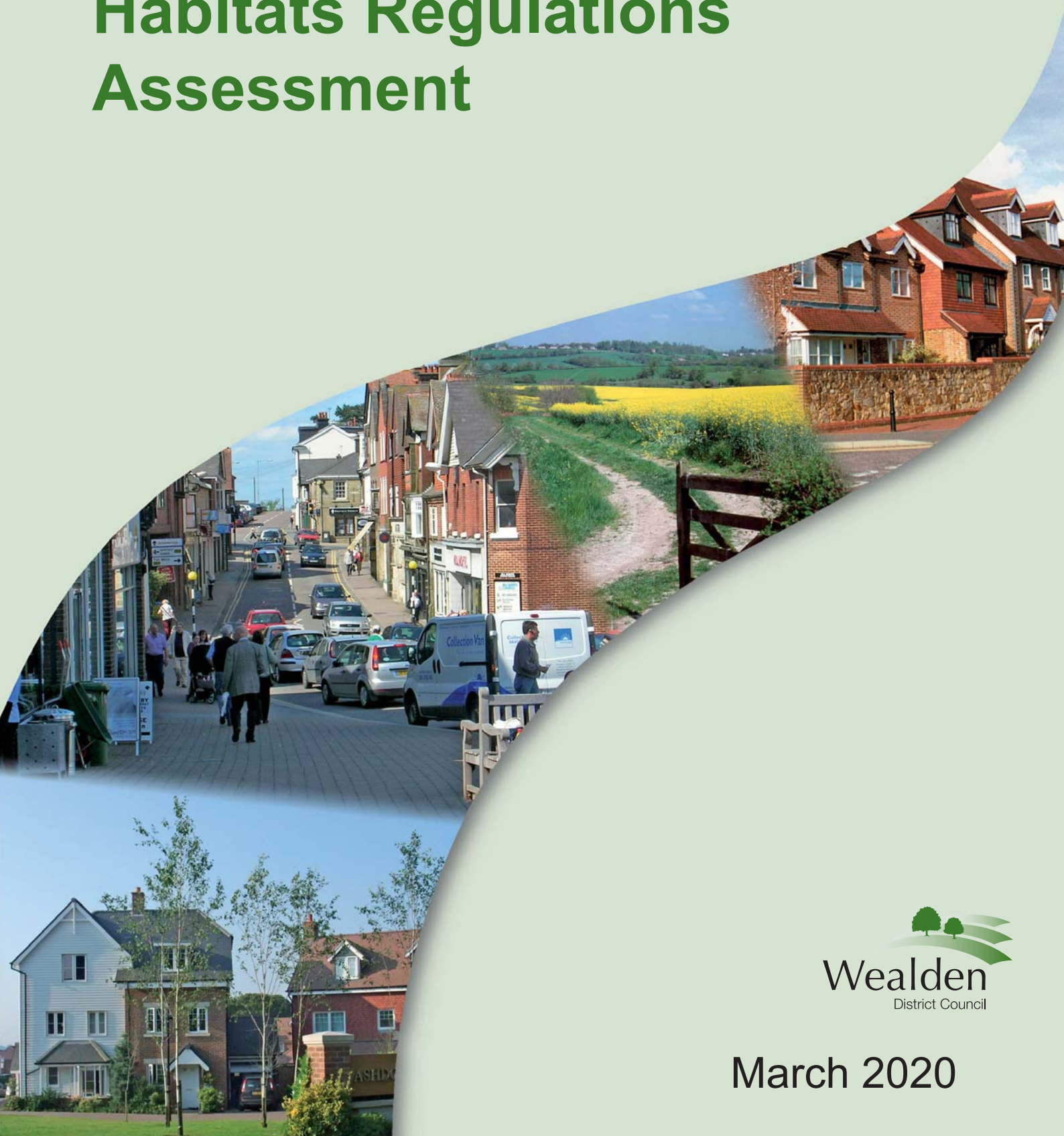
Hellingly Neighbourhood Plan

Habitats Regulations Assessment



Wealden
District Council

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How to Contact Us

Planning Policy
Wealden District Council
Council Offices, Vicarage Lane, Hailsham, East Sussex BN27 2AX

