

East Riding Local Plan

Flood Risk Sequential and Exception Test Supplementary Planning Document

Strategic Environmental Assessment Screening Report

November 2021



EAST RIDING

OF YORKSHIRE COUNCIL

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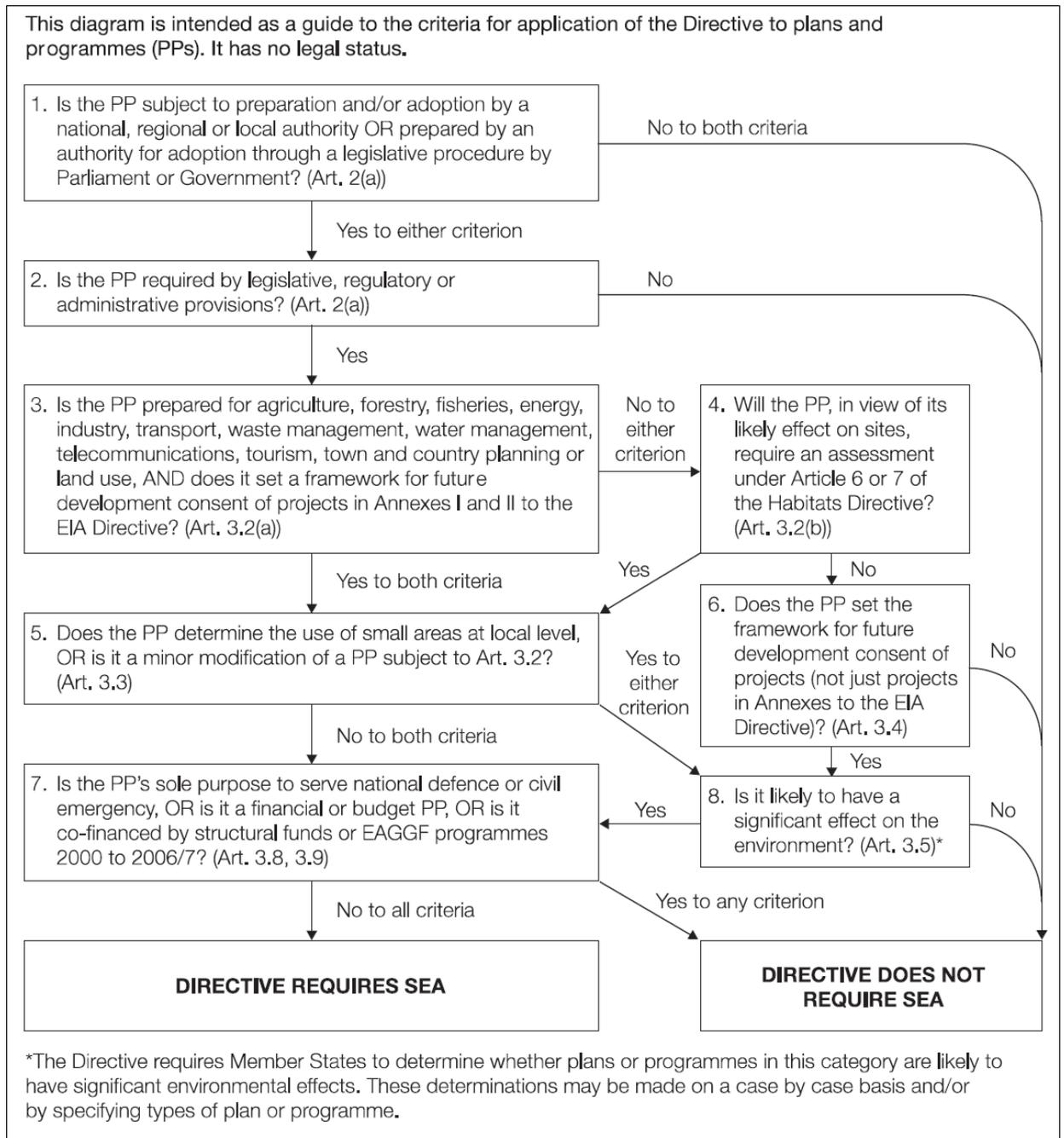
I Purpose of the Strategic Environmental Assessment Screening Report

- 1.1 This screening report is designed to determine whether or not the contents of the Draft Flood Risk Sequential and Exception Test Supplementary Planning Document (the SPD) requires a Strategic Environmental Assessment (SEA) in accordance with the European Directive 2001/42/EC and associated Environmental Assessment of Plans and Programmes Regulations 2004.

