

Ashdown Forest

Special Protection Area and Special Area of Conservation

August 2016

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Abbreviations and Acronyms

AA	Appropriate assessment
CIL	Community Infrastructure Levy
HRA	Habitats Regulations Assessment
LNR	Local Nature Reserve
MSTS	Mid Sussex Transport Study
NPPF	National Planning Policy Framework
RFC	Highway ratio of flow to capacity
SAC	Special Area of Conservation
SAMM	Strategic Access Management and Monitoring
SANG	Suitable Alternative Natural Greenspace
SHLAA	Strategic Housing Land Availability Assessment
SNCI	Site of Nature Conservation Importance
SPA	Special Protection Area
SSSI	Site of Special Scientific Interest

1. Introduction

- 1.1 This paper sets out Mid Sussex District Council's (the 'District Council') approach to the Habitats Regulations. It is intended that this paper supports the examination of the District Plan and provides the Inspector with an understanding of the current position of the District Council with respect to the Ashdown Forest Special Protection Area and Special Area of Conservation.
- 1.2 This paper brings together evidence contained in other documents and provides updates as appropriate. As such, this paper should be read in conjunction with the other Ashdown Forest-related documents (Figure 1).

Date	Document
January 2008	Habitats Regulations Assessment Scoping Report (Tesseract Environmental Consultants) http://www.midsussex.gov.uk/planning-licensing-building-control/planning-policy/local-development-framework/district-plan/habitats-regulations-assessment/
September 2009	Visitor access patterns on Ashdown Forest (UE Associates) http://www.midsussex.gov.uk/planning-licensing-building-control/planning-policy/local-development-framework/district-plan/habitats-regulations-assessment/
27 th October 2009	Technical Note – Discussion paper: avoidance and mitigation strategy (UE Associates) http://www.midsussex.gov.uk/planning-licensing-building-control/planning-policy/local-development-framework/district-plan/habitats-regulations-assessment/
21 st September 2010	Ashdown Forest visitor survey data analysis (Clarke <i>et al.</i> , Natural England Commissioned Report NECR048) http://www.midsussex.gov.uk/planning-licensing-building-control/planning-policy/local-development-framework/district-plan/habitats-regulations-assessment/
October 2011	Habitats Regulations Assessment for the Mid Sussex District Plan – consultation draft (UE Associates) http://www.midsussex.gov.uk/planning-licensing-building-control/planning-policy/local-development-framework/district-plan/habitats-regulations-assessment/
May 2012	Habitats Regulations Assessment for the Mid Sussex District Plan – revised draft (Urban Edge Environmental Consulting) http://www.midsussex.gov.uk/planning-licensing-building-control/planning-policy/local-development-framework/district-plan/habitats-regulations-assessment/
May 2013	Habitats Regulations Assessment for the Mid Sussex District Plan – proposed submission (Urban Edge Environmental Consulting) http://www.midsussex.gov.uk/planning-licensing-building-control/planning-policy/local-development-framework/district-plan/habitats-regulations-assessment/

Date	Document
22 nd August 2013	Strategic Access Management and Monitoring Interim Mitigation Strategy (Mid Sussex District Council) http://www.midsussex.gov.uk/planning-licensing-building-control/planning/ashdown-forest/
1 st October 2014	East Court & Ashplats Wood Suitable Alternative Natural Greenspace Strategy and Tariff (Mid Sussex District Council) http://www.midsussex.gov.uk/planning-licensing-building-control/planning/ashdown-forest/
October 2014	Habitats Regulations Assessment for the Mid Sussex District Plan – consultation draft (Urban Edge Environmental Consulting) http://www.midsussex.gov.uk/planning-licensing-building-control/planning-policy/local-development-framework/district-plan/habitats-regulations-assessment/
March 2015	Habitats Regulations Assessment for the Mid Sussex District Plan – pre-submission draft (Urban Edge Environmental Consulting) http://www.midsussex.gov.uk/planning-licensing-building-control/planning-policy/local-development-framework/district-plan/habitats-regulations-assessment/
August 2015 (consultation document)	Mid Sussex District Plan Sustainability Appraisal (Incorporating Strategic Environmental Assessment) Addendum (Mid Sussex District Council)
October 2015	Habitats Regulations Assessment for the Mid Sussex District Plan – focused amendments to the pre-submission draft (Urban Edge Environmental Consulting) http://www.midsussex.gov.uk/planning-licensing-building-control/planning-policy/local-development-framework/district-plan/habitats-regulations-assessment/
November 2015	Mid Sussex Transport Study Stage 3 Interim Summary Report (Amey) http://www.midsussex.gov.uk/planning-licensing-building-control/planning-policy/local-development-framework/evidence-base/mid-sussex-transport-study/
August 2016	Mid Sussex District Plan Sustainability Appraisal (Incorporating Strategic Environmental Assessment) Submission Report (Mid Sussex District Council) http://www.midsussex.gov.uk/planning-licensing-building-control/planning-policy/local-development-framework/district-plan/

Figure 1 - Key evidence base documents relating to Ashdown Forest.

2. Legislative background and national planning context

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 and Special Protection Areas for bird species.

- 2.2 Special Areas of Conservation (SACs) are designated under the European Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (the ‘Habitats Directive’). Special Protection Areas (SPAs) are classified under the European Council Directive 2009/147/EC on the conservation of wild birds (the ‘Birds Directive’).

Habitats Regulations

- 2.3 The Habitats Directive has particular requirements for plans and projects in order to help protect the Natura 2000 network. Article 6(3) of 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.

- 2.4 The Habitats Directive is clear that an ‘appropriate assessment’ of a plan or project applies to both SACs and SPAs (see also Article 7 of the Habitats Directive).

- 2.5 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.

- 2.6 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 (HRA) 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 (AA) 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).¹

- 2.7 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.
- 2.8 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 and SAC). 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, 2005²). 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.

National Planning Policy Framework

- 2.9 The National Planning Policy Framework (NPPF)³ published in March 2012 sets out the Government's planning policies and planning guidance for both plan-making and decision-taking.
- 2.10 The NPPF at paragraph 119 states that the presumption in favour of sustainable development (paragraph 14 of the NPPF) does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined.
- 2.11 A recent Court of Appeal judgment⁴ provides an interpretation of paragraph 119 of the NPPF. For reasons set out in the judgment, if a development proposal is only screened for a likely significant effect, the conclusions of which do not require an appropriate assessment, then regard may be had to the presumption in favour of sustainable development when coming to a decision.

¹ See for example, *Smyth v Secretary of State for Communities and Local Government* [2015] EWCA Civ 174.

² ODPM (2005) Government Circular 06/2005: Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System.

³ National Planning Policy Framework (2012): <http://planningguidance.communities.gov.uk/>.

⁴ *Smyth v Secretary of State for Communities and Local Government* [2015] EWCA Civ 174.

3. Ashdown Forest

- 3.1 Ashdown Forest lies adjacent to the north-east boundary of Mid Sussex and within Wealden District.
- 3.2 The Ashdown Forest Special Protection Area (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*. Ashdown Forest is also notified as a Site of Special Scientific Interest (SSSI).
- 3.3 The Ashdown Forest Special Area of Conservation (SAC) was designated in 2005 and covers 2,700Ha. It has a different boundary to the SPA, but the two designations overlap. 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 Ashdown Forest SSSI.
- 3.4 Natural England has published the conservation objectives for the Ashdown Forest SPA and SAC (see Appendices A and B) 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:
- 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.
- 3.5 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.
- 3.6 Although Ashdown Forest lies outside of Mid Sussex District, under the Habitats Regulations, the competent authority – in this case, Mid Sussex District Council – has a duty to ensure that any plans or projects that they regulate (including planning

policy and planning applications) will have no adverse effect on the integrity of Ashdown Forest.

4. Timeline of the process

4.1 To assist with understanding the current position of the District Council with regards to the Habitats Regulations, Figure 2 sets out a timeline of key stages in the development of the approach to the Habitats Regulations.

Date	Approach
Pre-2008	Development is not considered in relation to the Habitats Regulations as there is no evidence (i.e. the visitor survey (2008) and subsequent data analysis (2010)) to suggest a likely significant effect on Ashdown Forest.
Pre-May 2012	Natural England advised the District Council could wait until the adoption of the District Plan before implementing mitigation measures. This is because the number of planning applications coming forward was unlikely to have a significant effect on Ashdown Forest. This conclusion is based on the findings of the data analysis of the visitor survey.
May 2012	Informal advice is received from Natural England noting a material change in circumstances in the approach needed for Ashdown Forest as a result of the Wealden District Council Core Strategy examination and the implementation of the NPPF that gives weight to emerging core strategies.
2 nd August 2012	Formal advice is received from Natural England noting that residential development within 7km of Ashdown Forest is likely to have a significant effect as a result of increased recreational pressure and mitigation is required from such development.
13 th August 2012	Based on legal advice, there is a change in the District Council's approach:
	<u>Pipeline applications</u> (those already in the planning system) are considered to be small in number and are able to be granted permission. Appropriate assessments are undertaken for these planning applications which conclude no likely significant effect on Ashdown Forest. This is confirmed by Natural England in a letter dated 5 th March 2013.
	<u>Post-pipeline applications</u> (those coming forward post-2 nd August 2012) have an appropriate assessment undertaken which concludes a likely significant effect on Ashdown Forest as no mitigation is available.
15 th April 2013	During the course of undertaking appropriate assessments for planning applications, a letter is received from Natural England

	advising that a SAMM-only mitigation approach can be applied before a SANG is implemented ⁵ .
29 th May 2013	A letter is received from Natural England advising that post-pipeline applications can be mitigated via a SAMM-only approach. Following this letter, an interim SAMM Strategy is developed by the District Council.
22 nd August 2013	Implementation of an interim SAMM Strategy which is applied to planning applications proposing residential development within 7km of the Ashdown Forest SPA. A financial contribution by way of a Section 106 planning obligation is required to go towards mitigation.
1 st January 2015	Implementation of the East Court & Ashplats Wood SANG Strategy. This is applied to planning applications proposing residential development within 7km of the Ashdown Forest SPA. A financial contribution by way of a Section 106 planning obligation is required (a contribution towards the interim SAMM Strategy is also required). (Note that following legal advice, since the 1 st January 2016, a different legal mechanism is being used to secure the SANG contribution).

Figure 2 - Timeline of the approach to the Habitats Regulations.

5. Natural England

- 5.1 Natural England is the nature conservation body referenced in the Habitats Regulations. As confirmed by case law, high weight should be afforded to Natural England's advice⁶.
- 5.2 A Statement of Common Ground between Mid Sussex District Council and Natural England has been produced (Appendix E). This demonstrates the two parties co-operate and work actively together on matters of shared interest and responsibilities. The District Council has worked closely with Natural England on matters relating to the Habitats Regulations and Ashdown Forest, and has followed the advice of Natural England having due regard to it.

6. Habitats Regulations Assessment for the Mid Sussex District Plan

- 6.1 Mid Sussex District Council has prepared a District Plan which will guide development to 2031. The District Plan sets out a vision for how Mid Sussex wants to evolve and a delivery strategy for how that will be achieved.

⁵ Strategic Access Management and Monitoring (SAMM) and Suitable Alternative Natural Greenspace (SANG) – see Sections 8 and 9 for more detail.

⁶ See for example, *R (Morge) v Hampshire County Council* [2011] UKSC 2; *Smyth v Secretary of State for Communities and Local Government* [2015] EWCA Civ 174.

