

# **Traveller Sites Allocations Development Plan Document – Consultation Draft**

## **Draft Habitats Regulations Assessment Screening Report – July 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 Traveller Sites Allocations Development Plan Document.
- 1.2 An assessment of the accommodation needs of Gypsies and Travellers has been made through the Mid Sussex Gypsy and Traveller and Travelling Showpeople Accommodation Assessment (2013 and 2014). This concludes that the estimated site provision for Gypsies and Travellers required for Mid Sussex (outside of the South Downs National Park) for the period up to 2031 is 34 pitches with no identified requirement for Travelling Showpeople.
- 1.3 The Traveller Sites Allocations Document is required because of the need for permanent Gypsy and Traveller sites in Mid Sussex. Providing sufficient sites will contribute towards a better quality of life for the Gypsy and Traveller community, promoting better integration and co-existence with the settled community and help to reduce unauthorised encampments that can cause distress to both communities and are costly to the Council in terms of enforcement action, clean-up costs and preventative measures.
- 1.4 This Screening Report has been prepared for the Consultation Draft stage of the Traveller Sites Allocations Document which is proposed to be published for public consultation. This consultation stage presents an opportunity for communities and stakeholders to shape the Council's strategy for dealing with permanent Gypsy and Traveller sites. The document will be reviewed in light of the responses received. It, therefore, does not represent the final Council policy for dealing with permanent Traveller sites in Mid Sussex.
- 1.5 As the Traveller Sites Allocations Document seeks to allocate sites, it is also open to those who wish to promote a site for consideration, either now or in the future, to submit their sites. Sites put forward for consideration will be assessed for any likely significant effects in later versions of this Screening Report.
- 1.6 The aim of this Screening Report is to assess whether there are any likely significant effects on European sites within relative proximity to the shortlisted sites identified in the Traveller Sites Allocations Document – Consultation Draft Report (Appendix 1).
- 1.7 Much of the information used for this screening report has been developed through the Habitats Regulations Assessment for the Mid Sussex District Plan. The most recent version of this document was published in May 2013, but the District Plan has not yet been adopted. The District Plan was submitted to the Secretary of State in July 2013 and the first

Hearing session took place in November 2013 to consider the duty to co-operate. In December 2013, the Inspector concluded that he was not satisfied that the District Council had met the duty to co-operate and advised the District Council to withdraw the District Plan. It is considered, however, that the background information in the District Plan HRA can be used for this screening report of the Travellers Sites Allocations Document and as such, this Screening Report should be read in conjunction with it.

- 1.8 Further detail can be found in the [HRA for the Mid Sussex District Plan](#), other [supporting documents](#) and the [District Plan](#).
- 1.9 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>

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

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<sup>1</sup> <http://www.snh.gov.uk/planning-and-development/environmental-assessment/habitat-regulations-appraisal/>  
<sup>2</sup> <http://www.ccg.gov.uk/landscape--wildlife/managing-land-and-sea/environmental-assessment/habitats-regulations-assessmen.aspx>

## 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 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.

2.5 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).

- 2.6 In terms of the Traveller Sites Allocations Document, a screening report will be completed using information from the District Plan HRA to determine if there are likely to be any significant effects on the Ashdown Forest SPA and SAC.

## 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>3</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.
- 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 Site Information and Appendix I: Favourable Condition Table for Ashdown Forest).

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<sup>3</sup> Ashdown Forest SPA, Ashdown Forest SAC, Castle Hill SAC, Lewes Downs SAC, and Mole Gap to Reigate Escarpment SAC.

