

# Elephant and Castle Opportunity Area

## Supplementary Planning Document/Opportunity Area Framework

### Appropriate Assessment

November 2011

No.	Title
Appendix A	Draft Elephant and Castle SPD
Appendix B	Draft Elephant and Castle SPD consultation plan
Appendix C	Draft Elephant and Castle SPD equalities impact assessment
Appendix D	Draft Elephant and Castle SPD sustainability appraisal
Appendix E	Draft Elephant and Castle SPD appropriate assessment

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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 Appropriate Assessment (AA) process are needed for the Elephant and Castle Opportunity Area Supplementary Planning Document (SPD). The council has also undertaken a separate Sustainability Appraisal (incorporating Strategic Environmental 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 area based on local issues. An AA screening exercise has been carried out for the Core Strategy.

## **2 The need for Appropriate Assessment (AA)**

- 2.1 In October 2005, the European Court of Justice ruled that appropriate assessment (AA) must be carried out on all planning policy documents in the UK. The purpose of AA of planning policies is to ensure that the protection and integrity of European sites (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 AA process is carried out in accordance with the Habitat Directive and the Conservation of Habitats and Species Regulations 2010.
- 2.2 The Natura 2000 network is a network of sites which are of exceptional importance in respect of rare, endangered or vulnerable natural habitats and species within the European Community and which must be protected. These sites, which are also referred to as 'European sites', consist of Special Areas of Conservation (SACs), Special Protection Areas (SPAs) and Offshore Marine Site (OMS). There are no OMS designated at present.
- 2.3 Guidance from the DCLG on Appropriate Assessment<sup>1</sup> 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. The requirement for AA of plans or projects is outlined in Article 6(3) and (4) of the European Communities (1992) Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora ("Habitats Directive").'
- 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'

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<sup>1</sup> Planning for the Protection of European Sites: Appropriate Assessment Guidance For Regional Spatial Strategies and Local Development Documents, DCLG, August 2006

on a European site is also referred to as 'screening'. This determines whether stages 2 and 3 of the AA are required.

### **3 Identifying likely significant effects**

3.1 Screening for AA will determine if planning policy documents are likely to have a significant effect on the conservation objectives of the Natura sites. This will determine whether stages 2 and 3 of the AA are required. In considering whether the plan policy or site allocation is likely to have a significant effect on a Natura 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 If, following screening, significant adverse impacts are anticipated, a 'full' AA 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 This screening follows the same methodology used to prepare the AA for the Core Strategy.

4.2 The legal requirement to undertake AAs is set out in the Habitats Directive. However, there is no standardised method for undertaking an AA. The council has followed the screening method used on the Appropriate Assessment of the Draft Further Alterations to the London Plan by 'Forum for the Future'. This methodology 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). Although it has been written for the assessment of Regional Spatial Strategies the council considers that all but two of the criteria this method employs are also suitable for the assessment of local development documents. Using the same methodology also helps ensure consistency between the AA of regional and local plan making.

## 5 Identification of relevant sites

- 5.1 Using the Joint Nature Conservation Committee (JNCC) website<sup>2</sup>, and in line with the methodology employed in the AA 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, and RAMSARS 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. Three sites are partially within 10km of Southwark are set out below:

<p><b>Identified conservation sites of EC importance</b></p> <p><u>Sites at least partially in Southwark</u></p> <p>None</p> <p><u>Sites at least partially within 10km of Southwark</u></p> <p>Wimbledon Common (SAC)</p> <p>Richmond Park (SAC)</p> <p>Lee Valley (SPA)</p>
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- 5.2 The information for these sites concerning the rationale for EU conservation has been taken from the 'Appropriate Assessment of the Draft Further Alterations to the London Plan' undertaken by 'Forum for the Future' 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 Appropriate Assessment Screening report: 'Draft Further Alterations to the London Plan', by 'Forum for the Future' (September 2006). The contents of the table were compiled with reference to the sources listed below, and also informed by consultation with Natural England.

- Site name + Designation and code.  
Obtained from Natural England 'Natura 2000 Forms' and RAMSAR forms from the JNCC website.

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<sup>2</sup> [www.jncc.gov.uk](http://www.jncc.gov.uk)

- Qualifying features.  
Denotes the habitats and species for which the sites have been awarded EU conservation status. It is these qualifying features which the AA must safeguard. 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.
- Current condition and threats  
Information pertaining to the current status of sites, recognised trends, and potential threats. From Natura 2000, RAMSAR, and Conservation Objectives forms.
- Result of July 2006 SSSI condition survey  
Further information on European sites which are also SSSI's - from Natural England's 2006 review of SSSI condition.
- Key ecosystem factors  
Denotes general ecological parameters of importance to maintaining site integrity. Summarised from the 'attributes' in the Conservation Objectives forms.

