

LDF

Local Development Framework

Lewes District Council & The South Downs National Park Local Development Framework

Appropriate Assessment Screening Opinion



1. Introduction

- 1.1 The purpose of the Appropriate Assessment (AA) of land use plans is to ensure that protection of the integrity of sites protected by European Union Directives is a part of the planning process.
- 1.2 This report is written to present the findings from the first stage (screening) of the Appropriate Assessment (AA) to identify Natura 2000 (European) and Ramsar sites which could be affected by the policies in the emerging Lewes District - Core Strategy Development Plan Document.

The Need for Appropriate Assessment

- 1.3 It is acknowledged that some of Europe's natural habitats are deteriorating and, as a result, a number of wild species are becoming seriously threatened. The effect is partly caused due to development. As a result, when preparing plans or projects, member states of the European Community are required to take into account habitats and wild species of European importance through Article 6 of Council Directive 92/43/EEC on the Conservation of Natural Habitats and of wild fauna and flora (the Habitats Directive).
- 1.4 Article 6(3) of the Habitats Directive states that:
"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 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."
- 1.5 Article 6(4) continues, stating:
"If, in spite of a negative assessment of the implications for the site and in the absence of alternative solutions, a plan or project must nevertheless be carried out for imperative reasons of overwhelming public interest, including those of a social or economic nature, the Member shall take all compensatory measures necessary to ensure that the overall coherence of Natura 2000 is protected. It shall inform the Commission of the compensatory measures adopted."
- 1.6 Regulation 61 of The Conservation of Habitats and Species Regulations 2010¹ transposes Article 6(3) of the Habitats Directive into British law. It requires the competent authority, before deciding to undertake a plan or project which is likely to have a significant effect on a European site and

¹ This replaces Regulation 48 of The Conservation (Natural Habitats, &c.) Regulations 1994,

is not directly connected with or necessary to the management of the site, to make an appropriate assessment of the implications for the site in view of the site's conservation objectives.

- 1.7 Regulation 102 of The Conservation of Habitats and Species Regulations 2010² sets a legal requirement for the plan-making authority to appropriately assess land use plans, including Development Plan Documents (DPDs) like the Core Strategy.
- 1.8 As Lewes District Council is both the competent authority (with regards to paragraph 1.6) and the plan-making authority (with regards to paragraph 1.7), it has a legal obligation to undertake AA on the effects that the Core Strategy could have on European and Ramsar sites.

Types of Sites to be Assessed

- 1.9 AA will be undertaken to assess the likely effects of the Core Strategy on Natura 2000 sites (or European sites). Natura 2000 sites include sites designated as:
 - Special Areas of Conservation (SACs) – sites designated for flora, fauna and habitats of community interest under powers derived from the Habitats Directive; and
 - Special Protection Areas (SPAs) – sites designated to conserve the habitat of protected wild birds to ensure their survival and reproduction in their area of distribution under powers derived from Directive 2009/147/EC on the conservation of wild birds³ (the Birds Directive).
- 1.10 In addition, AA will be undertaken to assess the likely effects of the Core Strategy on Ramsar sites (wetlands of global importance). This is as Planning Policy Statement 9: Biodiversity and Geological Conservation (PPS9) states that Ramsar sites should be considered in the same way as European sites in relation to proposals that may affect them.
- 1.11 For the remainder of this screening assessment, SACs, SPAs and Ramsar sites will be collectively known as 'protected sites'.

² Previously this had been required when The Conservation (Natural Habitats, &c) (Amendment) Regulations 2007 inserted Part IVA into The Conservation (Habitats, &c.) Regulations 1994

³ This directive replaced Council Directive 79/409/EEC on the same subject.

2. The Process

- 2.1 In 2006, the Department for Communities and Local Government (DCLG) released draft guidance for the Appropriate Assessment (AA) on local development documents and Regional Spatial Strategies.
- 2.2 Whilst the guidance never progressed from the draft version, it still prescribes a useful process, which the District Council has chosen to follow, for undertaking AA on the protected sites that could be affected by the Core Strategy.
- 2.3 The draft guidance described three main tasks or stages which are to be followed when undertaking AA on local development documents. The three stages described are:
 1. Screening for likely significant effects.
 2. Appropriate Assessment and ascertaining the effect on site integrity.
 3. Mitigation Measures and alternative solutions.