## 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>4</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).
- 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 within this 'zone' will need to contribute to an appropriate level of mitigation. This will be in the form of providing a Suitable Alternative Natural Greenspace (SANG), either within a 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 submission District Plan (July 2013) outlined the proposed approach to protecting Ashdown Forest. Any Gypsy and Traveller site allocation included within the Traveller Sites Allocations Document will be subject to the proposed 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.
- 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, it is considered that the District Plan HRA can be used as background information for the HRA of the Traveller Sites Allocations Document. 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 mitigation towards SAMM measures, and a SAMM interim mitigation strategy has been approved by Natural England. It is considered that permanent pitches for Gypsies and Travellers will also be required to mitigate their effects of increased recreational pressure. The provision of mitigation will be taken into account when preparing the HRA for the Traveller Sites Allocations Document.

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<sup>4</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.

## **5.0 Screening Assessment for the Traveller Sites Allocations Document**

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 neighbourhood plans in Mid Sussex). Key questions relating to the Traveller Sites Allocations Document are included below and along with the screening assessment, help to establish if an appropriate assessment is required.

5.2 **Is the Traveller Sites Allocations Document directly connected with, or necessary to the management of a European site for nature conservation?**

From review of the Traveller Sites Allocations Document, it is not considered that it relates to the management of Ashdown Forest.

5.3 **Does the Traveller Sites Allocations Document propose new development or allocate sites for development?**

Yes – the Traveller Sites Allocations Document contains two draft policies. The first (TSAD 1), proposes to safeguard existing authorised Traveller sites that have permanent planning permissions, or are granted such permission in the future, to ensure that identified needs are not made worse by the loss of these sites to alternative uses, without a suitable replacement being made. The second draft policy (TSAD 2), proposes two potential locations that could be allocated to provide permanent Traveller sites within the District.

The draft policies should be read in conjunction with the Council's proposed approach of a criteria-based policy within the emerging District Plan for the provision of permanent Gypsy, Traveller and Travelling Showpeople sites. The policy will set a target for the number of permanent pitches to be met through the Traveller Sites Allocations Document and the criteria for determining applications for new Gypsy and Traveller sites and extensions to existing sites. This will provide a basis for decisions to determine applications for such use should they come forward.

Around 160 sites have been assessed for their potential for development against an agreed methodology. Each site has been assessed using a two stage approach. Stage 1 removed those sites which had clear availability, policy or physical constraints. Stage 2 looked at the remaining sites in more detail and assessed a shortlist of six potential sites. All shortlisted sites have been screened under the Habitats Regulations.

5.4 **Are there any other projects or plans that together with the Traveller Sites Allocations Document could impact on the integrity of a European site, the 'in combination' impact?**

Yes, the emerging Mid Sussex District Plan and neighbourhood plans being produced in the District, especially those within the 7km zone. It is considered that the level of development proposed in the Traveller Sites Allocations Document is minimal.

The Traveller Sites Allocations Document 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 Table 1 illustrates the findings of the screening assessment for each policy and the shortlisted sites within the Traveller Sites Allocations Document. This assesses whether there is a likely significant effect from these sites on the Ashdown Forest SPA and SAC.
- 5.6 For it to be concluded that a site 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.



**Table 1 - Screening assessment for each policy and the shortlisted sites within the Traveller Sites Allocations Document**

<b>Traveller Sites Allocations DPD - Policy</b>	<b>Comment</b>	<b>Likely Significant Effect on the Ashdown Forest SPA and SAC</b>
<b>TSAD 1- Safeguarding Existing Authorised Traveller Sites</b>	This draft policy proposes that sites that have permanent planning permission for Gypsy and Traveller or Travelling Showpeople use, or are granted such permission in the future, will be safeguarded to ensure that the permitted use as a Gypsy and Traveller site is not lost to an alternative use, unless an alternative, replacement site has been identified and developed to provide facilities of an equivalent or improved standard (including its location), whilst there remains a need for such sites.	A likely significant effect would depend on the location of the site. If an existing site within the 7km zone of influence is granted a permanent planning permission, then mitigation is likely to be required.
<b>TSAD 2 - Traveller Site Allocations</b>	This policy identifies the sites listed below for potential development for permanent Gypsy and Traveller use to be solely occupied by Gypsies and Travellers. Of the six shortlisted sites, two are within the 7km zone of influence – Land at Imberhorne Lane Nurseries, East Grinstead and Little Clonking, Luxfords Lane, Ashurst Wood.	A likely significant effect would depend if the site is within the 7km zone of influence. See each site listed below for further site specific detail.

