

Horsted Keynes Neighbourhood Plan

Habitats Regulations Assessment – Updated Screening Report

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

16th October 2017

1.0 Introduction

- 1.1 A Habitats Regulations Assessment (HRA) screening report and appropriate assessment was 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 is an updated HRA screening report following the *Wealden* case¹ and Natural England's comments on the previous version of the HRA for the Horsted Keynes Neighbourhood Plan.
- 1.2 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.
- 1.3 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.
- 1.4 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.

¹ Wealden District Council v Secretary of State for Communities and Local Government & Ors [2017] EWHC 351 (Admin) (20 March 2017): <http://www.bailii.org/ew/cases/EWHC/Admin/2017/351.html>.

1.5 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.

2.0 Updated District Plan HRA

2.1 An updated HRA for the Main Modifications District Plan was produced in September 2017². This considered the implications of the *Wealden* judgment following further transport modelling and air pollution modelling analysis commissioned by the District Council. This updated HRA screening report should be read in conjunction with the updated District Plan HRA.

2.2 The Mid Sussex Transport Study (Amey, 2017) uses a Reference Case (which represents forecast baseline traffic flows at 2031) to predict the additional traffic flow impacts of a future Development Case scenario which could occur under the District Plan. The transport modelling exercise, which MSDC has undertaken, allows for provision in total of 17,797 homes. This comprises: completions (since 2008 as the base date of the model) of 5,234 dwellings (of which 2,426 dwellings have been completed since the Plan's start date of 2014); commitments (with planning permission) of 5,086 dwellings; existing allocations in the Mid Sussex District Plan and Neighbourhood Plans of 5,824 dwellings; the delivery of growth in line with the settlement hierarchy set out in District Plan Policy DP5 (based on expected housing sites beyond the 5 year supply) of 1,158 dwellings; and a proportionate windfall allowance of 495 dwellings. The development proposed in Policies HK17, HK18 and HK19³ of the Horsted Keynes Neighbourhood Plan (Submission version, October 2017) has been included within the transport modelling work.

2.3 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.

² 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.

³ These policies were previously referenced as HK19, HK20 and HK21 in the March 2017 Submission version of the Neighbourhood Plan. Policies HK6 and HK7 in the March 2017 Submission version of the Neighbourhood Plan have also now been deleted from the October 2017 Submission version of the Neighbourhood Plan.

3.0 Conclusion of the Screening Assessment

- 3.1 The transport modelling and air pollution analysis work undertaken for the District Plan HRA includes the development proposed through 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.
- 3.2 Through the conclusions of the District Plan HRA, this updated 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.
- 3.3 As an additional precautionary measure, it is recommended that applicants contact the District Council for advice specific to the proposals in a planning application.

Development Management

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Approved by:



Sally Blomfield

Divisional Leader for Planning and Economy

Date: 16th October 2017

Horsted Keynes Neighbourhood Plan

Habitats Regulations Assessment

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

5th April 2017

1.0 Introduction

- 1.1 A Habitats Regulations Assessment (HRA) screening report was 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 accompanies the Horsted Keynes Neighbourhood Plan produced for Regulation 16 of the Neighbourhood Planning (General) Regulations 2012.
- 1.2 The screening assessment found that there would be no likely significant effect on the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC) from the majority of policies included within the Horsted Keynes Neighbourhood Plan. It was found, however, that the development proposed in Policies HK19, HK20 and HK21 will have a likely significant effect alone since it is within 7km of the Ashdown Forest SPA (Appendix 1). An appropriate assessment is, therefore, required to test these policies further.
- 1.3 Further background to this HRA can be found in the screening report for the Horsted Keynes Neighbourhood Plan (Appendix 4).
- 1.4 Much of the information used for this HRA has been developed through the HRA for the Mid Sussex District Plan. The most recent version of this document was published in October 2015, but the District Plan has not yet been adopted. It is considered, however, that the background information in the District Plan HRA can be used for this HRA of the Horsted Keynes Neighbourhood Plan and as such, this HRA should be read in conjunction with it.
- 1.5 Further detail can be found in the [HRA for the Mid Sussex District Plan](#), other [supporting documents](#) and the [District Plan](#).
- 1.6 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 2.0⁴
 - 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 Directive⁵

⁴ <http://www.snh.gov.uk/planning-and-development/environmental-assessment/habitat-regulations-appraisal/>

