

Balcombe Neighbourhood Plan

Habitats Regulations Assessment Screening Report

Produced for Regulation 19 of the Neighbourhood Planning (General) Regulations 2012

5th September 2016

1.0 Introduction

1.1 This Habitats Regulations Assessment (HRA) screening report has been undertaken by Mid Sussex District Council in respect of the Balcombe Neighbourhood Plan which has been produced by Balcombe Parish Council in accordance with the Neighbourhood Planning (General) Regulations 2012. This HRA screening report accompanies the Balcombe Neighbourhood Plan produced for Regulation 19 of the Neighbourhood Planning (General) Regulations 2012. A previous screening was undertaken during the consultation stages of the Balcombe Neighbourhood Plan prior to its independent examination. This screening report for Regulation 19 has been undertaken to ensure that the modifications recommended by the examiner have been taken into account and are fully compliant with legislation.

1.2 The Balcombe Neighbourhood Plan has been produced to guide development within the parish up to 2031. The Neighbourhood Plan sets out a vision for Balcombe Parish in 2031:

‘Our countryside will have been protected to maintain our rural setting and we will have enriched our enviable community spirit’ (Balcombe Neighbourhood Plan, 2016: p20).

1.3 If the Balcombe Neighbourhood Plan is made by Mid Sussex District Council, it will be used in determining planning applications within the Neighbourhood Plan Area, as part of the development plan.

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

1.5 Much of the information used for this screening report has been developed through the HRA for the Mid Sussex District Plan 2014-2031. The most recent version of this document was published in October 2015. It is considered that the background information in the District Plan HRA can be used for this screening report of the Balcombe Neighbourhood Plan and as such, this screening report should be read in conjunction with it.

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

- 1.7 In producing this HRA screening report, the following guidance has been taken into account:
- David Tyldesley and Associates (for Scottish Natural Heritage) (August 2012) Habitats Regulations Appraisal of Plans: Guidance for Plan-making Bodies in Scotland – Version 2.0¹
 - David Tyldesley and Associates (for the Countryside Council for Wales) (September 2012) Draft Guidance for Plan Making Authorities in Wales: The Appraisal of Plans Under the Habitats Directive²

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

2.0 Legislative Background

- 2.1 The Natura 2000 network consists of sites across Europe designated for their nature conservation importance. It aims to be an ecologically coherent network of designated sites that protect threatened species and habitats. The Natura 2000 network is formed of Special Areas of Conservation for species, plants and habitats and Special Protection Areas for bird species. 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’).
- 2.2 To help protect the Natura 2000 network, there are particular requirements for plans and projects. 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’.

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

- 2.3 The Conservation of Habitats and Species Regulations 2010 (the ‘Habitats Regulations’), the UK’s transposition of the Habitats Directive and Regulation 102, provides:

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

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

- (1) Where a land use plan –
- (a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and
 - (b) is not directly connected with or necessary to the management of the site, the plan-making authority for that plan must, before the plan is given effect, make an appropriate assessment of the implications for the site in view of that site's conservation objectives'.

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

2.5 In terms of neighbourhood plans, the Neighbourhood Planning (General) Regulations 2012 require a submitted neighbourhood plan to include a statement explaining how the proposed neighbourhood development plan meets the basic conditions set out in paragraph 8 of Schedule 4B of the Town and Country Planning Act 1990³. 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.

3.0 European Site Information

3.1 The first step of the screening process is to consider the European sites that could be affected by a plan. Five such sites⁴ were identified through the District Plan HRA process, and of these, the screening for the District Plan identified likely significant effects on the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC) as a result of recreational disturbance and atmospheric pollution. Ashdown Forest lies adjacent

³ Regulation 15(1)(d).

⁴ Ashdown Forest SPA, Ashdown Forest SAC, Castle Hill SAC, Lewes Downs SAC, and Mole Gap to Reigate Escarpment SAC.

to the north-east boundary of Mid Sussex and within Wealden District and, therefore, is not within the Neighbourhood Plan Area.

