

Basildon Borough

Planning Obligations Strategy Supplementary Planning Document

Strategic Environmental Assessment
Screening Determination

July 2015

Introduction

- 1.1 Basildon Borough Council's emerging Local Plan has identified a need for 16,000 additional homes and 8,600 jobs between 2011 and 2031. This growth will result in increased pressure on local infrastructure, services and facilities, creating demand for new or expanded provision. The Council and developers have a responsibility, through the planning process, to manage the impact of this growth and ensure that any harm caused by the development is mitigated and that the necessary infrastructure is provided. The Council expects new development to contribute to site related and other infrastructure needs as appropriate.
- 1.2 The SPD (once approved) will support the Development Plan and the emerging Local Plan policies on delivering infrastructure and sustainable growth and will be a material consideration in the determination of relevant planning applications. The SPD has been prepared in accordance with the Planning and Compulsory Purchase Act 2004 (as amended) and with regard to the NPPF (paragraph 153) and the accompanying Planning Practice Guidance.
- 1.3 From 6th April 2015, the CIL Regulations 2010 specify that either upon the adoption of a CIL, or by 6th April 2015, whichever is the sooner; the use of planning obligations via Section 106 agreements must be scaled back. This means that a planning obligation cannot be used to fund a project or type of infrastructure if there have been five separate obligations on, or after 6th April 2010, which fund that project or type of infrastructure; referred to as pooled obligations.
- 1.4 As Basildon Council will not have a new Local Plan in place by the 6th April 2015 and therefore will not also have a CIL in place, it will be reliant upon planning obligations to fund any infrastructure required to enable developments to take place. Notwithstanding this, it is still bound by the CIL Regulations 2010 which limits their use.
- 1.5 Basildon Council's current Planning Obligations Strategy 2008 is based on out of date National Planning Policy and Planning Practice Guidance and therefore needs to be updated in order to ensure improvements to infrastructure provision secured by Planning Obligations remain robust and justified.
- 1.6 The Planning Obligations Strategy was subject to a formal public consultation between 19th February and 2nd April 2015. A total of 46 individuals and organisations made representations during the consultation, and their comments have informed the final version of the Planning Obligations Strategy. The majority of respondents supported and welcomed the production of the guidance and the issues it covered. There were some objections to thresholds or justification for some of the obligations, objections to issues unrelated to the POBS and suggestions for amendments. These have resulted in some re-wording of sections of the document and minor changes to the guidance being recommended.

Strategic Environmental Assessment/Sustainability Appraisal

- 1.7 The revisions to the planning system include a statutory requirement to carry out Sustainability Appraisal (SA) of all Local Plan documents (with the exception

of Neighbourhood Plans, SPDs, the Statement of Community Involvement, the Local Development Scheme or the Authority Monitoring Report). However, SPDs may require Strategic Environmental Assessment (required under the Environmental Assessment of Plans and Programmes Regulations, 2004) in exceptional circumstances if they are likely to have significant environmental effects that have not already been assessed during the preparation of the Local Plan.

- 1.8 The Planning Practice Guidance prepared by Government advises that SEA is unlikely to be required where a SPD deals only with a small area at a local level unless it is considered that there are likely to be significant environmental effects. The Guidance goes further to state that before deciding whether significant environmental effects are likely, the local planning authority should take into account the criteria specified in Schedule 1 to the Environmental Assessment of Plans and Programmes Regulations 2004 and consult the consultation bodies.
- 1.9 This short report sets out the SEA Screening Determination for the Basildon Borough Planning Obligations Strategy Supplementary Planning Document 2015.

SEA Screening

- 1.10 Figure 2 (Application of the SEA Directive to plans and programmes), which is set out in the Practical Guide to the Strategic Environmental Assessment Directive, published in September 2005, is a useful starting point when considering whether a Plan should be subject to SEA (The Practical Guide has been superseded by the National Planning Practice Guidance, however, it still provides a useful guide to assist with SEA Screening decisions). This Figure is reproduced below followed by a table explaining how the Basildon Borough Planning Obligations Strategy Supplementary Planning Document 2015 relates to each criterion.