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 Appropriate Assessment

- 2.1 The appropriate assessment stage focuses on Policies HK19, HK20 and HK21 of the Horsted Keynes Neighbourhood Plan. It was considered during the screening assessment that these policies are likely to have a significant effect on the Ashdown Forest SPA and SAC because it seeks to allocate land for residential dwellings. They, therefore, need to be tested further. Mitigation can be applied at this stage and then it can be determined if the Horsted Keynes Neighbourhood Plan would adversely affect the integrity of the European site. If it is concluded that there would be an adverse effect on the integrity of the Ashdown Forest SPA, then the Horsted Keynes Neighbourhood Plan should not be given effect.
- 2.2 The Habitats Regulations do not specify how the assessment should be undertaken, but describe it simply as an ‘appropriate assessment’. This is taken to mean that the assessment must be appropriate to its purpose under the Habitats Regulations (and also the Habitats Directive). Regulation 102 of the Conservation of Habitats and Species Regulations 2010 refers to an appropriate assessment being made of the implications of a plan for a European site in view of the site’s conservation objectives, and this should have regard to the precautionary principle.
- 2.3 The conclusions of the appropriate assessment should enable the competent authority to ascertain whether the proposal would adversely affect the integrity of the site (the Ashdown Forest SPA). Integrity has been defined as ‘the coherence of its ecological structure and function, across its whole area, that enables it to sustain the habitat, complex of habitats and/ or the levels of populations of the species for which it was classified’ (ODPM, 2005⁵). For example, an adverse effect on integrity would be something that impacts on the site’s ecological structure and functioning and/ or affects the ability of the site to meet its conservation objectives.
- 2.4 Natural England has published the conservation objectives for the Ashdown Forest SPA and SAC (see Appendix 2 and 3) and where the objectives are met, the site can be said to demonstrate a high degree of integrity and the site itself makes a full contribution to achieving favourable conservation status for those features (favourable conservation status is defined by Article I of the Habitats Directive). A natural habitat favourable conservation status is achieved when:

⁵ <http://www.cgc.gov.uk/landscape--wildlife/managing-land-and-sea/environmental-assessment/habitats-regulations-assessmen.aspx>

⁶ ODPM (2005) Government Circular 06/2005: Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System

- The natural range and areas it covers within that range are stable or increasing, and
- The specific structure and functions which are necessary for its long-term maintenance exist and are likely to continue to exist for the foreseeable future, and
- The conservation status of its typical species is favourable.

A species favourable conservation status is achieved when:

- Population dynamics data on the species concerned indicate that it is maintaining itself on a long-term basis as a viable component of its natural habitats, and
- The natural range of the species is neither reduced nor is likely to be reduced for the foreseeable future, and
- There is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long-term basis.

Impact Source, Impact Pathway and Potential Adverse Effects

2.5 The impact source and pathway for recreational disturbance have been explained in the District Plan HRA (see Chapter 6: Disturbance Impact Pathways). In summary, new residential development within 7km of the Ashdown Forest SPA is likely to have a significant effect and this is due to additional visitors to Ashdown Forest and resulting recreational disturbance to the bird species. Policies HK19, HK20 and HK21 of the Horsted Keynes Neighbourhood Plan, therefore, may lead to more people visiting Ashdown Forest and potentially resulting in disturbance to the ground-nesting birds, particularly during the bird breeding season and from freely roaming dogs.

2.6 The impacts to heathland breeding birds can be summarised as follows:

- Increased nest predation by natural predators when adults are flushed from the nest or deterred from returning to it by the presence of people or dogs;
- Chicks or eggs dying of exposure because adult birds are kept away from the nest;
- Accidental trampling of eggs by people, where nests are on the ground and may be close to paths;
- Predation of chicks or eggs by domestic dogs; and
- Increasing stress levels in adult birds in response to perceived predation risk.

2.7 Data analysis of the Ashdown Forest visitor survey⁷ indicates that:

- The current level of visitor pressure is not affecting the distribution of nightjar, woodlark⁸ or Dartford warbler within the Ashdown Forest SPA, although there will be a point at which levels of visitor pressure are so great that birds will abandon otherwise suitable breeding habitat and the ability of the site to support a given density of birds will be compromised.