- 3.2 The Ashdown Forest SPA was classified in 1996. It is a 3,200Ha site comprising predominantly of lowland heathland and woodland. The Ashdown Forest SPA is an internationally important habitat classified because of the presence of breeding populations of Dartford warbler *Sylvia undata* and European nightjar *Caprimulgus europaeus*. Ashdown Forest is also notified as a Site of Special Scientific Interest (SSSI).
- 3.3 The Ashdown Forest SAC was designated in 2005 and covers 2,700Ha. It has a different boundary to the SPA, but the two designations overlap (Appendix 1). The qualifying features for the designation are the Annex I habitats: Northern Atlantic wet heaths with *Erica tetralix* and European dry heaths, and the Annex II species: Great crested newt *Triturus cristatus*. It is also part of the SSSI.
- 3.4 Further environmental details can be found in the HRA for the Mid Sussex District Plan (see Chapter 3: European Sites).

4.0 Habitats Regulations Assessment for the Mid Sussex District Plan

- 4.1 The potential effects of development on Ashdown Forest were assessed during the HRA process for the Mid Sussex District Plan. The screening exercise carried out in late 2007 and early 2008 found likely significant effects⁵ on the Ashdown Forest SPA as a result of increased recreational activity arising from new residential development and related population growth that is likely to disturb the ground-nesting birds. Further information can be found in the HRA for the Mid Sussex District Plan (see Chapter 6: Disturbance Impact Pathways).
- 4.2 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 Forest. Within this 7km 'zone of influence', measures to reduce recreational pressure would be most effective, therefore, residential development leading to a net increase in dwellings will need to contribute to an appropriate level of mitigation. This will be in the form of providing a Suitable Alternative Natural Greenspace (SANG), either on the development site itself or through a financial contribution towards a strategic SANG, and a separate financial contribution towards a Strategic Access Management and Monitoring (SAMM) strategy. An assessment of reasonable alternatives to the 7km zone of influence and the mitigation approach has been made in the [District Plan Sustainability Appraisal](#) (Incorporating Strategic Environmental Assessment) (August 2016). It is considered that that assessment can be applied to the HRAs for neighbourhood plans.

⁵ Based on current evidence, it cannot be shown that there will not be a likely significant effect, so applying the precautionary principle, the HRA considers that proposals resulting in new residential development will have a likely significant effect on Ashdown Forest.

- 4.3 In terms of atmospheric pollution, the [Mid Sussex Transport Study](#) indicates that projected traffic increases are well below the threshold deemed as significant and, therefore, the HRA report concludes that significant effects are unlikely and no further measures are necessary. In order to promote good practice, however, the emerging District Plan contains measures to encourage sustainable transport and the requirements for avoidance and mitigation in relation to air pollution.
- 4.4 Policy DP15 in the Submission District Plan 2014-2031 (August 2016) outlines the proposed approach to protecting Ashdown Forest. Any residential development allocation included within the Balcombe Neighbourhood Plan will be subject to the requirements of the District Plan policy for the Ashdown Forest SPA and SAC or the approach being implemented at the time of a planning application.
- 4.5 It should be noted that the District Plan has not yet been adopted and, therefore, the District Plan HRA has not been tested and accepted at Examination. Whilst this is the case, the District Plan HRA did consider that some housing allocations in the District would be through neighbourhood plans. The expected level of development was taken into account and as such, it is considered that the District Plan HRA can be used as background information for the HRAs of neighbourhood plans. Currently, as advised by Natural England, all planning applications proposing a net increase in residential dwellings within the 7km zone around the Ashdown Forest SPA will be required to mitigate their effects of increased recreational pressure in the form of providing two separate financial contributions towards SANG and SAMM measures. The [East Court and Ashplats Wood SANG Strategy](#) has been agreed by the District Council and a [SAMM interim mitigation strategy](#) has been approved by Natural England. The provision of mitigation will be taken into account when preparing the HRA for the neighbourhood plan.

5.0 Screening Assessment for the Balcombe Neighbourhood Plan

- 5.1 The screening assessment has regard to the conservation objectives of the Ashdown Forest SPA and SAC. It also makes reference to other plans and projects (the emerging Mid Sussex District Plan 2014-2031 and other neighbourhood plans in Mid Sussex). Key questions relating to the neighbourhood plan are included below and along with the screening assessment, help to establish if an appropriate assessment is required.
- 5.2 Nearly all of Balcombe Parish is outside the 7km zone of influence apart from a couple of fields and some woodland adjacent to Ardingly Reservoir. It is considered that because no development is proposed here and it is remote from the village of Balcombe, the Parish can be considered as being outside the 7km zone of influence for the Ashdown Forest SPA.