2 Legislative Background

- 2.1 The objective of Strategic Environmental Assessment 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. It is a requirement of the 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.
- 2.2 Article 3(2) of the directive states that SEA is required for plans and programmes:
- a) which are prepared for agriculture,... town and country planning or land use and which set the framework for future development consent for projects listed in Annexes I and II to the Environmental Impact Assessment (EIA) Directive (85/337/EEC); or
 - b) which, in view of the likely effect on sites, have been determined to require an assessment pursuant to Article 6 or 7 of the Habitats Directive (92/43/EEC).
- 2.3 However, Article 3(3) and 3(4) make clear that SEA is only required for some plans and programmes when they have significant environmental effects. This includes plans and programmes which “determine the use of small areas at a local level” or which only propose “minor modifications to plans and programmes”. Annex II of the Directive lists criteria for determining the likely significance of the environmental effects of plans or programmes.
- 2.4 Figure I sets out the process for determining whether SEA is required.

Figure 1 Application of the SEA Directive to Plans and Programmes



Source: A Practical Guide to the Strategic Environmental Assessment Directive, ODPM, 2005

2.5 The Planning and Compulsory Purchase Act 2004 requires Local Authorities to produce Sustainability Appraisals (SA) for all Local Plans. It is considered best practice to incorporate the requirements of the SEA Directive into the SA, which is set out in the national Planning Practice Guidance. The 2008 Planning Act¹ removed the requirement to undertake a Sustainability Appraisal for a Supplementary Planning Document, although

¹ Part 9, Chapter 2, paragraph 180 of the 2008 Planning Act amended section 19, subsection 5 of the 2004 Planning and Compulsory Purchase Act

consideration of whether the proposed plan or programme requires SEA is still required. This report screens for SEA, to determine whether a full Assessment is needed.

3 Overview of the Flood Risk Sequential and Exception Test SPD

3.1 The Local Plan Strategy Document (2016)² (LPSD) committed the Council to preparing a SPD to provide further guidance on the flood risk elements of policy ENV6: Managing Environmental Hazards, in particular in relation to the NPPF flood risk sequential test, appropriate areas of search, exception test, site mitigation and design/safety requirements. The SPD has been prepared to provide assistance to developers, applicants, and Local Planning Authority officers on how to apply local and national planning policy using, amongst other evidence, the Council's Strategic Flood Risk Assessment (SFRA). It also supports the use of the East Riding Flood Data Map, an interactive map which brings all of the available mapped flood risk data into one place on the Council's website. It aims to promote transparency and consistency in the approach East Riding of Yorkshire Council will take to applying the flood risk Sequential and Exception Tests, as defined in the National planning Policy Framework³.

3.2 A Flood Risk Note for the Planning Application Process was published by the Council in 2010. It carried out a similar role to the SPD. The note was updated in:

- 2014 to reflect the National Planning Policy Framework (NPPF) and National Planning Practice Guidance (PPG);
- 2017 to reflect changes to consultee arrangements, experience of carrying out the Sequential and Exception Tests, and in light of the adoption of the Local Plan;
- 2018 to reflect the updated sustainability appraisal objectives for the Local Plan Review; and
- 2020/2021 (this update) to become an SPD, to reflect the revised NPPF (2019) and the new evidence base, including the Strategic Flood Risk Assessments (2019 and 2020).

3.3 The SPD replaces the Flood Risk Note for the Planning Application Process. The SPD has greater weight as a material consideration in determining planning applications than the Note, particularly due to the process of its preparation, in line with the regulations⁴ and the Council's Statement of Community Involvement (SCI), including public consultation on the draft SPD.

3.4 The SPD sets out a step-by-step guide on how flood risk is considered as part of the planning application process. It provides guidance on how to apply national and local policy