⁷ Clarke, R. T., Sharp, J. and Liley, D. (2010) Ashdown Forest Visitor Survey Data Analysis: Natural England Commissioned Reports, Number 048: <http://www.midsussex.gov.uk/planning-licensing-building-control/planning-policy/local-development-framework/district-plan/habitats-regulations-assessment/>

⁸ The woodlark is present in qualifying numbers on Ashdown Forest, but it is not listed as a qualifying feature of the Ashdown Forest SPA.

- The current level of visitor pressure is not displacing the birds from otherwise suitable habitat, however, the level at which recreational pressure will be such that birds will begin to be displaced is not known.
- Evidence from other sites would suggest that if access levels were to increase, there may be avoidance of otherwise suitable habitat and there may be impacts on breeding success.
- Recreational disturbance may still be having an impact on the Annex I bird species at Ashdown Forest and ‘in the absence of data on breeding success, and without understanding why bird densities are low, it currently cannot be concluded on the basis of scientific evidence that the ecological integrity of nightjar and Dartford warbler populations is not being adversely affected by a combination of existing pressure and/ or habitat management’ (p29).
- An increase in population from new residential development is likely to result in additional recreational pressure on Ashdown Forest.

2.8 The data analysis report⁹ concludes that ‘information is not available to say definitively whether the quantum of new housing proposed in the vicinity of Ashdown Forest will impact upon breeding success or cause bird displacement. Taking into account the wider body of research available, along with the principles established and mitigation and monitoring being pursued as a result of plan level Habitats Regulations Assessments at other heathland sites, it is advised that a similar approach should be taken forward for Ashdown Forest SPA’ (p30).

2.9 In accordance with the precautionary principle and the analysis of the findings of the visitor survey, mitigation measures, therefore, are required to remove or reduce the effects of the Horsted Keynes Neighbourhood Plan on the Ashdown Forest SPA.

Mitigation

2.10 As this proposed site allocation for development is located within the 7km zone of influence, it is within the area where mitigation would be most effective and it is recommended that mitigation is provided for residential development that comes forward in the Neighbourhood Plan Area. The following paragraphs detail the mitigation proposed to counter the effects of recreational disturbance on the Ashdown Forest SPA, and this approach was examined in the District Plan HRA (see Chapter 6: Disturbance Impact Pathways). 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.

⁹ Clarke, R. T., Sharp, J. and Liley, D. (2010) Ashdown Forest Visitor Survey Data Analysis: Natural England Commissioned Reports, Number 048: <http://www.midsussex.gov.uk/planning-licensing-building-control/planning-policy/local-development-framework/district-plan/habitats-regulations-assessment/>

- 2.11 There are two parts to the mitigation. A site of Suitable Alternative Natural Greenspace (SANG) could either be provided on the development site or through a contribution to a strategic SANG. The purpose of SANGs is to provide alternative greenspace to divert visitors from visiting the Ashdown Forest SPA and to prevent an overall increase in visitors. Natural England has provided guidance on the criteria for SANGs and at the South East Plan Examination, it was accepted that a minimum standard of 8Ha per 1000 net increase in population was appropriate for the Thames Basin Heaths and so this standard has been adopted for Ashdown Forest. The District Council has agreed a strategic SANG site for the District at [East Court & Ashplats Wood](#), East Grinstead and a series of enhancement works will help to make the site attractive to visitors.
- 2.12 The second part of mitigation is to provide a contribution towards a Strategic Access Management and Monitoring (SAMM) strategy. This aims to manage visitors on-site at Ashdown Forest and the strategy will involve joint working with the other affected local authorities, the Conservators of Ashdown Forest and Natural England. This work on a SAMM strategy is currently in progress, although the District Council is currently implementing an [interim SAMM mitigation strategy](#) applicable to relevant planning applications.
- 2.13 For mitigation to be sufficient to ascertain that the plan would not adversely affect the integrity of a European site, there needs to be certainty as to its implementation and delivery. It should also be referenced and detailed in a policy in an appropriate planning document such as the District Plan or a neighbourhood plan. It is considered that there are sufficient mitigation measures in the policy framework of the emerging District Plan (see Box 1) and those currently being implemented to apply to the amount of development proposed in the Horsted Keynes Neighbourhood Plan.

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

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

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

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

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

Within a 7km zone of influence around the Ashdown Forest SPA, residential development leading to a net increase in dwellings will be required to contribute to mitigation through:

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

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

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

Box 1: Emerging policy for the Ashdown Forest SPA (Submission District Plan 2014-2031 – August 2016).