Telephone 01892 602008
E-mail: ldf@wealden.gov.uk
Website: www.wealden.gov.uk

Office hours Monday, Tuesday, Thursday, Friday 8.30am to 5.00pm and Wednesday 9.00am to 5.00pm

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1 Introduction

1.1 This report presents the findings and recommendations of the Habitat Regulations Assessment (HRA) undertaken by Wealden District Council, as the 'competent authority' as provided by the Habitats Regulations, in regards to the draft Hellingly Neighbourhood Development Plan (Regulation 16), hereafter called the "Hellingly NDP". The purpose of the HRA is to ensure that the requirements and legislative procedure as provided by The Conservation of Habitats and Species Regulations 2017 (as amended) has been met as part of the plan making process to ensure that the Hellingly NDP, once in place, will not result in an adverse effect on the integrity of the Natura 2000 network of European sites, designated for their biodiversity and conservation interest.

Legislative context

1.2 The Conservation of Habitats and Species Regulations 2017 (Habitat Regulations) transpose the requirements of EC Directive 2009/147/EC on the Conservation of Wild Birds (the Birds Directive) and EC Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora (the Habitats Directive).

1.3 The Habitat Regulations set out a requirement for a Habitat Regulations Assessment (HRA) to be applied to all land use plans to assess the potential effect of a plan against the conservation objectives of European Sites including Special Areas of Conservation (SACs) and Special Protection Areas (SPAs).

1.4 SACs are sites classified in accordance with Article 3 of the Habitats Directive, which seeks to establish a European network of important high-quality conservation sites that will make a significant contribution to conserving habitat types and species identified in Annex I and II of the Habitats Directive. SPAs are sites classified in accordance with Article 4 of the Birds Directive seeking to protect rare, vulnerable and regularly migratory birds as listed in Annex I of the Birds Directive. SPAs and SACs are commonly referred to as European Sites and as part of a system known as the Natura 2000 network.

1.5 Ramsar sites are designated under the International Convention on Wetlands of International Importance (the Ramsar Convention in Iran, 1971 and amended by the Paris protocol 1992). Ramsar sites are not protected in law by the Habitats Directive, however the National Planning Policy Framework (NPPF) sets out that Ramsar sites together with potential SPAs and candidate SACs (cSACs) should be given the same level of protection as European sites.

Habitats Regulations Assessment (HRA)

1.6 Under the Habitat Regulations (Regulation 63, 105 and 106), competent authorities (such as District Councils) have a duty to undertake an appropriate assessment where a land use plan or any other regulatory activity including projects and programmes is likely to have a significant effect on a European site. The purpose of an Appropriate Assessment is to assess the implications of a plan against the conservation objectives of the European site, and to ascertain that the plan would not, even in combination with other plans or projects, adversely affect the integrity of the site. The Habitats Directive applies the

precautionary principle to European sites when assessing whether the effects of a plan are significant. This means that a plan can only be permitted after it has been determined that there will be no adverse effect on the integrity of the site(s) in question.

1.7 Where an adverse effect is identified, the Habitat Regulations promote the use of mitigation measures and avoidance of any potential damaging effects to the site. However, Article 6 (4) of the Habitats Directive provides several exceptions, which allows the plan or project to be approved in limited circumstances even if it would or may have an adverse effect on the integrity of a European site.

1.8 Under article 6 (4) a plan may only progress provided three sequential tests are met:

1.9 Under article 6 (4) a plan may only progress provided three sequential tests are met:

- there must be no feasible alternative solutions to the plan which are less damaging to the affected European site;
- there must be social or economic 'imperative reasons of overriding public interest' (IROPI) for the plan or project to proceed; and
- all necessary compensatory measures must be secured to ensure that the overall coherence of the network of European sites is protected

1.10 These tests can only formally be considered once an appropriate assessment in line with article 6 (3) of the Directive has been undertaken and in the case of the plans, it is for the competent authority to prove, as a prerequisite, that each test can be met. With regards to public interest, this must be overriding, be of long-term gain and must outweigh the potentially damaging impacts that the plan or project may have on a European site. IROPI should only be considered in exceptional circumstances. However, if the above tests are met the plan or project can be approved.

1.11 Whilst it is the responsibility of the competent authority to prove that the sequential tests can be met, the decision as to whether a Plan or project can proceed lies with the Secretary of State, who must grant authorisation only when satisfied that any necessary compensation measures are taken to ensure the overall coherence of the network of European sites.

