

Royal Borough of Windsor & Maidenhead

Cookham Village Design Statement Supplementary Planning Document

Habitat Regulations: Determination Statement May 2013

Planning and Property Service
Royal Borough of Windsor and Maidenhead
Town Hall
St Ives Road
Maidenhead
SL6 1RF

1.0 Introduction & Background

- 1.1 This determination statement relates to the Cookham Village Design Statement Supplementary Planning Document (hereafter referred to as the Cookham VDS). It should be read in conjunction with the Draft Cookham VDS which was published for consultation in November 2012 and the Cookham VDS as proposed for adoption in May 2013.
- 1.2 This has been prepared in accordance with Regulation 102 of the Conservation of Habitats and Species Regulations 2010 and considers whether the Cookham VDS is likely to have a significant effect on sites designated for the international importance to nature conservation or not.

Background

- 1.3 The European Community (EC) Directive on the conservation of natural habitats and of wild fauna and flora (92/43/EEC) (commonly known as the Habitats Directive) provides legal protection for habitats and species of European importance.
- 1.4 Articles 3-9 provide the legal means to protect habitats and species of EC interest through the establishment and conservation of a European-wide network of sites known as Natura 2000. Natura 2000 sites are Special Areas of Conservation (SAC) designated under the Habitats Directive and Special Protection Areas (SPA) designated under the conservation of wild birds (79/409/EEC) (commonly known as the Birds Directive).
- 1.5 Article 6(3) and 6(4) of the Habitats Directive sets out the decision-making tests for plans and projects affecting Natura 2000 sites. Article 6(3) establishes a requirement for an assessment as outlined below:

“Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans and projects, shall be subject to assessment of its implications for the site in view of the site’s conservation objectives. In light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public.”

- 1.6 While not European sites as a matter of law, it is national planning policy that the following sites are given the same protection as a European site:
- potential Special Protection Areas and possible Special Areas of Conservation
 - listed or proposed Ramsar sites¹
 - sites identified, or required, as compensatory measures for adverse effects on European sites, potential Special Protection Areas, possible Special Areas of Conservation, and listed or proposed Ramsar sites.

¹ Under the Convention of Wetlands of International Importance, sites important for waterfowl were designated. These sites are known as Ramsar sites

- 1.7 For the purpose of simplicity, the term international site has been used to mean both Natura 2000 sites, potential Natura 2000 sites Ramsar sites and any compensatory sites.
- 1.8 The Conservation of Habitats and Species Regulations 2010 (common known as the Habitat Regulations) requires the assessment of land use plans. The adoption of the Cookham VDS as a Supplementary Planning Document (SPD) will confirm the document as a material consideration in determining planning applications. SPDs constitute a land use plans for the purpose of the Habitats Regulations.
- 1.9 Regulation 102(1) provides an opportunity to determine that significant environmental effects are unlikely and thus not requiring the undertaking of an appropriate assessment.
- 1.10 Under Regulation 102(2), before making a determination under Regulation 102(1), the council is required to consult Natural England as the appropriate environmental body and have regard to any representations made.
- 1.11 This report examines the Cookham VDS and:
- Identifies by a screening process any European site that could potentially be affected by policies and directions in the SPD.
 - Outlines details of the nature conservation importance of any European sites 'screened in' to the process.
 - Identifies the possible impacts that SPD may have on features of nature conservation importance within European sites.
 - Assesses any development impacts that could potentially have a significant effect on the favourable conservation status of European sites.
 - Identifies any controls within the SPD and other development plan documents, strategies, policies and plans that could act to avoid or mitigate these effects.
 - Proposes amendments and alterations to plans and policies where necessary to avoid these impacts.
- 1.12 It should be noted that a preliminary screening option was prepared to consider the effects of the Draft Cookham VDS. This statement builds upon this previous assessment and takes into account amendments recommended in response to representations on the draft document. Whilst there is no statutory guidance on what stage of plan production to best prepare an assessment under the Habitat Regulations this approach accords with the advice of Natural England which recommends that this begins at an early stage and if necessary continues through all the stages of plan production.

2.0 Brief Description of the Draft Cookham VDS

- 2.1 A Village Design Statement (VDS) is a document which describes the character of a place. By defining these qualities, VDS guidance can assist those seeking to make changes to their property or land, and where planning permission is required, assists the Borough Council in considering whether the proposed development is sympathetic to the local character.
- 2.2 The preparation of Cookham VDS has been sponsored by Cookham Parish Council and The Cookham Society. It has been written by a working group of residents with the support of the Borough Council.
- 2.3 The Cookham VDS seeks to describe the character of Cookham Parish and proposes guidance to help ensure development is sympathetic to the local character. By doing this, it helps support the interpretation of existing planning policy most notably Local Plan policies DG1 (Design Guidelines), N1 (Areas of Special Landscape Importance), N2 (Setting of the Thames), and H10 and H11 (Housing Layout and Design). It also assists the implementation of Section 7 of the National Planning Policy Framework which expects developments to respond to local character and history.
- 2.4 It is important to note that the Cookham VDS does not guide whether development should take place in principle and does not designate land for specific purposes. These matters are currently considered through other planning policy documents² most notably the Royal Borough of Windsor and Maidenhead Local Plan (Incorporating Alterations Adopted June 2003). The scope of any possible impacts on the special nature conservation interest of any international site will be limited by the narrow scope of the Cookham VDS.
- 2.5 The adoption of the Cookham VDS as a Supplementary Planning Document (SPD) confirms the document as a material consideration in determining planning applications.

