

Horsted Keynes Neighbourhood Plan

Habitats Regulations Assessment Screening Report

Produced for Regulation 16 of the Neighbourhood Planning (General) Regulations 2012

4th July 2022

1.0 Introduction

1.1 This Habitats Regulations Assessment (HRA) screening report has been undertaken by Mid Sussex District Council in respect of the Horsted Keynes Neighbourhood Plan which has been produced by Horsted Keynes Parish Council in accordance with the Neighbourhood Planning (General) Regulations 2012. This HRA screening report accompanies the Horsted Keynes Neighbourhood Plan produced for Regulation 16 of the Neighbourhood Planning (General) Regulations 2012.

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

‘In 2031 Horsted Keynes remains an attractive rural village, centred on the village green, and is a desirable place to live, work and visit.

‘It has a thriving local economy and is able to sustain sufficient essential services and facilities to meet most local needs. Homes are available for all stages of life and circumstances and there is a strong sense of local community which contributes to low levels of crime.

‘Development has taken place in a sustainable way, at a scale and form that preserves the distinctive rural character, landscape and community ethos.’

(Horsted Keynes Neighbourhood Plan Submission Version, June 2022: page 19).

1.3 If the Horsted Keynes Neighbourhood Plan is approved by the local community through a referendum and subsequently 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 which was adopted in March 2018. It is considered that the background information in the District Plan HRA can be used for this screening report of the Horsted Keynes 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](#).

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 Regulation 105 of the Conservation of Habitats and Species Regulations 2017 (the 'Habitats Regulations') 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'.

2.3 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 and the first stage considers any likely significant effects (the screening 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. The appropriate assessment looks at the implications of a plan for a European site in view of the site's conservation objectives. 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).

2.4 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 1990¹. One of these basic conditions

¹ Regulation 15(1)(d).

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 sites² were identified through the District Plan HRA process, and of these, the screening for the District Plan identified likely significant effects on the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC) as a result of recreational disturbance and atmospheric pollution. Ashdown Forest lies adjacent to the north-east boundary of Mid Sussex and within Wealden District 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 effects³ 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.

² Ashdown Forest SPA, Ashdown Forest SAC, Castle Hill SAC, Lewes Downs SAC, and Mole Gap to Reigate Escarpment SAC.

³ 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.

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) (November 2017). It is considered that that assessment can be applied to the HRAs for neighbourhood plans.

- 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 District Plan contains measures to encourage sustainable transport and the requirements for avoidance and mitigation in relation to air pollution.
- 4.4 Policy DP17 in the District Plan 2014-2031 (March 2018) outlines the approach to protecting Ashdown Forest. Any residential development allocation included within the Horsted Keynes 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 The District Plan HRA considered 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 SANG and SAMM measures.

5.0 Screening Assessment for the Horsted Keynes 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 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 **Is the Horsted Keynes Neighbourhood Plan directly connected with or necessary to the management of a European site for nature conservation?**

From review of the Horsted Keynes 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.

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

No – although the Horsted Keynes designated Neighbourhood Development Plan area contains two site allocations within the Site Allocations DPD (adopted June 2022) which have also been subject to HRA.

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

Yes, the 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 Horsted Keynes Neighbourhood Plan has been assessed as part of the housing strategy considered through the District Plan HRA.

The Horsted Keynes 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.

Atmospheric Pollution

5.5 In March 2017, the High Court handed down a judgment in relation to nitrogen deposition on the Ashdown Forest SAC. Wealden District Council brought a legal challenge against the Joint Core Strategy prepared by Lewes District Council and the South Downs National Park Authority. The legal challenge centred on the assessment of air quality impact on the Ashdown Forest SAC which was based on advice provided by Natural England. The *Wealden* judgment found that the advice provided by Natural England on the in combination assessment was flawed and the outcome was that the judge quashed part of the Joint Core Strategy.

5.6 The potential air quality impacts on the Ashdown Forest SAC arise from additional nitrogen deposition resulting from increased traffic emissions as a consequence of new development. Natural England had advised that the Design Manual for Roads and Bridges could be used to assess air quality impacts, applying the 1,000 Annual Average Daily Traffic methodology. It was advised that if the development proposals in a Plan by itself were calculated to be below 1,000 AADT, then the air pollution impacts could be considered not significant and no further work would be needed.

5.7 The judge had to consider if development could be screened out for Habitats Regulations purposes if the development did not cause an increase of more than 1,000 AADT on roads

within and surrounding Ashdown Forest where the assessment looked at the effects of the development by itself (alone). However, the judge found that the advice provided by Natural England was erroneous and that an assessment of air quality impact should include other development proposals thus considering the in combination effect of nitrogen deposition from increased traffic.

- 5.8 However, the judge gave no ruling as to the practical effects of the judgment. The parameters for any assessment of traffic impact are now unclear beyond a general presumption that any development that is likely to lead to air quality impacts on the Ashdown Forest SAC in the form of additional traffic will need to be considered through a Habitats Regulations Assessment.
- 5.9 An updated HRA for the Main Modifications District Plan was produced in September 2017⁴. This considered the implications of the *Wealden* judgment following further transport modelling and air pollution modelling analysis commissioned by the District Council. This HRA screening report should be read in conjunction with the updated District Plan HRA.
- 5.10 The transport modelling shows that the Development Case results in an overall modest reduction in traffic on the assessed routes. However, the reduction of traffic flows on the A22 and A26 is matched by an increase in traffic flows on the A275. This has been assessed further through air pollution modelling which focused on the amount of nitrogen deposition from the additional traffic-source pollution contributed by developments proposed in the District Plan, in combination with growth assumptions for surrounding local authority areas. The analysis indicates that the predicted increase in nitrogen deposition is not considered to be ecologically significant. The overall effect of the District Plan's process contribution to pollution deposition within qualifying SAC habitats can be considered neutral.