5.3 Is the Balcombe Neighbourhood Plan directly connected with, or necessary to the management of a European site for nature conservation?

From review of the Balcombe Neighbourhood Plan, it is considered that it is not directly connected with, or necessary to the nature conservation management of Ashdown Forest, and so a Habitats Regulations Assessment is required.

5.4 Does the Balcombe Neighbourhood Plan propose new development or allocate sites for development?

Yes – three sites have been allocated for residential development in Policy 2: Housing Site Allocations. The Neighbourhood Plan allocates the following sites:

- Land at Balcombe House Gardens and Rectory Gardens – 14 dwellings
- Land at Barn Field – 14 dwellings
- Land north of Station House – 14 dwellings

This amount of development is in line with the emerging Mid Sussex District Plan and is within the numbers assessed in the District Plan HRA. All of these sites are outside the 7km zone of influence and as such, are not considered to have a likely significant effect on the Ashdown Forest SPA and SAC.

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

Yes, the emerging Mid Sussex District Plan 2014-2031 and other neighbourhood plans being produced in the District, especially those within the 7km zone. It is considered that the level of development proposed in the Balcombe Neighbourhood Plan has been assessed as part of the housing strategy considered through the District Plan HRA.

The Balcombe Neighbourhood Plan may also have an in combination effect with other plans being produced by local authorities that have land within the 7km zone, such as Wealden District Council, Lewes District Council and Tunbridge Wells Borough Council. It is understood though that with regards to recreational disturbance, Wealden District Council and Lewes District Council will be making provision for SANG and contributing to the wider Joint SAMM Strategy that is currently being prepared. Any development in Tunbridge Wells Borough only needs to make a contribution towards SAMM measures.

Screening Assessment

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

- 5.7 For it to be concluded that a policy would have no likely significant effect on a European site, one of the following reasons usually applies (this is taken from the guidance for Scottish Natural Heritage, p19-20):
- a) Intended to protect the natural environment, including biodiversity, or to conserve or enhance the natural, built or historic environment, where enhancement measures will not be likely to have any negative effect on a European site;
 - b) Which will not themselves lead to development or other change, for example, because they relate to design or other qualitative criteria for development or other kinds of change;
 - c) Which make provision for change but which could have no conceivable effect on a European site, because there is no link or pathway between them and the qualifying interests, or any effect would be a positive effect, or would not otherwise undermine the conservation objectives for the site;
 - d) Which make provision for change but which could have no significant effect on a European site (but is a minor residual effect), because any potential effects would be insignificant, being so restricted or remote from the site that they would not undermine the conservation objectives for the site;
 - e) For which effects on any particular European site cannot be identified, because the policy is too general, for example, it is not possible to identify where, when or how the policy may be implemented, or where effects may occur, or which sites, if any, may be affected.

Balcombe Neighbourhood Plan Policy	Policy	Comment	Likely Significant Effect on the Ashdown Forest SPA and SAC
1	Built Up Area Boundary	This policy defines the built up area boundary and supports development proposals within it.	No likely significant effect – reasons a) and b).
2	Housing Site Allocations	This policy allocates three sites for housing, which would result in approximately 42 dwellings.	No likely significant effect – reason d). Apart from a small area adjacent to Ardingly Reservoir, the Parish is outside of the 7km zone of influence for recreational disturbance. The settlement of Balcombe is 9.2km from Ashdown Forest. All of these housing site allocations are outside the 7km zone of influence and as such, are not considered to have a likely significant effect on the Ashdown Forest SPA and SAC.
3	Design	This policy relates to the design and housing mix of development proposals.	No likely significant effect – reason b).
4	Enterprise, Home Working & Broadband	This policy allocates land at Glebe Farm for B1-B8 uses and to support proposals for home working. The policy also supports proposals to provide access to super-fast broadband.	No likely significant effect – reasons b) and d). Apart from a small area adjacent to Ardingly Reservoir, the Parish is outside of the 7km zone of influence for recreational disturbance. The settlement of Balcombe is 9.2km from Ashdown Forest.
5	Balcombe Village Centre	This policy seeks to protect the village centre and resists any development proposals that would result in the loss of any village centre uses.	No likely significant effect – reason b).

