

Cuckfield Neighbourhood Plan

Habitats Regulations Assessment Screening Report

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

1st October 2014

1.0 Introduction

1.1 This Habitats Regulations Assessment (HRA) screening report has been undertaken by Mid Sussex District Council in respect of the Cuckfield Neighbourhood Plan which has been produced by Cuckfield Parish Council in accordance with the Neighbourhood Planning (General) Regulations 2012. This HRA screening report accompanies the Cuckfield Neighbourhood Plan produced for Regulation 19 of the Neighbourhood Planning (General) Regulations 2012.

1.2 The Cuckfield Neighbourhood Plan has been produced to guide development within the parish up to 2031. The vision statement is:

‘Our vision is for Cuckfield to thrive, meeting the changing needs of the community whilst preserving the distinctive character, landscape, and setting of the village that has evolved over nine centuries of history’ (Cuckfield Neighbourhood Plan, 2014: 16).

1.3 If the Cuckfield 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. The most recent version of this document was published in May 2013, but the District Plan has not yet been adopted. The District Plan was submitted to the Secretary of State in July 2013 and the first Hearing session took place in November 2013 to consider the duty to co-operate. In December 2013, the Inspector concluded that he was not satisfied that the District Council had met the duty to co-operate and advised the District Council to withdraw the 2013 District Plan. It is considered, however, that the background information in the District Plan HRA can be used for this screening report of the Cuckfield 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, it is understood that Natural England has recommended the use of this guidance for Scottish Natural Heritage.

2.0 Legislative Background

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

‘Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site’s conservation objectives. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the 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).

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>

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

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

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

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

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.

result of recreational disturbance and atmospheric pollution. Ashdown Forest lies adjacent to the north-east boundary of Mid Sussex and within Wealden District and, therefore, is not within the Neighbourhood Plan Area.

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

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).
- 4.2 A 2008 survey investigating visitor access patterns at Ashdown Forest found that the majority (83%) of visitors originated from within a 7km distance from Ashdown Forest. Within this 7km 'zone of influence', measures to reduce recreational pressure would be most effective, therefore, residential development leading to a net increase in dwellings will need to contribute to an appropriate level of mitigation. This will be in the form of providing a Suitable Alternative Natural Greenspace (SANG), either on the development site itself or through a financial contribution towards a strategic SANG, and a separate financial contribution towards a Strategic Access Management and Monitoring (SAMM) strategy.
- 4.3 In terms of atmospheric pollution, the [Mid Sussex Transport Study](#) indicates that projected traffic increases are well below the threshold deemed as significant and, therefore, the HRA report concludes that adverse effects are unlikely and no further measures are necessary. In order to promote good practice, however, the emerging District Plan contains measures to

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.

encourage sustainable transport and the requirements for avoidance and mitigation in relation to air pollution.

- 4.4 Policy DP14 in the submission District Plan (July 2013) outlined the proposed approach to protecting Ashdown Forest. Any residential development allocation included within the Cuckfield 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 a financial mitigation towards SAMM measures, and a SAMM interim mitigation strategy has been approved by Natural England. The provision of mitigation will be taken into account when preparing the HRA for the neighbourhood plan.

5.0 Screening Assessment for the Cuckfield Neighbourhood Plan

- 5.1 The screening assessment has regard to the conservation objectives of the Ashdown Forest SPA and SAC. It also makes reference to other plans and projects (the emerging Mid Sussex District Plan and other neighbourhood plans in Mid Sussex). Key questions relating to the neighbourhood plan are included below and along with the screening assessment, help to establish if an appropriate assessment is required.

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

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

5.3 Does the Cuckfield Neighbourhood Plan propose new development or allocate sites for development?

Yes – four sites at Cuckfield have been allocated for residential development for a total of 28 dwellings (although one site has no stated capacity) as outlined in Policy CNP 6: Housing Allocations. Two of these sites are within the built-up area boundary and two are outside the built-up area boundary, and all four sites are less than 1 Hectare in area. 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.