² The development plan for the borough Royal Borough of Windsor and Maidenhead Local Plan (Incorporating Alterations Adopted June 2003), the Maidenhead Town Centre Area Action Plan (adopted September 2011), the Replacement Minerals Local Plan for Berkshire (Incorporating Alterations Adopted in December 1997 and May 2001), the Waste Local Plan for Berkshire (1998) and policy NRM6 of the South East Plan (May 2009).

3.0 Identification of Relevant International Sites

- 3.1 There are five designated international sites that lie wholly or partly within the Royal Borough, namely:
- Chiltern Beechwoods SAC
 - South East London Water Bodies SPA and Ramsar
 - Thames Basin Heaths SPA
 - Thursby, Ash, Pirbright and Chobham SAC
 - Windsor Forest and Great Park SAC
- 3.2 It is also important to consider international sites outside the Royal Borough. Of these the nearest is Burnham Beeches SAC.
- 3.3 To consider what distance impacts of a plan might have and thereby which international sites should be considered as part of an assessment, regard has been had to past decisions.
- 3.4 The last habitat regulations screening undertaken by the Borough Council was for the Maidenhead Town Centre Area Action Plan undertaken in 2009. This plan which promoted the rejuvenation of the town centre including significant office and residential development reviewed sites within a 10 km radius of Maidenhead town centre.
- 3.5 Regard has also been had to development control procedure. Whilst all planning applications are considered individually, the furthest distance over which the Borough Council's standard procedure is to consult Natural England on planning applications within a 5 km of the Thames Basin Heaths SPA.
- 3.6 Given the narrow scope of the Cookham VDS, consideration of sites within a 5km distance is considered sufficiently precautionary. The international sites falling within or partly within 5km of Cookham Parish are Chiltern Beechwoods SAC and Burnham Beeches SAC. Information on these sites is provided below.

Chiltern Beechwoods SAC	
Conservation Objective:	<p>Avoid the deterioration of the qualifying natural habitats and the habitats of qualifying species, and the significant disturbance of those qualifying species, ensuring the integrity of the site is maintained and the site makes a full contribution to achieving Favourable Conservation Status of each of the qualifying features.</p> <p>Subject to natural change, to maintain or restore:</p> <ul style="list-style-type: none"> • The extent and distribution of qualifying natural habitats and habitats of qualifying species; • The structure and function (including typical species) of qualifying natural habitats and habitats of qualifying species; • The supporting processes on which qualifying natural habitats and habitats of qualifying species rely; • The populations of qualifying species; • The distribution of qualifying species within the site.
Qualifying Features:	<ul style="list-style-type: none"> • Semi-natural dry grasslands and scrubland facies: on calcareous substrates (Festuco-Brometalia); Dry grasslands

	<p>and scrublands on chalk or limestone</p> <ul style="list-style-type: none"> • Asperulo-Fagetum beech forests; Beech forests on neutral to rich soils • <i>Lucanus cervus</i>; Stag beetle
--	--

Burnham Beeches SAC	
Conservation Objective:	<p>Avoid the deterioration of the qualifying natural habitats and the habitats of qualifying species, and the significant disturbance of those qualifying species, ensuring the integrity of the site is maintained and the site makes a full contribution to achieving Favourable Conservation Status of each of the qualifying features.</p> <p>Subject to natural change, to maintain or restore:</p> <ul style="list-style-type: none"> • The extent and distribution of qualifying natural habitats and habitats of qualifying species; • The structure and function (including typical species) of qualifying natural habitats and habitats of qualifying species; • The supporting processes on which qualifying natural habitats and habitats of qualifying species rely; • The populations of qualifying species; • The distribution of qualifying species within the site.
Qualifying Features:	<ul style="list-style-type: none"> • Atlantic acidophilous beech forests with <i>Ilex</i> and sometimes also <i>Taxus</i> in the shrublayer (<i>Quercion roburi-petraeae</i> or <i>Ilici-Fagenion</i>); Beech forests on acid soils.