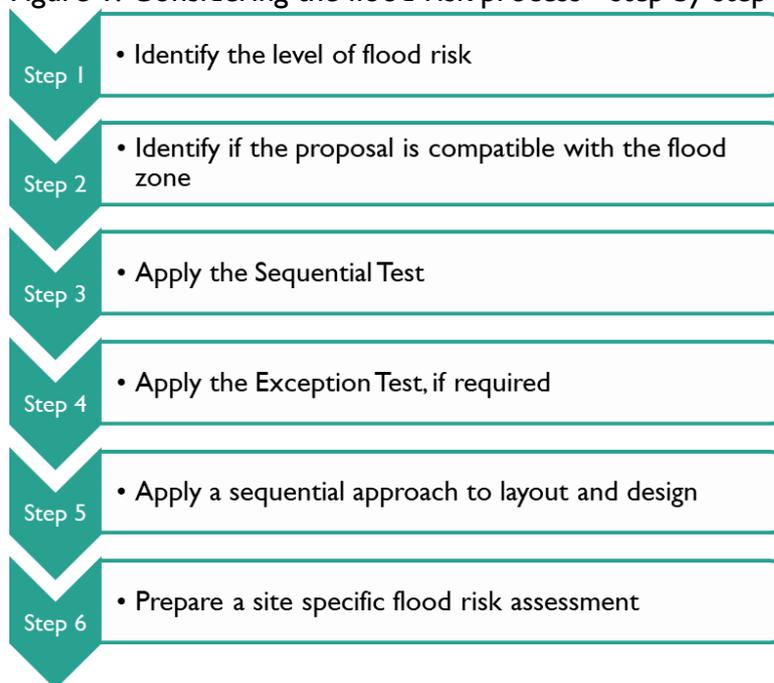
² Paragraph 8.100

³ NPPF paragraphs 158-161

⁴ The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (<https://www.legislation.gov.uk/ukSI/2012/767/contents>)

and a local interpretation of the national guidance. Figure 1 provides the framework for how flood risk should be considered, as well as providing the structure for the SPD.

Figure 1. Considering the flood risk process - step by step



3.5 The SPD is an important consideration in determining relevant planning applications.

4 Screening Procedure

4.1 The purpose of the SPD is to provide advice on how the Council's Local Plan policies on the flood risk sequential and exception test will be satisfied. The East Riding Local Plan Strategy Document is an 'overarching' strategic policy document for the East Riding and covers a wide range of issues and spatial matters. SEA has been undertaken for the Strategy Document as part of the Sustainability Appraisal.

4.2 Appendix I considers the SPD against the questions outlined in the flowchart, Figure 1, to determine if the need for SEA is triggered. It identifies that it must be determined if the SPD will have a significant effect on the environment (question 8) before such a decision can be reached.

4.3 Significant environmental effects of the East Riding Local Plan Strategy Document have already been considered through the relevant SEA. SEA of the SPD is only required if there are any additional significant environmental effects arising from the SPD that have not been considered in the Strategy Document Sustainability Appraisal Report (Submission Version, April 2014 and updates).

4.4 Schedule I of the Directive sets out the assessment criteria for considering significant environmental effects. The SPD has been assessed against these criteria. The detailed assessment is set out in Appendix 2.

5 Conclusion and Screening Outcome

5.1 As a result of the above assessment it is unlikely that there will be any significant environmental effects arising from the Draft Flood Risk Sequential and Exception Test SPD that were not covered in the Appraisal of the East Riding Local Plan Strategy Document. Therefore, the SPD will not trigger the need for an SA/SEA.

Appendix I: Establishing the Need for SEA following the flowchart in Figure I

Stage	Y/N	Justification
1	Y	<p>The SPD is prepared by the local authority and prepared under The Town And Country Planning (Local Planning) (England) Regulations 2012.</p> <p>GO TO QUESTION 2</p>
2	Y	<p>The SPD is produced to aid delivery of the statutory Local Plan. The Local Plan (paragraph 8.100) refers to the need for a Flood risk sequential and exception test SPD.</p> <p>GO TO QUESTION 3</p>
3	Y	<p>The SPD is prepared for town and country planning and land use and provides detail to the Local Plan policy framework for future consent of projects listed in Schedule II of the EIA Directive (namely 'urban development projects').</p> <p>GO TO QUESTION 5</p>
4	N/A	N/A
5	Y	<p>The SPD will be a material consideration in the consideration of planning applications for new developments. It provides detailed guidance to adopted Local Plan policy ENV6.</p> <p>GO TO QUESTION 8</p>
6	N/A	N/A
7	N/A	N/A

8	Is it likely to have a significant effect on the environment? (Art. 3.5)	N	<p>The purpose of the SPD is to provide guidance to assist in the interpretation of policy ENV6 of the adopted Local Plan. The Local Plan to which the SPD relates was subject to SEA (incorporated within the SA) through the Local Plan preparation process. Therefore the SPD will not itself have any significant effects on the environment, and may assist in addressing potential negative effects identified in the SEA of the relevant adopted policies. See Appendix 2 for detailed assessment.</p> <p>DIRECTIVE DOES NOT REQUIRE SEA</p>
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Appendix 2: Assessment of Likely Significance of Effects on the Environment