5.4 Are there any other projects or plans that together with the Cuckfield Neighbourhood Plan could impact on the integrity of a European site, the 'in combination' impact?

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

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

Screening Assessment

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

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

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

Cuckfield Neighbourhood Plan Policy	Policy	Comment	Likely Significant Effect on the Ashdown Forest SPA and SAC
CNP 1	Design of New Development and Conservation	This policy does not allocate development, but sets out appropriate design guidelines, intending to conserve the natural environment, and the heritage assets of the built environment.	No likely significant effect – reason b).
CNP 2	Protection of Open Space within the Built Up Area	This policy is intended to protect open spaces within the built environment.	No likely significant effect – reason a).
CNP 3	Preventing Coalescence between Cuckfield and Haywards Heath	This policy does not seek to allocate development, but intends to prevent coalescence between settlements.	No likely significant effect – reason b).
CNP 4	Protect and Enhance Biodiversity	This policy is intended to conserve and enhance the natural environment.	No likely significant effect – reason a).
CNP 5	Protect and Enhance the Countryside	This policy seeks to protect the countryside from inappropriate development and seeks to conserve and enhance the High Weald Area of Outstanding Natural Beauty.	No likely significant effect – reason c).
CNP 6	Housing Allocations	This policy seeks to allocate 4 sites for residential development. Three of these allocations at Cuckfield will provide a total of 28 dwellings with the capacity at the fourth site unidentified.	No likely significant effect – reason d). Cuckfield Parish is outside of the 7km zone of influence for recreational disturbance and is 10km from the boundary of the Ashdown Forest SPA. The settlement of Cuckfield is 11.25km from Ashdown Forest.
CNP 7	Housing Development within the Built Up Area Boundary	This policy does not seek to allocate development, but sets out appropriate guidelines for development that is proposed.	No likely significant effect – reason c).

Cuckfield Neighbourhood Plan Policy	Policy	Comment	Likely Significant Effect on the Ashdown Forest SPA and SAC
CNP 8	Affordable Housing	This policy does not seek to allocate development, but relates to provision for affordable homes.	No likely significant effect – reason c).
CNP 9	Small Scale Dwellings	This policy does not seek to allocate development, but is concerned with housing mix in residential development proposals.	No likely significant effect – reason c).
CNP 10	Building Extensions Within and Outside the Built Up Area Boundary	This policy does not seek to allocate development, but is concerned with design and intends to conserve and enhance the built environment.	No likely significant effect – reason b).
CNP 11	Cuckfield Village Centre	This policy relates to infrastructure provision and seeks to retain existing or similar uses within the village centre.	No likely significant effect – reason c).
CNP 12	Whitemans Green Neighbourhood Centre	This policy relates to infrastructure provision and seeks to retain the existing uses.	No likely significant effect – reason c).
CNP 13	Shop Fronts and Advertisements	This policy does not seek to allocate development, but is concerned with design and intends to conserve and enhance the built environment.	No likely significant effect – reason b).
CNP 14	Business Development in the Countryside	This policy does not seek to allocate development, but sets out appropriate uses for conversion of rural buildings. Increased tourist uses could potentially have a small impact on Ashdown Forest but it is considered that overall this might be an occasional rather than regular impact.	No likely significant effect – reason c).
CNP 15	Village Centre Car Park	This policy does not seek to allocate development, but relates to infrastructure provision.	No likely significant effect – reason b).