In Combination Effects

- 2.14 The requirement for mitigation means that any impact on the Ashdown Forest SPA from the Horsted Keynes Neighbourhood Plan is avoided or reduced and, therefore, there is no effect to assess in combination with other plans.
- 2.15 Other neighbourhood plans and windfall sites within the 7km zone in Mid Sussex will also be required to provide mitigation for development where there is a net increase in dwellings and any in combination effect will be taken into account through the overall mitigation strategy (that is, SANG and SAMM). 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.
- 2.16 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.
- 2.17 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 SAMM¹⁰. Tunbridge Wells Borough Council has not allocated any sites within the 7km zone of influence, but contributions may be provided towards SAMM where appropriate¹¹. 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.

- 2.18 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.

3.0 Initial Conclusion and Recommendations

- 3.1 The District Plan HRA assessed if the ecological integrity of the Ashdown Forest SPA would be adversely affected as a result of the District Plan (see Chapter 8: Summary and Conclusions). It concluded that mitigation measures were capable of being delivered and implementation of this mitigation would mean no adverse effects on integrity were expected.
- 3.2 The provision of mitigation in the form of both SANG and SAMM is essential to the housing proposals in the Horsted Keynes Neighbourhood Plan to ensure no adverse effect on the integrity of Ashdown Forest.
- 3.3 In view of the conclusions of the District Plan HRA and subject to the mitigation, it is considered from the appropriate assessment above that there would be no adverse effect on the integrity of the Ashdown Forest SPA and SAC from the policies included within the Horsted Keynes Neighbourhood Plan.
- 3.4 Any residential development that is included as an allocation within the Horsted Keynes Neighbourhood Plan or comes forward as a planning application will be subject to the recommendations of the HRA. Mitigation will be required for residential development¹² that results in a net increase in dwellings and this mitigation should consist of a contribution towards both SANG and SAMM. It is recommended that in advance of the adoption of the District Plan and the relevant policy, the neighbourhood plan should make reference to provision of SANG and SAMM mitigation to demonstrate the need for mitigation and to ensure certainty of implementation.
- 3.5 It is recommended that applicants contact the District Council for advice specific to the proposals in a planning application. Applicants are also strongly advised to contact the

¹⁰ Lewes District Council (2014) Habitats Regulations Assessment Background Paper:
<http://www.lewes.gov.uk/planning/20408.asp>

¹¹ 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>

¹² Further detail on the types of development that will require mitigation will be provided in the SANG and SAMM strategies.

District Council prior to submitting a planning application should they be considering providing their own SANG or other forms of mitigation.

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4.0 Comments from Natural England

4.1 Natural England was consulted on this HRA for the Horsted Keynes Neighbourhood Plan. Their comments are set out below:

4.2

An existing mitigation package is already in place within Mid Sussex District for development coming forward that would result in additional recreational pressure on Ashdown Forest. This is the agreed two prong approach of the developer funded strategic management and monitoring strategy (SAMM) and suitable alternative natural greenspace (SANG) referred to in the HRA.

Natural England concur with the conclusion of the HRA with respect to recreational pressure that there would be no adverse effect on the integrity of Ashdown Forest SPA and SAC due to the agreed mitigation measures that would avoid such an effect.

Section 4.3 of the Screening Report (17th March) refers to air quality impacts. Please note the following.

A High Court judgment was handed down on 20 March 2017 in Wealden District Council v Secretary of State for Communities and Local Government, Lewes District Council and South Downs National Park Authority [2017] EWHC 351 (Admin). Wealden District Council brought a challenge against a Joint Core Strategy produced by two of its neighbouring authorities. Natural England provided advice to Lewes District Council and the South Downs National Park Authority on the assessment of air quality impact on Ashdown Forest SAC. This advice was based on nationally developed guidance agreed with other UK statutory nature conservation bodies. The court found that Natural England's advice on the in-combination assessment of air quality impacts in this case was flawed. We are considering the details of this decision and the implications for our advice. Competent authorities should seek their own legal advice on any implications of this recent judgment for their decisions.

5.0 Overall Conclusion

5.1 Natural England concurs with the conclusions of this HRA for the Horsted Keynes Neighbourhood Plan with respect to recreational disturbance. Taking into account Natural England's comments, the overall conclusion of this HRA for the Horsted Keynes Neighbourhood Plan with respect to recreational disturbance is that subject to mitigation being provided (in the form of SANG and SAMM contributions) and in view of the

conclusions of the District Plan HRA, it is considered that there would be no adverse effect on the integrity of the Ashdown Forest SPA from the policies in the Horsted Keynes Neighbourhood Plan.

