, in favourable condition, the habitats for the population of:</p> <ul style="list-style-type: none"> • Stag beetle (<i>Lucanus cervus</i>) <p>The conservation objectives</p>	<p>Water level</p> <p>Water quality – nutrient enrichment from fertiliser run-off etc</p> <p>Scrub encroachment (often due to</p>	<p>Area favourable 6%</p> <p>Area unfavourable recovering 8%</p> <p>Area unfavourable no change 86%</p>	<p>Site is surrounded by urban areas and experiences high levels of recreational pressure. This does not directly affect</p>

	<ul style="list-style-type: none"> Richmond upon Thames Kingston upon Thames Wandsworth Merton 		for the Richmond Park proposed Special Area of Conservation are, in accordance with para C 10 of PPG 9, the reasons for which the cSAC was proposed.	<p>undergrazing)</p> <p>Development pressure</p> <p>Spread of introduced non-native species</p> <p>Human disturbance (off-road vehicles, burning (vandalism))</p> <p>Atmospheric pollution e.g. nitrous oxides from vehicle exhausts</p>		the European interest feature however.
Epping Forest SAC	<p>Partially within GLA boundary</p> <p>The following boroughs are within or adjacent to the European sites:</p> <ul style="list-style-type: none"> Waltham Forest Redbridge Enfield 	<p>Annex I habitats that are a primary reason for selection of this site:</p> <ul style="list-style-type: none"> Atlantic acidophilous beech forests with <i>Ilex</i> and sometimes also <i>Taxus</i> in the shrub layer (<i>Quercion robori-petraeae</i> or <i>Ilici-Fagenion</i>) 	<p>The Conservation Objectives for this site are, subject to natural change, to maintain the following habitats and geological features in favourable condition, with particular reference to any dependent component special interest features (habitats, vegetation types, species, species assemblages etc.) for which the land is designated (SSSI, SAC, SPA, Ramsar) as individually listed in Table 1.</p> <p>Habitat Types represented</p>	<p>Water quality – e.g. pollution through groundwater and surface run-off sources</p> <p>Water level – maintenance of water table essential e.g. restrict new drainage ditches around wet woodlands</p> <p>Heavy recreational pressure</p> <p>Spread of non-native / invasive</p>	<p>Area favourable 30%</p> <p>Area unfavourable recovering 34%</p> <p>% area unfavourable no change 26%</p> <p>% area unfavourable declining 10%</p> <p>Reintroduction of pollarding and wood pasture management is helping to reverse the decline of the epiphytic bryophyte population.</p>	<p>Existing air pollution, particularly arising from traffic is thought to contribute to poor condition of parts of the site.</p> <p>Increasing recreational pressure could have an impact on heathland areas.</p>

		<p>Annex I habitats present as a qualifying feature, but not a primary reason for selection of this site:</p> <ul style="list-style-type: none"> Northern Atlantic wet heaths with <i>Erica tetralix</i> European dry heaths <p>Annex II species that are a primary reason for selection of this site: <i>Lucanus cervus</i> (stag beetle)</p>	<p>(Biodiversity Action Plan categories)</p> <ul style="list-style-type: none"> Lowland wood pastures and parkland Broadleaved, mixed and yew woodland Dwarf shrub heath Acid grassland Neutral grassland Standing open water and canals Fen, marsh and swamp 	<p>species</p> <p>Scrub encroachment</p> <p>Atmospheric pollution (nutrient deposition and acidification)</p> <p>Development pressure</p>		
<p>Lee Valley SPA / Ramsar (447.87 ha)</p>	<p>Partially within GLA boundary</p> <p>The following boroughs are within or adjacent to the European sites:</p> <ul style="list-style-type: none"> Enfield Waltham Forest Haringey Hackney 	<p>SPA:</p> <p>Over winter:</p> <ul style="list-style-type: none"> <i>Botaurus stellaris</i> (bittern) <p>Over winter:</p> <ul style="list-style-type: none"> <i>Anas strepera</i> (gadwall) <i>Anas clypeata</i> (shoveler) <p>Ramsar:</p>	<p>The conservation objectives for the European interest on the SSSI are to maintain, in favourable condition, the habitats for the populations of migratory bird species + of European importance, with particular reference to:</p> <ul style="list-style-type: none"> open water and surrounding marginal habitats Gadwall, Shoveler <p>*maintenance implies restoration if the feature is</p>	<p>Water quality - eutrophication is a threat, particularly from point source pollution (e.g. sewage outfalls) but also from surface run-off or groundwater pollution and atmospheric deposition</p> <p>Water levels – a high and stable</p>	<p>There are a number of SSSIs contained within the Lee Valley Ramsar site of which Walthamstow Reservoirs, Waltham Abbey and Turnford and Cheshunt Pits are 100% favourable. Walthamstow Marshes are 36% favourable and</p>	<p>Most of the site is in favourable condition, though an increase in recreational use could affect wintering wildfowl numbers.</p> <p>There are currently no factors having a</p>