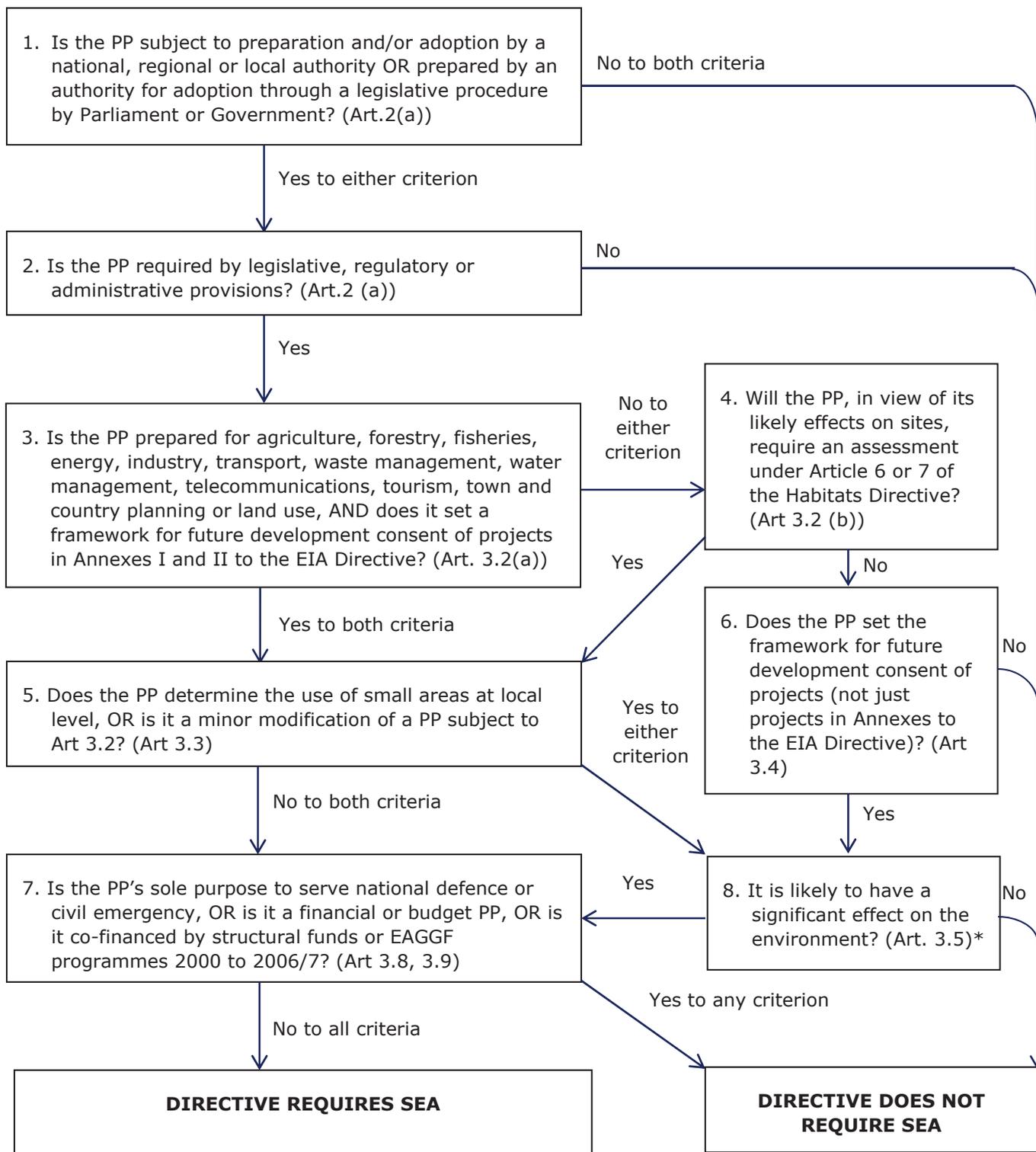


Table 1: Application of the SEA Directive to the Basildon Borough Planning Obligations Strategy Supplementary Planning Document 2015

SEA Directive Criterion	Basildon Borough Planning Obligations Strategy
1. Is the PP 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 – the SPD is subject to preparation and adoption by Basildon Borough Council.
2. Is the PP required by legislative, regulatory or administrative provisions? (Art. 2(a))	Yes – the SPD is necessary to provide supplementary guidance to the current adopted local plan and is subject to public consultation.
3. Is the PP prepared for agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use, AND does it set a framework for future development consent of projects in Annexes I and II to the EIA Directive? (Art. 3.2(a))	Yes – the SPD is prepared for town and country planning use. It will form a material consideration in planning decisions for non-EIA and EIA developments.
5. Does the PP determine the use of small areas at local level OR is it a minor modification of a PP subject to Art. 3.2? (Art. 3.3)	Yes – Whilst the SPD would not be used to determine the use of small areas at a local level, it would be used to determine the planning obligations required to mitigate the impact of development that would otherwise render the use of any area unacceptable in planning terms without the planning obligation being in place.
8. Is it likely to have a significant effect on the environment? (Art. 3.5)	See next section of this report.

