1. Is there any evidence to show that the existing SANG at East Court and Ashplats Wood in East Grinstead is effectively mitigating against harm to the Ashdown Forest SAC/SPA as the result of visitor disturbance?

1.1 The Council's justification for concluding no adverse impact

1.1.1 The HRA produced in support of the submitted plan reviewed the progress of strategic SANGS/SAMM mitigation and assesses whether the overall mitigation approach is capable of supporting the plan's site allocations.

1.1.2 This is particularly important for proposed allocations SA19 and SA20 for 750 new homes proposed within the 7km zone of influence.

1.1.3 These allocations are listed in the HRA as having likely significant effects on the integrity on Ashdown Forest SAC/SPA due to recreational disturbance and increased visitor pressure.

1.1.4 A strategic SANG is already in situ in East Grinstead: the East Court and Ashplats Wood SANG has provided off-site mitigation for residential development since January 2015.

1.1.5 The HRA concludes that the existing SANG capacity is limited and requires additional provision to mitigate the effect of the allocations. An additional SANG is therefore proposed adjacent to SA20, which the HRA concludes is in *"a location to provide a feasible alternative to Ashdown Forest"* and *"provides the potential to draw existing use away from Ashdown Forest".*

1.1.6 The HRA refers to the strategic approach to mitigate recreational impact set out in DP17. For the submitted plan it concludes that *"with the mitigation in place it is possible to rule out adverse effects on the Ashdown Forest".*

1.1.7 Likely significant effects on the integrity of the Ashdown Forest SAC/SPA have been identified for SA19 and SA20 through the HRA screening process.

1.1.8 The precautionary approach reflected in the Habitats Regulations appropriately sets a high bar in respect of mitigation: Where likely significant effects have been identified, development can only be approved where it can be certain, in light of the best scientific information, it will not have a lasting adverse effect on the Ashdown Forest.

1.1.9 Otherwise put, there can be no remaining reasonable scientific doubt.

1.2 Can the Council demonstrate that that a disturbance impact will NOT occur?

1.2.1 The HRA fails to provide this reassurance, using phrases like "…*provide a feasible alternative to Ashdown Forest"; "…provide the potential to draw existing use away from Ashdown Forest"*; and "…*it is possible to rule out adverse effects on the Ashdown Forest".*

1.2.2 To be able to *begin* to provide certainty on the effectiveness of the SANG/SAMM mitigation, as a starting point, the HRA highlights the importance of implementing an Ashdown Forest monitoring strategy.

1.2.3 Such a monitoring strategy has already been commissioned by Wealden District Council and published in 2018 by Footprint Ecology.

1.2.4 The 2018 Footprint Ecology Report is purportedly based on advice received from Natural England and highlights monitoring as an integral part of the mitigation measures. It confirms that monitoring is required to ensure approaches are working as anticipated.

The Footprint Ecology Report is not included in the Council's evidence base (an inadequate omission, and one which is not reasoned):

https://www.tandridge.gov.uk/Portals/0/Documents/Planning%20and%20building/Planning%20strategies%20and%20policies/Local%20plan/Evidence%20base%20and%20technical%20studies/Ashdown-Forest-SPA-Monitoring-Strategy-%282018%29.pdf

1.3 Regulation 19 Consultations

1.3.1 The Felbridge Protection Group raised clear concerns over the lack of monitoring in its regulation 18 submission. In response, the Council committed to producing a topic paper to present evidence on visitor surveys in their Regulation 18 Consultation Report [C3] as below:

Habitats Regulations Assessment – General Comments

- The Council's evidence fails to show that development of the proposed sites at East Grinstead will have no adverse effect on the Ashdown Forest SPA and SAC. No monitoring available for the East Court & Ashplats Wood SANG and the SAMM Strategy to assess its effectiveness (Felbridge Protection Group).

Actions to Address Comments:

- In the next version of the HRA report provide additional information on the number of dwellings being assessed and the highways improvements.
- A SANG Topic Paper will be prepared to present evidence on visitor surveys.
- A monitoring strategy is being prepared for SAMM.

1.3.2 During the regulation 19 consultation, the Council confirmed that it was working on the topic paper and that it intended to submit the paper along with the submitted plan. However, no topic paper was submitted with the plan, and when challenged, the Council stated that it had then decided that a topic paper was no longer required. This was a volte face. No logical or adequate explanation has been given for this decision (Appendix A).

1.3.3 During the regulation 19 consultation, the Council also confirmed that a monitoring strategy was being prepared for the SAMM in partnership with other local authorities, despite having been a mitigation requirement for at least 10 years.

