

## West Hoathly Neighbourhood Plan

### Habitats Regulations Assessment

Produced for Regulation 16 of the Neighbourhood Planning (General) Regulations 2012

17<sup>th</sup> October 2014

#### 1.0 Introduction

- 1.1 A Habitats Regulations Assessment (HRA) screening report was undertaken by Mid Sussex District Council in respect of the West Hoathly Neighbourhood Plan which has been produced by West Hoathly Parish Council in accordance with the Neighbourhood Planning (General) Regulations 2012. This HRA accompanies the West Hoathly Neighbourhood Plan produced for Regulation 16 of the Neighbourhood Planning (General) Regulations 2012.
- 1.2 The screening assessment found that there would be no likely significant effect on the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC) from the majority of policies included within the West Hoathly Neighbourhood Plan. It was found, however, that the development proposed in Policy WHP13 will have a likely significant effect alone since it is within 7km of the Ashdown Forest SPA (Appendix 1). An appropriate assessment is, therefore, required to test this policy further.
- 1.3 Further background to this HRA can be found in the screening report for the West Hoathly Neighbourhood Plan (Appendix 4).
- 1.4 Much of the information used for this HRA has been developed through the HRA for the Mid Sussex District Plan. The most recent version of this document was published in October 2014, but the District Plan has not yet been adopted. It is considered, however, that the background information in the District Plan HRA can be used for this HRA of the West Hoathly Neighbourhood Plan and as such, this HRA should be read in conjunction with it.
- 1.5 Further detail can be found in the [HRA for the Mid Sussex District Plan](#), other [supporting documents](#) and the [District Plan](#).
- 1.6 In producing this HRA screening report, the following guidance has been taken into account:
- David Tyldesley and Associates (for Scottish Natural Heritage) (August 2012) Habitats Regulations Appraisal of Plans: Guidance for Plan-making Bodies in Scotland – Version 2.0<sup>1</sup>
  - David Tyldesley and Associates (for the Countryside Council for Wales) (September 2012) Draft Guidance for Plan Making Authorities in Wales: The Appraisal of Plans Under the Habitats Directive<sup>2</sup>

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<sup>1</sup> <http://www.snh.gov.uk/planning-and-development/environmental-assessment/habitat-regulations-appraisal/>

It is noted that there is a different legislative framework in Scotland, however, in the absence of formal guidance for England, it is understood that Natural England has recommended the use of this guidance for Scottish Natural Heritage.

## **2.0 Appropriate Assessment**

- 2.1 The appropriate assessment stage focuses on Policy WHP13 of the West Hoathly Neighbourhood Plan. It was considered during the screening assessment that this policy is likely to have a significant effect on the Ashdown Forest SPA and SAC because it seeks to allocate land for residential dwellings. It, therefore, needs to be tested further. Mitigation can be applied at this stage and then it can be determined if the West Hoathly Neighbourhood Plan would adversely affect the integrity of the European site. If it is concluded that there would be an adverse effect on the integrity of the Ashdown Forest SPA, then the West Hoathly Neighbourhood Plan should not be given effect.
- 2.2 The Habitats Regulations do not specify how the assessment should be undertaken, but describe it simply as an ‘appropriate assessment’. This is taken to mean that the assessment must be appropriate to its purpose under the Habitats Regulations (and also the Habitats Directive). Regulation 102 of the Conservation of Habitats and Species Regulations 2010 refers to an appropriate assessment being made of the implications of a plan for a European site in view of the site’s conservation objectives, and this should have regard to the precautionary principle.
- 2.3 The conclusions of the appropriate assessment should enable the competent authority to ascertain whether the proposal would adversely affect the integrity of the site (the Ashdown Forest SPA). Integrity has been defined as ‘the coherence of its ecological structure and function, across its whole area, that enables it to sustain the habitat, complex of habitats and/ or the levels of populations of the species for which it was classified’ (ODPM, 2005<sup>3</sup>). For example, an adverse effect on integrity would be something that impacts on the site’s ecological structure and functioning and/ or affects the ability of the site to meet its conservation objectives.
- 2.4 Natural England has published the conservation objectives for the Ashdown Forest SPA and SAC (see Appendix 2 and 3) and where the objectives are met, the site can be said to demonstrate a high degree of integrity and the site itself makes a full contribution to achieving favourable conservation status for those features (favourable conservation status is defined by Article I of the Habitats Directive). A natural habitat favourable conservation status is achieved when:

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<sup>2</sup> <http://www.cgc.gov.uk/landscape--wildlife/managing-land-and-sea/environmental-assessment/habitats-regulations-assessmen.aspx>

<sup>3</sup> ODPM (2005) Government Circular 06/2005: Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System

- The natural range and areas it covers within that range are stable or increasing, and
- The specific structure and functions which are necessary for its long-term maintenance exist and are likely to continue to exist for the foreseeable future, and
- The conservation status of its typical species is favourable.

A species favourable conservation status is achieved when:

- Population dynamics data on the species concerned indicate that it is maintaining itself on a long-term basis as a viable component of its natural habitats, and
- The natural range of the species is neither reduced nor is likely to be reduced for the foreseeable future, and
- There is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long-term basis.

