

# Final Draft Environmental Protection Supplementary Planning Document

## Strategic Environmental Assessment and Habitats Regulations Assessment Screening Report

- 1 Cheshire East Council has produced a final draft Environmental Protection SPD. The purpose of the SPD is to provide guidance on the council's approach to Environmental Protection issues when considering planning applications. It adds further detail to policies contained within the Development Plan and sets out relevant technical advice aimed at preventing or reducing the impact of proposed developments and protecting public health, wellbeing and amenity.
- 2 The Development Plan for Cheshire East consists of:
  - The Cheshire East Local Plan Strategy (LPS) adopted July 2017.
  - The Site Allocations and Development Policies Document (SADPD) adopted December 2022.
  - Saved policies from the Cheshire Replacement Minerals Local Plan 1999 and Cheshire Replacement Waste Local Plan 2007; and
  - Completed neighbourhood plans.
- 3 The policy framework for the SPD is contained mostly in the LPS and SADPD, with a particular focus on LPS Policy SE 12 'Pollution, land contamination and land instability'. LPS policies SD 1 'Sustainable development in Cheshire East', SD 2 'Sustainable development principles' and SC 3 'Health and well-being' also contribute to the policy framework for the SPD. The SADPD policies are non-strategic in nature and are in accordance with the strategic policies of the LPS. The final draft Environmental Protection SPD has been prepared in conformity with the policies contained in the adopted LPS and SADPD.
- 4 This screening report is designed to determine whether or not the contents of the final draft Environmental Protection SPD require a Strategic Environmental Assessment (SEA) in accordance with the European Directive 2001/42/EC and associated Environmental Assessment of Plans and Programmes Regulations 2004. The report also addresses whether the final draft Environmental Protection SPD has a significant adverse effect upon any internationally designated site(s) of nature conservation importance and thereby subject to the requirements of the Habitats Regulations. The report contains separate sections that set out the findings of the screening assessment for these two issues.
- 5 This screening report will be the subject of consultation alongside the final draft Environmental Protection SPD, in accordance with the relevant regulations and the council's Statement of Community Involvement for a period of four weeks.

This will include consultation with the relevant statutory bodies (Natural England, Environment Agency and Historic England). Comments received during the consultation on the final draft Environmental Protection SPD and this appendix will be reflected in future updates to the document.

## Strategic Environmental Assessment screening

- 6 The objective of SEA is to provide for a high level of protection of the environment with a view to promoting the achievement of sustainable development. It is a requirement of European Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment (also known as the SEA Directive). The Directive was transposed in UK law by the Environmental Assessment of Plans and Programmes Regulations 2004, often known as the SEA Regulations.
- 7 Article 3(3) and 3(4) of the Regulations make clear that SEA is only required for plans and programmes when they have significant environmental effects. The 2008 Planning Act removed the requirement to undertake a full Sustainability Appraisal for a SPD although consideration remains as to whether the SPD requires SEA, in exceptional circumstances, when likely to have a significant environmental effect(s) that has not already been assessed during the preparation of a Local Plan.

## Overview of the draft Environmental Protection SPD

- 8 The purpose of the final draft Environmental Protection SPD is to provide further guidance on the implementation of strategic LPS policies SE 12 'Pollution, land contamination and land instability', SD 1 'Sustainable development in Cheshire East', SD 2 'Sustainable development principles' and SC 3 'Health and well-being'. It also provides further guidance on the implementation of non-strategic SADPD policies GEN 5, ENV 9, ENV 12, ENV 13, ENV 14, ENV 15, ENV 17, RUR 1, RUR 2, RUR 6, RUR 7, RUR 8, RUR 9, RUR 10, HOU 12, RET 5, RET 9 and REC 4.
- 9 It is important to note that policies in the LPS and SADPD were the subject of Sustainability Appraisal, which incorporated the requirements of the SEA regulations (as part of an Integrated Sustainability Appraisal). The likely significant environmental effects have already been identified and addressed – the SPD merely provides guidance on existing policies. The LPS and SADPD Integrated Sustainability Appraisals have informed this SPD screening assessment.
- 10 SEA has been undertaken for LPS policies SE 12 'Pollution, land contamination and land instability', SD 1 'Sustainable development in Cheshire East', SD 2 'Sustainable development principles' and SC 3 'Health and well-being' as part of the Integrated Sustainability Appraisal that supported the LPS. For the purposes of compliance with the UK SEA Regulations and the EU SEA directive, the following reports comprised the SA “Environmental Report”:
  - SD 003 – LPS Submission Sustainability (Integrated) Appraisal (May 2014)

- PS E042 – LPS Sustainability (Integrated) Appraisal of Planning for Growth Suggested Revisions (August 2015)
  - RE B006 – LPS Sustainability (Integrated) Appraisal Suggested Revisions to LPS Chapters 9-14 (September 2015)
  - RE F004 – Sustainability (Integrated) Appraisal – Proposed Changes (March 2016)
  - PC B029 – Sustainability (Integrated) Appraisal - Proposed Changes to Strategic and Development Management Policies (July 2016)
  - PC B030 – Sustainability (Integrated) Appraisal - Proposed Changes to Sites and Strategic Locations (July 2016)
  - MM 002 - Sustainability (Integrated) Appraisal - Main Modifications Further Addendum Report.
- 11 In addition, an SA adoption statement was prepared in July 2017 to support the adoption of the LPS.
- 12 SEA has also been undertaken for SADPD policies and the following reports comprised the SA “Environmental Report”:
- Revised Publication Draft SADPD Sustainability Appraisal August 2020 (ref ED 03); and
  - SADPD Main Modifications Sustainability Appraisal Addendum April 2022.
- 13 In addition, an SA adoption statement was prepared in December 2022 to support the adoption of the SADPD.