1.3.4 A SAMM is required in order to appropriately mitigate the recreational impact on the Ashdown Forest SAC/SPA for visitors who are either unaware of the Council's SANG provision or who are not attracted by it.

1.3.5 The Council have not provided an update on the progress of the SAMM strategy, yet the Conservators of Ashdown Forest believe it is still at formative stage, and that a SAMM project manager has yet to be appointed (see Appendix B).

1.3.6 In March 2021, Wealden were asked for details regarding the current status of the Strategic SAMM project but are still to respond (see Appendix C).

1.3.7 In its regulation 19 response, Natural England recommended that allocations within the Ashdown Forest zone of influence should contribute financially to the SAMM/SANGS mitigation strategy as per Local Plan policy DP17.

1.3.8 Natural England gave their support to the requirement to provide an alternative strategic SANGS adjacent to SA20 and also to the general findings of the HRA.

1.3.9 Their response was silent on past or future monitoring.

1.3.10 It is unclear whether Natural England were aware of the Council's position with regard to monitoring .

1.4 Monitoring evidence

1.4.1 Notwithstanding the statements made by Natural England in their regulation 19 submission, that they were in general support of the HRA, the last Ashdown Forest visitor survey was carried out in 2016, less than a year after the East Court & Ashplats Wood SANG became operational.

1.4.2 The 2018 Footprint Ecology Monitoring Strategy Report states that the 2016 visitor study would provide no more than a baseline for subsequent surveys. This Report therefore was not being held out as providing anything more than a starting point for future surveying. It was reasonably perceived that future surveying would be carried out.

1.4.3 The report also confirmed that the last visitor survey undertaken at East Court & Ashplats Wood was in 2013, two years before it became a SANG. This is incapable of presenting any up to date or reliable survey.

1.4.4 It is evident that there has been no active monitoring of the effectiveness of the Council's existing SANG to draw visitors away from the Ashdown Forest. The Council has provided no evidence to the contrary.

1.4.5 Further to the above, and in any event, there is no or inadequate evidence in support of the bald conclusion stated within the HRA that the plan will have no adverse effect on the integrity of the Ashdown Forest SPA/SAC. In order to found this definitive conclusion, with regard to individual and cumulative effects, there must be an adequate evidence base. A conclusion of non-adverse effects is also not one tied to effects that are significant. Effects may be insignificant but nonetheless material; Albeit, the conclusion expressed in the HRA wrongly states no adverse effects.

1.5 Has the precautionary principle been followed?

1.5.1 If therefore there is reasonable scientific doubt that the recreational disturbance from new development will have an adverse effect on the integrity of the SAC/SPA – which must be the case given the paucity of the evidence base - then the only outcome, following a proper application of the precautionary approach, is that allocations sited within 7km of the Ashdown Forest be withdrawn from the plan.

APPENDICES

Appendix A - Email correspondence with the Council re. SANGS Topic Paper and SAMM Progress

Appendix B - Email correspondence with the Conservators of Ashdown Forest re. SAMM

Appendix C - Email to Wealden Council re. Current Status of SAMM Strategy

APPENDIX A

From: Cox, Stephen J. <[redacted]>
Sent: 07 September 2020 14:08
To: planningpolicy <planningpolicy@midsussex.gov.uk>
Subject: Site Allocations Consultation

Dear Sirs,

In the "Actions to address comments" under the " Habitats Regulations Assessment – General Comments " section of the Regulation 18 Consultation Report, the Council committed to undertake the following four actions:

1. In the next version of the HRA report provide additional information on the number of dwellings being assessed and the highways improvements.
2. A SANG Topic Paper will be prepared to present evidence on visitor surveys.
3. A monitoring strategy is being prepared for SAMM.
4. Ongoing discussions with Wealden related to the findings of the Inspector's report into the Wealden Local Plan Examination.

I have been looking at the documents published to support the current site allocations consultation but can find no report of these actions. As there are a very large number of pages comprising all the supporting evidence perhaps I have simply missed them.

I would be grateful if you could let me know where I might find the reports of these actions please and if they are not available as links on the Council's website could you please e-mail the reports to me directly.

If on the other hand these actions are still to be addressed, could you confirm for each one the timetable for completing them please.

In view of the rapidly approaching end of the consultation period I would ask you to respond with the information requested at your earliest convenience.