Judgement on likely significant environmental effects

- 1.11 Applying the SEA Directive Screening flow-chart to the Basildon Borough Planning Obligations Strategy Supplementary Planning Document leads to the conclusion that the SPD merits consideration under the SEA Directive and the judgement on whether or not to undertake full SEA depends on the likelihood of significant environmental effects.
- 1.12 The SPD provides prescriptive guidance on a range of infrastructure required to mitigate the negative impacts of development. As such, the Guidance will provide greater certainty to developers etc. about what infrastructure provision or upgrades will be required to support development in order to make it acceptable in planning terms and what criteria any level of financial contribution would be based on; or when a unilateral undertaking may be an acceptable alternative.
- 1.13 The Strategy can apply to small areas at the local level (i.e. individual application sites within the Borough), recognising that the principles may be appropriate to the wider borough in terms of pooling funds for improvements to strategic infrastructure. However, as the Planning Obligations Strategy Supplementary Planning Document will be used as the starting point for negotiations for contributions or provision to mitigate the negative impacts of a

development, consequently any environmental effects will be localised and would need to be dealt with by the planning application process and could themselves be subject to planning permission, or other forms of consent (such as that of the Highways Authority).

- 1.14 The Planning Obligations Strategy 2008 has been used until now to negotiate Section 106 agreements to mitigate the negative impact of development; as such there are already policies and constraints in place regarding what infrastructure requirements are necessary to make development acceptable in the Basildon Borough; however it is out of date. Therefore, the Council will update the Strategy in line with the National Planning Policy Framework (NPPF) and Planning Practice Guidance, in order to provide greater clarity and prescription on what infrastructure improvements are a priority in the Basildon Borough, and what obligations are likely to be required in order to make development acceptable. However, application of the SPD by itself is unlikely to lead to significant environmental effects (either positive or negative).
Consequently the SPD is not considered to require formal SEA.

Consultation on the Draft Strategic Environmental Assessment Screening Determination

- 1.15 On 19th February 2015 Basildon Borough Council invited the three consultation bodies; the Environment Agency, Natural England and English Heritage (now known as Historic England) to comment on the draft SEA Screening Determination (February 2015) which was undertaken on the draft Planning Obligations Strategy document. This was in accordance with Regulation 9(2) of the Environmental Assessment of Plans and Programmes Regulations, 2004. Of the three consultation bodies, Historic England was the only one to respond and they concurred with the conclusion that the draft Strategy did not require SEA.
- 1.16 The draft Strategy has been amended following the changes recommended as part of the public consultation and a final version of the Strategy (Basildon Borough Planning Obligations Strategy Supplementary Planning Document 2015) has been produced. The changes made in the final version of the Strategy from the draft are not considered to alter the findings of the draft screening determination.

Summary and Conclusion

- 1.17 Basildon Borough Council plans to adopt the Basildon Borough Planning Obligations Strategy Supplementary Planning Document 2015 as an SPD.
- 1.18 Sustainability Appraisal is not required for SPDs however, as SEA may be required, a SEA screening determination was carried out. The findings of the draft screening determination reported that the draft Planning Obligations Strategy document was unlikely to have significant environmental effects and therefore SEA was not required. This conclusion was supported by Historic England which was one of three consultation bodies invited to comment.
- 1.19 In response to the public consultation on the draft Planning Obligations Strategy document, changes have been recommended and are incorporated into the Basildon Borough Planning Obligations Strategy Supplementary Planning Document 2015. These recommended changes are not significant and are not

considered to alter the findings of the draft screening determination. Therefore the final determination is the same as the draft and **SEA is not required** for the Basildon Borough Planning Obligations Strategy Supplementary Planning Document 2015.