SHOPPING CENTRES SUPPLEMENTARY PLANNING DOCUMENT

1. Introduction

1.1 Plymouth City Council is currently producing its Shopping Centres Supplementary Planning Document which forms part of the Plymouth Plan (its Development Plan). As part of the production of these types of document the Planning Authority is required to consider the potential impacts of the plans upon the environment.

1.2 The European Directive 2001/42/EC, or Strategic Environmental Assessment (SEA) Directive requires that all plans and programmes associated with Town & Country Planning and/or Land Use undertake an environmental assessment to consider if they are deemed to have significant environmental effects. There are circumstances when a SEA is not required, and where this is thought to be the case, the Planning Authority is required to make clear its reasons for this in a screening report.

1.3 There is also a requirement under the Directive 92/43/EEC on the Conservation of Natural Habitats and Wild Flora (the Habitats Directive) to undertake a Habitat Regulations Assessment to consider potential impacts on sites of European importance for Nature Conservation.

1.4 This report provides screening statements for both of these requirements.

1.5 Whilst there is overlap between these two types of assessment, there is a statutory requirement to provide distinct reports. Section 3 therefore deals solely with the Strategic Environmental Assessment, and Section 4 covers the Habitat Regulations Assessment.

1.6 This report documents this screening process and sets out the reasoning behind the Council’s ‘Screening Opinion’.

2. Aims and content of the Shopping Centres Supplementary Planning Document First Review

2.1 A Supplementary Planning Document (SPD) forms part of the Development Plan. It is a non-statutory document and therefore is not subject to independent examination. However, it does need to be subject to public consultation of between four and six weeks before it can be adopted by the Council.

2.2 The purpose of an SPD is not to introduce new policy but to supplement existing Development Plan Documents with additional explanations and guidance.

2.3 The Shopping Centres SPD forms part of a series of SPDs that have been prepared through Plymouth’s Local Development Scheme. It provides further guidance and explanation to the adopted Core Strategy and is used to inform planning decisions. In this respect, it reflects the shopping hierarchy set out in the Core Strategy (city centre; district centres; local centres) and the Core Strategy’s targets for delivering new district centres at Derriford and in the vicinity of Weston Mill and new local centres at Devonport, Millbay and Plymstock Quarry.
The purpose of the Shopping Centres SPD is to set in place guidance to ensure that development proposals in the city’s shopping centres support and do not compromise the essential functions of those centres. It achieves this through:

- Identifying the boundaries of district and local shopping centres.
- Defining the primary and secondary retail frontage within these centres.
- Amplifying how the Core Strategy policy (CS11) relating to changes of use in shopping centres will be implemented in practice.
- Articulating the key issues identified through the evidence base and consultation responses in each of the centres.
- Providing a tool to assist with the management of change in these centres through the planning application process.

3. Guidance on the requirement for Strategic Environmental Assessment

3.1 Planning Authorities must conduct a Strategic Environmental Assessment of all plans prepared for town and country planning or land use in accordance with the SEA directive (2001/42/EC). But there are circumstances when a SEA is not required.

3.2 The SEA Directive requires SEA for plans which (i) “determine the use of small areas at a local level” or which are, (ii) “minor modifications” to plans, only when these are determined to be likely to cause significant environmental effects.

3.3 A Practical Guide to the Strategic Environmental Assessment Directive (2005) ODPM outlines how plans should be ‘screened’ to determine whether the exceptions may apply.

3.4 The guidance indicates that this exception to SEA may apply to SPDs. In Appendix 2 it expands on this point by stating that “ODPM expects that in only exceptional cases will a RSS, DPD or SPD have no significant environmental effects, but the criteria in Article 3.3 may on occasion apply to SPDs in the form of design guides or issues based documents that supplement policies in the DPD.”

3.5 The Council considers that the Shopping Centres SPD represents one of the exceptional cases to which the guidance refers. In coming to this conclusion the Council has reviewed the criteria for determining the likely significance of effects as listed in SEA directive (2001/42/EC) Annex II (see below).

ANNEX II
Criteria for determining the likely significance of effects referred to in Article 3(5)

The characteristics of plans and programmes, having regard, in particular, to

- 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 degree to which the plan or programme influences other plans and programmes including those in a hierarchy,
- the relevance of the plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development,
- environmental problems relevant to the plan or programme,
- the relevance of the plan or programme for the implementation of Community legislation on
Characteristics of the effects and of the area likely to be affected, having regard, in particular, to:

- the probability, duration, frequency and reversibility of the effects,
- the cumulative nature of the effects,
- the transboundary nature of the effects,
- the risks to human health or the environment (e.g. due to accidents),
- the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected), the value and vulnerability of the area likely to be affected due to:
  - special natural characteristics or cultural heritage,
  - exceeded environmental quality standards or limit values,
  - intensive land-use,
  - the effects on areas or landscapes which have a recognised national, community or international protection status.