- 5.2 In relation to the Ashdown Forest SAC and potential air quality impacts, Natural England's advice is noted and it is recommended that the implications of the High Court judgment are considered further to assess if the Horsted Keynes Neighbourhood Plan will have a likely significant effect on the Ashdown Forest SAC.

Approved by:

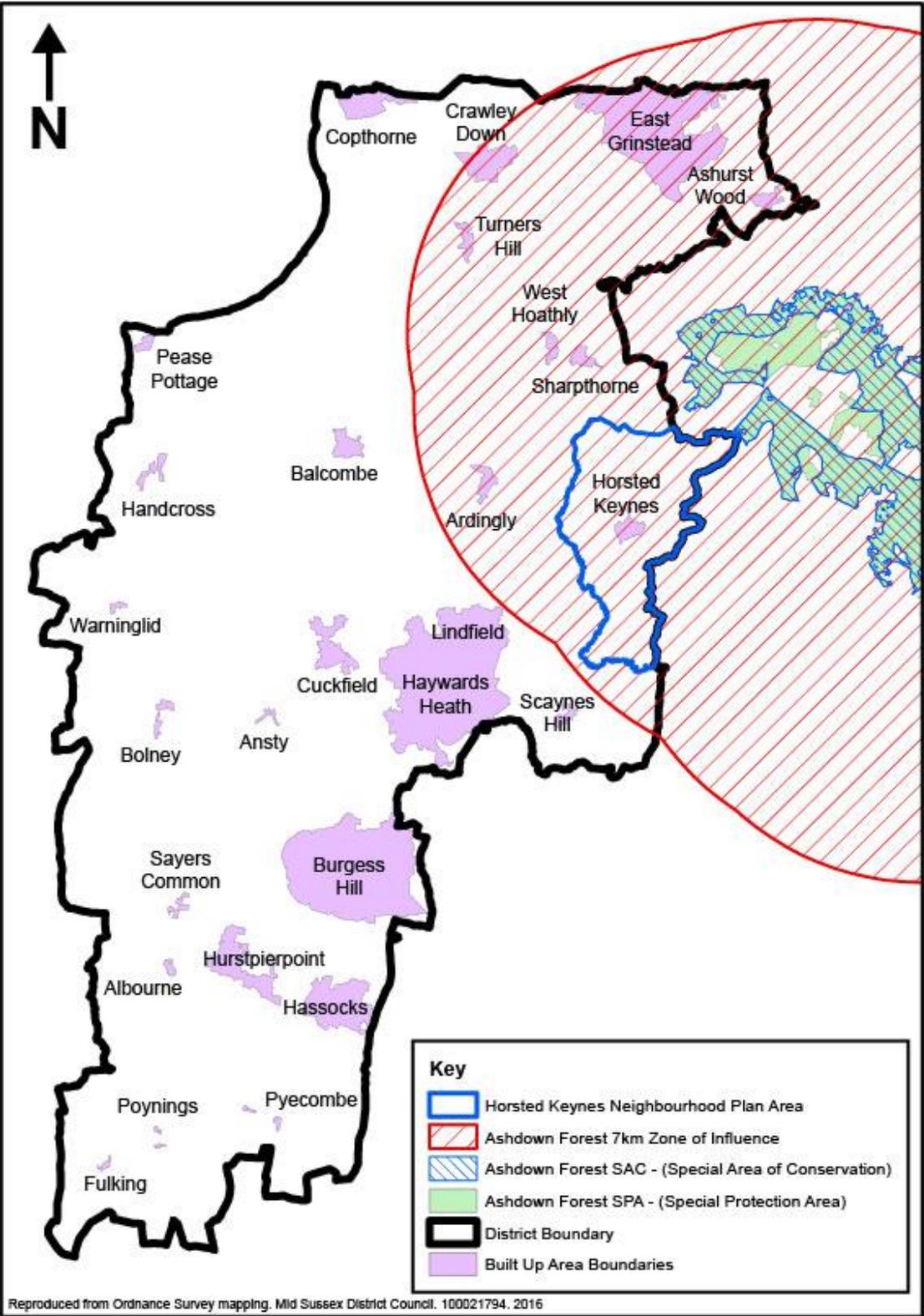
A handwritten signature in black ink that reads "Chris Tunnell". The signature is written in a cursive, slightly slanted style.

