

EASTBOURNE

Borough Council



Eastbourne Borough Council
Local Plan

Habitat Regulations Assessment
Screening Report

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Planning Policy

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1. Introduction

- 1.1 The Conservation of Habitats and Species Regulations 2017 (as amended) require assessment of land use plans 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 Council's findings from the first stage (screening) of the Habitat Regulations Assessment (HRA) process to identify Natura 2000 (European) and Ramsar sites which could be affected by the policies in the emerging Eastbourne Local Plan.

The Need for Habitat Regulations 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 63 of The Conservation of Habitats and Species Regulations 2017 (as amended) 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 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 105 sets a legal requirement for the plan-making authority to appropriately assess land use plans.
- 1.8 As Eastbourne Borough 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 HRA on the effects that the Local Plan could have on European and Ramsar sites.

Types of Sites to be Assessed

- 1.9 HRA will be undertaken to assess the likely effects of the Local Plan 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 birds¹ (the Birds Directive).
 - Sites currently in the process of designation such as proposed Special Protection Areas (sSPA) or candidate Special Areas of Conservation (cSAC)
- 1.10 In addition, the HRA will assess the likely effects of the Local Plan on Ramsar sites (wetlands of global importance) as required.
- 1.11 For the remainder of this screening assessment, SACs, SPAs and Ramsar sites will be collectively known as 'protected sites'.

¹ This directive replaced Council Directive 79/409/EEC on the same subject.

2. The Process

2.1 there are three main tasks or stages which are followed when undertaking HRA of Local Plans. 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 HRA 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 HRA.
- 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 HRA is unnecessary and thus, the site can be screened out from the rest of the HRA 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 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 HRA stages.
- 2.8 Importantly, the HRA 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 process.

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

- 2.9 Should a site reach this stage of the process, an appropriate assessment (AA) 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, 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. However, in such instances, a decision to implement the plan could only be taken if it is justified by 'imperative reasons of overriding public interest' and 'no alternatives'. In that 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 no protected sites that lie within Eastbourne Borough to be assessed by the HRA process. There are, however, protected sites that lie outside the borough that need to be considered. These sites are the Pevensey Levels SAC and Ramsar site within 5km of the borough; Lewes Downs SAC within 15km of the borough, Castle Hill SAC and Hastings Cliffs SAC within 20km and the Ashdown Forest SPA and SAC beyond 20km of the borough.
- 3.2 Map 1 provides distance bands and shows where the designated sites are in relation to the borough. Tables 1 and 2 show 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) website². Typically it might be expected that sites further than 20km from the borough boundary could be ruled out from consideration through the HRA process due to diminishing effects of a plan the further the distance to the protected site.
- 3.3 It is therefore worth noting that whilst the Ashdown Forest SAC and SPA is substantially further than 20km from the borough, particular issues have been raised at a strategic level concerning the 'in combination' effects from traffic on air quality and nitrogen deposition on the Forest, such that it is not considered possible to screen this site out due to distance alone.

² www.jncc.gov.uk

Map 1: Showing the Designated Sites, together with Distance Bands, in relation to Eastbourne Borough



Table 1: Reasons for Lewes Downs, Pevensey Levels, Castle Hill and Hastings Cliffs' designations

Lewes Downs	Pevensey Levels	Castle Hill	Hastings Cliffs
<p>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.</p>	<p>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 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. It is specifically designated as a Special Area of Conservation for its population of Ramshorn snail <i>Anisus vorticulus</i></p>	<p>This chalk grassland consists of a mosaic of calcareous semi-natural grasslands, notably <i>Festuca ovina</i> – <i>Avenula grassland</i>, <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.</p>	<p>Vegetated sea cliffs of the Atlantic and Baltic Coasts, including woodland and scrub habitats that support an unusual 'Atlantic' bryophyte flora, in particular the liverwort <i>Lophocolea fragrans</i> at it's the only south-east England locality.</p>

Table 2: Reasons for Ashdown Forest designation

Ashdown Forest
<p>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 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</p>

dominated by heather *Calluna vulgaris*, bell heather *Erica cinerea* and dwarf gorse *Ulex minor*, with transitions to other habitats. It supports important lichen assemblages, including species such as *Pycnothelia papillaria*. This site supports the most inland remaining population of hairy greenweed *Genista pilosa* in Britain. (SAC)

The site supports nationally important breeding populations of nightjar *Caprimulgus europaeus* and Dartford warbler *Sylvia undata*. (SPA)

4. Screening the protected sites

4.1 This report concerns the first stage of the HRA process, the screening for likely significant effects on the protected sites caused by the Local Plan.

Consultation with Natural England

4.2 This report is subject to statutory consultation with Natural England alongside the Local Plan Issues and Options Report.

The Screening Assessment

4.5 Having undertaken the screening, based on the information available to the Council at this point on time, it has not been possible to determine that the Local Plan would not cause a likely significant effect on the Pevensey Levels, Ashdown Forest and Lewes Downs SACs. Thus, using the precautionary principle, we will continue with the HRA process for these sites. Castle Hill is screened out from further consideration through the HRA process as it is considered that the Local Plan, either alone or in combination with other plans and programmes, will not have a likely significant effect on the Castle Hill SAC.