1.12 Prior to undertaking an appropriate assessment the competent authority must first assess whether or not a plan is likely to result in a significant effect. This is essentially a risk assessment or screening process to decide whether the full appropriate assessment is required. Should it be determined that a plan will not result in significant effects then no further assessment will be required. If significant effects cannot be ruled out as unlikely, then an appropriate assessment will be required to consider any potential impacts further. This is discussed further within the Appropriate Assessment section below.

1.13 When preparing a suite of development plan documents, it is important that the HRA is undertaken in a way that is proportionate to the level of the document. The European Commission's own guidance on the application of the test of likely significant

effect accepts that policies in a plan that are no more than general policy statements or which express the general political will of an authority cannot be likely to have a significant effect on a site [1].

1.14 This issue (for Local Plans) has also been addressed in the High Court case of Feeney, in which the judge stated that:

"..First a Core Strategy is a high level strategic document and the detail falls to be worked out at a later stage. Subsequent appropriate assessment of specific proposals is plainly envisaged by, and indeed necessitated under, the regime. Each appropriate assessment must be commensurate to the relative precision of the plans at any particular stage and no more. There does have to be an appropriate assessment at the Core Strategy stage, but such an assessment cannot do more than the level of detail of the strategy at that stage permits". Adv. Gen. Kokott expressly recognises this at 49 of her Opinion in Commission v UK [2] .

1.15 The Advocate General's Opinion in UK v Commission [3] (as referred to at paragraph 26 of the Feeney Judgement) specifically dealt with the assessment of land use plans for the purposes of Article 6 and stated at paragraph 49 (emphasis added):

"..**Many details are regularly not settled until the time of the final permission**. It would also hardly be proper to require a greater level of detail in preceding plans or the abolition of multi-stage planning and approval procedures so that the assessment of implications can be concentrated on one point in the procedure. Rather, adverse effects on areas of conservation **must be assessed at every relevant stage of the procedure** to the extent possible on the basis of the precision of the plan. This assessment is to be updated with **increasing specificity in subsequent stages of the procedure."**

1.16 The Feeney case confirms the legitimacy of the use of policy safeguards and provides helpful guidance in regards to the role of protective policies for European sites or protective wording within policies:

- A general protective policy in itself cannot be regarded as adequate mitigation for any significant effects, because planning applications must be determined in accordance with the Development Plan; however
- An element of a policy that safeguards European sites or a policy qualifying a particular proposal so as to avoid likely significant effect has been found to be permissible [4]; and

1 European Commission, 2000, Managing Natura 2000 Sites: The provisions of Article 6 of the Habitats Directive 92/43/EEC section 4.3.2 at http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/provision_of_art6_en.pdf
2 Sean Feeney v Oxford City Council and the Secretary of State CLG para 92 of the judgment dated 24 October 2011 Case No CO/3797/2011, Neutral Citation [2011] EWHC 2699 Admin http://www.oxford.gov.uk/Library/Documents/Barton%20AAP/Barton%20AAP%20CD%207.20.1%20Appendix%20Feeney%20v%20OCC%202011.pdf
3 Case C-604 Commission of the European Communities v United Kingdom [2005] ECJ
4 Feeney; paragraphs 88, 90 and 92

- Adopting something in principle that will not actually happen if the protective condition or qualification is not being satisfied [5] has also been found to be permissible;
- Such safeguards must be sufficiently specific that they are not just general safeguards that apply to a range of European sites and a range of effects

Court of Justice of the European Union

1.17 In addition to the legislation already discussed, a judgment issued on 12th April 2018 by the Court of Justice of the European Union (CJEU) [6] ruled that Article 6(3) of the Habitats Directive must be interpreted as meaning that mitigation measures (measures which are intended to avoid or reduce likely significant effects) should be assessed within the framework of an appropriate assessment. It is not permissible to take account of measures intended to avoid or reduce harmful effects of the Plan or Project on a European site at the screening stage.

