

## **Recreational Impact**

### **Statement of Common Ground for Ashdown Forest:**

**Agreed between the following Local Planning Authorities listed below:**

**Lewes District Council**

**Mid Sussex District Council**

**Sevenoaks District Council**

**Tandridge District Council**

**Tunbridge Wells Borough Council**

**Wealden District Council**

**And**

**Natural England**

#### **Introduction**

1. This statement has been agreed between those Local Planning Authorities, listed above, hereafter referred to as the SAMMS Partnership, where the issue of visitor pressure on Ashdown Forest Special Protection Area potentially arises from new development within their district/ borough. It has been prepared in line with Duty to Co-operate principles and accepted practice in relation to statements of common ground. It is intended that this Statement of Common Ground will assist the members of the SAMMS Partnership in determining planning applications and in Local Plan preparation and ensure, so far as practicable, a consistent approach across the relevant areas. As statutory consultee, Natural England is also a party to this statement.

## Background

2. The Ashdown Forest is designated as a Special Protection Area (SPA) and Special Area of Conservation (SAC). In this regard the Habitats Directive and the Conservation of Habitats and Species Regulations 2017, known as the Habitats Regulations, are relevant.

3. Ashdown Forest is a Natura 2000 site (also known as a European site) and is situated within Wealden District. It is designated as a Special Area of Conservation for its heathland habitat and as a Special Protection Area for the bird species that it supports. It 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.

4. The site is designated as an SAC on account of the following interest features and species:

Wet heathland and dry heathland; and

Great crested newts.

5. The site is designated as an SPA on account of the following species:

Nightjar; and

Dartford warbler

6. The Conservation of Habitats and Species Regulations 2017 requires the competent authority (which, in the context of planning decision-making and plan making is the local planning authority) to consider whether it can exclude the possibility that 'likely significant effects' on a European site will arise from a plan or project (which includes Local Plans and planning applications). If a likely significant effect from a plan or project cannot be excluded then an appropriate assessment of

the implications for the site in view of that site's conservation objectives is required. Recent case law of the Court of Justice of the European Union<sup>1</sup> indicates that in "screening" proposals for likely significant effects on European Sites, mitigation measures should be disregarded. However, such measures can be considered when carrying out an appropriate assessment. "Appropriate assessment" is not defined in the legislation and domestic case law indicates that the question of what is "appropriate" is a matter of judgement for the relevant decision maker.

7. Work undertaken on behalf of Natural England (using data from a visitor survey carried out in 2008<sup>2</sup>) identifies that the Ashdown Forest SPA species are vulnerable to visitor pressure (i.e. disturbance of ground nesting birds by recreational users of Ashdown Forest such as by walkers and dogs, particularly those off leads) which may increase as a result of new development in the area. The special character and size of Ashdown Forest is such that it attracts visitors from some distance, and hence new developments within Wealden District but also beyond that District in adjoining planning authorities may increase visitor pressure on the SPA.

8. In order to understand the pattern and origin of visitors to Ashdown Forest visitor surveys have been conducted in 2008 and 2016 and this information will be updated through monitoring and surveys in the future<sup>3</sup>.

### **Matters agreed between the members of the SAMMS Partnership**

9. Applying the precautionary principle, the SAMMS Partnership agree that there is a likely significant effect 'in combination' from recreational impacts on the Ashdown Forest SPA from housing and potentially other relevant development within certain locations within their borough/ district. It is also agreed that mitigation will be required to prevent an adverse impact upon the integrity of Ashdown Forest SPA. It is agreed

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<sup>1</sup> People Over WIND and Sweetman (Environment – Conservation of natural habitats – Judgment) [2018] EUECJ-323/17 (12 April 2018)

<sup>2</sup> Ashdown Forest Visitor Survey UE Associates 2009

<sup>3</sup> The SPA Monitoring Strategy identifies that a visitor survey will be undertaken every five years. Quantitative monitoring may be undertaken throughout the year, such as car park counts.

that the extent and type of mitigation is for each competent authority to determine. However, it is agreed that there is a role for Strategic Access Management and Monitoring (SAMM) for all relevant local authorities as part of the approach to mitigation.

10. The SAMMS Partnership will work together on the formation and operation of a legal partnership for Strategic Access Management and Monitoring regarding Ashdown Forest SPA to address issues arising from visitor pressure.