An explanation of each stage follows:

Stage 1: Screening for likely significant effects

- 2.4 The initial stage of the AA is to assess whether a plan is likely to have a significant negative effect on a protected site. This is known as screening. This screening process determines whether it is necessary to carry out the subsequent stages of AA.
- 2.5 If it is assessed that there is likely to be no significant effect on a protected site from the consequences of a plan, then carrying on with the AA is deemed unnecessary and thus, the site can be screened out from the rest of the AA process.
- 2.6 Conversely, if it is found that a plan is likely to cause a significant effect on a protected site, the site would not be able to be screened out and would have to undergo the further AA stages.
- 2.7 Other plans and strategies that could have an impact on protected sites “in combination” with the plan under production, also have to be taken into account during the screening stage. As an example, it may be assessed that there would be no significant effect caused by an individual plan on a particular protected site, but when considering it with a number of other plans and strategies, the cumulative outcome could be assessed to cause a likely significant effect. In this case, the protected site impacted upon would be unable to be screened out of the further AA stages.
- 2.8 Importantly, the AA process is underpinned by the precautionary principle, especially in the assessment of potential impacts and their resolution. Therefore if it is not possible to rule out a risk of harm, based

on the evidence available, to a protected site, it is assumed a risk may exist. As a result, it would mean that such a site could not be 'screened out' at the initial stage of the AA process.

Stage 2: Appropriate Assessment and ascertaining the effect on site integrity

- 2.9 Should a site reach this stage of the AA process, an appropriate assessment will be carried out to establish the potential effects of the plan on the site's integrity.
- 2.10 When assessing the integrity of the site, consideration is made to the site's qualifying features (reasons for designation), its conservation objectives and the key environmental conditions which support the site's integrity.
- 2.11 If it is found that that the plan will impact on the site's integrity it would be necessary to move to stage 3 of the AA process to consider mitigation measures and alternative solutions to prevent any negative impacts resulting from the plan.

Stage 3: Mitigation measures and alternative solutions

- 2.12 As the draft guidance states, the main aim of seeking mitigation measures is to fully cancel out any adverse effects the plan may have on a protected site.
- 2.13 However, it is accepted that it is not always possible to completely eradicate the plan's negative impacts on a protected site. In this event, mitigation would need to result in a reduction significant in scope to nullify the adverse impacts on the site's integrity.
- 2.14 As detailed in Article 6(4) of the Habitats Directive (see paragraph 1.5), it is possible to implement a plan despite the AA concluding that a negative impact on the integrity of a protected site is likely that could not be mitigated against. In such instances, a decision to implement the plan could only be taken if it is justified by 'imperative reasons of overriding public interest'. In this case compensatory measures would have to put in place to counteract some of the plan's negative impacts, ensuring 'that the overall coherence of Natura 2000 is protected'.

3. The Protected Sites

3.1 There are two protected sites (both SACs) that lie within Lewes District which are to be assessed by the AA process. These sites are Castle Hill and Lewes Downs. The table below shows the reasons for the protected sites' designations. The reasons for the site's protected designation have been taken from the summaries provided on the Joint Nature Conservation Committee's (JNCC's) website⁴.

Table 1: Reasons for Castle Hill's and Lewes Downs' designation

Castle Hill	Lewes Downs
This chalk grassland consists of a mosaic of calcareous semi-natural grasslands, notably <i>Festuca ovina</i> – <i>Avenula</i> grassland, <i>Bromus erectus</i> grassland and <i>Brachypodium pinnatum</i> grassland. Castle Hill's important assemblage of rare and scarce species includes early spider-orchid <i>Ophrys sphegodes</i> and burnt orchid <i>Orchis ustulata</i> . The colony of early spider-orchid is one of the largest in the UK.	This chalk grassland site consists largely of <i>Festuca ovina</i> – <i>Avenula pratensis</i> and <i>Bromus erectus</i> calcareous grasslands. This site contains an important assemblage of rare and scarce orchids, including early spider-orchid <i>Ophrys sphegodes</i> , burnt orchid <i>Orchis ustulata</i> and musk orchid <i>Herminium monorchis</i> . The colony of burnt orchid is one of the largest in the UK.

3.2 There are two protected sites that, whilst not lying within Lewes District, are located within 20km of the boundary and thus also need to be assessed through the AA process as it is possible that the Core Strategy could impact on them. The sites are the Pevensey Levels (Ramsar and possible SAC) and the Ashdown Forest (both a SAC and SPA). The summaries provided on the JNCC's website have been used to detail the reasons for designation found in the table below:

Table 2: Reasons for Pevensey Levels' and Ashdown Forest's designation(s)

Pevensey Levels	Ashdown Forest
The site supports 68% of aquatic vascular plant species in Great Britain. It is probably the best site in Britain for freshwater molluscs, one of the five best sites for aquatic beetles <i>Coleoptera</i> and supports an outstanding	Ashdown Forest contains one of the largest single continuous blocks of lowland heath in south-east England, with both European dry heaths and, in a larger proportion, wet heath. The <i>Erica tetralix</i> – <i>Sphagnum compactum</i> wet heath element provides suitable conditions for several species of bog-mosses <i>Sphagnum</i> spp., bog asphodel <i>Narthecium ossifragum</i> , deergrass <i>Trichophorum cespitosum</i> , common cotton-grass <i>Eriophorum angustifolium</i> , marsh gentian <i>Gentiana pneumonanthe</i> and marsh clubmoss <i>Lycopodiella inundata</i> . The site supports important assemblages of beetles, dragonflies, damselflies and butterflies, including the nationally rare silver-studded blue <i>Plebejus argus</i> , and birds of European importance, such as