- 6.2 The potential effects of development on Ashdown Forest were assessed during the HRA process for the Mid Sussex District Plan. The HRA is an iterative process and so each revised report draws and builds on the work undertaken previously. The evidence base for the approach taken to Ashdown Forest is used in the HRA process, in particular the visitor survey work and subsequent data analysis. Some sections of the HRA are updated, for example, to identify progress in relation to the delivery of mitigation. An updated screening assessment has been undertaken to take account of any changes to policy wording following the Focused Amendments consultation in autumn 2015. This should be read in conjunction with the Habitats Regulations Assessment report (see Appendix D).
- 6.3 Five European sites were identified through the HRA process that could be affected by a plan⁷, and of these five sites, the screening process undertaken in late 2007 and early 2008 identified likely significant effects on the Ashdown Forest SPA and SAC as a result of recreational disturbance and atmospheric pollution respectively.
- 6.4 The District Plan HRA assessed if the ecological integrity of the Ashdown Forest SPA and SAC would be adversely affected as a result of the District Plan⁸. The District Plan HRA (October 2015) takes into account the District Plan housing requirement of 800 dwellings per year, or 13,600 dwellings over the Plan period.
- 6.5 Of the 1,730 dwellings to be delivered through neighbourhood plans and on sites identified through the SHLAA (as at October 2015), approximately 1,106 are located within the 7km zone of influence around Ashdown Forest. The District Plan HRA report concluded that mitigation measures for recreational disturbance were capable of being delivered and implementation of this mitigation would mean that a likely significant effect can be avoided.
- 6.6 In terms of atmospheric pollution, the District Plan HRA concludes that significant effects on the Ashdown Forest SAC are unlikely and no further measures are necessary.
- 6.7 Both recreational disturbance and atmospheric pollution are addressed in the following sections of this paper.
- 6.8 Natural England has confirmed it is satisfied with the content of the District Plan HRA and concurs with the conclusions of the report.

⁷ Ashdown Forest SPA, Ashdown Forest SAC, Castle Hill SAC, Lewes Downs SAC, and Mole Gap to Reigate Escarpment SAC.

⁸ UE Associates (October 2015) Habitats Regulations Assessment for the Mid Sussex District Plan – see Chapter 8: Summary and Conclusions.

7. Recreational disturbance

- 7.1 Increased recreational activity arising from new residential development and related population growth is likely to disturb the protected near-ground and ground nesting birds on Ashdown Forest.
- 7.2 A visitor survey was undertaken in September 2008⁹ (the ‘2008 visitor survey’) on Ashdown Forest with subsequent data analysis undertaken in 2010¹⁰ (the ‘2010 data analysis’). This remains the best available evidence on which to base the approach to Ashdown Forest, however, further visitor monitoring will be undertaken as part of a mitigation and monitoring strategy. This further monitoring work will allow analysis of trends and visitor patterns, and if appropriate, could help to refine any mitigation strategy.

Impact source, impact pathway and potential adverse effects

- 7.3 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, where 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.
- 7.4 The 2010 data analysis of the Ashdown Forest visitor survey indicates that:
- The current level of visitor pressure is not affecting the distribution of nightjar, woodlark¹¹ 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.
 - 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,

⁹ UE Associates (2009) Visitor access patterns on Ashdown Forest.

¹⁰ Clarke, R. T., Sharp, J. and Liley, D. (2010) Ashdown Forest visitor survey data analysis: Natural England Commissioned Reports, Number 048.

¹¹ The woodlark is present in qualifying numbers on Ashdown Forest, but it is not listed as a qualifying feature of the Ashdown Forest SPA.

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' (Clarke *et al.*, 2010: p29).

- An increase in population from new residential development is likely to result in additional recreational pressure on Ashdown Forest.

7.5 The 2010 data analysis report 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' (Clarke *et al.*, 2010: p30).

7.6 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 District Plan on the Ashdown Forest SPA.

Zone of influence

7.7 The requirement for new residential development proposing a net increase in dwellings to provide mitigation is based on a zonal approach. This approach was established for the Thames Basin Heaths through the South East Plan Examination in Public¹². Zones are established on the basis of visitor surveys, the data analysis of which may suggest that use of the SPA is linked to the distance people live from it and the transport links to the site. This zone is the area where mitigation measures would be most effective.

7.8 Both the data analysis of the visitor survey and the District Plan HRA recommend that residential development is not permitted within a 400m buffer zone around the Ashdown Forest SPA. This is on the basis that mitigation is unlikely to be successful since Ashdown Forest is within walking distance and people will use the site as their local recreation space. Within this distance, urban effects such as cat predation may also increase. It is considered that the use of a 400m buffer zone is included within the District Plan policy and new residential development will not be permitted in this area. This 400m zone only applies to a very small proportion of the District, which is a rural area near the hamlet of Birchgrove. It is felt there are no reasonable alternatives to the 400m buffer zone aside from a do nothing approach, which is not considered appropriate as the 400m buffer zone addresses specific issues likely to occur within this distance from the SPA.

¹² Burley, P. (2007) *Report to the Panel for the Draft South East Plan Examination in Public on the Thames Basin Heaths Special Protection Area and Natural England's Draft Delivery Plan.*

- 7.9 The 2010 data analysis report found that the majority of regular 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.
- 7.10 There has been an assessment of reasonable alternatives to the 7km zone of influence through the Sustainability Appraisal/ Strategic Environmental Assessment for the District Plan¹³. This is in light of the recent Court of Appeal judgment¹⁴ regarding Wealden District Council’s Core Strategy Local Plan Policy WCS12: Biodiversity, which related to Ashdown Forest matters. The assessment is in response to the conclusion of the judgment that Wealden District Council did not assess reasonable alternatives. A range of options for the 7km zone of influence and mitigation measures are appraised, derived from the visitor survey and subsequent data analysis. The assessment concludes that the 7km zone of influence and SANG/ SMMM approach remains the most sustainable option given all reasonable alternatives.
- 7.11 Natural England has reviewed this assessment and has confirmed that a 7km zone of influence is appropriate for the Ashdown Forest SPA as this is based on the evidence from the visitor survey and subsequent data analysis¹⁵.

Mitigation

- 7.12 Mitigation measures are necessary to counteract the effects of potential increasing recreational pressure on the Ashdown Forest SPA arising from new residential development. Mitigation measures will help to ensure that the conservation objectives for the Ashdown Forest SPA and SAC are met which will prevent a deterioration of the conservation status of qualifying species for which the SPA has been classified and the qualifying habitats and species for which the SAC has been designated.
- 7.13 Mitigation measures seek to avoid or reduce any adverse effects on the European site, and can be taken into account when undertaking the HRA and considering if there would be a likely significant effect or an adverse effect on the integrity of the European site from the proposals¹⁶. Avoidance measures are designed to avoid any effects on a European site and reduction measures are designed to minimise or reduce any adverse effects on European sites. Where adverse effects on the integrity of a European site cannot be ruled out and in the absence of alternative solutions, compensatory measures may be required when the plan is assessed for imperative reasons of overriding public interest.

¹³ Mid Sussex District Plan Sustainability Appraisal (Incorporating Strategic Environmental Assessment) Submission Report (August 2016).

¹⁴ *Ashdown Forest Economic Development LLP v Wealden District Council* [2015] EWCA Civ 681.

¹⁵ Mid Sussex District Council press release: Natural England confirms support for 7km zone (19th August 2015): <http://www.midsussex.gov.uk/my-council/council-magazine-and-press-releases/press-releases/press-release-list/natural-england-confirms-support-for-7km-zone/>

¹⁶ *Smyth v Secretary of State for Communities and Local Government* [2015] EWCA Civ 174.

- 7.14 The District Plan HRA recommends a Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring (SAMM) approach. This mitigation approach has been suggested for Mid Sussex since at least 2009¹⁷. Other mitigation measures have been considered in the addendum to the District Plan Sustainability Appraisal/ Strategic Environmental Assessment.
- 7.15 The SANG and SAMM approach has been successfully adopted elsewhere at heathland sites such as the Thames Basin Heaths and Dorset Heaths. The District Plan HRA applies these principles to the Ashdown Forest context. Both the SANG and SAMM strategies have a monitoring element which will provide the information necessary to change the strategies if appropriate.
- 7.16 Bespoke mitigation may also be appropriate in some circumstances. Detailed evidence would be required to assist the District Council in determining if the bespoke mitigation would be sufficient to avoid a recreational pressure impact on Ashdown Forest. Natural England's advice would also be taken into account.

¹⁷ UE Associates (2009) Technical note: HRA for the Mid Sussex Core Strategy – avoidance and mitigation strategy.

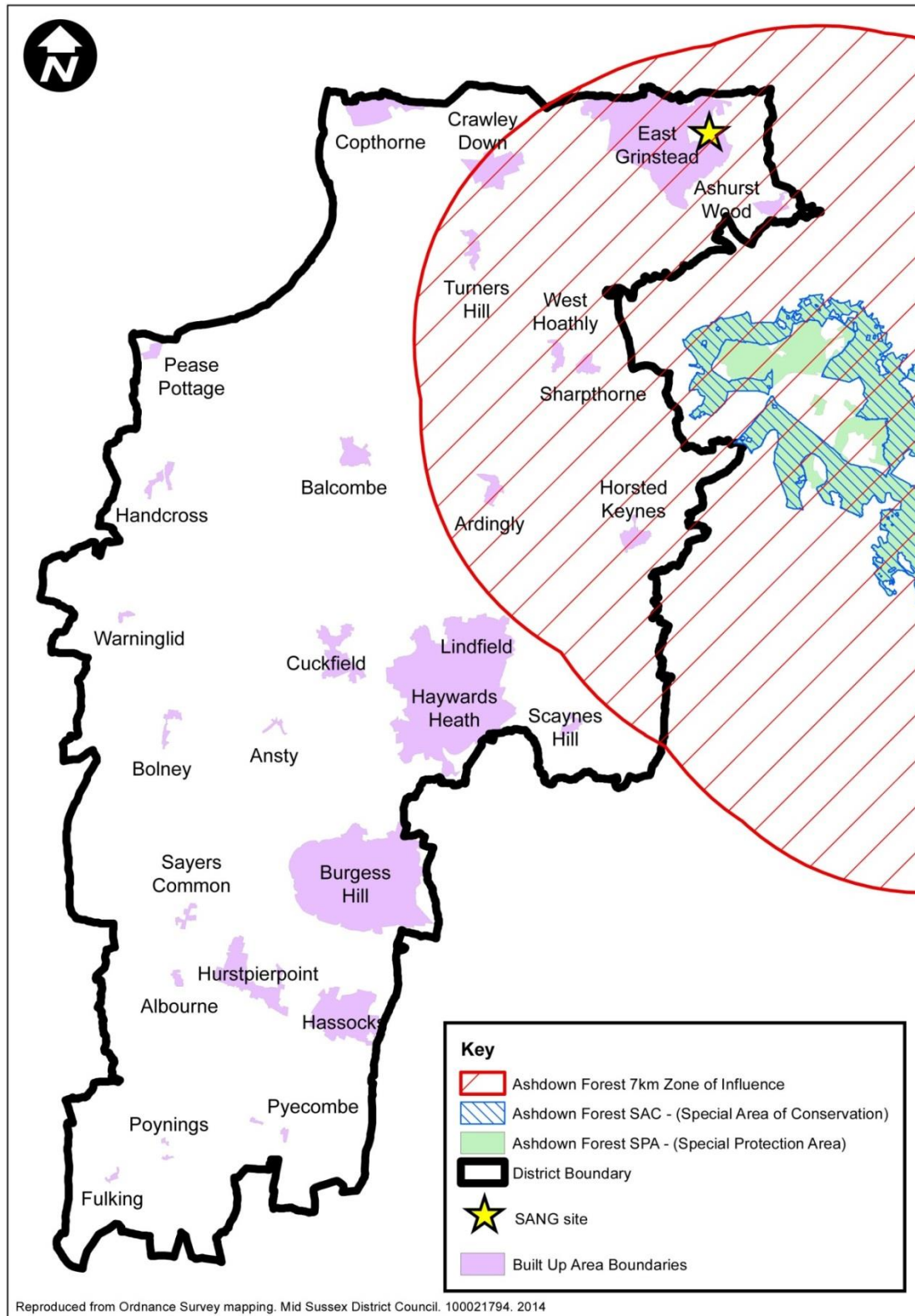


Figure 3 - The 7km zone of influence around the Ashdown Forest SPA.

