

East Riding Local Plan

Statement of Common Ground

Between
East Riding of Yorkshire Council
and
Natural England

In respect of:
Habitats Regulations Assessment and Sustainability Appraisal in relation to
SMB-B (Stamford Bridge)

Including Addendum

July 2015
(Updated January 2016)



EAST RIDING

OF YORKSHIRE COUNCIL

NATURAL
ENGLAND

I Scope of document

- I.1 This statement has been prepared jointly by East Riding of Yorkshire Council (ERYC) and Natural England (NE). Its purpose is to set out an agreed position in relation to revisions to the Habitats Regulations Assessment (ref: CD354) and Sustainability Appraisal (ref: CD338) Notes that were published alongside the East Riding Local Plan Modifications documents (ref: CD04/04 & CD04/05).
- I.2 The Habitats Regulation Assessment (HRA) and Sustainability Appraisal (SA) Notes included an appraisal of Policy SMB-B, which was subsequently identified as a suitable site for allocation in the East Riding Local Plan. Policy SMB-B was included as a proposed modification (AM218) to the Allocations Document and supports the delivery of approximately 131 dwellings on the north eastern boundary of Stamford Bridge (Figure I).

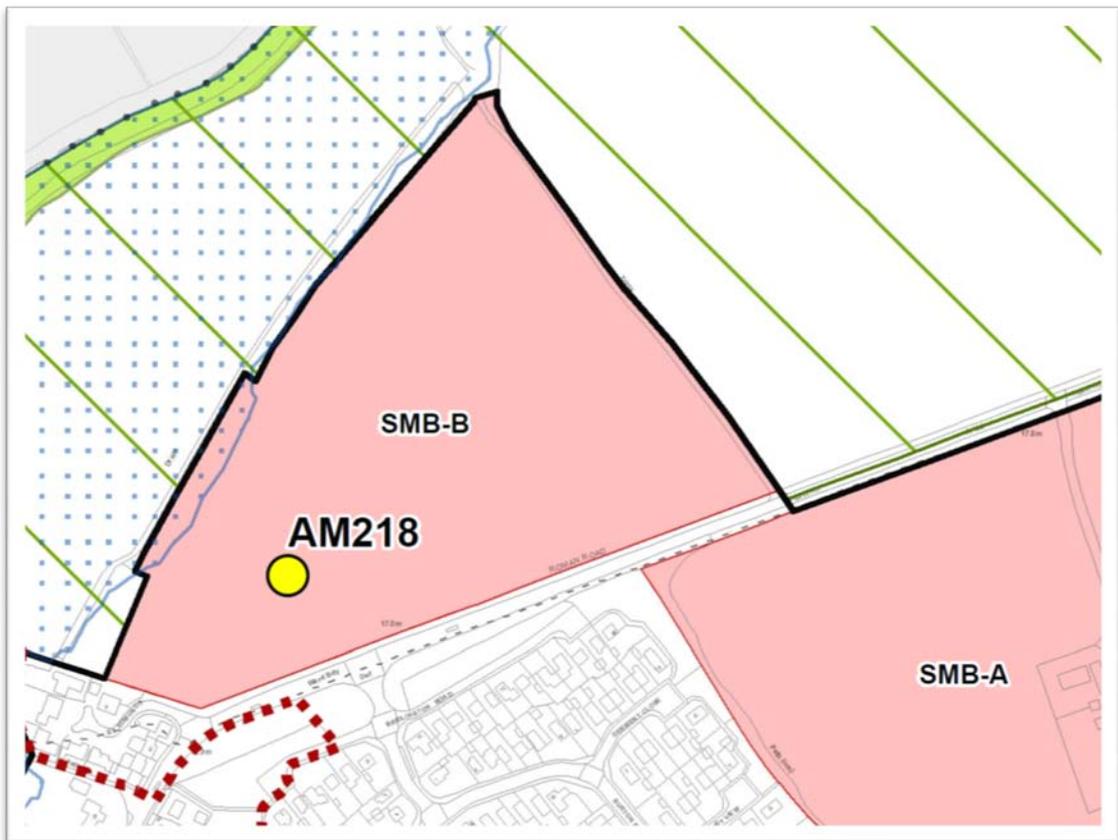


Figure I: Extract from Stamford Bridge Inset Map (ref: CD03/01)