Kindly yours,

Stephen Cox

From: planningpolicy <planningpolicy@midsussex.gov.uk>
Sent: 11 September 2020 12:20
To: Cox, Stephen J. <[redacted]>
Subject: RE: Site Allocations Consultation

Dear Mr Cox,

Thank you for your e-mail. I would like to provide the following response to your queries and direct you to the relevant information on our website which I hope you will find useful.

1. The HRA has been updated to support the Regulation 19 stage of the Site Allocations DPD. It can be found in the Regulation 19 consultation documents section at: https://www.midsussex.gov.uk/planning-building/development-plan-documents/

2. A SANG Topic Paper is currently being prepared. It is intended that this document will be finalised for the Submission stage of the Site Allocations DPD.

3. A SAMM monitoring strategy is being prepared in partnership with the other local authorities surrounding Ashdown Forest.

4. There is ongoing engagement with Wealden DC in relation to strategic cross-boundary matters. A Statement of Common Ground can be found in the Duty to Co-operate section at: https://www.midsussex.gov.uk/planning-building/development-plan-documents/site-allocations-dpd-evidence-library/

Kind regards,

[redacted]

From: Cox, Stephen J. <[redacted]>
Sent: 11 February 2021 17:15
To: planningpolicy <planningpolicy@midsussex.gov.uk>; [redacted]
Cc: [redacted]
Subject: Site Allocations Consultation

Dear Ms [redacted]

Further to your response to the queries I raised as part of the Sites Allocations DPD regulation 19 consultation I should be grateful for an update on points 2 and 3 please.

As both the SANG Topic Paper and SAMM Monitoring Strategy were listed as 'Actions to Address' regulation 18 comments relating to the Habitats Regulation Assessment I had understood that they would form part of the Site Allocations DPD submission papers.

Indeed, you said as much in your response when you said that it was the Council's intention to finalise the SANG Topic Paper for the submission stage of the Site Allocations DPD.

I have had a look on the Site Allocations DPD Evidence Page but I cannot find any reference to the SANG Topic Paper or SAMM Monitoring Strategy. Of course, there are a great number of documents so I have probably missed them.

Could you help me locate them please?

Kind regards,

Stephen Cox

From: [redacted]
Sent: 12 February 2021 16:37
To: Cox, Stephen J. <[redacted]>
Cc: [redacted]
Subject: RE: Site Allocations Consultation

Dear Mr Cox,

Thank you for your e-mail. You will note that Policy SA20 in the Submission Draft Site Allocations DPD is for a proposed housing allocation and includes a strategic SANG. This SANG is of a sufficient size to meet the need of the proposed housing allocations that would require SANG mitigation. Therefore, it was not considered necessary to prepare a SANG Topic Paper for submission.

In terms of a SAMM monitoring strategy, partnership work with the other local authorities surrounding Ashdown Forest is ongoing.

Kind regards,

[redacted]

From: Cox, Stephen J. <[redacted]>
Sent: 15 March 2021 08:53
To: [redacted]
Cc: [redacted]
Subject: Site Allocations Consultation

Dear Ms [redacted]

Thank you for clarifying the Council's position with regard to the SANGS topic paper ... which you say is no longer required.

I'm not sure I understand the reason you have given me for why the topic paper is no longer considered necessary, as it doesn't address the intended purpose given by the Council in its Regulation 18 Summary Report i.e. "A SANG Topic Paper will be prepared to present evidence on visitor surveys."

In any event, the principle of a strategic SANGS delivered alongside the SA20 allocation at Imberhorne Farm was established prior to the regulation 18 consultation! In addressing general comments on the Habitats Regulations Assessment raised during the regulation 18 consultation the Council felt it necessary to prepare this SANGS topic paper. Indeed, as recently as September 2020, the Council stated in its regulation 19 response that it was currently preparing the topic paper with the intention of submitting it alongside the DPD before the end of the year.

1. Could you clarify what changed in the 3 months between September and December last year for the Council to abandon its plans to produce and submit the SANGS topic paper please?

I note that SANGS at East Court & Ashplats Wood in East Grinstead has been in operation since 2015 and that its main purpose has been to reduce recreational pressure on the Ashdown Forest from new development within a 7km radius. Whilst I accept this approach to mitigating recreational impact has been well established ...

2. Could you let me know the date of the last Ashdown Forest visitor survey, and
3. What evidence the Council has to show that the SANGS mitigation strategy has been successful in attracting people away from the Ashdown Forest please?