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

Table 3: Screening of sites

Site	Key environmental conditions to support site integrity	Possible affects of Local Plan	Likely Significant effects to site (including potential 'in combination' impacts)?	AA needed?
Lewes Downs	<ul style="list-style-type: none"> • Minimal air pollution. • Maintenance of Grazing. • Absence of direct fertilisation. • Low recreational pressure. • Absence of leaching and spray-drift of chemicals from bordering arable land. 	<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, affecting the protected habitats. 	<p>Yes, in combination with the Wealden and Lewes Local Plans.</p> <p>Being without a traffic model, we are unable to 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 Local Plan 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 borough over the plan period (even at an annual rate of approx 668 net additional homes per year) would materially increase visitor numbers to this site. The distance of the borough from this SAC is considered to be beyond the site's recreational catchment.</p>	Yes
Pevensy Levels	<ul style="list-style-type: none"> • Absence of nutrient enrichment, specifically 	<ul style="list-style-type: none"> • Decreasing air quality, due to increased traffic on the A27/A259 near 	Air quality is not considered to be an issue for the Pevensy Levels as the internationally important interest features are not 'nitrogen' sensitive to the extent that the Local Plan could	Yes

Site	Key environmental conditions to support site integrity	Possible affects of Local Plan	Likely Significant effects to site (including potential 'in combination' impacts)?	AA needed?
	<p>phosphate.</p> <ul style="list-style-type: none"> • Control of non-native species. • Maintenance of hydrological regime. 	<p>the site.</p> <ul style="list-style-type: none"> • 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 the borough. 	<p>cause an impact.</p> <p>As development in the borough would be within the surface water drainage and sewage discharge catchments that impact upon the Pevensey Levels, these potential impacts cannot be screened out.</p> <p>In combination with the Wealden Local Plan the Eastbourne Local Plan has the potential for significant effects on water quality of the Pevensey Levels SAC and Ramsar site.</p>	
Castle Hill	<ul style="list-style-type: none"> • Minimal air pollution. • Maintenance of Grazing. • Absence of direct fertilisation. 	<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 	<p>None – The few roads that pass within 200m of the site's boundaries are minor localised access routes. The nearest through road (Falmer Road) is nearly 400m from the SAC and Bexhill Road (despite its name) is a residential street unlikely to be used for journeys to work arising in Eastbourne is virtually 20km distant at its closest.</p>	No

Site	Key environmental conditions to support site integrity	Possible affects of Local Plan	Likely Significant effects to site (including potential 'in combination' impacts)?	AA needed?
	<ul style="list-style-type: none"> • Low recreational pressure. • Absence Leaching and spray-drift of chemicals from bordering arable land. 	<p>in Table 1.</p> <ul style="list-style-type: none"> • Increasing recreational pressures on the site, affecting the protected habitats. 	<p>Development in the borough would not significantly increase visitor numbers. The Natural England Site Improvement Plan does not identify recreational pressure as being a concern or an issue targeted for further action. The steep topography of much of the SAC is likely to naturally limit the scale and extent of recreational activity over much of the site. The main concerns noted on this site are not development related but are management issues: under-grazing and use of fertilisers, both suggesting that excessive vegetation growth and inadequate removal is more of a concern than trampling, which may actually help to suppress excessive vegetation growth.</p> <p>No in combination impacts are envisaged and this is consistent with the conclusions that the neighbouring authorities' plans namely that the Lewes Local Plan, Brighton and Hove City Plan or the Wealden Local Plan have not identified impact pathways with likely significant effects.</p>	
Hastings Cliffs	<ul style="list-style-type: none"> • Minimal air pollution • Maintaining the appropriate hydrological regime 	<ul style="list-style-type: none"> • Increasing traffic to/through the site as a result of new development, leading to increased air 	<p>None – The few roads that pass within 200m of the site's boundaries are minor localised access routes. New development in the borough is unlikely to significantly increase traffic on these roads to a level that could harm the</p>	No

Site	Key environmental conditions to support site integrity	Possible affects of Local Plan	Likely Significant effects to site (including potential 'in combination' impacts)?	AA needed?
	<ul style="list-style-type: none"> • Maintain the associated physical components of the vegetated cliff feature • Maintaining the quality and quantity of water supply will be critical, especially at certain times of year. • Low recreational disturbance 	<p>pollution, affecting the protected species seen in Table 1.</p> <ul style="list-style-type: none"> • Increasing recreational pressures on the site, affecting the protected habitats. 	<p>site.</p> <p>It was not thought likely that development in the borough would significantly increase visitor numbers, due to the distance (20km) of the SAC from the borough.</p> <p>No in combination impacts are envisaged and this is consistent with the conclusions that the neighbouring authorities' plans namely that the Hastings Local Plan and Rother Part v1 and 2 Local Plan have not identified impact pathways with likely significant effects.</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 	<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. 	<p>Yes – in combination with the Wealden and Lewes Local Plans and those of other local authorities surrounding the SAC.</p> <p>Being without a traffic model, we are unable to determine whether the additional traffic generated on the A22 by development in the borough 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</p>	Yes

Site	Key environmental conditions to support site integrity	Possible affects of Local Plan	Likely Significant effects to site (including potential 'in combination' impacts)?	AA needed?
	<p>within 500m of pond.</p> <ul style="list-style-type: none"> • Balanced hydrological regime to maintain wet heath. • 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. 	<ul style="list-style-type: none"> • Increasing recreational pressures on the site, negatively affecting the population of ground nesting birds found at the site as a result of increased recreational disturbance. 	<p>principle, will have to progress to the next AA stage.</p> <p>As the borough is located further than 20km from the Ashdown Forest SPA there is not considered to be a significant effect from recreational disturbance likely from the Eastbourne Local Plan either alone or in combination with neighbouring authorities' local plans. Primarily this is due to distance and the recognised zone of influence for this impact pathway of 7km.</p>	

Conclusion

The following sites and impact pathways will therefore be taken forward to the Appropriate Assessment stage of HRA when developing the policies of the new Eastbourne Local Plan 2018-2038:

- Ashdown Forest SAC – air quality impact pathway
- Pevensey Levels SAC – water quality impact pathway
- Lewes Downs SAC – air quality impact pathway