Traveller Sites Allocations DPD - Shortlisted Site	Comment	Likely Significant Effect on the Ashdown Forest SPA and SAC
<b>Proposed Site Options</b>		
<p><b>A</b> - Land to the north and northwest of Burgess Hill (as part of the Northern Arc mixed use strategic allocation)</p>	<p>The emerging District Plan policy will require provision for Traveller accommodation within the strategic allocation. The location is expected to yield 2 sites of 12 pitches and the land is likely to be a managed public site.</p>	<p>No likely significant effect – reason d). This site is outside of the 7km zone of influence for recreational disturbance and is 14.2km from the boundary of the Ashdown Forest SPA.</p>
<p><b>B</b> - Land at Imberhorne Lane Nurseries, East Grinstead</p>	<p>This would be a new site and is expected to yield up to 12 pitches. The land is likely to be a managed public site.</p>	<p>Likely significant effect – alone. This site is 4.3km from the boundary of the Ashdown Forest SPA. Natural England has advised the District Council that new residential development within 7km of Ashdown Forest is likely to have a significant effect, along 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.</p>

<b>Shortlisted Sites Rejected at Stage 2 Assessment</b>		
<b>C</b> - Extension of Bedelands Caravan Site, Burgess Hill	This is an existing site with 10 pitches; the extension is expected to yield a further 2 pitches. The site is a managed public site.	No likely significant effect – reason d). This site is outside of the 7km zone of influence for recreational disturbance and is 13.2km from the boundary of the Ashdown Forest SPA.
<b>D</b> - Land at Meadow Woods, Brook Street, Cuckfield	This is an existing private site with temporary planning permission for one pitch, which is seeking to be made permanent. There is the potential for an additional pitch on this site.	No likely significant effect – reason d). This site is outside of the 7km zone of influence for recreational disturbance and is 10.9km from the boundary of the Ashdown Forest SPA.
<b>E</b> - Marigold Farm Caravan Site, Bishopstone Lane, Ansty	This is an existing unauthorised but tolerated pitch with the potential to be made permanent. The site also had an existing permanent permission for one pitch.	No likely significant effect – reason d). This site is outside of the 7km zone of influence for recreational disturbance and is 14.4km from the boundary of the Ashdown Forest SPA.
<b>F</b> - Little Clonking, Luxfords Lane, Ashurst Wood	This is an existing private site with temporary planning permission for one pitch, with the potential for it to be made permanent.	Likely significant effect – alone. This site is 2.3km from the boundary of the Ashdown Forest SPA. Natural England has advised the District Council that new residential development within 7km of Ashdown Forest is likely to have a significant effect, along 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.

5.7 The screening assessment looks at the shortlisted sites 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 sites likely to have a significant effect alone (in this case, shortlisted sites B and F), and then re-screen the sites 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, shortlisted sites B and F should be tested through the next stage, the appropriate assessment.

- 5.8 No other policies in the Traveller Sites Allocations Document were found to have a likely significant effect alone on the Ashdown Forest SPA, although the other shortlisted sites (A, C, D and E) have been given reason d) (minor residual effect). These sites, therefore, should be assessed for an in-plan in combination effect. It is considered, however, that the shortlisted sites outside the 7km zone of influence will have an insignificant effect on the Ashdown Forest SPA, although 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 sites included within the Traveller Sites Allocations Document. The shortlisted sites B and F may have a likely significant effect alone since they are 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 Traveller Sites Allocations Document is required as the impacts from the shortlisted sites within 7km of the Ashdown Forest SPA need to be fully considered.



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**Appendix 1: The shortlisted Gypsy and Traveller sites in relation to the Ashdown Forest Special Protection Area and Special Area of Conservation**