- I.3 In response to the proposed modification, Natural England (NE) identified concerns regarding the content of the HRA and SA Notes (see response FC/217). This was subsequently clarified through a teleconference on 25 June 2015 between representatives of East Riding of Yorkshire Council (ERYC) and NE. In particular, NE

has identified two principal effects of Policy SMB-B that would require further assessment through the HRA and SA:

- i. Potential impacts of surface water run-off on water quality in the River Derwent SAC and SSSI; and
 - ii. Potential impacts of increased recreational use of public footpaths along the River Derwent, with the most likely significant effects being from indirect disturbance of otter by recreational dog walkers.
- I.4 Following consideration of NE's comments regarding the above, as well as others set out in NE's response to the modifications, Atkins have prepared revisions to the relevant sections of both the HRA and SA Notes (Appendix A & B). This Statement of Common Ground (SoCG) also sets out how NE's concerns, and the revisions to the HRA and SA, should be addressed through revised policy wording and supporting text for Policy SMB-B (Section 4).

2 Habitats Regulations Assessment

2.1 ERYC published a HRA Note for the Local Plan modifications in March 2015 (ref: CD354) which included, on pages 173-177, an assessment of Policy SMB-B. As outlined above, and in light of comments from NE, this part of the HRA Note has been revised and is set out in Appendix A. The revisions confirm the following:

- The Lower Derwent Valley SPA/Ramsar site is approximately 5.5km from the site and there are no direct impacts on the SPA/Ramsar resulting from the development of SMB-B, alone or in combination. Indirect impacts will be limited to potential effects on water quality which can be addressed through the proper application of sustainable drainage systems (SuDS) which is set out in Policy SMB-B and in Policy ENV6 of the Strategy Document;
- There will be no direct impacts or 'urban edge effects' on the River Derwent SAC from the development of SMB-B;
- There is potential for indirect impacts on the River Derwent SAC to occur as a result of additional recreational pressure and surface water run-off.
- The principal qualifying features of the SAC likely to be effected by development are otters, principally through increased numbers of dog walkers in the area. However, the effect of development is not likely to be significant because: otters are primarily nocturnal and will avoid the period when dog walkers are most active; the banks are heavily vegetated and the river is approximately 20m wide; the footpath is already in use so otters using this stretch will already be used to human activity; the footpath does not provide a useful circular route often favoured by dog walkers; there is no direct access to the river/footpath from the site; and people will need to walk 400m to gain access to the river. The provision of on-site open space in accordance with Policy C3 that meets the needs of dog walkers; provision of a landscape buffer to prevent access to the river; and off-site measures (e.g. signage) would mitigate against any impacts.
- In respect of water quality for the SAC, the application of best practice SuDS and Policy ENV6 of the Strategy Document would mitigate against any impacts.
- In combination effects, which consider the development of site SMB-A¹ are not likely to be significant. The updated HRA also identifies that due to its distance from SMB-B, there would be no in-combination effects with the site on Low Catton Road (SMB8) which is approximately 1.5km downstream. This

¹ A HRA Screening Report (August 2014) was prepared by Smeeden Foreman as part of a planning application for SMB-A. This identified that the risk of disturbance to the SAC along the River Derwent was negligible and would not give risk to significant effects. In addition, it found that it was unlikely there will be occasions when there is run-off from the proposed development to the River Derwent. In response (dated 26 August 2014) NE was satisfied that the development was not likely to result in an adverse effect on the River Derwent SAC.

is dependent upon the HRA for SMB8², and any mitigation measures, being agreed with ERYC as the competent authority.