8. SANG

- 8.1 The purpose of SANGs is to provide alternative greenspace to attract visitors away from the Ashdown Forest SPA. It is an avoidance measure since its purpose is to divert the majority of regular visitors away from the Ashdown Forest SPA, thereby avoiding the disturbance impact of those people. In particular, SANG aims to provide for the needs of dog walkers.
- 8.2 The principle of SANG as mitigation was established through considerable work undertaken through the South East Plan for the Thames Basin Heaths. The importance of SANG as part of this mitigation is highlighted by the retention of Policy NRM6: Thames Basin Heaths Special Protection Area, which was the only policy of the South East Plan not revoked on the 25th March 2013. The SANG mitigation for Mid Sussex is thus seeking to follow existing good practice.
- 8.3 A site of Suitable Alternative Natural Greenspace (SANG) could either be provided on the development site or through a contribution to a strategic SANG. In order for SANGs to be effective mitigation for the Ashdown Forest SPA, the SANG site should be functional from the point at which any relevant development is occupied.
- 8.4 A SANG site can be created from:
- Existing open space with existing public access, which could be enhanced to become a SANG site.
 - Existing open space of SANG quality with no existing public access, which could be made fully accessible to the public.
 - Other land which could be converted to a SANG site.

East Court & Ashplats Wood SANG

- 8.5 Mid Sussex District Council has identified a strategic SANG at East Grinstead and the site has been secured in perpetuity for 125 years. The land is leased from East Grinstead War Memorial Ltd. The East Court & Ashplats Wood Suitable Alternative Natural Greenspace Strategy was agreed by Cabinet in October 2014¹⁸. The Strategy and tariff took effect from the 1st January 2015 and is applied to relevant planning applications. Natural England confirmed its support for the East Court & Ashplats Wood SANG in a letter dated the 17th April 2015.
- 8.6 No public consultation was undertaken for the SANG Strategy as this is not a requirement of the Habitats Regulations, however, it has been subject to the appropriate democratic processes of the District Council and the advice of Natural England was followed.
- 8.7 East Court & Ashplats Wood is operating as a SANG now since it is an existing area of open space with existing public access. Improvement works at this site will

¹⁸ <http://www.midsussex.gov.uk/planning-licensing-building-control/planning/ashdown-forest/>

enhance the visitor experience and increase the site's attractiveness to visitors. The improvement works meet the Natural England SANG criteria. Ongoing management and monitoring of this site as detailed in the SANG Strategy will ensure this site continues to be effective mitigation for the effects of recreational disturbance on the Ashdown Forest SPA. This means that there is sufficient flexibility to amend the mitigation, for example, by updating the management plan.

SANG suitability

- 8.8 The assessment of the suitability of a site as SANG is made against a number of criteria developed by Natural England (Appendix C). Essential features are those that will be required in order for land to become a SANG site and additional features are those that are desirable and can be implemented to enhance a SANG site.
- 8.9 The SANG should seek to provide a similar visitor experience to that of Ashdown Forest, although it is acknowledged that it is very difficult to replicate that environment. In designing the enhancement works, however, it is necessary to consider the characteristics and features that draw people to Ashdown Forest.
- 8.10 The discussion for the 2008 visitor survey outlined the key features for sites that could act as alternative spaces to visit to Ashdown Forest:
- Proximity to new and existing development
 - Feasibility to recreate a sense of the wide open countryside
 - The presence of attractive views
 - Nature conservation interest to provide the opportunity for people to feel in touch with the natural world, and which could include nature trails and other forms of interpretation
 - A sense of security, particularly dog walkers who are most likely to visit alone and at either extremity of the day
 - Accessibility and ample parking.
- 8.11 East Court & Ashplats Wood has been assessed against the Natural England SANG criteria, along with consideration of the above points from the 2008 visitor survey. This means that the SANG site suitability criteria used has been tailored to the Ashdown Forest context. This assessment contained in the SANG Strategy demonstrates that the East Court & Ashplats Wood is suitable to be a SANG site.

SANG capacity

- 8.12 The SANG capacity has been calculated using a methodology developed by a local authority for SANG sites that provide mitigation for the Thames Basin Heaths. Natural England is satisfied with the approach taken in this methodology and considers that it can be applied to SANG sites that provide mitigation for Ashdown Forest.

8.13 At the South East Plan Examination, it was accepted that a minimum standard of 8Ha per 1,000 net increase in population was appropriate for the Thames Basin Heaths. This standard is equivalent to 0.008Ha per person. As this is now a recognised standard for SANG and as recommended by Natural England, it has been applied to the capacity calculation for the East Court & Ashplats Wood SANG.

8.14 Of the 40.8HA available, 4.2Ha is used for formal sports pitches. It was agreed with Natural England that the area of sports pitches at East Court should be discounted from the overall SANG area as they do not meet SANG suitability guidelines. This leaves 36.6Ha available for SANG.

Total site area	Less formal sport area	Remaining site area
40.8 Ha	4.2 Ha	36.6 Ha

8.15 East Court & Ashplats Wood is already accessible to the public and so the existing visitor use should also be discounted from the SANG area. This assesses how well-used the site is currently and recognises that there are other areas of greenspace that people in the catchment area visit. The existing number of visitors using the site is deducted from the total capacity, which leaves a residual capacity for new users of the site, that is, those for which this site will act as mitigation.

8.16 A visitor survey of Ashplats Wood has been conducted by Ecology Solutions (published July 2013) on behalf of the applicant for a planning application at land south of the Old Convent, St. Michael's Road, East Grinstead (12/01588/FUL)¹⁹. This visitor survey calculated that there were 159,231 visits to East Court & Ashplats Wood per year and an average visitor would visit 369 times per year. This means 432 visitors are using the site ($159,231 \div 369 = 431.5$).

8.17 In accordance with methodology used at Bracknell Forest in the Thames Basin Heaths, the existing visitor use discount is also based on the 8Ha per 1,000 population standard. This means that the 432 existing visitors at East Court & Ashplats Wood equates to 3.45Ha and so this amount of land should also be discounted from the remaining site area.

Remaining site area	Less existing visitor use	Area available for SANG
36.6 Ha	3.45 Ha	33.15 Ha

8.18 The area available for a SANG is 33.15Ha. Using the 8Ha per 1,000 population standard, East Court & Ashplats Wood has capacity for an additional 4,143 population. Dividing this population figure by average household size (2.44 residents per household, Census 2011), this calculates that East Court & Ashplats Wood can act as a SANG for up to 1,698 dwellings.

¹⁹ The visitor survey for this planning application can be found using the Online Planning Register on the Mid Sussex District Council website: www.midsussex.gov.uk/planningregister.

- 8.19 Work has commenced on two sites for residential development that due to their proximity are likely to increase visitor numbers at East Court & Ashplats Wood and so the number of dwellings expected to be built on these sites should also be deducted from the capacity figure on a precautionary basis. Development of 117 dwellings on land to the north of Ashplats Wood at Ashplats House has commenced, with existing footpaths connected to the development, and work has commenced for 74 dwellings at an allocated site on land south of the Old Convent. Both applications seek to use East Court & Ashplats Wood as alternative open space for future residents and so the sum total of 191 dwellings is deducted from the remaining capacity.
- 8.20 With this discount taken into account, there is a residual capacity at East Court & Ashplats Wood of 1,507 dwellings. Based on an occupancy of 2.44 residents per household, the residual capacity is an additional population of 3,677 people. Ongoing monitoring will ensure that the capacity of the SANG to mitigate the impact of residential dwellings on the Ashdown Forest SPA is not exceeded.
- 8.21 Should it be considered that the East Court & Ashplats Wood SANG is approaching capacity during the District Plan period (2014-2031), then the District Council will investigate options for future SANG sites.

SANG enhancement works

- 8.22 An initial list of enhancement works is presented in the East Court & Ashplats Wood SANG Strategy towards which developer contributions will be directed. A Management Plan will set out the management aims and proposed works for the East Court & Ashplats Wood Estate for the next ten years and so the initial list of enhancement works will be revised.
- 8.23 The circular path route around East Court & Ashplats Wood is already in place. The costs for the enhancement of the circular walk have been met by Mid Sussex District Council. This work is complete and involved upgrading the path surfaces to reduce waterlogging in the winter months. An interpretation board has been installed at the car park at the SANG site identifying the circular walk and other available routes, as well as site information, and way markers have been installed to guide new visitors around the walk. Colleagues from Natural England visited East Court & Ashplats Wood at the end of May 2016 to walk the circular route and view the improvements; Natural England was very pleased with the SANG and the works undertaken thus far.
- 8.24 The aim of the Management Plan is to define a pathway for better integration of management across the entire East Court Estate that will promote both amenity and biodiversity. Management objectives set out in the Management Plan are, broadly to, conserve and enhance biodiversity across the Estate whilst also promoting its recreational use, increasing community engagement and making better educational use of the site. The Management Plan takes account of special natural habitats, such as ancient woodland and the Site of Nature Conservation Importance (SNCI) designation, as well as the protected species on the site, and works will be scheduled at appropriate times in line with advice from an ecologist. By identifying the

management tasks for the East Court Estate, the Management Plan can lead the management of the site so that it is considered holistically for the benefit of the whole site.

- 8.25 There are other SANGs elsewhere that have key natural habitats present on the site. For example, Englemere Pond which is SANG mitigation for the Thames Basin Heaths is also a SSSI and a Local Nature Reserve (LNR). Esher Common which also acts as SANG mitigation for the Thames Basin Heaths is designated as a SSSI, LNR and SNCI, as well as including areas of ancient woodland.

SANG steering committee

- 8.26 A Steering Committee comprising Mid Sussex District Council, East Grinstead War Memorial Ltd and East Grinstead Town Council has been set up to advise on the implementation and operation of the management plan. The Steering Committee meets twice a year, of which one meeting is to be held on site to review work undertaken.