3.6 In reviewing these criteria the Council has been mindful of the following key characteristic of the Shopping Centres SPD:

- It does not present new polices or proposals, and serves only to expand on existing policies within Plymouth’s LDF Core Strategy. These policies have already been subject to SEA.

3.7 In relation to these higher level policies previous SEA documents have commented

3.8 ‘These proposals are generally supported against the sustainability objectives. They seek to redress the imbalance in retail provision and concentrate development in local and district centres which are accessible by sustainable transport modes and will help to develop sustainable communities’ LDF Core Strategy SEA Preferred Options Report June 2005

3.9 ‘The focus on achieving a vibrant retail sector within the City Centre is one of the key elements of the Vision for Plymouth, and is supported in the emerging LDF strategy. ‘LDF Core Strategy Key Changes to Preferred Options SEA Report April 2006

3.10 ‘The SEA/SA of Preferred Options (June 2005), the Key Revisions to the Preferred Options (April 2006) and the Submission Draft are all broadly supportive of the retail strategy although concerns remain that development of district centres should not detract, or draw resources away, from the City Centre retail redevelopment. These concerns are emphasised by the results of the Plymouth Shopping Study which indicates that demand for new floorspace is relatively weak at present. However, the Draft Submission document recognises that the city must attract outside investment in order to expand retail in order to avoid detracting from existing retail centres. The Submission Draft also provides substantially more detail on the differences between the retail facilities to be provided in district centres and the City Centre which goes a long way towards allaying these fears. Policy CS07 is introduced, alongside Policies CS06, CS08, CS09 and CS10 which also provide clarity and the necessary assurances that the types of retail provision will be carefully regulated in the interests of protecting the vitality and viability of the City Centre and delivering sustainable neighbourhoods. These Policies are considered to be broadly sustainable in the light of these revisions.’ LDF Core Strategy Submission Draft SEA Report July 2006

3.11 Having reviewed the criteria in this manner the Council concludes that the Shopping Centres SPD First Review is unlikely to have significant environmental effects, and therefore does not require a Strategic Environmental Assessment.
3.12 In publishing this statement Plymouth City Council is consulting Natural England, Environment Agency and English Heritage on this opinion.

4. Habitat Regulations Assessment Screening Statement

4.1 This part of the report seeks to determine whether the Plymouth City Council’s Shopping Centres SPD will have a significant adverse impact on nearby Natura 2000 sites.

4.2 The report responds to the following regulatory requirements. Regulation 61(1) of the Conservation of Habitats and Species Regulations 2010 (‘the Habitats Regulations’) provides:

(1) A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which:

(a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and

(b) is not directly connected with or necessary to the management of that site, must make an appropriate assessment of the implications for that site in view of that site’s conservation objectives.

4.3 In consulting Natural England on this report we are seeking compliance with Regulation 61(5) of the Habitats Regulations which states that in the light of the conclusions of an appropriate assessment, subject to Regulation 62, the competent authority may agree to the relevant plan or project only after having ascertained that it will not adversely affect the integrity of the European site concerned.

Background

4.4 The Directive 92/43/EEC on the Conservation of Natural Habitats and Wild Flora and Fauna – the ‘Habitats Directive’ provides legal protection for habitats and species of European importance. Article 2 of the Directive requires the maintenance or restoration of habitats and species of interest to the EU in a favourable condition. This is implemented through a network of protected areas referred to as Natura 2000 sites.

4.5 Articles 6(3) and 6(4) of the Habitats Directive require Appropriate Assessment of plans and projects likely to have a significant effect on a European site. This means that the effects of such plans/projects on Natura 2000 sites need to be assessed to ensure that the integrity of these sites is maintained. The Shopping Centres SPD First Review is such a plan.

4.6 The Natura 2000 sites are of two types – Special Area of Conservation (SAC) and Special Protection Areas (SPA). SAC’s stem from the Habitats Directive, and are mainly habitat features, whereas SPA’s are features comprising populations of bird species and stem from the Birds Directive. Each Natura 2000 site has a number of qualifying features, for which conservation objectives have been developed.

4.7 The purpose of a Habitat Regulations Assessment (HRA) is to assess the impacts of a land-use plan on the nearby Natura 2000 Sites. The assessment must first determine whether the plan is likely to have a significant effect on the features of the Natura 2000 site(s) then, if so, to determine whether the plan will adversely affect the integrity of the site(s) in terms of its/their nature conservation objectives. Where negative effects are identified other options should be examined to avoid any potential damaging effects.

4.8 The HRA for Plymouth’s LDF Core Strategy was completed in 2007. This identified a number of necessary avoidance measures required to manage impacts associated with the Core Strategy and identified a number of suggested changes to the document that were
incorporated before it was adopted. Consideration of the potential for the Shopping Centres SPD to have a significant effect will be made in the light of this existing work.

5. Methodology used for this Habitat Regulations Assessment

5.1 DCLG (2006) guidance on Planning for the Protection of European Sites: Appropriate Assessment (consultation document) recommends a 3 stage process:

1. Screening: Determining whether the plan ‘either alone or in combination with other plans or projects’ is likely to have a significant effect on a European site.