CRITERIA FOR DETERMINING THE LIKELY SIGNIFICANCE OF EFFECTS ON THE ENVIRONMENT ⁵	Potential effects of the SPD	Is there a likely significant effect?
I. The characteristics of plans and programmes, having regard, in particular, to—		
(a) the degree to which the plan or programme sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources;	The SPD will provide guidance on how to apply Local Plan policies. It does not set new policy. The policy framework is set in the Local Plan, which has been subject to SEA.	No
(b) the degree to which the plan or programme influences other plans and programmes including those in a hierarchy;	The SPD sits in a hierarchy of documents. It sits under the Local Plan, providing detail on how to apply policy ENV6. This policy may impact on other plans and programmes. However, the SPD only follows the policies, which have already been subject to SEA. The SPD could have minor impacts on the detail of how flood risk priorities are implemented though wider Council plans and programmes, which require the application of policy ENV6. The SPD will not form part of the Development Plan.	No
(c) the relevance of the plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development;	Sustainable development has underpinned the production of the Local Plan. The SPD will help promote the aim for sustainable development by providing clear and consistent guidance in relation to development proposals in the Lower Derwent Valley. This should have some positive impacts.	No
(d) environmental problems relevant to the plan or programme; and	The SPD should not introduce new or add to any existing problems. The document aims to ensure relevant development proposals consider flood risk appropriately and consistently through the planning application process. This should have positive impact.	No

⁵ Criteria taken from DIRECTIVE 2001/42/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment ANNEX II

(e) the relevance of the plan or programme for the implementation of Community legislation on the environment (for example, plans and programmes linked to waste management or water protection).	The SPD sets out guidance for applicants and the LPA in relation to the flood risk sequential and exception tests. The principle of development is considered through the Local Plan, which has been subject to SEA.	No
2. Characteristics of the effects and of the area likely to be affected, having regard, in particular, to—		
CRITERIA FOR DETERMINING THE LIKELY SIGNIFICANCE OF EFFECTS ON THE ENVIRONMENT	Potential effects of the SPD	Is there a likely significant effect?
(a) the probability, duration, frequency and reversibility of the effects;	No adverse effects on environmental interests resulting from the implementation of the SPD have been identified. The guidance will be used to aid the determination of planning applications and will thereby help ensure that the duration and frequency of adverse environmental effects are minimised or mitigated. The SPD will support the delivery of development that is in conformity with Local Plan, thereby reinforcing the sustainability outcomes of the Plan. This should provide minor positive effects.	No
(b) the cumulative nature of the effects;	The cumulative impact of the effects of the SPD should be positive with regard to the principles of sustainable development. The SPD will aid the focus on the sustainability appraisal objectives of the Local Plan Strategy Document.	No
(c) the trans-boundary nature of the effects;	The SPD is not in itself directly considered to have cross boundary impacts. It reinforces the existing protocol for dealing with planning issues on a cross boundary basis. The protocol is established through the Duty to Cooperate.	No
(d) the risks to human health or the environment (for example, due to accidents);	There are not likely to be negative impacts on human health or environment. It is considered that there is likely to be a consistent understanding of the risk from flooding and its consideration in planning applications; improvements to the environment and a positive contribution to wellbeing.	No
(e) the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected);	The SPD covers the East Riding of Yorkshire Council's administrative area. The area covers over 930 square miles. It has a population of approximately 341,173 ⁶ people. The SPD will affect those applying for planning permission in relation to a variety of types of development in	No

	the East Riding.	
(f) the value and vulnerability of the area likely to be affected due to— (i) special natural characteristics or cultural heritage; (ii) exceeded environmental quality standards or limit values; or (iii) intensive land-use; and	The East Riding covers an area with a wide variety of characteristics. The SPD will not lead to exceeding of environmental standards or the intensification of land use. The SPD aims to direct development away from areas at risk of flooding and where it is necessary ensure it is safe and in the risk is outweighed by the needs of the community. The area likely to be effected will be guided by individual planning applications. The appropriateness of those locations will be guided by policies within the Local Plan, which has been subject to SEA.	No
CRITERIA FOR DETERMINING THE LIKELY SIGNIFICANCE OF EFFECTS ON THE ENVIRONMENT	Potential effects of the SPD	Is there a likely significant effect?
(g) the effects on areas or landscapes which have a recognised national, Community or international protection status.	Impacts on such areas will be considered through the application of other Local Plan Policies which have been subject to SEA.	No