11. Another part of the approach to mitigation is the provision of Suitable Alternative Natural Greenspace (SANGs) associated with new residential development within or close to the 7km zone. Wealden, Mid Sussex and Lewes have already secured SANG sites. Whilst SANG sites are an integral part of the strategic mitigation they may be taken forward individually or collaboratively by local planning authorities depending on their location and any identified need established through a Habitats Regulations Assessment (HRA). Proposals for future SANGs may be discussed by the SAMMS partnership but fall outside the scope of this Statement of Common Ground.

12. The SAMMS Partnership will continue to work together on the commissioning and analysis of visitor surveys to agree strategic mitigation measures, and the strategic area where development proposals resulting in a net increase in dwellings will require mitigation to address visitor pressure upon the Ashdown Forest SPA according to the principles set out below.

a) Taking into account monitoring results, the SAMMS Partnership agree to work together on a strategic approach to mitigation and the zone(s) within which they will seek development contributions towards the strategic mitigation measures.

b) It is the advice of Natural England that it is reasonable for new developments within a zone where residents frequently visit Ashdown Forest to contribute to mitigation measures and that the objective of a jointly agreed strategic zone for mitigation is to capture the majority of new frequent visitors to Ashdown Forest. It is

clearly not possible or practical to capture all new visitors to a designated site recognising that some will come from very far distances. Additionally capturing a defined percentage of visitors is less relevant than the distance at which frequent visitors to Ashdown Forest drop in numbers. This ensures that any “significant” impact is addressed by strategic measures to the point that residual impacts would not be considered significant.

c) A strategic 7km zone for SAMM is currently in operation or proposed by all the signatory authorities but there is no objection by any one signatory against another to the current interim approach employed by any authority in the application of a zone or zones until such time as there is agreement on any new zone and the supporting policy is adopted by each authority.

d) Based on current evidence it is agreed that 7km remains the most appropriate distance for a strategic zone that all partners could support in principle as the 2016 visitor survey shows that this would capture the majority of frequent visitors to Ashdown Forest. Formal support and adoption of the zone and any attributable tariffs by each authority would be dependent upon the outcomes of their own Strategic Environmental Assessment (SEA) and HRA work for their Local Plan and formal adoption by the relevant Authority.

e) It is recognised there might be for each authority considerations beyond any agreed strategic zone but that is a matter for each authority to consider and justify, as the competent authority, as part of their own SEA/ HRA work.

f) Policies and approaches to mitigation measures within each local planning authority and their administrative district affecting the agreed strategic mitigation zone will be reviewed as necessary by the authorities in circumstances such as the emergence of new evidence, policy and legislation. If new evidence is presented, any potential implications that this may have on a strategic approach or the SAMM Strategy may be considered jointly by the partnership. It will be for each authority to determine whether any changes to their own policies are necessary alongside plan reviews.

g) The analysis of the visitor survey for the purposes of identifying the strategic zone of influence and any other zone that authorities consider, should be based on postcodes and distance from the edge of the SPA rather than distance travelled to access points. This is a more practicable approach and can reasonably be applied consistently across local authority areas.

h) As far as reasonably practical each authority will advise and consult the other members of the SAMMS Partnership on any proposed work and findings on the analysis of visitors, SEA or HRA or other work related to the consideration of mitigation zones.

i) The agreed details of the mitigation for SMM are contained within the SMM Tariff Guidance Document which is underpinned by a legal agreement between the relevant authorities.

**Signed**

Lewes District Council



Name: Leigh Palmer Interim Head of Planning

Date: 18 December 2018

Mid Sussex District Council



Name: Cllr. Andrew MacNaughton, Cabinet Member for Housing and Planning

Date: 20<sup>th</sup> December 2018

Sevenoaks District Council



Name: Richard Morris, Chief Planning Officer,

Date: 09 January 2019

Tandridge District Council



Name: Chief Executive Louise Round

Date: 19 December 2018

Tunbridge Wells Borough Council



Name: Cllr Alan McDermott - Deputy Leader of TWBC; Portfolio Holder for Planning & Transportation

Date: 09 January 2019

Wealden District Council



Name: Isabel Garden Director of Planning, Policy & Environmental Services

Date: 18 December 2018

Natural England



Name: Marian Ashdown

Date: 07 January 2019