2. Appropriate Assessment: Determining whether, in view of the site’s conservation objectives, the plan ‘either alone or in combination with other plans or projects’ would have an adverse effect (or risk of this) on the integrity of the site. If not, the plan can proceed.

3. Mitigation & Alternatives: Where the plan is assessed as having an adverse effect (or risk of this) on the integrity of a site, there should be an examination of mitigation measures and alternative solutions. If it is not possible to identify mitigation and alternatives it will be necessary to establish the 'imperative reasons of overriding public interest' (IROPI). This is not considered a standard part of the process and will only be carried out in exceptional circumstances.

5.2 All 3 stages of the process are referred to cumulatively as Habitat Regulations Assessment, to clearly distinguish the whole process from the step within it referred to as the Appropriate Assessment.

5.3 Natural England (NE) has been positively engaged in PCC’s work on Habitat Regulations Assessment since its inception in November 2006. An open and constructive dialogue has been maintained throughout the process, and NE has endorsed the conclusions of Plymouth’s previous HRA work.

6. Screening

6.1 The principle aim of this document is to ‘screen’ the potential of the Shopping Centres SPD for its likely effect, either alone or in combination, on the Natura 2000 sites within 15 kilometres of the city boundary.

6.2 Table 1 lists the European sites that are within 15 km of the city boundary.

<table>
<thead>
<tr>
<th>Name of Site</th>
<th>Reasons for Designation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Plymouth Sound &amp; Estuaries SAC</td>
<td>Sandbanks which are slightly covered by sea water all the time.</td>
</tr>
<tr>
<td></td>
<td>Estuaries.</td>
</tr>
<tr>
<td></td>
<td>Mudflats and sandflats not covered by seawater at low tide.</td>
</tr>
<tr>
<td></td>
<td>Large shallow inlets and bays.</td>
</tr>
<tr>
<td></td>
<td>Atlantic Salt Meadows.</td>
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<tr>
<td></td>
<td>Reefs.</td>
</tr>
<tr>
<td></td>
<td>Shore dock.</td>
</tr>
<tr>
<td></td>
<td>Allis shad.</td>
</tr>
<tr>
<td>Tamar Estuaries Complex SPA</td>
<td>Internationally important populations of Avocet &amp; Little Egret.</td>
</tr>
<tr>
<td>Dartmoor SAC</td>
<td>Northern Atlantic wet heath with <em>Erica tetralix.</em></td>
</tr>
<tr>
<td>Name of Site</td>
<td>Reasons for Designation</td>
</tr>
<tr>
<td>--------------------------------------------------</td>
<td>--------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>South Dartmoor Woods SAC</td>
<td>Old sessile oak woodlands <em>Ilex</em> and <em>Blechnum</em> in the British Isles. European dry heath.</td>
</tr>
<tr>
<td>Blackstone Point SAC</td>
<td>Shore dock.</td>
</tr>
<tr>
<td>Start Point to Plymouth Sound &amp; Eddystone cSAC</td>
<td>Inshore Upstanding Reefs. Offshore Upstanding Reefs.</td>
</tr>
<tr>
<td><em>(Not yet designated but submitted to Europe as a European site under the Habitats Regulations)</em></td>
<td></td>
</tr>
</tbody>
</table>

**Table 1: European Sites within 15km of the city boundary**

6.3 The scope of the Shopping Centres SPD is set out in Section 2.
Map 1: Distribution of Natura 2000 sites within 15km of Plymouth City boundary
Map 2: Start Point to Plymouth Sound & Eddystone cSAC
Possible Effects of the Shopping Centres SPD

6.4 The Shopping Centres SPD covers a broad subject matter and the range of possible effects linked to potential retail development is therefore equally broad and it would not add value to this screening process to attempt to document them. However, it is possible to state that:

- It does not present policies or proposals, and serves only to expand on existing policies within Plymouth’s LDF Core Strategy. These policies have already been subject to Habitat Regulations Assessment.

6.5 On this basis the Council feels that the Shopping Centres SPD alone is not likely to have a significant adverse effect on any European site.

6.6 In considering whether the document could work in combination with the other plans and programmes a similar conclusion of no significant adverse effect is reached. The plan is specifically designed to work in combination with the Core Strategy, which has already been subject to HRA.

7. Conclusion – Habitat Regulations Assessment - Screening Stage

7.1 PCC’s Shopping Centres SPD is a guidance document that sets out to improve the quality and sustainability of new development within the city. It does not present any policies or proposals, and serves only to provide greater clarity about the Council’s expectations in relation to existing policies within the LDF Core Strategy. The Core Strategy has already been subject to a Habitats Regulations Assessment. On this basis Plymouth City Council have concluded that there will be no significant adverse impact on the integrity of the Natura 2000 sites as a result of the Shopping Centres SPD.