Cuckfield Neighbourhood Plan Policy	Policy	Comment	Likely Significant Effect on the Ashdown Forest SPA and SAC
CNP 16	Transport Impact of Development	This policy does not seek to allocate development, but is concerned with infrastructure provision, in particular transport improvements.	No likely significant effect – reason b).
CNP 17	Amenity Open Space	This policy does not seek to allocate development, but relates to infrastructure provision. It seeks to allocate land for open space which will contribute to green infrastructure in the parish. It could potentially have a positive impact on Ashdown Forest through the provision of public open space for the local community.	No likely significant effect – reason a).
CNP 18	New School Buildings	This policy does not seek to allocate development, but relates to infrastructure provision.	No likely significant effect – reason c).
CNP 19	Retention of Community Buildings	This policy does not seek to allocate development, but relates to infrastructure provision, in particular the retention of existing community buildings.	No likely significant effect – reason c).
CNP 20	Improved Community Buildings	This policy does not seek to allocate development, but relates to infrastructure provision, notably the retention and improvement of the Youth Club Building.	No likely significant effect – reason c).

Cuckfield Neighbourhood Plan Policy	Policy	Comment	Likely Significant Effect on the Ashdown Forest SPA and SAC
CNP 21	Securing Infrastructure	This policy does not seek to allocate development, but relates to infrastructure provision. The suggested infrastructure requirements for Cuckfield (listed outside the policy in the explanatory text) include traffic management measures, education, community and green infrastructure items, and it is considered that these are unlikely to encourage additional visits to Ashdown Forest.	No likely significant effect – reason c).

5.7 The screening assessment looks at the policies individually (alone) to identify if there is an effect on the European site. It is possible to apply straightforward mitigation measures to the plan if there are any policies likely to have a significant effect alone, 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.

5.8 From the screening assessment, it is considered that none of the policies in the Cuckfield Neighbourhood Plan are likely to have a significant effect alone on the Ashdown Forest SPA and SAC. In particular, policy CNP 6 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)). Since no other policies in the Cuckfield Neighbourhood Plan are considered to have a minor residual effect, there is no in-plan in combination effect (that is, there is unlikely to be an in combination effect from all the policies together in the Neighbourhood Plan). Any wider in combination effect with other plans will be considered in the section below.

In Combination Effects

5.9 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 SPA (as assessed through the District Plan HRA) although this will be explored in further detail in the HRAs of those neighbourhood plans.

- 5.10 This also applies to plans being produced by local authorities that have land within the 7km zone, such as Wealden District Council, Lewes District Council and Tunbridge Wells Borough Council. It is understood that with regards to recreational disturbance, each affected local authority will be making provision for SANG and/ or contributing to the wider joint SAMM strategy that is currently being prepared.
- 5.11 To mitigate the development set out in the allocations at Uckfield, Crowborough and Maresfield identified in the Wealden District Core Strategy, both SANG and SAMM will be required. The HRA of the Strategic Sites Local Plan⁶ provides further detail on the mitigation requirements for the strategic allocations at Uckfield and Crowborough in Wealden District, and mitigation requirements for the allocation at Maresfield will be set out in the HRA of Maresfield's Neighbourhood Plan and/ or the HRA for the Delivery and Site Allocations Local Plan. Lewes District Council is considering options for delivering a SANG and will also require contributions towards SAMM⁷. Tunbridge Wells Borough Council has not allocated any sites within the 7km zone of influence, but contributions may be provided towards SAMM where appropriate⁸. 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 under the Habitats Regulations.
- 5.12 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 Cuckfield Neighbourhood Plan.
- 6.2 A full HRA (that is, the appropriate assessment stage that ascertains the effect on integrity of the European site) of the Cuckfield Neighbourhood Plan is not required as the development proposed in the Cuckfield 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.

⁶ Wealden District Council (2014) Strategic Sites Local Plan Habitats Regulations Assessment – Submission document:

http://www.wealden.gov.uk/Wealden/Residents/Planning_and_Building_Control/Planning_Policy/Local_Plan/StrategicSites/PPolicy_Strategic_Sites_Local_Plan_Library_of_Documents_and_Evidence_Base.aspx

⁷ Lewes District Council (2014) Habitats Regulations Assessment Background Paper:

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

⁸ 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>

- 6.3 As a precautionary measure, any residential development proposed within Cuckfield 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 Cuckfield Neighbourhood Plan Area in relation to the Ashdown Forest Special Protection Area and Special Area of Conservation