5 Feeney; paragraph 96
6 Judgement of the European Court of Justice (CJEU) 12th April 2018; *People Over Wind and Sweetman v Coillte Teoranta* (C-323/17)

2 Background to the Hellingly Neighbourhood Development Plan (NDP)

2.1 Hellingly Parish Council, as the relevant body for the purposes of NDP designation, applied for designation of the whole parish as a Neighbourhood Plan Area under Section 61G of the Town and Country Planning Act 1990 (as amended). Following consultation, it was concluded appropriate to approve the application to designate the extent of the Parish as a Neighbourhood Plan Area effective from 5th November 2015. Since then, Hellingly Parish Council has published a pre-submission version (Regulation 14) of the Neighbourhood Development Plan for public consultation (between 1 December 2017 and 26 January 2018).

2.2 Since then, Hellingly Parish Council has drafted a proposed submission version (Regulation 16) of the Hellingly NDP, which is intended to be submitted for independent examination, and if successful in this process, a public referendum.

2.3 The Hellingly NDP includes a vision for the Parish and a number of planning policies and recommendations that would cover the plan area. When adopted the Neighbourhood Plan will be used in the determination of planning applications within the plan area. The vision included within the Hellingly NDP is as follows:

'…that the growth proposed for Hellingly Parish within the emerging Wealden Plan will have been successfully delivered, with all appropriate supporting infrastructure and in the most suitable locations locally. Hellingly will remain an essentially rural parish providing a green and accessible lung for the growing town of Hailsham'

2.4 The draft planning policies and recommendations within the Hellingly NDP are documented at Appendix 3 of the screening assessment, where a summary of the intentions of each draft policy is outlined (see Appendix A to this report).

Current Development Plan for Wealden District

2.5 The Core Strategy forms the current development plan for Wealden District as well as the Affordable Housing Delivery Local Plan and a number of saved policies contained in the 1998 Wealden Local Plan. The Core Strategy was adopted in February 2013. The Plan provides a long-term spatial vision and strategic objectives for the district for the period 2013 to 2027, including the South Downs National Park. The Core Strategy provides the quantum of growth and identifies broad locations for delivering housing and economic growth. The document also provides strategic policies including that relating to infrastructure, sustainable development, the provision of homes, biodiversity and green infrastructure.

2.6 A major consideration in the development of the Core Strategy was the effect of deteriorating water quality at Pevensey Levels SAC and Ramsar site and atmospheric pollution on Ashdown Forest SAC through traffic growth. As such, less growth was identified to be delivered in the Core Strategy due to these environmental constraints and the legislative requirement to meet the Habitats Regulations.

2.7 In recognising the constraints whilst seeking to ensure that there is an adequate supply of development land in the longer term, the Core Strategy Planning Inspector provided a requirement for the Core Strategy to be reviewed in 2015. The need for the review was based on the capacity issues associated with Hailsham North and Hailsham South Wastewater Treatment Works, where it was not possible to exceed the current capacity and as such a solution to the waste water issues is required to be delivered by the water authority. In addition to this, a modification was added to Core Strategy Policy WSC12 following the examination in public. This required 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 addition was to establish a better scientific understanding of the situation to see if additional growth could be accommodated in the future. Work contributing to the Core Strategy review commenced following its adoption in 2013.

2.8 The Council has undertaken work to review the Core Strategy and produced the Wealden Local Plan and its associated evidence base. The Wealden Local Plan was submitted to the Planning Inspectorate on 18th January 2019.

2.9 Following the Stage 1 hearing sessions into the Examination, which took place during May and July 2019, the Inspector wrote to the Council on 20th December 2019 advising that the Plan could not proceed to stage 2 hearing sessions due to its failure to meet the Duty to Co-operate. Wealden District Council has withdrawn the Plan with effect from 19th February 2020. In summary, the up-to-date approved 'development plan' for Wealden District Council therefore comprises the following documents:

- The Wealden District Council (incorporating part of the South Downs National Park) Core Strategy Local Plan (adopted 19th February 2013);
- The Wealden Local Plan (adopted December 1998) (Saved Policies);
- East Sussex, South Downs and Brighton and Hove Waste and Minerals Local Plan (adopted February 2013); and
- The Affordable Housing Delivery Local Plan (May 2016)

Neighbourhood Planning in Wealden and the Habitats Regulations

2.10 A Neighbourhood Plan is considered to be a land use plan. As such it must also meet the requirements of the Habitats Directives and Regulations. Since the adoption of the Core Strategy Wealden District Council has undertaken work to inform future plan making and planning applications in relation to Habitat Regulation matters. It is this information which will form the basis of an appropriate assessment of neighbourhood plans.