Funding SANG mitigation

- 8.27 Prior to the implementation of the Community Infrastructure Levy (CIL), contributions towards the East Court & Ashplats Wood strategic SANG will be by way of a Section 106 planning obligation or other legal mechanism. It is anticipated that eventually SANG contributions will form part of the CIL charge, however, CIL-exempt development will also need to contribute towards SANG mitigation. The specific mechanisms for funding SANG will be finalised through the work on developing the CIL Charging Schedule.
- 8.28 Bespoke mitigation will need to be agreed through a Section 106 planning obligation. The mitigation will need to be secured in perpetuity; this is taken to mean a minimum of 100 years. Funding to manage and maintain the bespoke mitigation will also have to be secured. Bespoke mitigation will need to be discussed and agreed by the District Council following advice from Natural England.
- 8.29 Figure 4 shows the monitoring records for the East Court & Ashplats Wood SANG Strategy. In addition, on a precautionary basis, the dwellings permitted with a SAMM-only contribution have been taken into account and deducted from the overall SANG capacity. After deducting this amount of development (395 dwellings) from the total SANG capacity (1,507 dwellings), the capacity of East Court & Ashplats Wood is 1,112 dwellings.

Monitoring year	Dates	Number of applications	Number of dwellings permitted	Total s106 signed
Planning applications since the implementation of the SANG Strategy				
2016-2017	01/04/2016 - 31/05/2016	8	63	£59,880+
2015-2016	01/04/2015 - 31/03/2016	46	217	£278,599
2014-2015	01/01/2014 - 31/03/2015	1	12	£13,744
Planning applications with a SAMM-only contribution				
2013-2014	22/08/2013 - 31/12/2014	50	395	-
Total		105	687	£352,223

Figure 4 - Monitoring records for the East Court & Ashplats Wood SANG Strategy.

(Source: Mid Sussex District Council as at the 1st June 2016).²⁰

Recreational impacts on the Ashdown Forest SAC

8.30 The original screening exercise did not identify this as a likely significant effect. This screening was consulted on and agreed by Natural England. The SANG and SAMM Strategies, however, would also benefit the SAC from any potential effects.

9. SAMM

9.1 It is considered that in addition to measures designed to avoid a likely significant effect on the Ashdown Forest SPA, other measures may also be required to help reduce any residual effects of visitors to Ashdown Forest, particularly as visitors are attracted by the openness and views²¹. These measures take place on Ashdown Forest itself and it is considered that a number of measures would be required together as part of a mitigation strategy.

9.2 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 (Wealden, Lewes, Tunbridge Wells, Tandridge and Sevenoaks

²⁰ Note that some sites have more than one planning permission where only one will be implemented and so there may be more capacity. For the monitoring year 2016-2017, the SANG contribution will be secured by way of a legal agreement where the contribution is identified and paid prior to the condition on the relevant planning application being discharged. This amount is not yet known, however, the number of dwellings permitted has been taken into account in the table.

²¹ UE Associates (2009) Visitor access patterns on Ashdown Forest – page iv.

Councils), 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 Strategy applicable to relevant planning applications.

Interim SAMM Strategy

- 9.3 Following advice received from Natural England on the 15th April 2013, an interim SAMM Strategy was developed. This was agreed by the Mid Sussex District Council Cabinet Member for Planning on 22nd August 2013. Natural England also confirmed its support for the interim SAMM Strategy in a letter dated the 6th September 2013. No public consultation was undertaken for the interim SAMM Strategy as this is not a requirement of the Habitats Regulations, however, it has been subject to the appropriate democratic processes of the District Council. The Conservators of Ashdown Forest were also involved in its preparation as they will be implementing most of the measures.
- 9.4 The aim of the interim SAMM Strategy is to protect the Ashdown Forest SPA from new recreational pressures arising from new residential development within a 7km zone around Ashdown Forest.
- 9.5 The tariff methodology is based on guidance from Natural England developed for the Thames Basin Heaths. Contributions towards the interim SAMM Strategy are due on commencement of the development as this gives time for projects to be implemented.
- 9.6 The interim SAMM Strategy references a figure of 200 dwellings which was used for the purposes of calculating the interim SAMM tariff. It was an estimate of the number of dwellings likely to come forward within a year and this timeframe was based on the expectation that the Joint SAMM Strategy would be in place. It is not based on a limit set by Natural England or otherwise of the number of dwellings that could be mitigated by the interim SAMM Strategy. The 200 dwellings figure is not linked to an ecological threshold of impact on the qualifying features of the Ashdown Forest SPA.
- 9.7 Figure 5 shows the monitoring records for the interim SAMM Strategy. There has been a greater number of office to residential conversions than expected following the introduction of permitted development rights, which has also meant the 200 dwellings figure has been exceeded.

Monitoring year	Dates	Number of applications	Number of dwellings permitted	Total s106 signed
2013-2014	22/08/2013 - 31/03/2014	17	81	£161,516
2014-2015	01/04/2014 - 31/03/2015	34	326	£641,543
2015-2016	01/04/2015 - 31/03/2016	46	217	£426,922
2016-2017	01/04/2016 - 31/05/2016	8	63	£135,415
Total		105	687	£1,365,396

Figure 5 - Monitoring records for the interim SAMM Strategy.

(Source: Mid Sussex District Council as at the 1st June 2016).²²

- 9.8 Natural England has advised that the interim SAMM Strategy and tariff can be applied to relevant planning applications until it is superseded by the Joint SAMM Strategy. The contributions collected under the interim SAMM Strategy will feed into the Joint SAMM Strategy to enable a co-ordinated approach ensuring projects have sufficient funding.

Joint SAMM Strategy

- 9.9 The Joint SAMM Strategy is a framework of measures that are focused on access management projects on Ashdown Forest and bird and visitor monitoring. It is being prepared by Wealden District Council in close association with the Conservators of Ashdown Forest and Natural England. Wealden District Council is preparing the Joint SAMM Strategy on behalf of Mid Sussex District Council, Lewes District Council, Tunbridge Wells Borough Council, Tandridge District Council, and Sevenoaks District Council, however, all the affected local authorities are part of the development of the Joint SAMM Strategy and will need to agree the measures contained within it.
- 9.10 The Joint SAMM Strategy is currently work in progress and it is anticipated that it will be finalised by autumn 2016.
- 9.11 Ongoing monitoring of birds, visitors and the SAMM 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 SAMM strategies.

²² Note that some sites have more than one planning permission where only one will be implemented.

SAMM projects

- 9.12 One of the SAMM projects has already begun. This is the Code of Conduct for Dog Walkers and associated publicity. The Code of Conduct for Dog Walkers has been developed by the Conservators of Ashdown Forest in response to a number of dog-related incidents on Ashdown Forest. The Code of Conduct is centred around the 4 'Cs':
- **Control** – Always ensure your dog is in sight and comes back when called. If you are not totally confident of your dog's recall, use a lead.
 - **Care for farm animals and wildlife** – Never let your dog approach or chase livestock or wildlife.
 - **Consider others** – Never let your pet approach other people, dogs or horses, uninvited.
 - **Clean up** – Always remove your dog waste from pathways and take it home.
- 9.13 Posters, leaflets and magazines have been produced to educate and increase awareness of responsible dog ownership. Mid Sussex District Council has placed this material on its website²³ and it will be distributed to town and parish councils, libraries, vet surgeries and pet shops as appropriate.
- 9.14 Other projects being proposed for the Joint SAMM Strategy include:
- An Access Management Officer to raise awareness of the SPA and the protected birds; to encourage responsible dog walking and behavioural change; and co-ordinate the volunteer dog ranger programme.
 - An Assistant Access Management Officer to support the Access Management Officer.
 - A dog training programme to promote responsible use of Ashdown Forest for dog owners through education and dog training.
 - Bird monitoring to ensure that the conservation objectives of the SPA are being met.
 - Visitor monitoring to ensure that SAMM projects are effective and to inform the direction of future SAMM projects.

Funding SAMM mitigation

- 9.15 SAMM mitigation is not considered to be 'infrastructure' for the purposes of the CIL Regulations and can, therefore, be collected by way of a Section 106 planning obligation without being affected by the pooling restrictions. It is, therefore, anticipated that SAMM will continue to be collected by way of a Section 106 planning obligation when CIL is implemented.

²³ Ashdown Forest Code of Conduct for Dog Walkers: www.midsussex.gov.uk/planning/8716.htm.

10. In combination effects

- 10.1 The requirement for mitigation means that any impact on the Ashdown Forest SPA from the District Plan is avoided or reduced and, therefore, there is no effect to assess in combination with other plans.
- 10.2 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 SAMP). 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.
- 10.3 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, Tunbridge Wells Borough Council, and Tandridge District Council. It is understood that with regards to recreational disturbance, Wealden District Council and Lewes District Council will be making provision for SANG and contributing to the wider Joint SAMP strategy that is currently being prepared. Any development in Tunbridge Wells Borough only needs to make a contribution towards SAMP measures. Tandridge District Council is still considering its approach, but is likely to require development to contribute to the Joint SAMP Strategy. All affected local authorities are involved in the development of the Joint SAMP strategy and their work on mitigation demonstrates their commitment to protecting the Ashdown Forest SPA under the Habitats Regulations.

11. Atmospheric pollution

- 11.1 The impact pathway for atmospheric pollution arises from increased traffic emissions as a consequence of new development. However, the Appropriate Assessment for the District Plan later concluded that this potential impact will not result in adverse effects on the ecological integrity of the Ashdown Forest SAC.
- 11.2 The qualifying habitats most sensitive to atmospheric pollution within the Ashdown Forest SAC are the North Atlantic wet heaths and European dry heaths. The main pollutant effects of interest are acid deposition and eutrophication by nitrogen deposition. Nitrogen deposition describes the input of reactive nitrogen from the atmosphere to the biosphere both as gases, dry deposition, and in precipitation as wet deposition (Figure 6). Nitrogen oxides (NO_x) are produced in combustion processes and anthropogenic emissions are from power stations, motor vehicles and other industrial processes. Emissions from road transport currently make the largest

contribution to the UK total²⁴. Pollutants may also come from transboundary sources (i.e. originate from outside the UK).

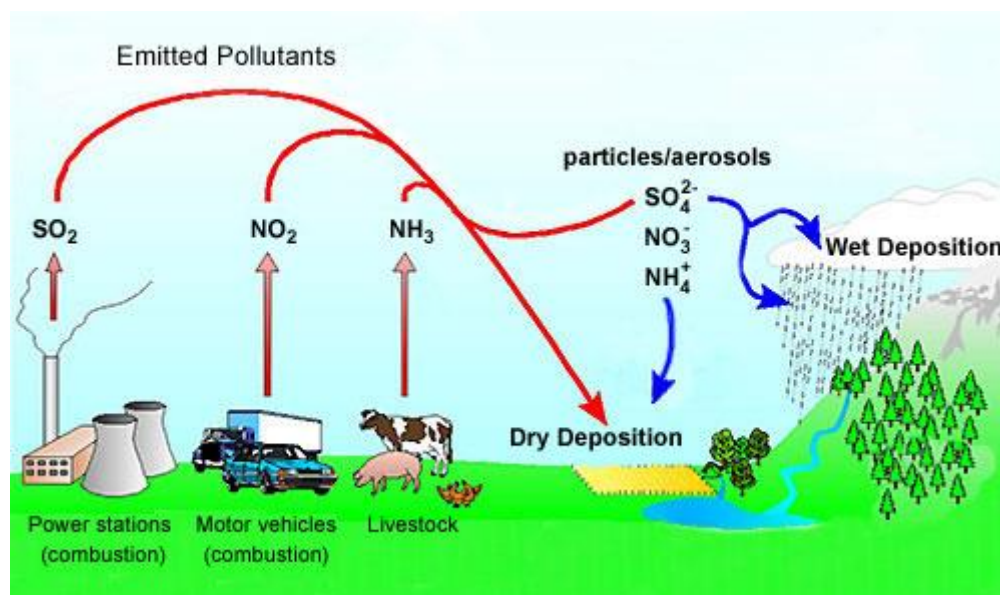


Figure 6 - Pollutant emission and deposition processes.