Screening Assessment

- 5.11 The following table illustrates the findings of the screening assessment for each of the policies within the Horsted Keynes Neighbourhood Plan. This assesses whether there is a likely significant effect from these policies on the Ashdown Forest SPA and SAC.
- 5.12 For it to be concluded that a policy would have no likely significant effect on a European site, one of the following reasons usually applies⁵:
- 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;

⁴ Habitats Regulations Assessment for the Mid Sussex District Plan: Appropriate Assessment Report for the Main Modifications District Plan (September 2017): www.midsussex.gov.uk/districtplan.

⁵ This is taken from work by David Tyldesley and Associates for Scottish Natural Heritage (now NatureScot). It is noted that there is a different legislative framework in Scotland, however, in the absence of formal guidance for England, Natural England recommended the use of this guidance for neighbourhood plan HRAs.

- 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.

Horsted Keynes Neighbourhood Plan Policy	Policy	Comment	Likely Significant Effect on the Ashdown Forest SPA and SAC
HK1	Location of new development	This policy seeks to focus new development within the built-up area boundary of Horsted Keynes.	No likely significant effect – reason c).
HK2	Community-led housing	This policy supports community-led housing subject to criteria.	No likely significant effect – reason b).
HK3	Dwelling mix	This policy seeks a majority of smaller dwelling sizes in new residential development.	No likely significant effect – reason b).
HK4	Maintaining local character and good quality design	This policy seeks good quality design from new development that maintains the distinct local character.	No likely significant effect – reasons a) and b).
HK5	Infill development and residential extensions	This policy supports infill development and domestic extensions provided they meet a number of criteria.	No likely significant effect – reason b).
HK6	Conserving local heritage	This policy seeks to preserve or enhance the Conservation Area and listed buildings.	No likely significant effect – reason a).
HK7	Local green spaces	This policy designates three areas as local green spaces.	No likely significant effect – reason a).

Horsted Keynes Neighbourhood Plan Policy	Policy	Comment	Likely Significant Effect on the Ashdown Forest SPA and SAC
HK8	Recreation	This policy supports improvements or extensions to facilities on recreation land.	No likely significant effect – reason b).
HK9	The High Weald Area of Outstanding Natural Beauty	This policy seeks to conserve and enhance the High Weald AONB.	No likely significant effect – reason a).
HK10	Protection and improvement of natural habitats	This policy seeks to protect the natural environment and biodiversity.	No likely significant effect – reason a).
HK11	Low-carbon design and renewable energy schemes	This policy requires development to be ‘zero carbon ready’ and supports the use of low energy and renewable energy schemes.	No likely significant effect – reasons a) and b).
HK12	Sustainable drainage system design and management	This policy requires that sustainable drainage systems are incorporated into new developments.	No likely significant effect – reason b).
HK13	Light pollution	This policy seeks to reduce light pollution from new development.	No likely significant effect – reason b).
HK14	Expansion of existing commercial premises	This policy supports the expansion of existing commercial premises subject to a number of criteria.	No likely significant effect – reason b).
HK15	Broadband and telecommunications	This policy supports proposals to provide broadband and telecommunications services and has some requirements for above ground network installations.	No likely significant effect – reasons b) and c).
HK16	Loss of existing public car parks	This policy requires the loss of public off-road parking spaces to make alternative provision to maintain or increase the number of parking spaces.	No likely significant effect – reason b).

Horsted Keynes Neighbourhood Plan Policy	Policy	Comment	Likely Significant Effect on the Ashdown Forest SPA and SAC
HK17	Cycleways and footways	This policy seeks footways and cycleways in new developments to link to community facilities in the village.	No likely significant effect – reason b).

5.13 No policies in the Horsted Keynes Neighbourhood Plan were found to have a likely significant effect alone on the Ashdown Forest SPA and SAC, nor have any policies been given reason d) (minor residual effect). 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

5.14 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.

5.15 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. The SANG and SAMM mitigation approach is part of the strategic solution for Ashdown Forest.

5.16 All affected local authorities are involved in the development of the Joint SAMM Strategy and their work on mitigation demonstrates their commitment to protecting the Ashdown Forest SPA and SAC under the Habitats Regulations.

5.17 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 Horsted Keynes

Neighbourhood Plan. A full HRA (that is, the appropriate assessment stage that ascertains the effect on integrity of the European site) of the Horsted Keynes Neighbourhood Plan is not required as the Neighbourhood Plan does not propose new residential development within the 7km zone of influence for the Ashdown Forest SPA.

- 6.2 The transport modelling and air pollution analysis work undertaken for the District Plan HRA takes into account the Horsted Keynes Neighbourhood Plan. The Horsted Keynes Neighbourhood Plan has been assessed strategically through the work undertaken for the District Plan so further work is not necessary for the Horsted Keynes Neighbourhood Plan.
- 6.3 Through the conclusions of the District Plan HRA, this screening assessment shows that there would be no likely significant effects on the Ashdown Forest SAC from the policies in the Horsted Keynes Neighbourhood Plan.
- 6.4 As a precautionary measure, any residential development proposed within Horsted Keynes 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.

Development Management

01444 – 477566

planninginfo@midsussex.gov.uk

Approved by:



Sally Blomfield

Divisional Leader for Planning and Economy

Date: 4th July 2022

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