### **Impact Source, Impact Pathway and Potential Adverse Effects**

- 2.5 The impact source and pathway for recreational disturbance have been explained in the District Plan HRA (see Chapter 6: Disturbance Impact Pathways). In summary, new residential development within 7km of the Ashdown Forest SPA is likely to have a significant effect and this is due to additional visitors to Ashdown Forest and resulting recreational disturbance to the bird species. Policy WHP13 of the West Hoathly Neighbourhood Plan, therefore, may lead to more people visiting Ashdown Forest and potentially resulting in disturbance to the ground-nesting birds, particularly during the bird breeding season and from freely roaming dogs.
- 2.6 The impacts to heathland breeding birds can be summarised as follows:
- Increased nest predation by natural predators when adults are flushed from the nest or deterred from returning to it by the presence of people or dogs;
  - Chicks or eggs dying of exposure because adult birds are kept away from the nest;
  - Accidental trampling of eggs by people, given that nests are on the ground and may be close to paths;
  - Predation of chicks or eggs by domestic dogs; and
  - Increasing stress levels in adult birds in response to perceived predation risk.
- 2.7 Data analysis of the Ashdown Forest visitor survey<sup>4</sup> indicates that:
- The current level of visitor pressure is not affecting the distribution of nightjar, woodlark<sup>5</sup> or Dartford warbler within the Ashdown Forest SPA, although there will be a point at which levels of visitor pressure are so great that birds will abandon otherwise suitable breeding habitat and the ability of the site to support a given density of birds will be compromised.

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<sup>4</sup> Clarke, R. T., Sharp, J. and Liley, D. (2010) Ashdown Forest Visitor Survey Data Analysis: Natural England Commissioned Reports, Number 048: <http://www.midsussex.gov.uk/8270.htm>

<sup>5</sup> The woodlark is present in qualifying numbers on Ashdown Forest, but it is not listed as a qualifying feature of the Ashdown Forest SPA.

- The current level of visitor pressure is not displacing the birds from otherwise suitable habitat, however, the level at which recreational pressure will be such that birds will begin to be displaced is not known.
- Evidence from other sites would suggest that if access levels were to increase, there may be avoidance of otherwise suitable habitat and there may be impacts on breeding success.
- Recreational disturbance may still be having an impact on the Annex I bird species at Ashdown Forest and ‘in the absence of data on breeding success, and without understanding why bird densities are low, it currently cannot be concluded on the basis of scientific evidence that the ecological integrity of nightjar and Dartford warbler populations is not being adversely affected by a combination of existing pressure and/ or habitat management’ (p29).
- An increase in population from new residential development is likely to result in additional recreational pressure on Ashdown Forest.

2.8 The data analysis report<sup>6</sup> concludes that ‘information is not available to say definitively whether the quantum of new housing proposed in the vicinity of Ashdown Forest will impact upon breeding success or cause bird displacement. Taking into account the wider body of research available, along with the principles established and mitigation and monitoring being pursued as a result of plan level Habitats Regulations Assessments at other heathland sites, it is advised that a similar approach should be taken forward for Ashdown Forest SPA’ (p30).

2.9 In accordance with the precautionary principle and the analysis of the findings of the visitor survey, mitigation measures, therefore, are required to remove or reduce the effects of the West Hoathly Neighbourhood Plan on the Ashdown Forest SPA.

### **Mitigation**

2.10 As this proposed site allocation for development is located within the 7km zone of influence, it is within the area where mitigation would be most effective and it is recommended that mitigation is provided for residential development that comes forward in the Neighbourhood Plan Area. The following paragraphs detail the mitigation proposed to counter the effects of recreational disturbance on the Ashdown Forest SPA, and this approach was examined in the District Plan HRA (see Chapter 6: Disturbance Impact Pathways).

2.11 There are two parts to the mitigation. A site of Suitable Alternative Natural Greenspace (SANG) could either be provided on the development site or through a contribution to a strategic SANG. The purpose of SANGs is to provide alternative greenspace to divert visitors from visiting the Ashdown Forest SPA and to prevent an overall increase in visitors. Natural England has provided guidance on the criteria for SANGs and at the South East Plan

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<sup>6</sup> Clarke, R. T., Sharp, J. and Liley, D. (2010) Ashdown Forest Visitor Survey Data Analysis: Natural England Commissioned Reports, Number 048: <http://www.midsussex.gov.uk/8270.htm>

Examination, it was accepted that a minimum standard of 8Ha per 1000 net increase in population was appropriate for the Thames Basin Heaths and so this standard has been adopted for Ashdown Forest. Work to provide a strategic SANG site for the District at East Court & Ashplats Wood, East Grinstead is currently in progress and a series of enhancement works will help to make the site attractive to visitors.

- 2.12 The second part of mitigation is to provide a contribution towards a Strategic Access Management and Monitoring (SAMM) strategy. This aims to manage visitors on-site at Ashdown Forest and the strategy will involve joint working with the other affected local authorities, the Conservators of Ashdown Forest and Natural England. This work on a SAMM strategy is currently in progress, although the District Council is currently implementing an [interim SAMM mitigation strategy](#) applicable to relevant planning applications.
- 2.13 For mitigation to be sufficient to ascertain that the plan would not adversely affect the integrity of a European site, there needs to be certainty as to its implementation and delivery. It should also be referenced and detailed in a policy in an appropriate planning document such as the District Plan or a neighbourhood plan. It is considered that there are sufficient mitigation measures in the policy framework of the emerging District Plan (see Box 1) and those currently being implemented to apply to the amount of development proposed in the West Hoathly Neighbourhood Plan.

**DP 14 Ashdown Forest Special Area of Conservation (SAC) and Special Protection Area (SPA)**

Strategic Objectives: 3) To protect valued landscapes for their visual, historical and biodiversity qualities.