East Riding Local Plan

Flood Risk Sequential and Exception Test Supplementary Planning Document

Habitat Regulations Assessment Stage I: Screening Report

November 2021

I Introduction

- 1.1 This Habitat Regulations Assessment screening report is designed to determine whether or not the contents of the Flood Risk Sequential and Exception Test Supplementary Planning Document (SPD) will result in significant impacts on international sites.

2 Overview of the Draft Flood Risk Sequential and Exception Test SPD

- 2.1 The Local Plan Strategy Document (2016)⁷ (LPSD) committed the Council to preparing a SPD to provide further guidance on the flood risk elements of policy ENV6: Managing Environmental Hazards, in particular in relation to the NPPF flood risk sequential test, appropriate areas of search, exception test, site mitigation and design/safety requirements. The SPD has been prepared to provide assistance to developers, applicants, and Local Planning Authority officers on how to apply local and national planning policy using, amongst other evidence, the Council's Strategic Flood Risk Assessment (SFRA). It also supports the use of the East Riding Flood Data Map, an interactive map which brings all of the available mapped flood risk data into one place on the Council's website. It aims to promote transparency and consistency in the approach East Riding of Yorkshire Council will take to applying the flood risk Sequential and Exception Tests, as defined in the National planning Policy Framework⁸.
- 2.2 A Flood Risk Note for the Planning Application Process was published by the Council in 2010. It carried out a similar role to the SPD. It was updated in:
- 2014 to reflect the National Planning Policy Framework (NPPF) and National Planning Practice Guidance (PPG);
 - 2017 to reflect changes to consultee arrangements, experience of carrying out the Sequential and Exception Tests, and in light of the adoption of the Local Plan;
 - 2018 to reflect the updated sustainability appraisal objectives for the Local Plan Review; and
 - 2020/2021 (this update) to become an SPD, to reflect the revised NPPF (2019) and the new evidence base, including the Strategic Flood Risk Assessments (2019 and 2020).
- 2.3 The SPD replaces the Flood Risk Note for the Planning Application Process. The SPD has greater weight as a material consideration in determining planning applications than the Note, particularly due to the process of its preparation, in line with the regulations⁹ and the Council's Statement of Community Involvement (SCI), including public consultation on the draft SPD.
- 2.4 The SPD sets out a step-by-step guide on how flood risk is considered as part of the planning application process. It provides guidance on how to apply national and local policy and a local interpretation of the national guidance. Figure 1 provides the

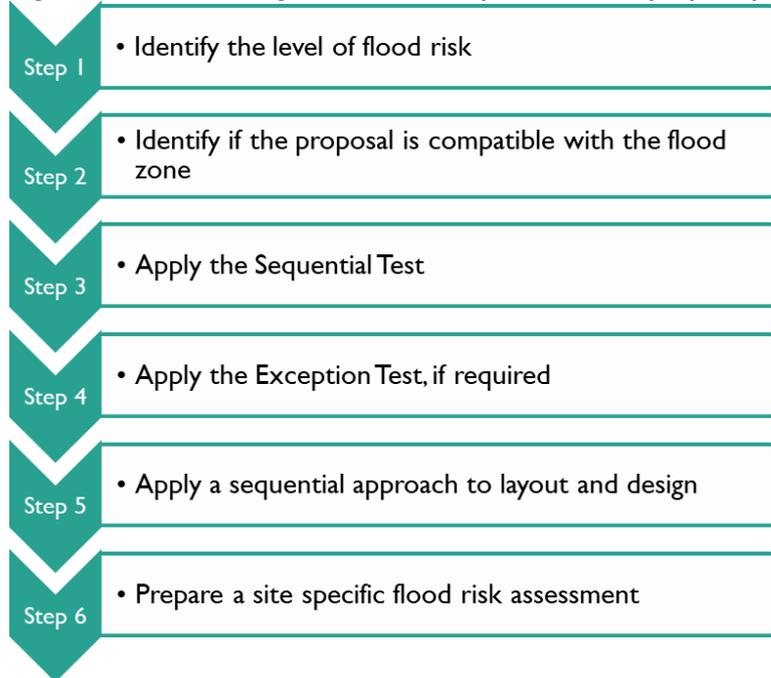
⁷ Paragraph 8.100

⁸ NPPF paragraphs 158-161

⁹ The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (<https://www.legislation.gov.uk/ukSI/2012/767/contents>)

framework for how flood risk should be considered, as well as providing the structure for the SPD.