⁴ www.jncc.gov.uk

Pevensey Levels	Ashdown Forest
<p>assemblage of dragonflies <i>Odonata</i>. In addition, the site supports an outstanding assemblage of wetland plants and invertebrates may British Red Data Book species.</p>	<p>European nightjar <i>Caprimulgus europaeus</i>, Dartford warbler <i>Sylvia undata</i> and Eurasian hobby <i>Falco subbuteo</i>. The dry heath in Ashdown Forest is an extensive example of the south-eastern H2 <i>Calluna vulgaris</i> – <i>Ulex minor</i> community. This vegetation type is dominated by heather <i>Calluna vulgaris</i>, bell heather <i>Erica cinerea</i> and dwarf gorse <i>Ulex minor</i>, with transitions to other habitats. It supports important lichen assemblages, including species such as <i>Pycnothelia papillaria</i>. This site supports the most inland remaining population of hairy greenweed <i>Genista pilosa</i> in Britain. (SAC)</p> <p>The site supports nationally important breeding populations of nightjar <i>Caprimulgus europaeus</i> and Dartford warbler <i>Sylvia undata</i>. (SPA)</p>

4. Screening the protected sites

4.1 This report concerns the first stage of the AA process, the screening for likely significant effects on the protected sites caused by the Core Strategy.

Consultation with Natural England

4.2 As the statutory nature conservation body for England, officers from the District Council met with Natural England (NE) to discuss possible affects of the Core Strategy on the protected sites. We used the meeting to examine whether we were able to screen any of the protected sites out of the further stages of the AA process.

4.3 During the meeting with NE, it was explained that it was important to assess the impact of the Core Strategy on traffic flows on routes (including routes both within and outside of the District) that lie within 200m of a protected site. NE explained that if the Core Strategy resulted in any of the following consequences on such routes then its affect on the protected sites would not be of significance:

- If the expected increase in traffic is less than 1,000 cars per day or 200 HGVs per day.
- If there is less than a 1% increase in traffic generated compared to that predicted at the end of the period that the Core Strategy plans for.
- If the traffic generated would result in a less than 1% increase in the pollution compared to the critical load of a site where the background levels of air quality pollution affecting a particular site are already over 70% of its critical load.

4.4 NE was sent a copy of this report before it was made publically available. They have agreed with the findings of our screening assessment, which can be seen below.

The Screening Assessment

4.5 Having undertaken the screening, based on the information available to the District Council at this point on time, it has not been possible to determine that the Core Strategy would not cause a likely significant effect on the Ashdown Forest and Lewes Downs. Thus, using the precautionary principle, we will continue with the AA process for these two sites.

4.6 We have been able to 'screen out' Castle Hill and the Pevensey Levels, as it not assumed that there is likely to be a significant effect on these sites caused by the Core Strategy, meaning that we will not undertake further AA work on these sites.

4.7 Table 3 on the following pages shows how we came to our assessment on the 4 protected sites. This includes identifying what potential impacts on the protected sites will be examined further in the AA process.

Table 3: Screening of sites

Site	Key environmental conditions to support site integrity	Possible affects of Core Strategy	Likely Significant effects to site (including potential 'in combination' impacts)?	AA needed?
Castle Hill	<ul style="list-style-type: none"> • Minimal air pollution. • Maintenance of Grazing. • Absence of direct fertilisation. • Low recreational pressure. • Absence Leaching and spray-drift of chemicals from bordering arable land. 	<ul style="list-style-type: none"> • Increasing traffic to/through the site as a result of new development, leading to increased air pollution, affecting the protected species seen in Table 1. • Increasing recreational pressures on the site, affecting the protected habitats. 	<p>None – The few roads that pass within 200m of the site's boundaries are minor localised access routes. It is thought that new development in Lewes District is unlikely to significantly increase traffic to a level that could harm the site.</p> <p>It was not thought likely that development in Lewes District would significantly increase visitor numbers (which could have an adverse impact from increased recreational disturbance).</p> <p>No in combination impacts are envisaged.</p> <p>This conclusion is consistent with Brighton & Hove City Council's AA which also 'screened out' this site, despite part of the site being in their administrative boundary.</p>	No
Lewes Downs	<ul style="list-style-type: none"> • Minimal air pollution. • Maintenance of Grazing. • Absence of direct fertilisation. • Low recreational pressure. 	<ul style="list-style-type: none"> • Increasing traffic on the A26 and B2192. This could lead to increased air pollution, affecting the site's integrity. • Increasing recreational pressures on the site, 	<p>Yes – NE felt that it was likely that traffic on the A26 and B2192 would increase if additional development in the District were to occur. This is seen as a significant issue because nitrogen levels are already at 70% of its critical load – with traffic likely causing much of the pollution.</p> <p>Being without a traffic model, we are unable to</p>	Yes