(Source: APIS, 2016).

- 11.3 Nitrogen is a major growth nutrient for plants, however, too much nitrogen is a problem as it can accumulate and become toxic. This means that high levels of nitrogen may affect the composition of an ecosystem and lead to loss of species.

Ashdown Forest Critical Levels and Loads

- 11.4 Critical loads and levels are a tool for assessing the risk of atmospheric pollution to ecosystems. They are the common measure of environmental sensitivity, however, the exceedance of a critical load or level is not a quantitative estimate of damage to the environment, rather it represents the potential for damage. It is, however, an easily understood concept and represents a level of risk.
- 11.5 A critical load relates to the quantity of a pollutant deposited from the air to the ground: 'a quantitative estimate of exposure to one or more pollutants below which significant harmful effects on specified sensitive elements of the environment do not occur according to present knowledge'. The critical load for nitrogen deposition is 10-20kgN/Ha/yr²⁵.
- 11.6 A critical level is the gaseous concentration of a pollutant in the air: 'concentrations of pollutants in the atmosphere above which direct adverse effects on receptors, such

²⁴ Air Pollution Information System (2016): www.apis.co.uk.

²⁵ Air Pollution Information System (2016): http://www.apis.ac.uk/overview/issues/overview_Loadslevels.htm

as human beings, plants, ecosystems or materials, may occur according to present knowledge'. The annual mean critical level for NO_x is 30µg/m³²⁵.

- 11.7 The District Plan HRA (October 2015: p19) highlights that the actual load for Ashdown Forest on dry heath is 15.96kgN/Ha/yr and for wet heath is 16.66kgN/Ha/yr. Although the critical load is expressed as a range, the lower end of the range should be used when assessing impacts on the habitat. This means the data show that the critical load for nitrogen deposition has been exceeded, indicating that significant (that is, material rather than large) additional sources of these pollutants generated as a result of proposals in the District Plan should be avoided or mitigated to prevent additional adverse effects on ecological integrity.

Methodology

- 11.8 Following advice from Natural England, guidance in the Design Manual for Roads and Bridges²⁶ (DMRB) was used to determine if the proposals in the District Plan would be likely to contribute significant additional pollution deposition. This approach was agreed between Mid Sussex District Council, Wealden District Council and Natural England in September 2010. The guidance contained in the DMRB for this scoping assessment (HA 207/07) is still current and District Council is not aware of any plans to update it in the future. The DMRB guidance is considered adequate as a scoping for more detailed assessment and provides a robust approach with the data available.
- 11.9 The guidance in the DMRB is a scoping assessment for local (rather than regional) air quality to identify which roads are likely to be affected by the proposals. An affected road is one where daily traffic flows will change, as a result of the District Plan, by 1000 annual average daily traffic (AADT) or more. If none of the roads in the network (i.e. within and surrounding Ashdown Forest) meet this criteria, then the air pollution impacts of the District Plan are not considered to be significant and no further work is needed (i.e. the in combination impacts are not considered).
- 11.10 Should transport data indicate that the 1000 AADT scoping assessment would be exceeded by the proposals in the District Plan, this does not necessarily mean that a significant adverse effect on the Ashdown Forest SAC would occur, rather exceeding 1000 AADT is a trigger for a more detailed assessment.

Mid Sussex Transport Study

- 11.11 Roads that may be of concern and need to be considered comprise the A22, A26, A275, B2188, B2026, B2110 and Coleman's Hatch Road. Due to the strategic nature of the Mid Sussex Transport Study and the location of the Ashdown Forest on the periphery of the modelled network, meaningful flow assignments for B2188, B2026, Coleman's Hatch Road and Kidds Hill could not be derived.

²⁶ Design Manual for Roads and Bridges (DMRB) – Volume 11: Environmental Assessment, Section 3: Environmental Assessment Techniques, Part 1: Air Quality (HA 207/07).

11.12 Various scenarios were modelled in the Mid Sussex Transport Study:

- The Reference Case represents forecast baseline traffic flows at 2031.
- The Development Case Scenario assesses the impact of 11,332 dwellings for the period to 2031 which includes committed allocations, District Plan strategic allocations, proposed neighbourhood plan allocations and a windfall allowance.
- The Alternative Development Case Scenario also assesses this number of dwellings but with the additional impact of a further 2,200 jobs at the proposed science and technology park at Burgess Hill.
- The Additional Development Case scenario assesses a total of 12,438 dwellings based on a theoretical maximum development ceiling based on the Strategic Housing Land Availability Assessment (SHLAA). This includes committed allocations, District Plan strategic allocations, proposed neighbourhood plan allocations, a windfall allowance and an additional 1,106 units identified by the SHLAA but without the science and technology park impact.
- All scenarios take into account planned transport interventions including measures such as new carriageway links, junction improvements, traffic calming, parking charge adjustments and new local bus routes.

11.13 The Mid Sussex Transport Study Stage 3 Interim Summary Report indicates that projected traffic increases are well below the threshold (1000 AADT) deemed as significant and, therefore, the Habitats Regulations Assessment (HRA) report concludes that significant effects are unlikely and no further measures are necessary.

11.14 The findings of the Mid Sussex Transport Study Stage 3 Interim Summary Report (November 2015) are shown in the table below (Figure 7). These transport interventions are included within the Mid Sussex Infrastructure Delivery Plan²⁷ and mean that there would not just be a low effect on AADT, but that there would be no perceptible effect.

²⁷ Mid Sussex Infrastructure Delivery Plan: <http://www.midsussex.gov.uk/planning-licensing-building-control/planning-policy/local-development-framework/evidence-base/infrastructure-delivery-plan/>

Road Link Section	Two-Way Annual Average Daily Traffic Flow (Vehicles)			
	Reference Case	MSTS Stage 3 Development Case Scenario	MSTS Stage 3 Alternative Development Case Scenario	Additional Development Case Scenario
Two-Way Annual Average Daily Traffic Flow (Vehicles)				
A275	6179	6194	6141	6210
A22	5594	5369	5170	5384
A26	4351	4311	4450	4305
B2110	2460	2339	2333	2340
Two-Way AADT Change from Reference Case (Vehicles)				
A275	-	15	-38	31
A22	-	-225	-423	-210
A26	-	-39	99	-46
B2110	-	-121	-126	-120

Figure 7 - Two-way AADT change from reference case (vehicles) in 2031.

(Source: Table 11 – Mid Sussex Transport Study Stage 3 Interim Summary Report, November 2015).

11.15 On this basis, Natural England has advised that the proposals in the District Plan are assessed alone and there is no need to assess traffic flows and the AADT in combination with other affected plans and projects (including Wealden District Council and potentially others). An in combination assessment is not required as there are not likely to be any significant effects from the District Plan alone. This reasoning relates to the judgement in the scoping assessment, that is, if the predicted traffic or process contribution is less than the threshold, then any effect is not considered to be significant even if the critical load for the habitat is already exceeded.

Wealden District Council's position in relation to atmospheric pollution

11.16 As part of the Core Strategy review, Wealden District Council is required to undertake further work on the potential impacts of new development and increased traffic on the Ashdown Forest SAC. A programme of air quality and ecological monitoring is currently underway, and although results are not expected for a few years (results are likely around 2017), initial results have been published. The information currently available suggests that there is an existing problem concerning nitrogen and the heathland habitats, however, the contribution of traffic emissions to effects on the Ashdown Forest SAC is not currently known. Wealden District Council anticipates that the results of the monitoring will provide information on the impacts of nitrogen deposition on the Ashdown Forest SAC so that its effects on development in the longer term can be more fully understood.

- 11.17 Traffic modelling will complement the air quality and ecological monitoring already in progress. The traffic model will allow Wealden District Council to input distributions of housing (net new dwellings), employment (m²) and retail scenarios (m²) on a ward basis and show the resulting change in AADT on the affected roads including the A26, A22, A275 and B2026. It is expected that the traffic modelling will also make reference to the impact of development in neighbouring authorities including Mid Sussex by including a change in AADT on the affected roads.
- 11.18 The traffic modelling and the monitoring results will help provide an understanding of the potential impacts on the Ashdown Forest SAC and the in combination effects. This will enable an appropriate assessment to be undertaken by Wealden District Council²⁸. Whilst mitigation may be possible, Wealden District Council consider that there are currently no mitigation options as the magnitude of harm is not yet known, and so the results of the monitoring work are needed to inform potential mitigation options for Wealden District Council.

12. District Plan policy

- 12.1 For mitigation to be sufficient to ascertain that a 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.
- 12.2 The District Plan includes a policy addressing the Ashdown Forest SPA and SAC. Mitigation measures are proposed to avoid or reduce any potential recreational disturbance impacts to the Ashdown Forest SPA. Measures to reduce recreational pressure are likely to be most effective within a particular area around the Ashdown Forest SPA (the ‘zone of influence’) from where additional visits are most likely to originate as a result of new residential development.
- 12.3 District Plan Policy DP15 is concerned with Ashdown Forest and Natural England supports this policy:

²⁸ Representation from Wealden District Council (24th July 2015) to the pre-submission draft Mid Sussex District Plan.

DP15: Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC)

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

Evidence Base: Ashdown Forest Visitor Survey Data Analysis, Habitats Regulations Assessment for the Mid Sussex District Plan, Visitor Access Patterns on Ashdown Forest.

In order to prevent adverse effects on the Ashdown Forest SPA and SAC, new residential development likely to have a significant effect, either alone or in combination with other development, will be required to demonstrate that adequate measures are put in place to avoid or mitigate any potential adverse effects.

Within a 400 metres buffer zone around Ashdown Forest, mitigation measures are unlikely to be capable of protecting the integrity of the SPA and, therefore, residential development will not be permitted.

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 mitigation through:

- 1) The provision of Suitable Alternative Natural Greenspace (SANG) to the minimum level of 8Ha per 1,000 net increase in population; or a financial contribution to SANGs elsewhere; or the provision of bespoke mitigation; and**
- 2) A financial contribution to the Ashdown Forest Strategic Access Management and Monitoring (SAMM) Strategy.**

Large schemes proposed adjacent or close to the boundary of the 7km zone of influence may require mitigation. Such proposals for development will be dealt with on a case-by-case basis.

Where bespoke mitigation is provided, these measures will need to be in place before occupation of development and must be managed and maintained in perpetuity. The effectiveness of such mitigation will need to be demonstrated prior to approval of the development. Bespoke mitigation will need to be discussed and agreed by the District Council as the competent authority following advice from Natural England.

- 12.4 District Plan Policy DP19: Transport outlines measures to promote sustainable transport, which will help reduce traffic emissions from proposed development, including along roads surrounding Ashdown Forest.

DP19: Transport

Strategic Objectives: 6) To ensure that development is accompanied by the necessary infrastructure in the right place at the right time that supports development and sustainable communities. This includes the provision of efficient and sustainable transport networks; and 15) To create places that encourage a healthy and enjoyable lifestyle by the provision of first class cultural and sporting facilities, informal leisure space and the opportunity to walk, cycle or ride to common destinations.

Evidence Base: Mid Sussex Transport Study; West Sussex Transport Plan 2011-2026.