		<p>The site also qualifies as a Ramsar Wetland of assemblage qualification: A wetland of international importance.</p>	<p>not currently in favourable condition.</p> <p>The Conservation Objectives for the Lee Valley SPA are, in accordance with para C 10 of PPG9 9, the reasons for which the SPA was classified.</p> <p>The SPA includes land within: Amwell Quarry SSSI, Rye Meads SSSI, Turnford and Cheshunt Pits SSSI and Walthamstow Reservoirs SSSI</p>	<p>water table is fundamental.</p> <p>Disturbance to bird feeding and roosting habitat (noise / visual)</p> <p>Siltation (e.g. excessive poaching of lake margins by stock, suspended sediments leading to transport of nutrients)</p> <p>Scrub or tree encroachment (leading to shading, nutrient and hydrological effects)</p> <p>Spread of introduced non-native species</p> <p>Recreational pressure / disturbance (particularly on-water activities with potential to disturb sediment and increase turbidity in lakes)</p> <p>Development pressure</p>	<p>63% unfavourable but recovering.</p>	<p>significant adverse effect on the site's character.</p>
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				Diffuse air pollution from traffic and agriculture.		
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6 Appraisal Framework

- 6.1 The guidance of the Section 106 Planning Obligations and CIL SPD has been analysed to assess whether it would be likely to result in significant adverse impacts on European sites. The draft Natural England guidance⁴ defines 'likely' as meaning 'probably, not merely a fanciful possibility'. The potentially adverse impacts were screened according to the approach set out in Appendix A and Figure 3 of the guidance. However criteria 2 and 3 were not considered because these are applicable to the assessment of Regional Spatial Strategies (now abolished) not Development Plan Documents.
- 6.2 A precautionary approach was adopted so that the assessment also considered cumulative impacts therefore all potentially significant adverse impacts were assessed.

Coding used for recording effects / impacts on European Sites (from Tydesley and Associates, 2006, Annex 2)

Coding used for recording effects/impacts on European Sites
Reason why policy will have no effect on a European Site
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)
4. Concentration of development in urban areas will not affect European Site and will help to steer development and land use change away from a European Site and associated sensitive areas.
5. The policy will help to steer development away from a European Site and associated sensitive areas, e.g. not developing in areas of flood risk or areas otherwise likely to be affected by climate change.
6. The policy is intended to protect the natural environment, including biodiversity.
7. The policy is intended to conserve or enhance the natural, built or historic environment, and enhancement measures will not be likely to have any effect on a European Site.
Reason why policy could have a potential effect
8. The DPD steers a quantum or type of development towards, or encourages development in, an area that includes a European Site or an area where development may indirectly affect a European Site.
Reason why policy would be likely to have a significant effect
9. The policy makes provision for a quantum, or kind 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.

- 6.3 A Habitat Regulations Assessment (HRA) screening (stage 1) has been undertaken to assess the impact of the guidance in the Section 106 Planning Obligations and CIL SPD. This is set out below. The preparation of the SPD is

⁴ The Assessment of Regional Spatial Strategies and Sub Regional Strategies under the Provisions of the Habitats Regulations' (2006).

considered likely to have no significant adverse effect on the European sites therefore it is deemed to require no further HRA (stages 2 and 3) to be undertaken.

7 Screening analysis of the Analysis of the Section 106 Planning Obligations and Community Infrastructure Levy SPD

7.1 This section screens the Section 106 Planning Obligations and CIL SPD policy guidance for impacts on Natura 2000 sites. Each standard planning obligation set out in the SPD has been assessed against the criteria provided in paragraph 6.2 which itself is based on draft guidance prepared by Tydesley and Associates for Natural England titled, 'The Assessment of Regional Spatial Strategies and Sub Regional Strategies under the Provisions of the Habitats Regulations 2006.'

Analysis

Policy guidance (taken from section 6 and Appendix 1 of the SPD)	Likely to have an impact	Why option will have no impact on Natura 2000 sites	Essential recommendations to avoid potential negative effects on European sites
Borough spending guidance CIL	No	4	None
Local spending guidance CIL	No	4	None
Affordable Housing	No	4	None
Archaeology	No	7	None
Carbon Offset-Green fund	No	6	None
Children's Play Space	No	7	None
Employment and Enterprise (jobs during construction period)	No	1	None
Employment and Enterprise: General and end-user phase: skills, training and employment	No	1	None
Employment and Enterprise: loss of employment	No	1	None

floorspace			
Employment and Enterprise: Other Obligations	No	1	None
Outdoor amenity space	No	7	None
Public realm measures	No	7	None
Student Housing: University schemes	No	1	None
Transport measures: site specific	No	7	None
Wheelchair Accessible Housing: Offset Fund	No	1	None

8 Conclusion

- 8.1 None of the guidance of the Section 106 Planning Obligations and Community Infrastructure Levy SPD were found likely to have any significant discernible adverse impact on European sites therefore stage 2 (appropriate assessment and ascertaining the effect on site integrity) and stage 3 (mitigation and alternative solutions) of the HRA process are not considered necessary.

References

Habitats Regulations Assessment Screening Report – Consultation draft replacement London Plan (Spatial Development Strategy for Greater London), October 2009

Habitats Regulations Assessment Screening Report – Further Alterations to the London Plan (Spatial Development Strategy for Greater London), December 2013.

Planning for the Protection of European Sites: Appropriate Assessment Guidance for Regional Spatial Strategies and Local Development Documents, DCLG, August 2006.

The Conservation of Habitats and Species Regulations (England and Wales) Regulations DEFRA 2010.

Tyldesley and Associates - prepared for Natural England Draft Guidance - The Assessment of Regional Spatial Strategies and Sub Regional Strategies under the Provisions of the Habitats Regulations 2006.