Evidence Base: Habitats Regulations Assessment for the Mid Sussex District Plan

In order to prevent adverse effects on the Ashdown Forest SPA and SAC, the Council will work with partners to develop a strategic approach to protecting it from recreational pressures. New residential development will be required to demonstrate that adequate measures are put in place to avoid or mitigate any potential adverse effects. Where bespoke mitigation is provided, these measures will need to be in place before occupation of development and be in perpetuity. The following provisions will apply:

- 1) Within a 400 metres buffer zone around the Ashdown Forest mitigation measures are unlikely to be capable of protecting the integrity of the SPA and therefore residential development will not be permitted.
- 2) Within a 7km zone of influence around the Ashdown Forest SPA, residential development leading to a net increase in dwellings will be required to contribute to:
  - The provision of Suitable Alternative Natural Greenspace (SANG) to the minimum level of 8Ha per 1,000 net increase in population or in the form of financial contributions to SANG elsewhere; and
  - The Ashdown Forest Strategic Access Management and Monitoring (SAMM) Strategy.

Box 1: Emerging policy for the Ashdown Forest SPA (Consultation draft District Plan 2014-2031 – October 2014).

2.14 The West Hoathly Neighbourhood Plan also contains policies that promote the need for mitigation or intend to conserve the natural environment. Policy WHP16: Alternative Green Space allows for the delivery of local SANG and by including this in the Neighbourhood Plan, emphasises the requirement for mitigation. Policy WHP3: Recreational Spaces seeks to protect local formal and informal open space. These sites offer existing recreational open space that act as local alternatives to Ashdown Forest.

### **In Combination Effects**

2.15 The requirement for mitigation means that any impact on the Ashdown Forest SPA from the West Hoathly Neighbourhood Plan is avoided or reduced and, therefore, there is no effect to assess in combination with other plans.

2.16 Other neighbourhood plans and windfall sites within the 7km zone in Mid Sussex will also be required to provide mitigation for development where there is a net increase in dwellings and any in combination effect will be taken into account through the overall mitigation strategy (that is, SANG and SAMM). Policies that propose residential development in neighbourhood plans in Mid Sussex outside the 7km zone of influence are considered to have an insignificant effect on the Ashdown Forest SPA (as assessed through the District Plan HRA) although this will be explored in further detail in the HRAs of those neighbourhood plans.

2.17 This also applies to plans being produced by local authorities that have land within the 7km zone, such as Wealden District Council, Lewes District Council and Tunbridge Wells Borough Council. It is understood that with regards to recreational disturbance, each affected local authority will be making provision for SANG and/ or contributing to the wider joint SAMM strategy that is currently being prepared.

2.18 To mitigate the development set out in the allocations at Uckfield, Crowborough and Maresfield identified in the Wealden District Core Strategy, both SANG and SAMM will be required. The HRA of the Strategic Sites Local Plan<sup>7</sup> provides further detail on the mitigation requirements for the strategic allocations at Uckfield and Crowborough in Wealden District, and mitigation requirements for the allocation at Maresfield will be set out in the HRA of Maresfield's Neighbourhood Plan and/ or the HRA for the Delivery and Site Allocations Local Plan. Lewes District Council is considering options for delivering a SANG and will also require contributions towards SAMM<sup>8</sup>. Tunbridge Wells Borough Council has not allocated any sites within the 7km zone of influence, but contributions may be provided towards SAMM where

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<sup>7</sup> Wealden District Council (2014) Strategic Sites Local Plan Habitats Regulations Assessment – Submission document:

[http://www.wealden.gov.uk/Wealden/Residents/Planning\\_and\\_Building\\_Control/Planning\\_Policy/Local\\_Plan/StrategicSites/PPolicy\\_Strategic\\_Sites\\_Local\\_Plan\\_Library\\_of\\_Documents\\_and\\_Evidence\\_Base.aspx](http://www.wealden.gov.uk/Wealden/Residents/Planning_and_Building_Control/Planning_Policy/Local_Plan/StrategicSites/PPolicy_Strategic_Sites_Local_Plan_Library_of_Documents_and_Evidence_Base.aspx)

<sup>8</sup> Lewes District Council (2014) Habitats Regulations Assessment Background Paper:

<http://www.lewes.gov.uk/planning/20408.asp>

appropriate<sup>9</sup>. All affected local authorities are involved in the development of the joint SAMP strategy and their work on mitigation described above demonstrates their commitment to protecting the Ashdown Forest SPA under the Habitats Regulations.

- 2.19 Ongoing monitoring of birds, visitors and the SAMP projects at Ashdown Forest as well as monitoring visitors at the SANG will ensure that mitigation remains effective. Adjustments can be made to the mitigation strategy and tariff if deemed necessary. Monitoring and any adjustments will be examined through the SANG and SAMP strategies.

### **3.0 Initial Conclusion and Recommendations**

- 3.1 The District Plan HRA assessed if the ecological integrity of the Ashdown Forest SPA would be adversely affected as a result of the District Plan (see Chapter 7: Summary and Conclusions). It concluded that mitigation measures were capable of being delivered and implementation of this mitigation would mean no adverse effects on integrity were expected.
- 3.2 The provision of mitigation in the form of both SANG and SAMP is essential to the housing proposals in the West Hoathly Neighbourhood Plan to ensure no adverse effect on the integrity of Ashdown Forest.
- 3.3 In view of the conclusions of the District Plan HRA and subject to the mitigation, it is considered from the appropriate assessment above that there would be no adverse effect on the integrity of the Ashdown Forest SPA and SAC from the policies included within the West Hoathly Neighbourhood Plan.
- 3.4 Any residential development that is included as an allocation within the West Hoathly Neighbourhood Plan or comes forward as a planning application will be subject to the recommendations of the HRA. Mitigation will be required for residential development<sup>10</sup> that results in a net increase in dwellings and this mitigation should consist of a contribution towards both SANG and SAMP. It is recommended that in advance of the adoption of the District Plan and the relevant policy, the neighbourhood plan should make reference to provision of SANG and SAMP mitigation to demonstrate the need for mitigation and to ensure certainty of implementation.
- 3.5 It is recommended that applicants contact the District Council for advice specific to the proposals in a planning application. Applicants are also strongly advised to contact the District Council prior to submitting a planning application should they be considering providing their own SANG or other forms of mitigation.