Chris Tunnell

Interim Head of Economic Promotion and Planning

Date: 5th April 2017

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



Appendix 2: European Site Conservation Objectives for Ashdown Forest Special Protection Area

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

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

- **The extent and distribution of the habitats of the qualifying features**
- **The structure and function of the habitats of the qualifying features**
- **The supporting processes on which the habitats of the qualifying features rely**
- **The populations of each of the qualifying features, and,**
- **The distribution of the qualifying features within the site.**

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

Qualifying Features:

A224 *Caprimulgus europaeus*; European nightjar (Breeding)

A302 *Sylvia undata*; Dartford warbler (Breeding)

Appendix 3: European Site Conservation Objectives for Ashdown Forest Special Area of Conservation

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

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

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

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

Qualifying Features:

H4010	Northern Atlantic wet heaths with <i>Erica tetralix</i> ; Wet heathland with cross-leaved heath
H4030	European dry heaths
S1166	<i>Triturus cristatus</i> ; Great crested newt

Appendix 4:

Horsted Keynes Neighbourhood Plan

Habitats Regulations Assessment Screening Report

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

17th March 2017

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:

‘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 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, February 2017: p13).

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. The most recent version of this document was published in October 2015. It is considered, however, 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](#).

- 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 2.0¹³
 - 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 Directive¹⁴

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 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’.

¹³ <http://www.snh.gov.uk/planning-and-development/environmental-assessment/habitat-regulations-appraisal/>

¹⁴ <http://www.ccg.gov.uk/landscape--wildlife/managing-land-and-sea/environmental-assessment/habitats-regulations-assessmen.aspx>

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’) 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 1990¹⁵. 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.

¹⁵ Regulation 15(1)(d).

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 sites¹⁶ 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 effects¹⁷ 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

¹⁶ Ashdown Forest SPA, Ashdown Forest SAC, Castle Hill SAC, Lewes Downs SAC, and Mole Gap to Reigate Escarpment SAC.

¹⁷ 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.

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.

- 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 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 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 & 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 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 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 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?

Yes – three sites have been allocated for residential development in Policies HK19, HK20 and HK21. The Neighbourhood Plan allocates the following sites:

- Police House Field – approximately 10 dwellings
- Land at Jeffreys Farm – approximately 6 dwellings
- Land at Westall House – approximately 8 net additional dwellings for elderly people and 14 independent care apartments.

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.

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 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 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. 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

5.5 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.

5.6 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.

Horsted Keynes Neighbourhood Plan Policy	Policy	Comment	Likely Significant Effect on the Ashdown Forest SPA and SAC
HK1	Built-up area boundary	This policy does not allocate land for development, but seeks to contain development within the built-up area boundary of Horsted Keynes.	No likely significant effect – reason c).
HK2	Dwelling size	This policy requires developments of over five dwellings to provide a mix of dwelling sizes.	No likely significant effect – reason b).
HK3	Maintaining local character and good quality design	This policy seeks good design from new development.	No likely significant effect – reason b).
HK4	Infill development and residential extensions	This policy outlines design criteria for infill development and residential extensions.	No likely significant effect – reason b).

Horsted Keynes Neighbourhood Plan Policy	Policy	Comment	Likely Significant Effect on the Ashdown Forest SPA and SAC
HK5	Retention and enhancement of recreational and local green spaces	The policy designates several areas as Local Green Space and permits associated development.	No likely significant effect – reason a).
HK6	Provision of publicly accessible green spaces within residential developments	This policy requires publicly accessible green space within new residential developments, which will enhance the green infrastructure of the parish.	No likely significant effect – reason a).
HK7	Minimise the environmental impact of new developments	This policy seeks to retain well-established landscape features in new developments and requires replacement features if any are lost through development.	No likely significant effect – reason a).
HK8	High Weald Area of Outstanding Natural Beauty	This policy seeks to conserve and enhance the High Weald AONB.	No likely significant effect – reason a).
HK9	Protection and improvement of natural habitats	This policy seeks to ensure protection and enhancement of habitats, flora and fauna. Compensation measures should be provided if any habitats are lost.	No likely significant effect – reason a).
HK10	Low energy design and renewable energy schemes	This policy aims for built development to be carbon neutral and include low energy and renewable technologies.	No likely significant effect – reason b).
HK11	Sustainable drainage system design and management	This policy requires development proposals creating significant new drainage requirements to incorporate Sustainable Drainage Systems.	No likely significant effect – reason b).
HK12	Light pollution	This policy seeks to minimise light pollution from new development.	No likely significant effect – reason b).