Site	Key environmental conditions to support site integrity	Possible affects of Core Strategy	Likely Significant effects to site (including potential 'in combination' impacts)?	AA needed?
	<ul style="list-style-type: none"> • Absence of leaching and spray-drift of chemicals from bordering arable land. 	affecting the protected habitats.	<p>determine whether the additional traffic generated by development would be significant enough to impact on the site's integrity. As a result, we are unable to screen this site out and thus, using the precautionary principle, will have to progress to the next AA stage.</p> <p>It was not thought that the Core Strategy would significantly increase the number of visitors to the site. This is because the site is not currently being adversely impacted upon from visitors. It is not thought that further development in the District over the plan period (possibly at an annual rate of approx 220 net additional homes per year) will dramatically increase visitor numbers to this site.</p>	
Ashdown Forest	<ul style="list-style-type: none"> • Minimal air pollution. • Relatively unpolluted water (approx. neutral pH). • Low recreational disturbance. • Suitable foraging and refuge habitat within 500m of pond. • Balanced hydrological regime to maintain wet heath. 	<ul style="list-style-type: none"> • Increasing traffic on the part of the A22 which runs through the protected site. This could increase air pollution, negatively impacting on the site's protected habitats and wildlife. • Increasing recreational pressures on the site, negatively affecting the 	<p>Yes – NE believe that it is likely that additional traffic on the A22 at Ashdown Forest will increase if additional development in the District were to occur.</p> <p>Being without a traffic model, we are unable to determine whether the additional traffic generated on the A22 by development in Lewes District would be significant enough to impact on the site's integrity. As a result, we are unable to screen the site out and thus, using the precautionary principle, will have to progress to the next AA stage.</p>	Yes

Site	Key environmental conditions to support site integrity	Possible affects of Core Strategy	Likely Significant effects to site (including potential 'in combination' impacts)?	AA needed?
	<ul style="list-style-type: none"> • Grazing management to prevent succession. • Some ponds deep enough to retain water throughout February to August (at least once in three years). • Good connectivity of landscape features. 	<p>population of ground nesting birds found at the site as a result of increased recreational disturbance.</p>	<p>Whilst there is no evidence to show that recreational disturbance is currently having an adverse impact on the integrity of the Ashdown Forest, it would need to be proved that visitor numbers would not increase unduly as a result of new development within 7.5km from Ashdown Forest so as to have a negative impact on ground nesting birds and its habitat.</p> <p>Within Lewes District, only the Village of Newick and the northern part of Chailey Parish lie within 7.5km from Ashdown Forest. In this area, it is not anticipated that much development would occur as a result of the Core Strategy and thus, when looking solely at development in Lewes District, it is not thought that a significant effect to the site would occur. However, when considering the large amount of housing planned within 7.5km of the forest by neighbouring authorities (Wealden and Mid-Sussex District Councils), it may be that the combined or 'in-combination' effect would be significant.</p> <p>Thus, using the precautionary principle, the effect of increasing recreational pressure on the site would need to be examined on an individual basis and in combination with plans being produced (particularly Wealden District and Mid Sussex District Councils) through the next stage of the AA. This is as there is no</p>	

Site	Key environmental conditions to support site integrity	Possible affects of Core Strategy	Likely Significant effects to site (including potential 'in combination' impacts)?	AA needed?
			current evidence available to prove that there would not be a negative effect.	
Pevensey Levels	<ul style="list-style-type: none"> • Relatively unpolluted water (approx. neutral pH). • Absence of nutrient enrichment. • Control of non-native species. • Maintenance of hydrological regime. • Low recreational disturbance. 	<ul style="list-style-type: none"> • Decreasing air quality, due to increased traffic on the A27/A259 near the site. • Increasing visitor numbers to the site causing a negative affect to the protected habitat. • Increasing surface water run-off at the site due to potential development. • Increasing water abstraction to support new development. • Increase discharge of treated effluent from the sewage treatment works at Hailsham as a result of further development in Lewes District 	<p>None – It is not thought that air quality would increase significantly as a result of the Core Strategy nor is it felt that potential development in Lewes District would have a noticeable impact on visitor numbers.</p> <p>As development in Lewes District will not fall into the water abstraction, surface water drainage and sewage discharge catchments that impact upon the Pevensey Levels, these potential impacts can be screened out.</p> <p>No 'in combination' impacts are envisaged.</p>	No