- 2.2 The justification for these conclusions is set out within Appendix A, which highlights that the impacts are not likely to be significant and an Appropriate Assessment is not required. This includes recognition that policies in the Strategy Document would require the provision of on-site open and amenity space (Policy C3) and provision of SuDS to ensure surface water run-off is limited to the existing rate (Policy ENV6). These measures would reduce further the indirect impacts to the River Derwent SAC that have been identified through the revision to the HRA.
- 2.3 The assessment within the HRA has been reflected in a proposed modification to Policy SMB-B (and supporting text) which is set out in Section 4 of this SoCG. It is agreed by ERYC and NE that additional detail should be included within the Allocations Document to set out how Strategy Document Policies ENV6 and C3 are expected to be implemented through the development of SMB-B. This is through the inclusion of:
- A new criterion to specify that on-site open space should provide facilities for dog walking. This is accompanied by additional supporting text to highlight that the open space should be designed to meet the needs of dog walkers (e.g. providing for a circular walk) and includes associated facilities (e.g. waste bins).
 - Additional supporting text to identify off-site measures (e.g. signage) to improve the public rights of way network.
 - Additional supporting text to highlight that the provision of the landscape buffer to the northern boundary of the site should be designed to prevent access to the adjacent field and the footpath along the river.
 - Additional supporting text to highlight that the required surface and foul water schemes should also ensure water quality in the River Derwent is not adversely affected.
- 2.4 It is recognised by both ERYC and NE that Local Plans should be based on proportionate evidence (NPPF paragraph 167). However, more detailed information will be required at the project stage, which would be considered in light of Policy ENV4 of the Strategy Document and used to inform the design of new development and associated mitigation measures. This approach would be necessary to recognise that the plan period extends to 2029 and that the ecology of the river could change over this period.

² A HRA Screening Report (December 2014) was prepared by Wold Ecology Ltd and identifies that the development of the site is likely to result in significant effects on the River Derwent SAC. It sets out that Appropriate Assessment would not be required if:

- Measures are taken to prevent direct access to the adjacent Public Right of Way and encourage the use of public open space to minimise recreational pressure on the Derwent; and
- The design of SuDS ensures that no polluted water is able to flow into the River Derwent.

In response to the planning application (dated 27 February 2015), NE has advised that there is currently not enough information to rule out the likelihood of significant effects. They highlight that this could potentially be resolved through the submission of additional information.

3 Sustainability Appraisal

- 3.1 ERYC published a SA Note for the Local Plan modifications in March 2015 (ref: CD338) which included, on pages 95-96 and 119-122, an assessment of Policy SMB-B for residential development. A detailed site assessment was also included on page 198. As outlined above, and in light of comments from NE, this part of the SA Note has been revised and is set out in Appendix B with revised site assessments set out in Appendix C. The revisions confirm the following:
- All reasonable alternatives for Stamford Bridge have been assessed through the preparation of updated site assessments using the Council's Site Assessment Methodology (CD34)³. This confirms that all sites with the exception of SMB-A(i), SMB-A(ii) and SMB-B have been excluded as a result of stage 1 of the assessment.
 - The site is within 60m of the River Derwent SAC and SSSI. The revised note acknowledges that River Derwent SSSI has additional features for which it is notified.
 - The impacts against Objective 13 (To protect and enhance biodiversity and important wildlife habitats and to conserve geology) of the SA have been identified as having a negative effect, as opposed to a mixed effect.
 - Cumulative effects, which consider the development of site SMB-A alongside SMB-B, are not likely to be significant.
- 3.2 The revised SA Note is set out in Appendix B. It has taken into account the recommendations of the HRA and the further modifications proposed to Policy SMB-B (section 4). These modifications highlight those measures that could be included to reduce any potential impacts on the SAC and SSSI. This includes: the provision of on-site open space that facilitates circular dog walking routes; landscaping to prevent access to the footpath along the river; a management plan to accompany a planning application; and the provision of appropriate SuDS which consider impacts on water quality.
- 3.3 With these measures in place, the development of SMB-B, together with SMB-A, would not result in any significant negative impacts on the designated/notified features.
- 3.4 NE and ERYC are satisfied that all reasonable alternative allocations within Stamford Bridge have been assessed.

³ The Site Assessment Methodology (SAM) was developed to fulfil the SA requirements of the Allocations Document.

4 Revised Policy SMB-B

- 4.1 A revised policy for SMB-B with supporting text is set out below. The revised wording has taken into account of the recommendations of the HRA and SA assessment. This includes amendments to ensure that the development of the site does not result in adverse effects upon the notified features of the River Derwent SAC and SSSI.

Revised Policy

Policy SMB-B - Land North of A166 (6.50ha)

This site is allocated for housing development. Proposals will be required to:

- a. Provide a significant landscaping buffer to the eastern and northern boundaries;
- b. Avoid any built development in the area of the site that is within Flood Zone 3a and 3b;
- c. Incorporate comprehensive sustainable drainage systems;
- d. Provide open space on site that is designed to meet the needs of dog walking; and
- e. Provide off-site measures such as signage within the SSSI/SAC and improvements to the Public Rights of Way Network.