### SEA Screening Process

- 14 The council is required to undertake a SEA screening to assess whether the final draft Environmental Protection SPD is likely to have significant environmental effects. If the final draft Environmental Protection SPD is considered unlikely to have significant environmental effects through the screening process, then the conclusion will be that SEA is not necessary.
- 15 Tables 1 'Assessment of likely significant effects on the environment (characteristics of the SPD)' and 2 'Assessment of likely significant effects on the environment (characteristics of the effects and area likely to be affected)' assess whether the draft SPD will have any significant environmental effects using the criteria set out in Annex II of SEA Directive 2001/42/EC<sup>1</sup> and Schedule

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<sup>1</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX%3A32001L0042&from=EN>

1 of the Environmental Assessment of Plans and Programmes Regulations 2004<sup>2</sup>.

SEA Directive Criteria Schedule 1 of Environmental Assessment of Plans and Programmes Regulations 2004. Characteristics of the SPD having particular regard to:	Summary of significant effects, scope and influence of the document	Is the plan likely to have a significant environmental effect (yes/no)
(a) The degree to which the SPD sets out a framework for projects and other activities, either with regard to the location, nature, size or operating conditions or by allocating resources.	<p>Guidance is supplementary to policies contained in the LPS and SADPD, both of which have been the subject of SA/SEA. The policies provide an overarching framework for development in Cheshire East.</p> <p>The final draft Environmental Protection SPD provides further clarity and certainty to form the basis for the submission and determination of planning applications, consistent with policies in the LPS and SADPD.</p> <p>Final decisions will be determined through the development management process. No resources are allocated.</p>	No
(b) The degree to which the SPD influences other plans and programmes including those in a hierarchy.	The final draft SPD is in general conformity with the LPS and SADPD, which have been subject to a full Sustainability Appraisal (incorporating SEA). It is adding more detail to the adopted LPS and SADPD, which have been the subject of Sustainability Appraisal. Therefore, it is not considered to have an influence on any other plans and programmes.	No

<sup>2</sup> [https://www.legislation.gov.uk/ukxi/2004/1633/pdfs/ukxi\\_20041633\\_en.pdf](https://www.legislation.gov.uk/ukxi/2004/1633/pdfs/ukxi_20041633_en.pdf)

<b>SEA Directive Criteria Schedule 1 of Environmental Assessment of Plans and Programmes Regulations 2004. Characteristics of the SPD having particular regard to:</b>	<b>Summary of significant effects, scope and influence of the document</b>	<b>Is the plan likely to have a significant environmental effect (yes/no)</b>
(c) The relevance of the SPD for the integration of environmental considerations in particular with a view to promoting sustainable development.	The final draft SPD promotes sustainable development, in accordance with the NPPF (2021) and LPS/SADPD policies. The LPS has been the subject of a full Sustainability Appraisal (incorporating SEA). The final draft SPD has relevance for the integration of environmental considerations and promotes sustainable development by providing guidance to make sure that proposed developments meet policy requirements and is designed to minimise the impacts on public health, wellbeing and amenity.	No
(d) Environmental problems relevant to the SPD.	The final draft SPD provides guidance to make sure that developments comply with existing policies related to environmental problems including air pollution and contaminated land remediation.	No
(e) The relevance of the SPD for the implementation of Community legislation on the environment (for example plans and programmes related to waste management or water protection).	The final draft SPD will not impact on the implementation of community legislation on the environment.	No

**Table 1 Assessment of likely significant effects on the environment (characteristics of the SPD)**

<b>SEA Directive Criteria Schedule 1 of Environmental Assessment of Plans and Programmes Regulations 2004. Characteristics of the effects and area likely to be affected having particular regard to:</b>	<b>Summary of significant effects, scope and influence of the document</b>	<b>Is the plan likely to have a significant environmental effect (yes/no)</b>
(a) The probability, duration, frequency and reversibility of the effects.	The final draft SPD adds detail to adopted LPS and SADPD policy; itself the subject of SA	No
(b) The cumulative nature of the effects of the SPD.	The final draft SPD adds detail to adopted LPS and SADPD policy, itself the subject of SA. The SA associated with the LPS and SADPD have considered relevant plans and programmes. No other plans or programmes have emerged that alter this position.	No
(c) The trans-boundary nature of the effects of the SPD.	Trans-boundary effects will not be significant. The final draft SPD will not lead to any transboundary effects as it just providing additional detail regarding the implementation of LPS policies SE 12, SD 1, SD 2 & SC 3 plus non-strategic SADPD policies; and does not, in itself, influence the location of development.	No
(d) The risks to human health or the environment (e.g., due to accident).	The final draft SPD will not cause risks to human health or the environment as it is adding detail to environmental policies in the Local Plan.	No
(e) The magnitude and spatial extent of the effects (geographic area and size of the population likely to be affected) by the SPD.	The final draft SPD covers the Cheshire East administrative area (excluding the part falling within the Peak District National Park). The final draft SPD will assist those making planning applications in the borough.	No