Site Name	Designation and code	Habitat	Species	Current Condition and Threats	Result of July 2006 SSSI condition survey	Key ecosystem factors
Wimbledon Common	SAC UK0030301	To maintain in favourable condition the: European dry heath, for which the area is considered to support a significant presence.  Northern Atlantic wet heath with Erica tetralix, for which the area is considered to support a significant presence.	To maintain in favourable condition the habitats for the population of: Stag beetle, for which this is one of only 4 known outstanding localities in the UK.	The site is located in an urban area and therefore experiences intensive recreational pressure which can result in damage to the sensitive heathland areas.  Air pollution is also thought to be having an impact on the quality of the heathland habitat.	Area favourable 40%  Area unfavourable but recovering 59%	<ul style="list-style-type: none"> <li>• Population size of species</li> <li>• Number of old broadleaved trees</li> <li>• Population structure of broadleaved trees</li> <li>• Condition of old broadleaved trees</li> <li>• State of decay</li> <li>• Quantity and size of fallen broadleaved dead wood</li> <li>• Position and degree of exposure of old broadleaved dead trees and stumps.</li> <li>• Condition and position of available dead timber.</li> </ul>
Richmond Park	SAC UK0030246		To maintain in favourable condition the habitats for the population of: Stag beetle, for which this is one of only 4 known	The site is surrounded by urban area and therefore experiences high levels of recreational pressure. This does not directly affect the European interest feature. The	Area favourable 6%  Area unfavourable recovering 8%  Area	<ul style="list-style-type: none"> <li>• Population size of species</li> <li>• Number of old broadleaved trees</li> <li>• Population structure of broadleaved trees</li> </ul>

			outstanding localities in the UK.	whole site has been declared an NNR.	unfavourable no change 86%	<ul style="list-style-type: none"> <li>• Condition of old broadleaved trees</li> <li>• State of decay</li> <li>• Quantity and size of fallen broadleaved dead wood</li> <li>• Position and degree of exposure of old broadleaved trees and stumps.</li> <li>• Condition and position of available</li> <li>• Dead timber.</li> </ul>
Lee Valley	SPA UK9012111 RAMSAR UK 11034	To maintain in favourable condition the habitats for the populations of an Annex I species* and populations of migratory bird species**, of European importance with particular reference to: Open water and surrounding marginal habitats.	*bittern ** gadwall shoveler  Under Ramsar criteria 2, the site also supports a nationally scarce plant species and a rare invertebrate.	Most of the site is in favourable condition. There are currently no factors having a significant adverse effect on the site's ecological character. However, a significant increase in recreational pressure could impact upon wintering wildfowl numbers	There are a number of SSSI's 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 63% unfavourable but recovering.	<ul style="list-style-type: none"> <li>• Disturbance</li> <li>• Extent and distribution of habitat</li> <li>• Landscape</li> <li>• Landform</li> <li>• Vegetation characteristics</li> <li>• Water area</li> <li>• Water depth</li> <li>• Food availability</li> </ul>



## 6 Analysis of the Elephant and Castle Opportunity Area SPD for potential adverse impacts

- 6.1 The guidance of the Elephant and Castle Opportunity Area SPD has been analysed to assess whether it would be likely to result in significant adverse impacts on European sites. The draft Natural England guidance 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 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)

<b>Coding used for recording effects/impacts on European Sites</b>
<b>Reason why policy will have no effect on a European Site</b>
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.
<b>Reason why policy could have a potential effect</b>
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.
<b>Reason why policy would be likely to have a significant effect</b>
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 Every option was assessed and the relevant criterion/criteria determined for each. Options considered likely to have no significant adverse effect on European sites were deemed to require no further AA (stages 2 and 3).

## 7 Screening analysis of the Analysis of the Core Strategy Submission

7.1 This section screens the Elephant and Castle Opportunity Area SPD guidance for impacts on Natura 2000 sites. Each option has been assessed against the criteria provided in paragraph 6.2 and adapted from the Appropriate Assessment Screening report: 'Draft Further Alterations to the London Plan', Forum for the Future, September 2006 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.'

### Policy Analysis

Policy		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
<b>Policy 1</b>	Shopping	No	4	None
<b>Policy 2</b>	Markets	No	4	None
<b>Policy 3</b>	Hotels	No	4	None
<b>Policy 4</b>	Jobs and Businesses	No	4	None
<b>Policy 5</b>	New Homes	No	4	None
<b>Policy 6</b>	Arts, Culture, Leisure and entertainment	No	4	None
<b>Policy 7</b>	Sports Facilities	No	4	None
<b>Policy 8</b>	Higher Education and Students	No	4	None
<b>Policy 9</b>	Community Facilities	No	4	None
<b>Policy 10</b>	Public Transport	No	4	None
<b>Policy 11</b>	Walking and Cycling	No	4	None
<b>Policy 12</b>	Parking	No	1	None
<b>Policy 13</b>	Servicing and Deliveries	No	4	None
<b>Policy 14</b>	Transport Mitigation	No	1	None
<b>Policy 15</b>	Public Realm	No	1	None
<b>Policy 16</b>	Built Form	No	1	None
<b>Policy 17</b>	Building Heights	No	1	None
<b>Policy 18</b>	Open Spaces	No	6	None
<b>Policy 19</b>	Energy	No	1	None
<b>Policy 20</b>	S106 Planning	No	1	None

	Contributions and the Community Infrastructure Levy			
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## **8 Conclusion**

- 8.1 None of the guidance of the Elephant and Castle Opportunity Area SPD were found likely to have any significant discernible adverse impact on European sites therefore task 2 (appropriate assessment and ascertaining the effect on site integrity) and task 3 (mitigation and alternative solutions) of the Appropriate Assessment process are not considered necessary.

## **References**

Appropriate Assessment Screening report: 'Draft Further Alterations to the London Plan', Forum for the Future, September 2006.

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.