Figure 1. Considering the flood risk process - step by step



2.5 Once adopted, the SPD will become an important consideration in determining relevant planning applications.

3 Background to HRA

3.1 Habitats Regulation Assessment (HRA) is required by Regulation 61 the Conservation of Habitats and Species Regulations 2010 (as amended) (the Habitat Regulations) for all plans and projects which may have likely significant effects on a European site and are not directly connected with or necessary to the management of the European site.

3.2 European sites include Special Areas of Conservation, Special Protection Areas and listed Wetlands of International Importance (Ramsar sites). HRA is also required, as a matter of UK Government policy for potential SPAs, candidate SACs and proposed Ramsar sites for the purposes of considering plans and projects, which may affect them. Hereafter all of the above designated nature conservation sites are referred to as 'international sites'.

3.3 The stages of HRA process are:

- Stage 1 – Screening: To test whether a plan or project either alone or in combination with other plans and projects is likely to have a significant effect on an international site;

- Stage 2 – Appropriate Assessment: To determine whether, in view of an international site’s conservation objectives, the plan (either alone or in combination with other projects and plans) would have an adverse effect (or risk of this) on the integrity of the site with respect to the site structure, function and conservation objectives. If adverse impacts are anticipated, potential mitigation measures to alleviate impacts should be proposed and assessed;
- Stage 3 – Assessment of alternative solutions: Where a plan is assessed as having an adverse impact (or risk of this) on the integrity of an international site, there should be an examination of alternatives (e.g. alternative locations and designs of development); and
- Stage 4 – Assessment where no alternative solutions remain and where adverse impacts remain: In exceptional circumstance (e.g. where there are imperative reasons of overriding public interest), compensatory measures to be put in place to offset negative impacts.

3.4 This report comprises the Stage I – Screening of the project.

4 Previous HRA Work

4.1 An HRA has been produced for the Local Plan Submission Strategy Document. It is available to view at www.eastriding.gov.uk/localplanexam. The Stage I – Screening Report assessed whether the Strategy Document is likely to lead to significant effects on the international sites listed below with reference to the conservation objectives of the qualifying feature of the site:

- Flamborough Head and Bempton Cliffs SPA;
- Flamborough Head SAC;
- Hornsea Mere SPA;
- Humber Estuary Ramsar site;
- Humber Estuary SPA;
- Humber Estuary SAC;
- Thorne and Hatfield Moors SPA;
- Thorne Moor SAC;
- Lower Derwent Valley Ramsar site;
- Lower Derwent Valley SPA;
- Lower Derwent Valley SAC;
- River Derwent SAC;
- Skipwith Common SAC.

4.2 The HRA Screening Report assessed all of the policies in the Strategy Document. It concluded that, with the exception of Part B of Policy S6 (Delivering Employment Land),

there will be no likely significant effects from the Strategy Document 'alone' or 'in combination' on any of the international sites within the assessment.

- 4.3 Therefore, it was not necessary to move to Stage 2 - Appropriate Assessment for Policy ENV6. The Strategy Document HRA committed to conducting HRAs for any future Local Plan documents, in particular the Allocations Document and any planning applications which might have likely effects on international sites. It identified that future site allocations/planning applications will need to be in line with the Strategy Document and will need to satisfy the East Riding of Yorkshire Council and Natural England that there will be no adverse effect on the integrity of the International Sites. Any adverse effects on site integrity must be effectively mitigated.
- 4.4 HRA screening has been undertaken for the Submission Allocations Document. This assessed allocations. It concluded that there will be no significant effects alone or in combination on any of the international sites. There may be proposals on non-allocated sites, to which the SPD is relevant. However, the location of these sites is currently unknown.

5 Conclusion

- 5.1 As the SPD does not provide further details on where new development will be located, it is not possible to provide any further assessment on the impacts on international sites in addition to the assessment provided by the Strategy Document and Allocations Document. In line with the assessment of those Plans there will be no likely significant effects alone or in combination on any of the international sites caused by the SPD. Therefore, a Stage 2 assessment is not required.