SEA Directive Criteria Schedule 1 of Environmental Assessment of Plans and Programmes Regulations 2004. Characteristics of the effects and area likely to be affected having particular regard to:	Summary of significant effects, scope and influence of the document	Is the plan likely to have a significant environmental effect (yes/no)
(f) The value and vulnerability of the area likely to be affected by the SPD due to: <ul style="list-style-type: none"> <li>• Special natural characteristics or cultural heritage</li> <li>• Exceeded environmental quality standards or limit values</li> <li>• Intensive land use.</li> </ul>	The final draft SPD will not lead to significant effects on the value or vulnerability of the area. It is adding detail regarding the implementation of LPS policies SE 12, SD 1, SD 2 & SC 3 plus non-strategic SADPD policies; and does not, in itself, influence the location of development.	No
(g) The effects of the SPD on areas or landscapes which have recognised national Community or international protected status.	The SPD does not influence the location of development, so will not cause effects on protected landscape sites.	No

**Table 2 Assessment of likely significant effects on the environment  
(characteristics of the effects and area likely to be affected)**

### Conclusion and SEA screening outcome

- 16 The SPD does not set new policy, but supplements and provides further guidance on existing LPS and SADPD policy. It is not considered to have a significant effect on the environment and therefore SEA is not required on the draft Environmental Protection SPD. This conclusion will be revisited following consideration of the views of the three statutory consultees (the Environment Agency, Historic England and Natural England) and if there are significant changes to the SPD following public consultation.

### Habitats Regulations Assessment statement

- 17 The council has considered whether its planning documents would have a significant adverse effect upon the integrity of internationally designated sites of nature conservation importance. European Directive 92/43/EEC on the Conservation of Natural Habitats and Wild Flora and Fauna (Habitats Directive) provides legal protection to habitats and species of European importance. The principal aim of this directive is to maintain at, and where necessary restore to, favourable conservation status of flora, fauna and habitats found at these designated sites.

- 18 The Directive is transposed into English legislation through the Conservation of Habitats and Species Regulations 2017 (a consolidation of the amended Conservation of Habitats and Species Regulations, 2010) published in November 2017.
- 19 European sites provide important habitats for rare, endangered or vulnerable natural habitats and species of exceptional importance in the European Union. These sites consist of Special Areas of Conservation (SACs, designated under the EU Directive 92/43/EEC on the conservation of natural habitats and of fauna and flora (Habitats Directive)), and Special Protection Areas (SPAs, designated under EU Directive 2009/147/EC on the conservation of wild birds (the Birds Directive)). Government policy requires that Ramsar sites (designated under the International Wetlands Convention, UNESCO, 1971) are treated as if they are fully designated European sites for the purposes of considering development proposals that may affect them.
- 20 Spatial planning documents may be required to undergo Habitats Regulations Screening if they are not directly connected with or necessary to the management of a European site. As the draft Environmental Protection SPD is not connected with, or necessary to, the management of European sites, the HRA implications of the SPD have been considered.
- 21 A judgment, published on 13 April 2018 (*People Over Wind and Sweetman v Coillte Teoranta (C-323/17)*) clarified that measures intended to avoid or reduce the harmful effects of a proposed project on a European site may no longer be taken into account by competent authorities at the Habitat Regulations Assessment “screening stage” when judging whether a proposed plan or project is likely to have a significant effect on the integrity of a European designated site.
- 22 Both the LPS and SADPD have been subject to HRA.
- 23 The final draft Environmental Protection SPD does not introduce new policy; it provides further detail to those policies contained within the LPS and SADPD. The HRA concluded that LPS policies SE 12 ‘Pollution, land contamination and land instability’, SD 1 ‘Sustainable development in Cheshire East’, SD 2 ‘Sustainable development principles’ and SC 3 ‘Health and well-being’ as well as the non-strategic SADPD policies could not have a likely significant effect on a European Site. The same applies to the final draft Environmental Protection SPD.
- 24 The final draft Environmental Protection SPD in itself, does not allocate sites and is a material consideration in decision making, once adopted.
- 25 The final draft Environmental Protection SPD either alone or in combination with other plans and programmes, is not likely to have a significant effect on any European site. Therefore, a full Appropriate Assessment under the requirements of the Habitats Regulations is not required.



## Conclusion and HRA screening outcome

- 26 Subject to views of the three statutory consultees (the Environment Agency, Historic England and Natural England), this screening report indicates that an Appropriate Assessment under the Habitats Regulations is not required