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<sup>9</sup> URS (on behalf of Tunbridge Wells Borough Council) (2013) Tunbridge Wells Site Allocations HRA: <http://www.tunbridgewells.gov.uk/residents/planning/planning-policy/evidence-base>

<sup>10</sup> Further detail on the types of development that will require mitigation will be provided in the SANG and SAMP strategies.

## Development Management

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### 4.0 Comments from Natural England

- 4.1 Natural England was consulted on this HRA for the West Hoathly Neighbourhood Plan. Their comments are set out below:

Your appropriate assessment concludes that the proposal will not result in adverse effects on the integrity of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could occur as a result of the proposals, Natural England concurs with your conclusions, providing:

- All mitigation measures are appropriately secured in any permission given.
- The NP makes reference to the need to contribute towards strategic mitigation in line with the emerging plan for Mid Sussex and conclusions of the Wealden Local Plan. The HRA effectively concludes that the provision of SANG and SAMM would mitigate the impact of development at West Hoathly on the designated sites on Ashdown Forest (in principle), and paragraph 2.11 the HRA makes reference to “a strategic SANG site for the District at East Court & Ashplats Wood, East Grinstead”. However the NP takes a local perspective on mitigation and its Policy WHP16: Alternative Green Space indicates that “Funds provided by development to support Suitable Alternative Natural Green Space (SANGS) will be used to establish and improve a local SANG location (or locations), if one can be identified that can be used without car journeys by the majority of parish households”. In a sense, the approaches in the NP and the HRA are at odds. The NP should recognise that mitigation (both SANG and SAMM) needs to be strategic (involving contributions from development within 7 km of the designated sites on Ashdown Forest) and delivered prior to the residential development set out in the NP.

### 5.0 Overall Conclusion

- 5.1 Natural England concurs with the conclusions of this HRA for the West Hoathly Neighbourhood Plan and their comments in relation to Policy WHP16 are noted. As indicated by Natural England, Policy WHP16 provides a local perspective that is ultimately not in conflict with the approach in the emerging Mid Sussex District Plan 2014 – 2031. Taking into account their comments, the overall conclusion of this HRA for the West Hoathly Neighbourhood Plan is that subject to mitigation being provided (in the form of SANG and SAMM contributions) and in view of the conclusions of the District Plan HRA, it is considered that there would be no adverse effect on the integrity of the Ashdown Forest SPA and SAC from the policies in the West Hoathly Neighbourhood Plan.

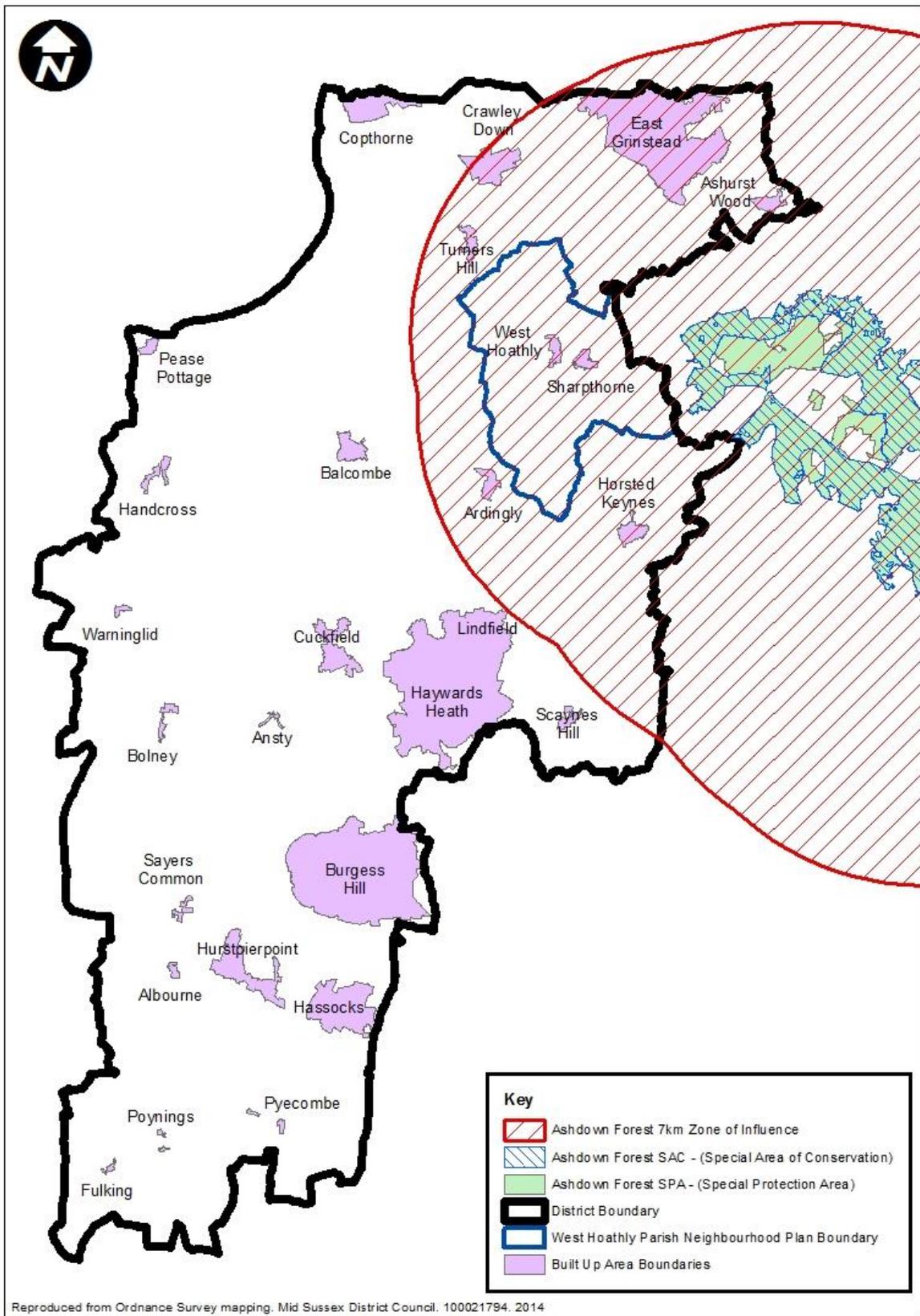
Approved by:

A handwritten signature in black ink, appearing to read 'C. Tester', written in a cursive style.

Claire Tester, Head of Economic Promotion and Planning

Date: 17<sup>th</sup> October 2014

**Appendix 1: The West Hoathly Neighbourhood Plan Area in relation to the Ashdown Forest Special Protection Area and Special Area of Conservation**



## Appendix 2: European Site Conservation Objectives for Ashdown Forest Special Protection Area

With regard to the individual species and/ or assemblage of species for which the site has been classified ('the Qualifying Features' listed below);

**Avoid the deterioration of the habitats of the qualifying features, and the significant disturbance of the qualifying features, ensuring the integrity of the site is maintained and the site makes a full contribution to achieving the aims of the Birds Directive.**

Subject to natural change, to maintain or restore:

- The extent and distribution of the habitats of the qualifying features;
- The structure and function of the habitats of the qualifying features;
- The supporting processes on which the habitats of the qualifying features rely;
- The populations of the qualifying features;
- The distribution of the qualifying features within the site.

### Qualifying Features:

A224            *Caprimulgus europaeus*; European nightjar (Breeding)

A302            *Sylvia undata*; Dartford warbler (Breeding)

### **Appendix 3: European Site Conservation Objectives for Ashdown Forest Special Area of Conservation**

With regard to the natural habitats and/ or species for which the site has been designated ('the Qualifying Features' listed below);

**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 the Favourable Conservation Status of each of the qualifying features.**

Subject to natural change, to maintain or restore:

- 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:**

H4010	Northern Atlantic wet heaths with <i>Erica tetralix</i> ; Wet heathland with cross-leaved heath
H4030	European dry heaths
S1166	<i>Triturus cristatus</i> ; Great crested newt

## Appendix 4:

### West Hoathly Neighbourhood Plan

#### Habitats Regulations Assessment Screening Report

Produced for Regulation 16 of the Neighbourhood Planning (General) Regulations 2012

1<sup>st</sup> October 2014

#### 1.0 Introduction

1.1 This Habitats Regulations Assessment (HRA) screening report has been undertaken by Mid Sussex District Council in respect of the West Hoathly Neighbourhood Plan which has been produced by West Hoathly Parish Council in accordance with the Neighbourhood Planning (General) Regulations 2012. This HRA screening report accompanies the West Hoathly Neighbourhood Plan produced for Regulation 16 of the Neighbourhood Planning (General) Regulations 2012.

1.2 The West Hoathly Neighbourhood Plan has been produced to guide development within the parish up to 2031. The Neighbourhood Plan sets out a vision for West Hoathly in fifteen years' time that captures the views and aspirations of the local community and therefore forms the basis on which the strategic objectives and proposed policies have been created:

'In 2030 the Parish of West Hoathly is a pleasant and hospitable place for people to live and thrive. This is due to the surrounding exceptionally beautiful countryside of farms and woodlands within the High Weald AONB, the wealth of historic built features and its group of villages and settlements each with their own distinctive identities. It has, and is able to sustain sufficient essential services and facilities to meet most local needs. Homes are available for all stages of life and circumstances and there is a strong sense of local community which contributes to low levels of crime. The Parish enjoys low levels of all forms of pollution including noise, light, fumes and excessive through traffic. Residents and visitors are able to safely and enjoyably move around the area on foot or cycle with a reduced dependency on cars' (West Hoathly Neighbourhood Plan, 2014: 7).

1.3 If the West Hoathly Neighbourhood Plan is approved by the local community through a referendum and subsequently made by Mid Sussex District Council, it will be used in determining planning applications within the Neighbourhood Plan Area, as part of the development plan.

1.4 The aim of this HRA screening report is to assess whether there are any likely significant effects on European sites within relative proximity to the Neighbourhood Plan Area (Appendix 1).

- 1.5 Much of the information used for this screening report has been developed through the HRA for the Mid Sussex District Plan 2014-2031. The most recent version of this document was published in October 2014. It is considered, however, that the background information in the District Plan HRA can be used for this screening report of the West Hoathly Neighbourhood Plan and as such, this screening report should be read in conjunction with it.
- 1.6 Further detail can be found in the [HRA for the Mid Sussex District Plan](#), other [supporting documents](#) and the [District Plan](#).
- 1.7 In producing this HRA screening report, the following guidance has been taken into account:
- David Tyldesley and Associates (for Scottish Natural Heritage) (August 2012) Habitats Regulations Appraisal of Plans: Guidance for Plan-making Bodies in Scotland – Version 2.0<sup>11</sup>
  - David Tyldesley and Associates (for the Countryside Council for Wales) (September 2012) Draft Guidance for Plan Making Authorities in Wales: The Appraisal of Plans Under the Habitats Directive<sup>12</sup>

It is noted that there is a different legislative framework in Scotland, however, in the absence of formal guidance for England, it is understood that Natural England has recommended the use of this guidance for Scottish Natural Heritage.