Revised Supporting Text

This site is located relatively close to the village centre on the northern side of the A166 (Roman Road) and has an indicative capacity of 131 dwellings. To the south and south west corner is existing residential development, whilst the River Derwent is to the west. As the site forms part of the rural approach to the village, landscaping will be required on the eastern and northern boundaries to integrate the development into the landscape. The landscaping should also provide an impenetrable buffer to prevent direct access between the development and the River Derwent SAC and SSSI. Due to the site's proximity to the River Derwent and its accessibility, effective measures should be delivered to ensure that the impacts of development have no adverse effects on the designated sites.

As well as landscaping, the effects of increased recreational pressure on the designated sites will be mitigated by the provision of on-site open space and facilities for dog-walking (e.g. circular route, provision of waste bins), along with off-site measures (e.g. signage within the SSSI/SAC along the footpath highlighting alternative dog walking areas and the sensitivities of the designation, improvements to the Public Rights of Way Network).

Due to the likelihood of archaeological deposits associated with Roman occupation, an archaeological evaluation of the site will also be required prior to any development taking place. The site is also close to the Conservation Area and proposals will need to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.

The western boundary of the site is located within an area of high flood risk (Flood Zone 3a and 3b) where built development should be avoided. Water compatible uses, such as the public open space required as part of the development, should be located in this area. The

capacity of the site has been calculated to reflect this. Due to the large size of the allocation, proposals should develop a comprehensive Sustainable Drainage Systems (SuDS) drainage plan for the site. Proposals will need to ensure that any issues associated with ponding of surface water on the site are satisfactorily investigated and addressed. Schemes for surface water and foul drainage management should be effective, enforceable and be accompanied by a clear programme for maintenance to ensure that the water quality of the River Derwent is not adversely affected through the construction of the site and the lifetime of the development. Advice is available from the Council's Flood and Coastal Erosion Risk Management Team on SuDS requirements.

In accordance with Policy ENV4 of the Strategy Document, proposals will need to ensure effective and deliverable mitigation prevent adverse effects upon the notified features of the River Derwent Special Area of Conservation and Site of Special Scientific Interest. The measures set out in Policy SMB-B, particularly criteria a, d and e, will need to be effective over the lifetime of the development and justified within a supporting Habitats Regulations Assessment and Environmental Report. As such, an appropriately funded management plan will need to be prepared as part of a planning application setting out how these measures will be delivered.

Addendum to Statement of Common Ground between Natural England and East Riding of Yorkshire Council (CD366)

January 2016

At the hearing session for the Allocations Document on Wednesday 15th July, the statement of common ground and revised HRA & SA notes for SMB-B were discussed. The Planning Inspector asked the Council (ERYC), in collaboration with Natural England (NE), to confirm that:

without the modifications now proposed in the policy (as set out in Chapter 4 of the Statement of Common Ground – CD366), would the allocation of SMB-B for residential development result in likely significant effects to the River Derwent SAC?

NE highlight the low threshold for determining likely significant effects (LSE) and precautionary principle in such matters and it is the view of NE that without the measures identified in the revised policy, LSE cannot be ruled out. This view is based on the effect of more dog walkers and disturbance to otters from the development of site SMB-B and in combination effects with SMB-A. In addition, surface water run off from construction and occupation could contribute to increased sedimentation within the river and a reduction in water quality. Without the policy requirements, LSE could not be ruled out. ⁴

ERYC, as the competent authority in respect of habitats regulations, believe that LSE can be ruled out without the changes identified. This view is on the basis that the provision of a SuDS scheme is a normal and necessary requirement for a development of this nature irrespective of its proximity to the River Derwent SAC. With regard to the issue of disturbance to otters, the surveys have shown that that otters, which are mainly nocturnal, are present with the current level of dog walking. The Council believes that any additional disturbance caused by a small increase in dog walking would only have a minimal and not a significant effect upon the River Derwent SAC.

Notwithstanding the above, both NE and ERYC have agreed a modification to policy SMB-B, which includes avoidance measures. The revised policy is set out in Chapter 4 of the Statement of Common Ground (CD366). NE has confirmed that policy SMB-B, as modified, provide confidence that LSE will be avoided.

⁴ Letter to East Riding of Yorkshire Council dated 10 August 2015