Development will be required to support the objectives of the West Sussex Transport Plan 2011-2026, which are:

- **A high quality transport network that promotes a competitive and prosperous economy;**
- **A resilient transport network that complements the built and natural environment whilst reducing carbon emissions over time;**
- **Access to services, employment and housing; and**
- **A transport network that feels, and is, safer and healthier to use.**

To meet these objectives, development will only be permitted where:

- **It is sustainably located to minimise the need for travel;**
- **It facilitates and promotes the increased use of alternative means of transport to the private car, such as the provision of, and access to, safe and convenient routes for walking, cycling and public transport, and includes suitable facilities for secure and safe cycle parking;**
- **It does not cause a severe cumulative impact in terms of road safety and increased traffic congestion particularly where such impacts harm the special qualities of the South Downs National Park;**
- **It is designed to adoptable standards, or other standards as agreed by the Local Planning Authority, including road widths and size of garages;**
- **It provides adequate car parking for the proposed development in accordance with parking standards as agreed by the Local Planning Authority or in accordance with the relevant neighbourhood plan. Residential development in and close to the town centres which are well served by public transport will normally be expected to make lower parking provision;**
- **It is supported by a Transport Assessment/ Statement and a Travel Plan that is effective and demonstrably deliverable including setting out how schemes will be funded; and**
- **It provides appropriate mitigation to support new development on the local and Strategic Road Network, including the transport network outside of the district, secured where necessary through appropriate legal agreements.**

Where practical and viable, developments should be located and designed to incorporate facilities for charging plug-in and other ultra-low emission vehicles.

Neighbourhood plans can set local standards for car parking provision provided that it is based upon evidence that provides clear and compelling justification for doing so.

- 12.5 District Plan Policy DP27: Noise, Air and Light Pollution outlines requirements for development.

DP27: Noise, Air and Light Pollution

Strategic Objectives: 3) To protect valued landscapes for their visual, historical and biodiversity qualities; and 12) To support sustainable communities which are safe, healthy and inclusive.

Evidence Base: Data held by Environmental Health, Air Quality Action Plan – Stonepound Crossroads, Hassocks

The environment, including nationally designated environmental sites, national protected landscapes, areas of nature conservation or geological interest, wildlife habitats, and the quality of people's life will be protected from unacceptable levels of noise, light and air pollution by only permitting development where:

Noise pollution:

- **It is designed, located and controlled to minimise the impact of noise on health and quality of life, neighbouring properties and the surrounding area;**
- **If it is likely to generate significant levels of noise it incorporates appropriate noise attenuation measures;**

Noise sensitive development, such as residential, will not be permitted in close proximity to existing or proposed development generating high levels of noise unless adequate sound insulation measures, as supported by a noise assessment, are incorporated within the development.

In appropriate circumstances, the applicant will be required to provide:

- **An assessment of the impact of noise generated by a proposed development; or**
- **An assessment of the effect of noise by an existing noise source upon the proposed development.**

Light pollution:

- **The impact on local amenity, intrinsically dark landscapes and nature conservation areas of artificial lighting proposals (including floodlighting) is minimised, in terms of intensity and number of fittings;**

- **The applicant can demonstrate good design including fittings to restrict emissions from proposed lighting schemes;**

Air pollution:

- **It does not cause unacceptable levels of air pollution;**
- **Development on land adjacent to an existing use which generates air pollution or odour would not cause any adverse effects on the proposed development or can be mitigated to reduce exposure to poor air quality to recognised and acceptable levels;**
- **Development proposals (where appropriate) are consistent with Air Quality Management Plans.**

The degree of the impact of noise and light pollution from new development or change of use is likely to be greater in rural locations, especially where it is in or close to specially designated areas and sites.

13. Neighbourhood plans

- 13.1 As part of the District Plan strategy, town and parish councils will be encouraged to produce neighbourhood plans. The District Council's preference is that the location and nature of development is delivered through neighbourhood plans, however, a Site Allocations document will be produced to enable the District Plan's housing requirement (13,600 dwellings) to be delivered in full, without requiring neighbourhood plans to supply the whole residual amount of housing (2,262 dwellings).
- 13.2 Twenty Neighbourhood Plan Areas have been designated and ten neighbourhood plans have been made by the District Council: Ardingly, Ashurst Wood, Burgess Hill, Crawley Down, Cuckfield, Hurstpierpoint & Sayers Common, Lindfield and Lindfield Rural, Turners Hill, Twineham, and West Hoathly.
- 13.3 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. 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.
- 13.4 Mid Sussex District Council undertakes the HRA for neighbourhood plans on behalf of the town or parish council. It is an iterative process with an HRA completed for the Regulation 14 consultation, Regulation 16 publication and Regulation 19 stage when the neighbourhood plan is made by the District Council.
- 13.5 Natural England agrees that the District Plan HRA provides appropriate background evidence to support the conclusions of the neighbourhood plan HRAs.

- 13.6 A HRA screening is undertaken for all neighbourhood plans, both those outside and those within the 7km zone of influence. Those neighbourhood plans within the 7km zone of influence also undergo an appropriate assessment. Natural England will be consulted on the appropriate assessment stage of the HRA process where this is undertaken (for those neighbourhood plan areas within the 7km zone of influence).

14. Summary

- 14.1 In developing the approach to the Ashdown Forest SPA and SAC, Mid Sussex District Council has followed the advice of Natural England and worked closely with the other affected local authorities. The current approach to Ashdown Forest, including the mitigation proposed, is based on the best available evidence. Should new evidence be identified following analysis of bird monitoring and visitor surveys at Ashdown Forest, there is the flexibility to amend the mitigation strategy if appropriate.
- 14.2 The District Plan HRA report concludes that the Focused Amendments to the Pre-Submission Draft District Plan will not result in adverse effects on the ecological integrity of the Ashdown Forest SPA and SAC and so the District Plan is compliant with the Habitats Regulations.
- 14.3 The District Plan HRA advises that measures are required to mitigate any potential recreational disturbance impact and District Plan Policy DP15 implements these recommendations. The mitigation measures comprise SANG and SAMM, with the ability to provide bespoke mitigation if appropriate.
- 14.4 Neighbourhood plans are also assessed under the Habitats Regulations for any likely significant effects on the Ashdown Forest SPA and SAC. The District Plan HRA provides the appropriate background evidence to support the conclusions of the neighbourhood plan HRAs.
- 14.5 A co-ordinated and strategic approach is necessary to provide the most certainty for protecting the Ashdown Forest SPA and SAC, as well as providing clarity to applicants of proposed development. A co-ordinated approach allows mitigation to be funded collectively also providing reassurance and certainty that measures can be delivered. Natural England supports the approach taken by Mid Sussex District Council to the Habitats Regulations and Ashdown Forest matters, including the District Plan HRA and District Plan Policy DP15.

15. Appendices

Appendix A: European Site Conservation Objectives for Ashdown Forest Special Protection Area²⁹

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

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;

- **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 each of the qualifying features, and,**
- **The distribution of the qualifying features within the site.**

This document should be read in conjunction with the accompanying *Supplementary Advice* document, which provides more detailed advice and information to enable the application and achievement of the Objectives set out above.

Qualifying Features:

A224	<i>Caprimulgus europaeus</i> ; European nightjar (Breeding)
A302	<i>Sylvia undata</i> ; Dartford warbler (Breeding)

²⁹ Conservation objectives: <http://publications.naturalengland.org.uk/category/6528471664689152>

Appendix B: European Site Conservation Objectives for Ashdown Forest Special Area of Conservation³⁰

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

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;

- **The extent and distribution of qualifying natural habitats and habitats of qualifying species**
- **The structure and function (including typical species) of qualifying natural habitats**
- **The structure and function of the habitats of qualifying species**
- **The supporting processes on which qualifying natural habitats and habitats of qualifying species rely**
- **The populations of qualifying species, and,**
- **The distribution of qualifying species within the site.**

This document should be read in conjunction with the accompanying *Supplementary Advice* document, which provides more detailed advice and information to enable the application and achievement of the Objectives set out above.

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

³⁰ Conservation objectives: <http://publications.naturalengland.org.uk/category/6528471664689152>

Appendix C: Natural England SANG Guidelines

The SANG guidelines were developed by Natural England for the Thames Basin Heaths in 2008.

The wording is precise and has the following meaning:

- Requirements referred to as 'must' or 'should have' are essential.
- The SANG should have at least one of the 'desirable' features.

Essential Features: Provision of these features will be required in order for the site to fulfil its purpose as a SANG

For all sites larger than 4Ha there must be adequate parking for visitors, unless the site is intended for local use, i.e. within easy walking distance (400m) of the developments linked to it. The amount of car parking space should be determined by the anticipated use of the site and reflect the visitor catchment of both the SANG and the SPA.

It should be possible to complete a circular walk of 2.3-2.5km around the SANG.

Car parks must be easily and safely accessible by car and should clearly be signposted.

The SANG must have a safe route of access on foot from the nearest car park and/ or footpath(s).

All SANGs with car parks must have a circular walk which starts and finishes at the car park.

SANGs must be designed so that they are perceived to be safe by users; they must not have tree and scrub covering parts of the walking routes.

Paths must be easily used and well-maintained but most should remain unsurfaced to avoid the site becoming too urban in feel.

SANGs must be perceived as semi-natural spaces with little intrusion of artificial structures, except in the immediate vicinity of car parks. Visually-sensitive way-markers and some benches are acceptable.

All SANGs larger than 12Ha must aim to provide a variety of habitats for users to experience.

Access within the SANG must be largely unrestricted with plenty of space provided where it is possible for dogs to exercise freely and safely off lead.

SANGs must be free from unpleasant intrusions (e.g. sewage treatment works smells etc).

SANGs should be clearly sign-posted or advertised in some way.

SANGs should have leaflets and/ or websites advertising their location to potential users. It would be desirable for leaflets to be distributed to new homes in the area and be made available at entrance points and car parks.

Desirable Features: Provision of these features on the SANG site will increase its attractiveness to visitors and enhance their experience

It would be desirable for an owner to be able to take dogs from the car park to the SANG safely off lead.

Where possible it is desirable to choose sites with a gently undulating topography for SANGs.

It is desirable for access points to have signage outlining the layout of the SANG and the routes available to visitors.

It is desirable that SANGs provide a naturalistic space with areas of open (non-wooded) countryside and areas of dense and scattered trees and shrubs. The provision of open water on part, but not the majority of the site is desirable.

Where possible it is desirable to have a focal point such as a view point, monument etc within the SANG.

Appendix D: Screening assessment for District Plan policies

This screening assessment provides an update to that contained in the Habitats Regulations Assessment for the Mid Sussex District Plan: Appropriate Assessment Report for the Focused Amendments to the Pre-Submission Draft District Plan (October 2015). The screening assessment takes account of any further modifications to the policy wording following the Focused Amendments to the District Plan consultation (Autumn 2015).

The screening assessment applies the categories used in the Habitats Regulations Assessment for the Mid Sussex District Plan.

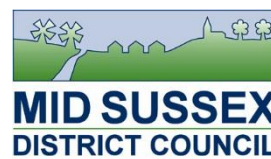
District Plan policy	Changes to policy wording following the Focused Amendments to the Pre-Submission Draft District Plan	Likely significant effect on the Ashdown Forest SAC	Likely significant effect on the Ashdown Forest SPA
DP1: Sustainable Development in Mid Sussex	No change.	No negative effect.	No negative effect.
DP2: Sustainable Economic Development	Minor wording changes.	Likely significant effect in combination.	No negative effect.
DP3: Town Centre Development	No change.	Likely significant effect in combination.	No negative effect.
DP4: Village and Neighbourhood Centre Development	No change.	No significant effect.	No significant effect.
DP5: Housing	Updates to housing numbers.	Likely significant effect in combination.	Likely significant effect in combination.
DP6: Settlement Hierarchy	Minor wording changes.	No negative effect.	No negative effect.
DP7: General Principles for Strategic Development at Burgess Hill	Change to percentage of affordable housing.	No negative effect.	No negative effect.
DP8: Strategic Allocation to the east of Burgess Hill at Kings Way	No change.	Likely significant effect in combination.	No negative effect.
DP9: Strategic Allocation to the north and north-west of Burgess Hill	Wording changes relating to Gypsy and Traveller provision.	Likely significant effect in combination.	No negative effect.