## **2.0 Legislative Background**

- 2.1 The Natura 2000 network consists of sites across Europe designated for their nature conservation importance. It aims to be an ecologically coherent network of designated sites that protect threatened species and habitats. The Natura 2000 network is formed of Special Areas of Conservation for species, plants and habitats (designated under the Habitats Directive) and Special Protection Areas for bird species (classified under the Birds Directive).
- 2.2 To help protect the Natura 2000 network, there are particular requirements for plans and projects. Article 6(3) of the European Union Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (the ‘Habitats Directive’) states:

‘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 or projects, shall be subject to appropriate assessment of its implications for the site in view of the site’s conservation objectives. In the 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 having ascertained that it will not adversely affect the

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<sup>11</sup> <http://www.snh.gov.uk/planning-and-development/environmental-assessment/habitat-regulations-appraisal/>

<sup>12</sup> <http://www.ccg.gov.uk/landscape--wildlife/managing-land-and-sea/environmental-assessment/habitats-regulations-assessmen.aspx>

integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public’.

The Habitats Directive is clear that an ‘appropriate assessment’ of a plan or project applies to both Special Areas of Conservation and Special Protection Areas (see also Article 7).

2.3 The Conservation of Habitats and Species Regulations 2010 (the ‘Habitats Regulations’) transpose the Habitats Directive and Regulation 102 provides:

- ‘(1) Where a land use plan –
- (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 the site, the plan-making authority for that plan must, before the plan is given effect, make an appropriate assessment of the implications for the site in view of that site’s conservation objectives’.

2.4 This means that any proposed plan that may affect a European site (Special Area of Conservation or Special Protection Area) must first undergo an assessment to look at its potential impacts applying the precautionary principle. This is to determine if the plan will adversely affect the integrity of the European site(s) concerned. This process is known as a Habitats Regulations Assessment and the first stage considers any likely significant effects (the screening stage). Straightforward mitigation measures can be applied at the screening stage which may mean that previous likely significant effects can be ruled out and the plan does not need to progress to the second stage. An appropriate assessment is the second stage of the HRA process and a plan should undertake this where likely significant effects are identified at the screening stage and cannot be ruled out after applying straightforward mitigation measures. The appropriate assessment looks at the implications of a plan for a European site in view of the site’s conservation objectives. Further more detailed mitigation measures may be introduced at the appropriate assessment stage to avoid or reduce the effects of a plan on the European site(s). Before a plan may be given effect, the plan-making authority as competent authority must ascertain that it would not adversely affect the integrity of the European site(s).

2.5 In terms of neighbourhood plans, the Neighbourhood Planning (General) Regulations 2012 require a submitted neighbourhood plan to include a statement explaining how the proposed neighbourhood development plan meets the basic conditions set out in paragraph 8 of Schedule 4B of the Town and Country Planning Act 1990<sup>13</sup>. One of these basic conditions is that the neighbourhood plan must be compatible with EU obligations and needs to demonstrate that it is not likely to have a significant effect on a European site.

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<sup>13</sup> Regulation 15(1)(d).

### **3.0 European Site Information**

- 3.1 The first step of the screening process is to consider the European sites that could be affected by a plan. Five such sites<sup>14</sup> were identified through the District Plan HRA process, and of these, the screening for the District Plan identified likely significant effects on the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC) as a result of recreational disturbance and atmospheric pollution. Ashdown Forest lies adjacent to the north-east boundary of Mid Sussex and within Wealden District and, therefore, is not within the Neighbourhood Plan Area.
- 3.2 The Ashdown Forest SPA was classified in 1996. It is a 3,200Ha site comprising predominantly of lowland heathland and woodland. The Ashdown Forest SPA is an internationally important habitat classified because of the presence of breeding populations of Dartford warbler *Sylvia undata* and European nightjar *Caprimulgus europaeus*. It is also a Site of Special Scientific Interest (SSSI).
- 3.3 The Ashdown Forest SAC was designated in 2005 and covers 2,700Ha. It has a different boundary to the SPA, but the two designations overlap (Appendix 1). The qualifying features for the designation are the Annex I habitats: Northern Atlantic wet heaths with *Erica tetralix* and European dry heaths, and the Annex II species: Great crested newt *Triturus cristatus*. It is also part of the SSSI.
- 3.4 Further environmental details can be found in the HRA for the Mid Sussex District Plan (see Chapter 3: European Sites).

### **4.0 Habitats Regulations Assessment for the Mid Sussex District Plan**

- 4.1 The potential effects of development on Ashdown Forest were assessed during the HRA process for the Mid Sussex District Plan. The screening exercise carried out in late 2007 and early 2008 found likely significant effects<sup>15</sup> on the Ashdown Forest SPA as a result of increased recreational activity arising from new residential development and related population growth that is likely to disturb the ground nesting birds. Further information can be found in the HRA for the Mid Sussex District Plan (see Chapter 6: Disturbance Impact Pathways).
- 4.2 A 2008 survey investigating visitor access patterns at Ashdown Forest found that the majority (83%) of visitors originated from within a 7km distance from Ashdown Forest. Within this 7km 'zone of influence', measures to reduce recreational pressure would be most effective, therefore, residential development leading to a net increase in dwellings will need to contribute to an appropriate level of mitigation. This will be in the form of providing

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<sup>14</sup> Ashdown Forest SPA, Ashdown Forest SAC, Castle Hill SAC, Lewes Downs SAC, and Mole Gap to Reigate Escarpment SAC.

