

Wealden District Council
Response to Examiners initial comments as per the Examiners letter dated
4th January 2018

The Habitat Regulations Assessment for the Herstmonceux Parish
Neighbourhood Plan 2017 – 2027 Submission Plan (July 2017)

1. The above Habitat Regulations Assessment (HRA) identifies at paragraph 7.2 the following sites for consideration:
 - a) Ashdown Forest Special Area of Conservation (SAC);
 - b) Ashdown Forest Special Protection Area (SPA);
 - c) Pevensey Levels SAC;
 - d) Lewes Downs SAC; and
 - e) Castle Hill SAC¹.
2. Paragraph 7.4 of the HRA identifies potential significant effects, either alone or in combination with other plans or projects.

Ashdown Forest SAC

3. Wealden District Council adopted its Core Strategy in February 2013. A major consideration in the development of the Core Strategy was the effect of atmospheric pollution on Ashdown Forest SAC through traffic growth. As a result a Habitats Regulation Assessment was undertaken in accordance with The Conservation of Habitats and Species Regulations 2010 (known as the Habitat Regulations) which included consideration of the impact of the Core Strategy on the SAC with regards to air pollution, and in particular the impact of nitrogen deposition.
4. The Habitats Regulations Assessment concluded that development proposed in the Core Strategy was considered to have a neutral / no effect on the ecological integrity of Ashdown Forest SAC. However, the findings of the assessment identified that a section of the A26 would have additional annual average daily traffic (AADT) of 950 as a result of the Core Strategy. This meant that when considered with a number of additional identified housing sites already granted planning permission that the A26 was very close to being an 'affected road' as defined by the Design Manual for Roads and Bridges (DMRB) screening methodology. The DMRB advises that a road becomes an 'affected road' at an additional 1000 AADT and at that point it is considered there is a likely significant effect requiring additional assessment or appropriate

¹ Following the Habitats Regulations Assessment for the Herstmonceux Parish Neighbourhood Plan Submission Document (July 2017) it was concluded that the Plan would not result in a likely significant effect on Castle Hill SAC. Further information can be found in the Core Strategy Habitat Regulations Assessment.

assessment, as identified in The Conservation of Habitats and Species Regulations 2010².

5. In addition, it was recognised using information from the Air Pollution Information System (APIS) that nitrogen deposition had already exceeded the critical load³ on average across the Ashdown Forest SAC and that additional traffic from new development would lead to increases in air pollution, which would ultimately lead to an increase in nitrogen deposition.
6. At the time of the Core Strategy, nitrogen deposition for Ashdown Forest SAC was currently modelled at the centre of Ashdown Forest, away from any roads, with the nearest monitoring station being located at Barcome Mills, approximately 12 km to the south of the SAC. Therefore, at the time of producing the Core Strategy the level of nitrogen deposition close to existing roads was unknown. However, based on scientific understanding it was appreciated that the amount of nitrogen deposition is likely to be more severe in close proximity to busy road corridors (within 200 m) and may therefore result in further exceedances of the critical load. Accordingly, the Habitats Regulations Assessment of the Core Strategy was unable to conclude on a precautionary basis that more growth or development (in addition to that identified in the Core Strategy) would not result in a likely significant effect and without an appropriate assessment. On this basis it could also not be concluded that a significant adverse effect on the integrity of Ashdown Forest SAC would take place.
7. As a result of this assessment, the Core Strategy Policy WSC12 was modified by the Planning Inspector examining the Core Strategy and adopted by the Council. This requires the Council to 'undertake further investigation of the impacts of nitrogen deposition on Ashdown Forest SAC, so that its effects in the longer term can be more fully understood and mitigated, if appropriate'. The purpose of this is to establish a better scientific understanding of the situation to see if additional growth or development could be accommodated in the future whilst meeting the requirements of the Habitats Directive/ Habitats Regulations.
8. As required by the Planning Inspector of the Core Strategy and as provided in Core Strategy Policy WCS12, Wealden District Council commissioned ECUS Ltd (and Air quality Consultants) to investigate the impacts of traffic-related air quality on the Ashdown Forest SAC. This work

² The Conservation of Habitats and Species Regulations 2010 has recently been superseded by The Conservation of Habitats and Species Regulations 2017 and although the relevant regulation has changed to Regulation 105 the text remains the same in this regard.

³ Critical Load is defined as " a quantitative estimate of exposure to one or more pollutants below which significant harmful effects on specified sensitive elements of the environment do not occur according to present knowledge" (Source: <http://www.unece.org/env/lrtap/WorkingGroups/wge/definitions.htm>)

has been ongoing since May 2014 and forms part of the evidence used to shape the emerging Wealden Local Plan.

9. The Core Strategy Habitats Regulation Assessment can be accessed here:
http://www.wealden.gov.uk/Wealden/Residents/Planning_and_Building_Control/Planning_Policy/CoreStrategy/Planning_Core_Strategy_Library.aspx
[x](#)
10. Since the adoption of the Wealden District Core Strategy, the Lewes Joint Core Strategy has been adopted. In the judgement handed down Wealden District Council v Secretary of State for Communities And Local Government & Ors [2017] EWHC 351 (Admin) (20 March 2017) it is acknowledged that the Wealden District Core Strategy together with the development contained in the Joint Lewes Core Strategy exceeds 1000 AADT. Therefore, using the Wealden District Core Strategy as a basis, development which adds additional traffic on the A26 requires further assessment.