District Plan policy	Changes to policy wording following the Focused Amendments to the Pre-Submission Draft District Plan	Likely significant effect on the Ashdown Forest SAC	Likely significant effect on the Ashdown Forest SPA
DP9A: Strategic Allocation to the east of Pease Pottage	Wording changes relating to Gypsy and Traveller provision, landscape and transport.	Likely significant effect in combination.	No negative effect.
DP10: Protection and Enhancement of Countryside	No change.	No negative effect.	No negative effect.
DP11: Preventing Coalescence	No change.	No negative effect.	No negative effect.
DP12: Sustainable Rural Development and the Rural Economy	No change.	No negative effect.	No negative effect.
DP13: New Homes in the Countryside	Minor wording changes.	No negative effect.	Likely significant effect in combination.
DP14: High Weald Area of Outstanding Natural Beauty	No change.	No negative effect.	No negative effect.
DP15: Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC)	No change.	No negative effect.	No negative effect.
DP16: Setting of the South Downs National Park	No change.	No negative effect.	No negative effect.
DP17: Sustainable Tourism	No change.	No negative effect.	No negative effect.
DP18: Securing Infrastructure	Wording changes in relation to tariff-style contributions.	No negative effect.	No negative effect.
DP19: Transport	No change.	No negative effect.	No negative effect.
DP20: Rights of Way and other Recreational Routes	No change.	No negative effect.	No negative effect.
DP21: Communication Infrastructure	No change.	No negative effect.	No negative effect.

District Plan policy	Changes to policy wording following the Focused Amendments to the Pre-Submission Draft District Plan	Likely significant effect on the Ashdown Forest SAC	Likely significant effect on the Ashdown Forest SPA
DP22: Leisure and Cultural Facilities and Activities	No change.	No negative effect.	No negative effect.
DP23: Community Facilities and Local Services	No change.	No negative effect.	No negative effect.
DP24: Character and Design	No change.	No negative effect.	No negative effect.
DP24A: Housing Density	Deletion of some wording relating to housing density.	No negative effect.	No negative effect.
DP25: Dwelling Space Standards	No change.	No negative effect.	No negative effect.
DP26: Accessibility	Minor wording changes.	No negative effect.	No negative effect.
DP27: Noise, Air and Light Pollution	No change.	No negative effect.	No negative effect.
DP28: Housing Mix	Wording changes relating to Gypsy and Traveller provision.	No negative effect.	No negative effect.
DP29: Affordable Housing	Detailed wording changes.	No negative effect.	No negative effect.
DP30: Rural Exception Sites	No change.	No negative effect.	Likely significant effect in combination.
DP31: Gypsies, Travellers and Travelling Showpeople	Detailed wording changes.	No negative effect.	Likely significant effect in combination.
DP32: Listed Buildings and Other Buildings of Merit	No change.	No negative effect.	No negative effect.
DP33: Conservation Areas	No change.	No negative effect.	No negative effect.
DP34: Historic Parks and Gardens	No change.	No negative effect.	No negative effect.
DP35: Archaeological Sites	No change.	No negative effect.	No negative effect.

District Plan policy	Changes to policy wording following the Focused Amendments to the Pre-Submission Draft District Plan	Likely significant effect on the Ashdown Forest SAC	Likely significant effect on the Ashdown Forest SPA
DP36: Trees, Woodland and Hedgerows	No change.	No negative effect.	No negative effect.
DP37: Biodiversity	No change.	No negative effect.	No negative effect.
DP38: Green Infrastructure	No change.	No negative effect.	No negative effect.
DP39: Sustainable Design and Construction	No change.	No negative effect.	No negative effect.
DP40: Renewable Energy Schemes	No change.	No negative effect.	No negative effect.
DP41: Flood Risk and Drainage	Minor wording changes.	No negative effect.	No negative effect.
DP42: Water Infrastructure and the Water Environment	No change.	No negative effect.	No negative effect.

Appendix E: Statement of Common Ground with Natural England



Statement of Common Ground

Mid Sussex District Council and Natural England

May 2016

1. Introduction

- 1.1 This is a Statement of Common Ground (the ‘Statement’) between Mid Sussex District Council and Natural England.
- 1.2 It is intended that this Statement supports the examination of the District Plan and provides the Inspector with an understanding of the current position of Natural England with respect to the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC).

2. Legislative background and national planning context

Habitats Regulations

- 2.1 The European Union Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (the ‘Habitats Directive’) has particular requirements for plans and projects in order to help protect the Natura 2000 network of protected sites across Europe designated for their nature conservation importance. 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 European Union Council Directive 2009/147/EC on the conservation of wild birds; the ‘Birds Directive’).
- 2.2 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 –
 - (c) 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
 - (d) 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.
- 2.3 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 (HRA) 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).

National Planning Policy Framework

- 2.4 The National Planning Policy Framework³¹ (NPPF) published in March 2012 sets out the Government's planning policies and planning guidance for both plan-making and decision-taking.
- 2.5 The NPPF at paragraph 119 states that the presumption in favour of sustainable development (paragraph 14 of the NPPF) does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined.

3. Ashdown Forest

- 3.1 Ashdown Forest lies adjacent to the north-east boundary of Mid Sussex and within Wealden District.
- 3.2 The Ashdown Forest Special Protection Area (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*. Ashdown Forest is also notified as a Site of Special Scientific Interest (SSSI).
- 3.3 The Ashdown Forest Special Area of Conservation (SAC) was designated in 2005 and covers 2,700Ha. It has a different boundary to the SPA, but the two designations overlap. 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 Ashdown Forest SSSI.

³¹ National Planning Policy Framework (NPPF): <http://planningguidance.communities.gov.uk/>.

4. District Plan 2014-2031

4.1 Mid Sussex District Council has prepared a District Plan³² which will guide development to 2031. The District Plan sets out a vision for how Mid Sussex wants to evolve and a delivery strategy for how that will be achieved.

4.2 District Plan Policy DP15 is concerned with Ashdown Forest:

DP15: Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC)

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

Evidence Base: Ashdown Forest Visitor Survey Data Analysis, Habitats Regulations Assessment for the Mid Sussex District Plan, Visitor Access Patterns on Ashdown Forest.

In order to prevent adverse effects on the Ashdown Forest SPA and SAC, new residential development likely to have a significant effect, either alone or in combination with other development, will be required to demonstrate that adequate measures are put in place to avoid or mitigate any potential adverse effects.

Within a 400 metres buffer zone around Ashdown Forest, mitigation measures are unlikely to be capable of protecting the integrity of the SPA and, therefore, residential development will not be permitted.

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 mitigation through:

- 3) The provision of Suitable Alternative Natural Greenspace (SANG) to the minimum level of 8Ha per 1,000 net increase in population; or a financial contribution to SANGs elsewhere; or the provision of bespoke mitigation; and**
- 4) A financial contribution to the Ashdown Forest Strategic Access Management and Monitoring (SAMM) Strategy.**

Large schemes proposed adjacent or close to the boundary of the 7km zone of influence may require mitigation. Such proposals for development will be dealt with on a case-by-case basis.

Where bespoke mitigation is provided, these measures will need to be in place before occupation of development and must be managed and maintained in perpetuity. The effectiveness of such mitigation will need to be demonstrated

³² Mid Sussex District Plan: www.midsussex.gov.uk/districtplan.

prior to approval of the development. Bespoke mitigation will need to be discussed and agreed by the District Council as the competent authority following advice from Natural England.

4.3 An assessment of reasonable alternatives to the proposed District Plan Policy DP15 has been made in the Sustainability Appraisal (Incorporating a Strategic Environmental Assessment) for the Mid Sussex District Plan. This work was undertaken in response to a Court of Appeal judgment regarding Wealden District Council's Core Strategy Local Plan Policy WCS12: Biodiversity, which related to Ashdown Forest matters. The assessment in the District Plan Sustainability Appraisal appraised different options for the zone of influence and mitigation measures.

4.4 **It is agreed that:**

- **Natural England supports the District Plan Policy DP15.**
- **Policy DP15 includes the ability for development to provide bespoke mitigation if appropriate and this bespoke mitigation will be agreed with the District Council following advice from Natural England.**
- **Natural England supports the approach taken in the District Plan Sustainability Appraisal (Incorporating Strategic Environmental Assessment). Natural England considers a robust appraisal of alternatives to approaches to mitigate for impacts on Ashdown Forest has been made and concurs with the conclusions of the District Council.**

5. Habitats Regulations Assessment for the Mid Sussex District Plan

5.1 The most recent version of the District Plan Habitats Regulations Assessment³³ (HRA) is dated October 2015.

5.2 The potential effects of development on Ashdown Forest were assessed during the HRA process for the Mid Sussex District Plan.

5.3 Five European sites were identified through the HRA process that could be affected by a plan³⁴, and of these five sites, the screening process undertaken in late 2007 and early 2008 identified likely significant effects on the Ashdown Forest SPA and SAC as a result of recreational disturbance and atmospheric pollution respectively.

5.4 **It is agreed that:**

- **Mid Sussex District Council has followed the advice of Natural England on the Habitats Regulations and in relation to Ashdown Forest.**

³³ District Plan HRA: <http://www.midsussex.gov.uk/planning-licensing-building-control/planning-policy/local-development-framework/district-plan/habitats-regulations-assessment/>.

³⁴ Ashdown Forest SPA, Ashdown Forest SAC, Castle Hill SAC, Lewes Downs SAC, and Mole Gap to Reigate Escarpment SAC.

- **The HRA is an iterative process and so each revised report draws and builds on the work undertaken previously. The evidence base for the approach taken to Ashdown Forest is used in the HRA process, in particular the visitor survey work and subsequent data analysis. Some sections of the HRA are updated, for example, to identify progress in relation to the delivery of mitigation.**
- **It is intended to have a final version of the HRA for the examination of the District Plan, the content of which will have been agreed with Natural England.**

6. Recreational disturbance

- 6.1 Increased recreational activity arising from new residential development and related population growth is likely to disturb the protected ground-nesting birds. Data analysis of a survey investigating visitor access patterns at Ashdown Forest found that the majority of regular visitors originated from within a 7km distance from Ashdown Forest³⁵. Within this 7km ‘zone of influence’³⁶, 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.
- 6.2 The Sustainability Appraisal (Incorporating a Strategic Environmental Assessment) for the District Plan assessed reasonable alternatives to the 7km zone of influence. Natural England has reviewed this assessment and has advised that a 7km zone of influence is appropriate for the Ashdown Forest SPA. This is based on the evidence from the visitor survey and subsequent data analysis.
- 6.3 Two forms of mitigation were proposed in the District Plan HRA: Suitable Alternative Natural Greenspace (SANG) and Strategy Access Management and Monitoring (SAMM). The District Plan Sustainability Appraisal (Incorporating a Strategic Environmental Assessment) considered other mitigation measures as alternatives to SANG, SAMM and bespoke mitigation, however, some options are not considered to be reasonable as they are not possible to implement or enforce.