Balcombe Neighbourhood Plan Policy	Policy	Comment	Likely Significant Effect on the Ashdown Forest SPA and SAC
6	Balcombe CE Primary School	This policy supports development proposals to extend the primary school on land within the school grounds.	No likely significant effect – reasons b) and c).
7	Community Facilities	This policy supports development proposals for a range of community facilities.	No likely significant effect – reason c).
8	Local Green Spaces	This policy designates a number of local green spaces and proposals for development on these green spaces will be resisted.	No likely significant effect – reason a).
9	Burial Ground Extension	This policy allocates land off London Road for the provision of an additional burial ground.	No likely significant effect – reason c).
10	Station Car Parking	This policy allocates land off London Road for the provision of additional car parking spaces for Balcombe railway station.	No likely significant effect – reason c).
11	Renewable Energy	This policy supports proposals for domestic and community-scale renewable energy.	No likely significant effect – reason b).

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

5.9 No policies in the Balcombe Neighbourhood Plan were found to have a likely significant effect alone on the Ashdown Forest SPA and SAC. Policy 2 concerning housing allocations is not considered to result in a likely significant effect, but it is possible there could be a minor residual effect (reason d)). As described in the screening assessment table, Balcombe Parish

is outside the 7km zone of influence so there is unlikely to be an in-plan in combination effect (that is, there is unlikely to be an in combination effect from the policies in the Neighbourhood Plan). Any wider in combination effect with other plans will be considered in the section below.

In Combination Effects

- 5.10 Other neighbourhood plans and windfall sites within the 7km zone in Mid Sussex will 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. 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 SAC and SPA (as assessed through the District Plan HRA) although this will be explored in further detail in the HRAs of those neighbourhood plans.
- 5.11 This also applies to plans being produced by local authorities that have land within the 7km zone, such as Wealden District Council, Lewes District Council and Tunbridge Wells Borough Council. It is understood that with regards to recreational disturbance, Wealden District Council and Lewes District Council will be making provision for SANG and contributing to the wider Joint SAMM Strategy that is currently being prepared. Any development in Tunbridge Wells Borough only needs to make a contribution towards SAMM measures.
- 5.12 To mitigate the development set out in the allocations at Uckfield, Crowborough and Maresfield identified in the Wealden District Core Strategy, both SANG and SAMM will be required. Lewes District Council is considering options for delivering a SANG and will also require contributions towards SAMM⁶. Tunbridge Wells Borough Council has not allocated any sites within the 7km zone of influence, but contributions may be provided towards SAMM where appropriate⁷. All affected local authorities are involved in the development of the Joint SAMM Strategy and their work on mitigation described above demonstrates their commitment to protecting the Ashdown Forest SPA and SAC under the Habitats Regulations.
- 5.13 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.

6.0 Conclusion of the Screening Assessment

- 6.1 The screening assessment table above shows that there would be no likely significant effects on the Ashdown Forest SPA and SAC from the policies included within the Balcombe Neighbourhood Plan. A full HRA (that is, the appropriate assessment stage that ascertains

⁶ Lewes District Council (2014) Habitats Regulations Assessment Background Paper:
<http://www.lewes.gov.uk/planning/20408.asp>

⁷ URS (on behalf of Tunbridge Wells Borough Council) (2013) Tunbridge Wells Site Allocations HRA:
<http://www.tunbridgewells.gov.uk/residents/planning/planning-policy/evidence-base>

the effect on integrity of the European site) of the Balcombe Neighbourhood Plan is not required as the development proposed in the Neighbourhood Plan is outside of the 7km zone of influence and, therefore, unlikely to have a significant effect on the Ashdown Forest SPA and SAC. The Habitats Regulations have also been considered during the independent examination of the Balcombe Neighbourhood Plan.

- 6.2 As a precautionary measure, any residential development proposed within Balcombe Parish will be subject to the recommendations of the HRA and if relevant, the current approach to Ashdown Forest being implemented at that time. Applicants for planning permission are advised to contact the District Council for further advice prior to submitting a planning application.

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