Horsted Keynes Neighbourhood Plan Policy	Policy	Comment	Likely Significant Effect on the Ashdown Forest SPA and SAC
HK13	Expansion of existing commercial premises	This policy does not allocate sites, but supports the expansion of existing commercial premises subject to certain criteria.	No likely significant effect – reason b).
HK14	Broadband and telecommunications	This policy supports proposals to provide superfast broadband and improve mobile telecommunications.	No likely significant effect – reason b).
HK15	Mobile phone masts	This policy supports proposals for the provision of a mobile phone mast at land west of Birchgrove Road subject to certain criteria.	No likely significant effect – reason c).
HK16	Loss of existing public car parking	This policy seeks to protect the existing level of car parking and requires alternative provision to be made if existing public off-road parking spaces are removed.	No likely significant effect – reason b).
HK17	Parking standards for new residential development	This policy seeks to ensure new residential developments provide adequate off-road parking.	No likely significant effect – reason b).
HK18	Cycleways and footways	This policy requires new development to provide publicly accessible footways and cycleways.	No likely significant effect – reason b).

Horsted Keynes Neighbourhood Plan Policy	Policy	Comment	Likely Significant Effect on the Ashdown Forest SPA and SAC
HK19	Police House Field	This policy allocates land at Police House Field for approximately 10 dwellings.	Likely significant effect – alone. Natural England has advised the District Council that new residential development within 7km of Ashdown Forest is likely to have a significant effect, alone and in combination with other housing proposals, on the special conservation features of Ashdown Forest. Development proposing a net increase in residential dwellings will be required to mitigate their effects of increased recreational pressure.
HK20	Land at Jeffreys Farm	This policy allocates land at Jeffreys Farm for approximately 6 dwellings.	Likely significant effect – alone. Natural England has advised the District Council that new residential development within 7km of Ashdown Forest is likely to have a significant effect, alone and in combination with other housing proposals, on the special conservation features of Ashdown Forest. Development proposing a net increase in residential dwellings will be required to mitigate their effects of increased recreational pressure.

Horsted Keynes Neighbourhood Plan Policy	Policy	Comment	Likely Significant Effect on the Ashdown Forest SPA and SAC
HK21	Land at Westall House	This policy allocates land at Westall House for approximately 8 net additional dwellings for elderly people and 14 net independent care apartments.	<p>Likely significant effect – alone. Natural England has advised the District Council that new residential development within 7km of Ashdown Forest is likely to have a significant effect, alone and in combination with other housing proposals, on the special conservation features of Ashdown Forest.</p> <p>Development proposing a net increase in residential dwellings will be required to mitigate their effects of increased recreational pressure.</p> <p>The dwelling type proposed is independent care apartments and homes for elderly people. According to the Horsted Keynes Neighbourhood Plan, the residents would have limited mobility. There may be a requirement for mitigation, however, this will be assessed further at the time of a planning application based upon the details provided.</p>

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 (in this case, Policies HK19, HK20 and HK21 which seek to allocate land for housing), and then re-screen the policies 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, Policies HK19, HK20 and HK21 should be tested through the next stage, the appropriate assessment.

5.8 No other policies in the Horsted Keynes Neighbourhood Plan were found to have a likely significant effect alone on the Ashdown Forest SPA, nor have any policies been given reason d) (minor residual effect). There is, therefore, no in-plan in combination effect (that is, there is unlikely to be an in combination effect from the policies in the Neighbourhood Plan), and any wider in combination effect with other plans will be considered through the appropriate assessment.

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 majority of the policies included within the Horsted Keynes Neighbourhood Plan. The development proposed in Policies HK19, HK20 and HK21 may have a likely significant effect alone since it is within 7km of the Ashdown Forest SPA.

6.2 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 required as the impacts from the development proposed in the Horsted Keynes Neighbourhood Plan need to be fully considered.

Approved by:



Chris Tunnell

Interim Head of Economic Promotion and Planning

Date: 17th March 2017