<sup>15</sup> Based on current evidence, it cannot be shown that there will not be a likely significant effect, so applying the precautionary principle, the HRA considers that proposals resulting in new residential development will have a likely significant effect on Ashdown Forest.

a Suitable Alternative Natural Greenspace (SANG), either on the development site itself or through a financial contribution towards a strategic SANG, and a separate financial contribution towards a Strategic Access Management and Monitoring (SAMM) strategy.

- 4.3 In terms of atmospheric pollution, the [Mid Sussex Transport Study](#) indicates that projected traffic increases are well below the threshold deemed as significant and, therefore, the HRA report concludes that adverse effects are unlikely and no further measures are necessary. In order to promote good practice, however, the emerging District Plan contains measures to encourage sustainable transport and the requirements for avoidance and mitigation in relation to air pollution.
- 4.4 Policy DP14 in the consultation draft Mid Sussex District Plan 2014-2031 (October 2014) outlines the proposed approach to protecting Ashdown Forest. Any residential development allocation included within the West Hoathly Neighbourhood Plan will be subject to the requirements of the District Plan policy for the Ashdown Forest SPA and SAC or the approach being implemented at the time of a planning application. It is noted that the West Hoathly Neighbourhood Plan contains a policy on Alternative Natural Greenspace (WHP16).
- 4.5 It should be noted that the District Plan has not yet been adopted and, therefore, the District Plan HRA has not been tested and accepted at Examination. Whilst this is the case, the District Plan HRA did consider that some housing allocations in the District would be through neighbourhood plans. The expected level of development was taken into account and as such, it is considered that the District Plan HRA can be used as background information for the HRAs of neighbourhood plans. Currently, as advised by Natural England, all planning applications proposing a net increase in residential dwellings within the 7km zone around the Ashdown Forest SPA will be required to mitigate their effects of increased recreational pressure in the form of providing a financial contribution towards SAMM measures, and a SAMM interim mitigation strategy has been approved by Natural England. The provision of mitigation will be taken into account when preparing the HRA for the neighbourhood plan.

## **5.0 Screening Assessment for the West Hoathly Neighbourhood Plan**

- 5.1 The screening assessment has regard to the conservation objectives of the Ashdown Forest SPA and SAC. It also makes reference to other plans and projects (the emerging Mid Sussex District Plan and other neighbourhood plans in Mid Sussex). Key questions relating to the neighbourhood plan are included below and along with the screening assessment, help to establish if an appropriate assessment is required.
- 5.2 **Is the West Hoathly Neighbourhood Plan directly connected with, or necessary to the management of a European site for nature conservation?**

From review of the West Hoathly Neighbourhood Plan, it is not considered that it relates to the management of Ashdown Forest.

**5.3 Does the West Hoathly Neighbourhood Plan propose new development or allocate sites for development?**

Yes – three sites at land north of Top Road, land adjacent to Cookhams, and land known as Bluebell Woods in Sharpthorne have been allocated for residential development of up to 55 dwellings as outlined in Policy WHP13: Sites for New Homes. This amount of development is in line with the emerging Mid Sussex District Plan and is within the numbers assessed in the District Plan HRA.

**5.4 Are there any other projects or plans that together with the West Hoathly Neighbourhood Plan could impact on the integrity of a European site, the ‘in combination’ impact?**

Yes, the emerging Mid Sussex District Plan and other neighbourhood plans being produced in the District, especially those within the 7km zone. It is considered that the level of development proposed in the West Hoathly Neighbourhood Plan has been assessed as part of the housing strategy considered through the District Plan HRA.

The West Hoathly Neighbourhood Plan may also have an in combination effect with other plans being produced by local authorities that have land within the 7km zone, such as Wealden District Council, Lewes District Council and Tunbridge Wells Borough Council. It is understood though that with regards to recreational disturbance, each affected local authority will be making provision for SANG and/ or contributing to the wider joint SAMM strategy that is currently being prepared.

**Screening Assessment**

5.5 The following table illustrates the findings of the screening assessment for each of the policies within the West Hoathly Neighbourhood Plan. This assesses whether there is a likely significant effect from these policies on the Ashdown Forest SPA and SAC.

5.6 For it to be concluded that a policy would have no likely significant effect on a European site, one of the following reasons usually applies (this is taken from the guidance for Scottish Natural Heritage, p19-20):

- a) Intended to protect the natural environment, including biodiversity, or to conserve or enhance the natural, built or historic environment, where enhancement measures will not be likely to have any negative effect on a European site;
- b) Which will not themselves lead to development or other change, for example, because they relate to design or other qualitative criteria for development or other kinds of change;
- c) Which make provision for change but which could have no conceivable effect on a European site, because there is no link or pathway between them and the qualifying interests, or any effect would be a positive effect, or would not otherwise undermine the conservation objectives for the site;
- d) Which make provision for change but which could have no significant effect on a European site (but is a minor residual effect), because any potential effects would be

insignificant, being so restricted or remote from the site that they would not undermine the conservation objectives for the site;

- e) For which effects on any particular European site cannot be identified, because the policy is too general, for example, it is not possible to identify where, when or how the policy may be implemented, or where effects may occur, or which sites, if any, may be affected.