4.0 Screening Criteria

- 4.1 In carrying out this screening process, regard has been had to the main possible sources of effects on the international sites, possible pathways to the international sites and the effects on possible sensitive receptors in the international sites. Only if there is an identifiable source, a pathway and a receptor is there likely to be a significant effect.
- 4.2 Possible sources and pathways for effects arising from development and used in this screening are considered to be:
- Water (water pollution and hydrology)
 - Air (air pollution)
 - Direct land-take
 - Habitat / species disturbance
 - Recreational pressure (increased population)
- 4.3 Operations that may damage the special interest of the Chiltern Beechwoods SAC or the Burnham Beeches SAC are considered to be:
- Damage or removal of any plant or plant remains (including recreational impacts)
 - Changes to drainage arrangements or watercourses
 - Pollution of watercourses
 - Water abstraction
 - Extraction of materials from the site
 - Dumping of materials on the site
 - Storage of materials on the site
 - Erection of structures on the site

5.0 Screening of the Cookham VDS

5.1 The Cookham VDS has been analysed to assess whether it would be likely to result in significant effects. The results are presented in the table below.

Operation	Potential impact from the Draft Cookham VDS	Mitigating factors and comments	Likelihood of significant effect
Damage or removal of any plant or plant remains (including recreational impacts)	None	The Cookham VDS does not steer development towards an international site therefore it does not increase any potential for increased damage to the site through either construction of recreational activities.	No
Changes to drainage arrangements or watercourses	None	-	No
Pollution of watercourses	None	-	No
Water abstraction	None	-	No
Extraction of materials from the site	None	The Cookham VDS does not address the need or suitability of extraction operations. The Replacement Minerals Local Plan for Berkshire (Incorporating Alterations Adopted in December 1997 and May 2001) specifically guides minerals extraction.	No
Dumping of materials on the site	None	The Cookham VDS does not steer development towards an international site therefore it does not increase any potential for the dumping of materials. The Royal Borough of Windsor and Maidenhead Local Plan set out a spatial vision for the area. Bisham Woods, the component of	No

		<p>the Chiltern Beechwoods SAC within the borough is located within the Green Belt where development is strictly controlled. Burnham Beeches is several km outside of the borough within South Bucks District Council.</p>	
Storage of materials on the site	None	<p>The Cookham VDS does not steer development towards an international site therefore it does not increase any potential for increased damage to the site through the storage of materials.</p> <p>The Royal Borough of Windsor and Maidenhead Local Plan set out a spatial vision for the area. Bisham Woods, the component of the Chiltern Beechwoods SAC within the borough is located within the Green Belt where development is strictly controlled. Burnham Beeches is several km outside of the borough within South Bucks District Council.</p>	No
Erection of structures on the site	None	<p>The Cookham VDS does not steer development towards an international site therefore it does not increase any potential for the erection of structures on the site.</p> <p>The Royal Borough of Windsor and Maidenhead Local Plan set out a spatial vision for the area. Bisham Woods, the component of the Chiltern Beechwoods SAC within the borough is located within the Green Belt where development is strictly controlled. Burnham Beeches is several km outside of the borough within South Bucks District Council.</p>	No

In Combination Effects

- 5.2 The Habitat Regulations requires the consideration of significant effects of a plan or programme arising from in combination effects with other plans or programmes. It can be considered that this will fall into two categories: those effects associated with regional strategic plans and proposals and those relating to more localised effects.
- 5.3 The now revoked South East Plan³ considered in-combination effects of the regions projects and plans at a strategic level and therefore regionally strategic plans are not considered further. As regards other plans within the borough or in neighbouring authorities, these will have been individually assessed.
- 5.4 As detailed above, no likelihood of significant effects of the Cookham VDS has been found. Given the narrow scope of the Cookham VDS and the controls in place in other plans, it is unlikely that in combination effects would arise.

³ Whilst the South East Plan has been revoked, policy NRM6 (Thames Basin Heaths Special Protection Area) was saved and continues to constitute part of the development plan.

6.0 Consultation: Screening Opinion

- 6.1 Under Regulation 102 of the Conservation of Habitats and Species Regulations 2010 the Borough Council must consult with Natural England before determining whether or not a plan or programme is likely to have significant effects.
- 6.2 The Borough Council undertook a preliminary screening opinion and sent a copy to Natural England requesting their opinion. Whilst not required by the Habitat Regulations, a copy was also sent to the Environment Agency. The preliminary screening opinion concluded that given the narrow scope of the Draft Cookham VDS and the probability that development managed by the operation of the plan was likely to be small scale, the plan was unlikely to have significant environmental effects and therefore a full Appropriate Assessment was not required.
- 6.3 Representations were received from Natural England and the Environment Agency. Both organisations agreed that the Draft Cookham VDS was unlikely to have significant environmental effects and a full Appropriate Assessment was not required.

7.0 Determination

- 7.1 The Borough Council considers that given the narrow scope of the Cookham VDS as proposed for adoption, the probability that development managed by the operation of the plan was likely to be small scale and the controls in place in other plans, it is unlikely that significant effects would arise. A full Appropriate Assessment is not required