Kind regards,

Stephen Cox

From: [redacted]
Sent: 31 March 2021 19:45
To: Cox, Stephen J. <[redacted]>
Cc: [redacted]
Subject: RE: Site Allocations Consultation

Dear Mr Cox,

Thank you for your e-mail. In response to your questions:

1. The Regulation 19 consultation finished on 28th September 2020. During the time between the close of the consultation and December 2020, the representations received were considered. It was concluded that there were no issues raised that were not already adequately addressed in the HRA report. Therefore a SANG Topic Paper was not required.

   Due to the COVID-19 pandemic, any SANG visitor surveys anticipated to take place in 2020 were not undertaken as a result of government restrictions in place and that the visitor survey would not represent a normal year.

   Furthermore, as indicated in its Regulation 19 consultation response to the Site Allocations DPD, Natural England (the statutory consultee) has confirmed that it concurs with the conclusions of the HRA and the approach to Ashdown Forest including the SANG and SAMM mitigation.

2. The last Ashdown Forest visitor survey was in 2016.

3. The principle of using Suitable Alternative Natural Greenspace (SANG) as mitigation to offset the impact of new development on Special Protection Areas (SPA), such as Ashdown Forest, is well established and is used to mitigate impacts at other SPAs including the Thames Basin Heaths and Dorset Heaths. Natural England has confirmed that SANG and SAMM is a suitable approach to mitigation for Ashdown Forest in a Statement of Common Ground (Site Allocations DPD Evidence Library – reference DC19). It is therefore considered to be an effective measure to attract visitors away from SPA sites and mitigate impacts of new development. The Inspector for the District Plan also confirmed that the District Plan policy on Ashdown Forest (now Policy DP17), which introduced SANG and SAMM, is appropriate commenting that with this policy in place the spatial strategy and the overall housing requirement can be implemented without harm to the SPA.

Kind regards,

From: Cox, Stephen J. <[redacted]>
Sent: 06 April 2021 10:35
To: [redacted]
Cc: [redacted]
Subject: RE: Site Allocations Consultation

Dear Ms [redacted]

I do not feel that the Council have properly responded to my question.

I asked for an explanation as to why the council suddenly decided to drop its requirement to prepare a SANGS topic paper to present evidence or visitor surveys to support the Site Allocations DPD. I was hoping for a credible response but at the second time of asking I have been given a different but equally misleading explanation.

I accept that during the period between the regulation 19 consultation and the DPD submission, the Council changed its mind about producing the topic paper … despite it being confirmed to me just a month or two earlier that it was 'currently being prepared'.

What I find difficult to accept is the reasons advanced by the Council for considering it was no longer required.

> *"The Regulation 19 consultation finished on 28th September 2020. During the time between the close of the consultation and December 2020, the representations received were considered. It was concluded that there were no issues raised that were not already adequately addressed in the HRA report. Therefore a SANG Topic Paper was not required."*

I was initially informed of the Council's decision not to proceed with the SANGS topic paper in the email response to me on 12th February. On that occasion the reason given was that the strategic SANGS on the SA20 site was of sufficient size to support the allocation.

> *'You will note that Policy SA20 in the Submission Draft Site Allocations DPD is for a proposed housing allocation and includes a strategic SANG. This SANG is of a sufficient size to meet the need of the proposed housing allocations that would require SANG mitigation. Therefore, it was not considered necessary to prepare a SANG Topic Paper for submission."*

This was not a credible explanation for the reasons outlined in my reply on 15th March … namely that the size of the SANGS had been known prio to the Council's decision to prepare the topic paper, and in any event, that the proposed SANGS characteristics could not genuinely substitute for evidence on visitor surveys.

In the email dated 31st March the Council have given me an entirely different explanation. This time claiming that the SANGS topic paper wasn't required because the Council's HRA adequately addressed all the issues raised in response to the consultations. This new explanation appears equally baseless. I have carefully read the submission version of HRA and can't find any reference to visitor surveys that could possibly address concerns raised during the regulation 18 and 19 consultations.