<b>West Hoathly Neighbourhood Plan Policy</b>	<b>Policy</b>	<b>Comment</b>	<b>Likely Significant Effect on the Ashdown Forest SPA and SAC</b>
WHP1	Landscape	This policy seeks to protect the landscape and its characteristics.	No likely significant effect – reasons a) and b).
WHP2	Historic Lanes	This policy seeks to protect the character and important features of historic lanes in the parish and as identified in the Neighbourhood Plan.	No likely significant effect – reasons a) and b).
WHP3	Recreational Spaces	The policy protects formal and informal recreational open spaces.	No likely significant effect – reason a).
WHP4	Rights of Way	This policy promotes improvements to the rights of way network. Whilst it is unlikely that the policy will have a significant effect on Ashdown Forest, enhancements to the rights of way network could improve public access to Ashdown Forest.	No likely significant effect – reasons c) and e). The policy is general and does not specify where enhancements will be made. Should a particular route lead onto or towards Ashdown Forest further consideration may be required as to any potential impact.
WHP5	Visualisations	This policy relates to documentation submitted to support an application and, therefore, has no direct development impact.	No likely significant effect – reason b).
WHP6	New Homes – Parking	This policy relates to the provision of off-street parking alongside residential development.	No likely significant effect – reasons b) and c).

<b>West Hoathly Neighbourhood Plan Policy</b>	<b>Policy</b>	<b>Comment</b>	<b>Likely Significant Effect on the Ashdown Forest SPA and SAC</b>
WHP7	Protection of Parking	This policy seeks to provide alternative parking provision where development removes recognised off-road parking spaces.	No likely significant effect – reason b).
WHP8	Goods Vehicle Traffic	This policy requires applicants to demonstrate that any additional HGV/LGV traffic will not have an adverse impact on the local road network.	No likely significant effect – reason b).
WHP9A	Road Improvements	This policy does not seek to allocate development, but relates to road safety, sustainable transport improvements and traffic management.	No likely significant effect – reason c).
WHP9B	Planning Obligations	This policy does not seek to allocate development, but relates to road safety, sustainable transport improvements and traffic management.	No likely significant effect – reason c).
WHP10	Bluebell Railway	This policy supports the provision of a railway halt at the previous West Hoathly station site.	No likely significant effect – reasons a) and c).
WHP11	Infill Housing	This policy does not allocate development, but relates to infill housing in the parish and provides criteria that must be met to make residential development applications acceptable.	No likely significant effect – reasons b) and e).
WHP12	Housing Mix	This policy does not allocate development, but relates to housing mix.	No likely significant effect – reason b).

West Hoathly Neighbourhood Plan Policy	Policy	Comment	Likely Significant Effect on the Ashdown Forest SPA and SAC
WHP13	Sites for New Homes	This policy allocates three sites for residential development of up to 55 new dwellings in total.	Likely significant effect – alone. Natural England has advised the District Council that new residential development within 7km of Ashdown Forest is likely to have a significant effect, alone and in combination with other housing proposals, on the special conservation features of Ashdown Forest. Development proposing a net increase in residential dwellings will be required to mitigate their effects of increased recreational pressure.
WHP14	Dwelling Extensions	This policy does not seek to allocate development, but sets out design criteria for residential extensions in the Neighbourhood Plan Area. The policy would not lead to a net increase in dwellings and, therefore, mitigation is not required.	No likely significant effect – reason b).
WHP15	Conservation Areas	This policy does not seek to allocate development, but relates to design criteria for development within conservation areas.	No likely significant effect – reasons a) and b).

<b>West Hoathly Neighbourhood Plan Policy</b>	<b>Policy</b>	<b>Comment</b>	<b>Likely Significant Effect on the Ashdown Forest SPA and SAC</b>
WHP16	Alternative Green Space	This policy seeks to support the establishment of a local SANG if feasible. It recognises the need for mitigation and seeks to provide local alternative natural greenspace.	No likely significant effect – reasons a) and b).
WHP17	Hoathly Hill	This policy does not seek to allocate development, but relates to qualitative criteria and appropriate design for development at Hoathly Hill.	No likely significant effect – reasons a) and b).
WHP18	Existing Employment Sites	This policy seeks to protect existing employment sites and does not allocate development.	No likely significant effect – reason b).
WHP19	Home Working	This policy supports residential extensions where this would enable flexible or home working within the Neighbourhood Plan Area.	No likely significant effect – reason c).

5.7 The screening assessment looks at the policies individually (alone) to identify if there is an effect on the European site. It is possible to apply straightforward mitigation measures to the plan if there are any policies likely to have a significant effect alone (in this case, Policy WHP13 which seeks to allocate land for housing), and then re-screen the policy to see if it can then be determined no likely significant effect. Examples of straightforward mitigation include the deletion of the policy, alteration of the spatial distribution of the potentially damaging proposal or reduction in the scale of the potentially damaging proposal. It is considered, however, that the type of mitigation proposed by the District Plan HRA (that is, SANG and SAMM) is more complex and bespoke and, therefore, WHP13 should be tested through the next stage, the appropriate assessment.

5.8 No other policies in the West Hoathly Neighbourhood Plan were found to have a likely significant effect alone on the Ashdown Forest SPA, nor have any policies been given reason d) (minor residual effect). There is, therefore, no in-plan in combination effect (that is, there is unlikely to be an in combination effect from the policies and proposals in the Neighbourhood Plan), and any wider in combination effect with other plans will be considered through the appropriate assessment.

## **6.0 Conclusion of the Screening Assessment**

6.1 The screening assessment table above shows that there would be no likely significant effects on the Ashdown Forest SPA and SAC from the majority of the policies included within the

West Hoathly Neighbourhood Plan. The development proposed in WHP13 may have a likely significant effect alone since it is within 7km of the Ashdown Forest SPA.

- 6.2 A full HRA (that is, the appropriate assessment stage that ascertains the effect on integrity of the European site) of the West Hoathly Neighbourhood Plan is required as the impacts from the development proposed in the West Hoathly Neighbourhood Plan need to be fully considered.



Approved by:

Claire Tester

Head of Economic Promotion and Planning

Date: 1<sup>st</sup> October 2014