SANG

- 6.4 The purpose of SANGs is to provide alternative greenspace to attract visitors away from the Ashdown Forest SPA. It aims to reduce overall visitor and recreational pressure on Ashdown Forest, and to provide for the needs of dog walkers in particular.

³⁵ Habitats Regulations Assessment for the Mid Sussex District Plan (UEEC, October 2015) – paragraph 6.4.7.

³⁶ A map of the zone of influence can be found at: <http://www.midsussex.gov.uk/planning-licensing-building-control/planning/ashdown-forest/>.

- 6.5 Mid Sussex District Council has identified a strategic SANG at East Grinstead and the site has been secured in perpetuity for 125 years. The East Court & Ashplats Wood Suitable Alternative Natural Greenspace Strategy³⁷ was agreed by Cabinet in October 2014. The Strategy and tariff took effect from the 1st January 2015 and is applied to relevant planning applications. Natural England confirmed its support for the East Court & Ashplats Wood SANG in a letter dated the 17th April 2015.
- 6.6 The SANG capacity has been calculated using a methodology developed by a local authority for SANG sites that provide mitigation for the Thames Basin Heaths. Natural England is satisfied with the approach taken in this methodology and considers that it can be applied to SANG sites that provide mitigation for Ashdown Forest. The calculations are based on the 8Ha per 1,000 net increase in population standard. The existing number of visitors using the site is deducted from the total capacity, which leaves a residual capacity for new users of the site, that is, those for which this site will act as mitigation.
- 6.7 A Management Plan will set out the management aims and proposed works for the East Court & Ashplats Wood Estate for the next ten years.
- 6.8 The circular path route around East Court & Ashplats Wood is already in place. Enhancement works have been undertaken by Mid Sussex District Council to upgrade the route, for example, to prevent waterlogging in the winter months. Future enhancement works will be phased to take account of protected species on the site. The route of the circular path is displayed on an interpretation board and identified by way-markers.
- 6.9 **It is agreed that:**
- **Land at East Court & Ashplats Wood is suitable to be a SANG.**
 - **The total site area is 40.8Ha less 4.2Ha for the formal sport area. A deduction of 3.45Ha from the total site area has been applied to take account of existing visitor use, and is based on the 8Ha per 1,000 net increase in population standard. This leaves 33.15Ha as the area available for SANG³⁸.**
 - **The capacity of the SANG site is 1,507 dwellings based on the 8Ha per 1,000 net increase in population standard³⁹.**
 - **The site is now operating as a SANG since it is an existing area of open space with existing public access.**
 - **Improvement works at this site will enhance the visitor experience and increase the site's attractiveness to visitors. The improvement works meet the Natural England SANG criteria.**
 - **Ongoing management and monitoring of this site will ensure this site continues to be effective mitigation for the effects of recreational disturbance on the Ashdown Forest SPA.**

³⁷ East Court & Ashplats Wood SANG Strategy (October 2014):
<http://www.midsussex.gov.uk/planning-licensing-building-control/planning/ashdown-forest/>.

³⁸ See the East Court & Ashplats Wood SANG Strategy (October 2014) – page 25.

³⁹ See the East Court & Ashplats Wood SANG Strategy (October 2014) – page 26.

Interim SAMM Strategy

- 6.10 Following advice received from Natural England on the 15th April 2013, an interim SAMM Strategy⁴⁰ was developed. This was agreed by the Mid Sussex District Council Cabinet Member for Planning on 22nd August 2013. Natural England also confirmed its support for the interim SAMM Strategy in a letter dated the 6th September 2013.
- 6.11 The aim of the interim SAMM Strategy is to protect the Ashdown Forest SPA from new recreational pressures arising from new residential development within a 7km zone around Ashdown Forest.
- 6.12 **It is agreed that:**
- **The interim SAMM Strategy and tariff can be applied to relevant planning applications until it is superseded by the Joint SAMM Strategy.**
 - **SAMM mitigation measures will be delivered by the Conservators of Ashdown Forest and mechanisms are in place to secure delivery.**

Joint SAMM Strategy

- 6.13 The Joint SAMM Strategy is a framework of measures that are focused on access management projects on Ashdown Forest and bird and visitor monitoring. It is being prepared by Wealden District Council in close association with the Conservators of Ashdown Forest and Natural England. Wealden District Council is preparing the Joint SAMM Strategy on behalf of Mid Sussex District Council, Lewes District Council, Tunbridge Wells Borough Council, and Tandridge District Council, however, all the affected local authorities are part of the development of the Joint SAMM Strategy and will need to agree the measures contained within it.
- 6.14 The Joint SAMM Strategy is currently work in progress and it is anticipated that it will be finalised by autumn 2016.
- 6.15 **It is agreed that:**
- **Mid Sussex District Council and Natural England will continue to work together on the Joint SAMM Strategy alongside the other affected local authorities (Wealden District Council, Lewes District Council, Tunbridge Wells Borough Council, and Tandridge District Council) and the Conservators of Ashdown Forest.**
 - **The Joint SAMM Strategy will supersede the interim SAMM Strategy and it is anticipated that it will be finalised by autumn 2016.**

⁴⁰ SAMM Interim Mitigation Strategy (August 2013): <http://www.midsussex.gov.uk/planning-licensing-building-control/planning/ashdown-forest/>.

7. Atmospheric pollution

- 7.1 The qualifying habitats most sensitive to atmospheric pollution within the Ashdown Forest SAC are the North Atlantic wet heaths and European dry heaths. The main pollutant effects of interest are acid deposition and eutrophication by nitrogen deposition.
- 7.2 Following advice from Natural England, guidance in the Design Manual for Roads and Bridges⁴¹ (DMRB) was used to determine if the proposals in the District Plan would be likely to contribute significant additional pollution deposition. This is a scoping assessment for local air quality to identify which roads are likely to be affected by the proposals. An affected road is one where daily traffic flows will change, as a result of the District Plan, by 1000 annual average daily traffic (AADT) or more. If none of the roads in the network (i.e. within and surrounding Ashdown Forest) meet this criteria, then the air pollution impacts of the District Plan are not considered to be significant and no further work is needed (i.e. the in combination impacts are not considered).
- 7.3 The impact pathway for atmospheric pollution on Ashdown Forest arises from increased traffic emissions as a consequence of new development. Roads that may be of concern comprise the A22, A26, A275, B2188, B2026, B2110 and Coleman's Hatch Road.
- 7.4 The Mid Sussex Transport Study⁴² indicates that projected traffic increases are well below the threshold deemed as significant and, therefore, the Habitats Regulations Assessment (HRA) report concludes that significant effects are unlikely and no further measures are necessary. The findings of the Mid Sussex Transport Study Stage 3 Interim Summary Report are shown in the table below. Suggested transport interventions include measures such as new carriageway links, junction improvements, traffic calming, parking charge adjustments and new local bus routes. These transport interventions are included within the Infrastructure Delivery Plan⁴³ and mean that there would not just be a low effect on AADT, but that there would be no perceptible effect.

⁴¹ Design Manual for Roads and Bridges (DMRB) – Volume 11: Environmental Assessment, Section 3: Environmental Assessment Techniques, Part 1: Air Quality (HA 207/07).

⁴² Mid Sussex Transport Study Stage 3 Interim Summary Report (November 2015): <http://www.midsussex.gov.uk/planning-licensing-building-control/planning-policy/local-development-framework/evidence-base/mid-sussex-transport-study/>.

⁴³ Mid Sussex Infrastructure Delivery Plan: <http://www.midsussex.gov.uk/planning-licensing-building-control/planning-policy/local-development-framework/evidence-base/infrastructure-delivery-plan/>.

Road Link Section	Two-Way Annual Average Daily Traffic Flow (Vehicles)			
	Reference Case	MSTS Stage 3 Development Case Scenario	MSTS Stage 3 Alternative Development Case Scenario	Additional Development Case Scenario
Two-Way Annual Average Daily Traffic Flow (Vehicles)				
A275	6179	6194	6141	6210
A22	5594	5369	5170	5384
A26	4351	4311	4450	4305
B2110	2460	2339	2333	2340
Two-Way AADT Change from Reference Case (Vehicles)				
A275	-	15	-38	31
A22	-	-225	-423	-210
A26	-	-39	99	-46
B2110	-	-121	-126	-120

(Source: Mid Sussex Transport Study Stage 3 Interim Summary Report, November 2015)

7.5 On this basis, Natural England has advised that the proposals in the District Plan are assessed alone and there is no need to assess traffic flows and the AADT in combination with other affected plans and projects (including Wealden District Council and potentially others). An in combination assessment is not required as there are not likely to be any significant effects from the District Plan alone. This reasoning relates to the judgement in the scoping assessment, that is, if the predicted traffic is less than the threshold, then any effect is not considered to be significant even if the critical load for the habitat is exceeded.

7.6 **It is agreed that:**

- **The DMRB guidance is an appropriate method for a scoping assessment of potential atmospheric pollution impacts that may arise from the District Plan proposals.**
- **The AADT figures resulting from the Mid Sussex Transport Study work are considered to be well below the threshold for significance.**
- **A further more detailed assessment of the proposals in the District Plan is not required.**
- **As a result of this, the proposals in the District Plan are assessed alone and not in combination with other affected plans and projects.**

8. Neighbourhood plans

- 8.1 As part of the District Plan strategy, town and parish councils will be encouraged to produce neighbourhood plans⁴⁴. The District Council's preference is that the location and nature of development is delivered through neighbourhood plans, however, a Site Allocations document will be produced to enable the District Plan's housing requirement (13,600 dwellings) to be delivered in full, without requiring neighbourhood plans to supply the whole residual amount of housing (2,262 dwellings).
- 8.2 Twenty Neighbourhood Plan Areas have been designated and ten neighbourhood plans have been made by the District Council: Ardingly, Ashurst Wood, Burgess Hill, Crawley Down, Cuckfield, Hurstpierpoint & Sayers Common, Lindfield and Lindfield Rural, Turners Hill, Twineham, and West Hoathly.
- 8.3 Mid Sussex District Council undertakes the HRA for neighbourhood plans on behalf of the town or parish council. It is an iterative process with an HRA completed for the Regulation 14 consultation, Regulation 16 publication and Regulation 19 stage when the neighbourhood plan is made by the District Council.
- 8.4 **It is agreed that:**
- **The District Plan HRA provides appropriate background evidence to support the conclusions of the neighbourhood plan HRAs.**
 - **A HRA screening is undertaken for all neighbourhood plans, both those outside and those within the 7km zone of influence. Those neighbourhood plans within the 7km zone of influence also undergo an appropriate assessment. Natural England will be consulted on the appropriate assessment stage of the HRA process where this is undertaken (for those neighbourhood plan areas within the 7km zone of influence).**
 - **Natural England will be consulted on the Strategic Environmental Assessment/ Sustainability Appraisal (SEA/ SA) for a neighbourhood plan where one is produced.**

9. Other matters

- 9.1 It is agreed that Mid Sussex District Council and Natural England will continue to work actively together and co-operate on matters pertaining to their shared interest and responsibilities.

⁴⁴ Information on neighbourhood plans can be found at: <http://www.midsussex.gov.uk/planning-licensing-building-control/planning-policy/neighbourhood-plans/>.



Signed:

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Date: 20th May 2016



Signed:

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Date: 20th May 2016