Lewes Downs SAC and Pevensey Levels Ramsar and SAC as relevant to air quality impacts

11. As part of the emerging Wealden Local Plan, Wealden District Council has undertaken work to consider the potential for adverse air quality impacts on Lewes Downs SAC and Pevensey Levels Ramsar SAC. Work undertaken to date includes the testing of development scenarios as relevant to the emerging Wealden Local Plan.

Relevant information

12. It is anticipated, subject to Habitat Regulations matters, that Wealden District Council will publish in March 2018 the Proposed Submission Wealden Local Plan (Regulation 19 document) alongside other documents including the Wealden Local Plan Proposed Submission Habitats Regulations Assessment, with the aim of publishing this for representations early summer 2018. Whilst Habitat Regulation work is currently ongoing, Wealden District Council has published the following documents in relation to air quality impacts.
 - Ashdown Forest Air Quality Monitoring and Modelling Report (October 2017) – Please see Part 1 and Part 2.
 - Air Quality Input for Habitats Regulations Assessment: Pevensey Levels (October 2017)
 - Air Quality Assessment for Lewes Downs SAC (October 2017).
13. The above documents can be found on the following webpage:

http://www.wealden.gov.uk/Wealden/Residents/Planning_and_Building_Control/Planning_Policy/CoreStrategy/CoreStrategyLibrary/Planning_Evidence_Base_Habitat_Regulations_Assessment.aspx

14. Please note that at the time of submitting the Herstmonceux Parish Neighbourhood Plan that these documents had not been finalised or published on our website.
15. In addition, since the Core Strategy examination, and for the purposes of testing the emerging Wealden Local Plan, a new transport model has been commissioned.

Testing the significance of the Herstmonceux Parish Neighbourhood Plan

16. Information from APIS continues to identify an exceedance of the critical load for nitrogen deposition at Ashdown Forest SAC, Lewes Downs SAC and Pevensey Levels Ramsar SAC⁴. Site specific monitoring on Ashdown Forest, published on the Council's website, concurs with this conclusion⁵
17. The Conservation of Habitats and Species Regulations 2017 require a Habitat Regulations Assessment of the implications for the sites in view of that site's conservation objectives to be carried out for any plan or project where there are likely to be significant effects on a European site Natura 2000 site, alone or in combination with other plans or projects. The Ashdown Forest, Lewes Downs and Pevensey Levels (Ramsar) SAC features are vulnerable to air-borne (nitrogen dioxide) pollution from a number of sources including motor vehicles. There is a potential impact pathway from new development and associated increases in traffic flows on the roads which traverse or run adjacent to the SACs. The emissions from these vehicles may cause a harmful increase in air pollutants and deposition which may adversely affect the integrity of the European sites.
18. Whilst work is currently ongoing in relation to each of the SACs, at this time, it is not yet complete and no conclusions with regards to the emerging Wealden Local Plan can be made. In addition, work has not been undertaken using the new evidence to test the existing Core Strategy in combination with plans and projects since February 2011 when the original transport modelling was undertaken. It is therefore not currently possible to conclude, using new evidence, whether additional development, either alone or in combination with other projects or plans, would result in a likely significant effect on Ashdown Forest SAC, Lewes Downs SAC or Pevensey Levels Ramsar SAC. Taking into account

⁴ Further information relating to the critical load and levels, including for specific habitats, are provided in the air quality reports identified above.

⁵ Interim Report Year 1: Ashdown Forest Air Quality Monitoring and Modelling – February 2016

information currently within the public domain and in accordance with the Conservation of Habitats and Species Regulations 2017, on a precautionary basis, development that may result in a net increase in traffic movements may not therefore be permitted until scientific evaluation shows that there would not be a likely significant effect. As per the precautionary principle (please see paragraphs 6.6 - 6.8 of the Herstmonceux HRA) a plan or project may only be permitted after it has been determined that there is no likely significant effect or there is scientific certainty that there will be no adverse effect on the integrity of the site(s) in question.

19. As provided in the Herstmonceux Habitats Regulations Assessment a number of policies could lead, through their implementation, to development that could result in a net increase in traffic movements and an assessment on the effect on European sites would be required. However, at this time, the location or specific detail about potential development and associated traffic movements is not provided. Therefore, a Habitats Regulations Assessment will be required at planning application stage to determine whether the proposal is acceptable in accordance with the Habitats Regulations.

Pevensey Levels Ramsar SAC as relevant to hydrology

20. The Wealden District Council Core Strategy Habitats Regulations Assessment identified that additional new development located within the hydrological catchment area of the Pevensey Levels has the potential to result in a likely significant effect on the integrity of the site. Paragraphs 7.16, 7.17 and 7.18 of the Herstmonceux Parish Neighbourhood Plan HRA provides further detail. The report provided in footnote 10 can be accessed here:

http://www.wealden.gov.uk/Wealden/Residents/Planning_and_Building_Control/Planning_Policy/CoreStrategy/CoreStrategyLibrary/Planning_Evidence_Base/Habitat_Regulations_Assessment.aspx

Conclusion

21. In the absence of the emerging Wealden Local Plan and an up-to-date Habitats Regulations Assessment, for the above reasons, Wealden District Council consider the policy wording, as relevant to the requirement to undertake a Habitats Regulations Assessment, to be necessary in order to meet the Conservation of Habitats and Species Regulations 2017. Wealden District Council also consider that the policy wording assists with transparency and informs users that any proposal for development may be subject to a Habitats Regulation Assessment and will only be permitted where it can be concluded that the proposal will not result in a likely

significant effect on a European or International site designated for its biodiversity value.