> *"It was concluded that there were no issues raised that were not already adequately addressed in the HRA report. Therefore a SANG Topic Paper was not required"*

The Felbridge Protection Group raised the following point as part of its regulation 18 submission:

> *"The SANGS is designed to attract potential visitors away from Ashdown Forest to the alternative green spaces - the SANGS. This policy was based on visitor survey evidence from 2010 and a theoretical mitigation approach. This policy has ostensibly been in operation since 2014 yet we have been unable to find any monitoring reports and no analysis of its effectiveness (or lack thereof). After five years and with the Council now proposing to further increase the potential risk with additional development within 7km of Ashdown Forest under the Site Allocations DPD, it would seem essential that the Council carry out appropriate work to show that their SANGS approach is effective against measurable deliverables. Yet no such evidence is made available."*

The Infrastructure First Group raised a similar point as part of its regulation 19 submission:

> *"The very need for mitigation confirms that there is a significant risk to the Ashdown Forest and as the effectiveness of the mitigation measures has not been evaluated by MSDC, their true effectiveness remains to be seen. For example, the SANGS policy with its site at East Court in East Grinstead has been in place for almost a decade but MSDC have done no measuring or monitoring of it. The purpose is to divert visitors, especially those walking dogs, away from Ashdown Forest to reduce the 'disturbance' effects. Since no measuring or monitoring has taken place there can be no way of knowing whether the theoretical benefit of the mitigation has been delivered or whether the 'disturbance' on Ashdown Forest that it is designed to mitigate is in fact happening nonetheless."*

Not only were these concerns not adequately addressed in the submission version of the HRA, they weren't addressed at all.

Could you please explain:

1. Why the Council has chosen not to address these legitimate concerns relating to the monitoring of its Habitats Regulations mitigation, and,
2. Why the Council is saying that it has addressed these concerns in an attempt to justify its decision to abandon the topic paper.

Regards,

From: [redacted]
Sent: 20 April 2021 14:33
To: Cox, Stephen J. <[redacted]>
Cc: [redacted]
Subject: RE: Site Allocations Consultation

Dear Mr Cox,

Thank you for your e-mail. In our previous responses we have explained why a SANG Topic Paper was not prepared and we have also highlighted that Natural England has confirmed that SANG and SAMM mitigation is a suitable approach for Ashdown Forest. The HRA for the Site Allocations DPD confirms the principle of the approach to Ashdown Forest and has concluded that the strategic cross-boundary solution supported by Natural England and as set out in the District Plan through Policy DP17 remains appropriate and the mitigation continues to be suitable for the proposed site allocations. This mitigation includes a strategic SANG as part of Policy SA20.

You reference the Infrastructure First Regulation 19 representation. The Inspector has received a copy of this representation and Infrastructure First has indicated that it would like to appear at the Examination Hearings. The Inspector for the Site Allocations DPD will decide if he wishes to discuss this matter further during the Examination process.

Kind regards,

[redacted]

APPENDIX B

From: Conservators [mailto:conservators@ashdownforest.org]
Sent: 24 March 2021 12:18
To: Paul Tucker
Subject: RE: Can you help please?

Dear Mr Tucker,

I don't really have any other information for you, unfortunately.

Wealden District Council have been coordinating SAMMS on behalf of the neighbouring district councils. They will have more information about the progress of this project to date.

I'm sorry I cannot be of more help.

Kind regards,
Katherine Meade
Forest Centre Office and Business Development Manager

From: Paul Tucker <[redacted]>
Sent: 19 March 2021 17:52
To: Conservators <conservators@ashdownforest.org>
Subject: RE: Can you help please?

Hi Katherine,

Thank you very much for responding so quickly … your response was much appreciated.

I'm a little confused though … the Strategic Access Management and Monitoring Strategy was first established as a mitigation strategy many years ago. Are you saying that to date nothing much has been done?

Thank you

Paul Tucker

From: Conservators [mailto:conservators@ashdownforest.org]
Sent: 19 March 2021 17:00
To: Paul Tucker
Subject: RE: Can you help please?

Dear Mr Tucker,

Thank you for your email.

Wealden District Council are taking the lead on this project, which is still in its infancy. I understand there are plans to recruit a project manager and the details for this will be on the Wealden District Council website when it has been approved.

Unfortunately, I have no other information to give at this time but suggest the WDC website will be the place to look.

I hope this helps.

Katherine Meade
Forest Centre Office and Business Development Manager

APPENDIX C

From: Paul Tucker [redacted]
Sent: 24 March 2021 12:44
To: 'Planning Policy'
Subject: RE: MSDC Site Allocations DPD Regulation 19 Response

I note from the Mid Sussex response to a habitats regulations query raised as part of their site allocations DPD consultation that they are in the process of preparing a SAMM monitoring strategy with other local authorities surrounding the Ashdown Forest.

As the main council responsible for the Ashdown Forest I have a few questions please …

1. What is the current status of the SAMM monitoring strategy?
2. What are the timescales for this strategy to be implemented?
3. In the meantime what measures have been implemented to minimise the impact of visitors?

Thank you

Paul Tucker