3 Habitats Regulations Assessment Methodology

Assessment Stages

3.1 There is no statutory method for undertaking a Habitats Regulations Assessment (HRA), however, the adopted method must be appropriate to its purpose under the Habitats Directive and Regulations.

3.2 The European Commission [7] recommends a four stage approach to addressing the requirements of Articles 6 (3) and (4) of the Habitats Directive, as set out below.

- **Stage 1: Formal Screening / Likely Significant Effect test** – The first stage in the HRA process is to identify the likely impacts of a plan or project upon a European site, either alone or in combination with other plans or projects. This stage considers whether any of the potential impacts are likely to be significant. The objective is to 'screen out' those sites or elements of the plan, without any detailed appraisal, which will not result in a likely significant adverse effect on a European site. This stage will be the focus of this screening assessment

Stage 2: Appropriate Assessment (AA) - An appropriate assessment is required if it is identified at the screening stage that the plan is likely to result in a significant effect either alone or in combination with other projects or plans. An appropriate assessment considers the impacts on the integrity of the European or Ramsar site(s). Where there are adverse impacts, it also includes an assessment of the potential avoidance and mitigation of those impacts.**Stage 3: Assessment of alternative solutions** – Following the appropriate assessment stage and consultation on this, should it be considered by a competent authority that residual adverse effects remain then it is necessary as part of a Stage 3 assessment to examine whether there are alternative ways of achieving the objectives of the plan that avoid the adverse impacts on the integrity of European or Ramsar sites or reduce them. It must be objectively concluded that no alternative solutions exist.

- **Stage 4: Imperative Reasons of Overriding Public Interest (IROPI) -** If there are no alternative solutions or mitigation solutions to remove or reduce any identified adverse effect to a level that is considered acceptable in view of a sites conservation objectives then it will be necessary, under regulation 107 of the Habitats Regulations, to demonstrate that there are Imperative Reasons of Overriding Public Interest to continue with the implementation of the Plan. The IROPI stage should only be explored in exceptional circumstances. Compensatory measures to offset negative impacts must be identified and assessed as appropriate before the project or plan can proceed.

Habitats Regulations Assessment Guidance

3.3 In addition to the Guidance provided by The European Commission, the following Guidance documents have been used to inform the methodology for this HRA:

- Assessment of plans and projects significantly affecting Natura 2000 sites. European Commission (2001);

7 Assessment of plans and projects significantly affecting Natura 2000 sites. European Commission (2001)

- Managing Natura 2000Sites: The provisions of Article 6 of the 'Habitats' Directive 92/43/EEC. European Commission (November 2018);
- Department for Communities and Local Government (2006). Planning for the Protection of European Sites: Guidance for Regional Spatial Strategies and Local Development Documents;
- Habitats Regulations Appraisal Of Plans - Guidance For Plan-Making Bodies In Scotland, Version 3.0, January 2015; Planning Inspectorate's Guidance Note 10, Version 5 (August 2013); "The Habitats Regulations Assessment Handbook" DTA Publications Limited, September 2013 (and as subsequently amended);
- The Habitats and Wild Birds Directives in England and its seas: Core Guidance for developers, regulators & land/marine managers (December 2012 (draft for public consultation)

3.4 Consideration has also been had to recent guidance and advice including:

- Natural England's release of Internal Guidance - Natural England's approach to advising competent authorities on the assessment of road traffic emissions under the Habitats Regulations (June, 2018); and
- Preliminary ruling from the Court of Justice of the European Union: Opinion of advocate General Kokott delivered on 25th July 2018: Joined cases C-293 / 17 and C-294 / 17**(2)**;and CJEU Judgment delivered on 7th November 2018 on Joined Cases C-293/17 and C-294/17.

HRA Methodology and Key Considerations

Hierarchy of plans and projects in the assessment process

3.5 The protective regime of the habitats legislation is intended to operate at different levels. In some circumstances, an assessment at a lower level i.e. at development project level will be more effective in assessing potential effects of a proposal on a European site than it is at the higher-level plan stage. This is because a lower tier plan or project will have a more precise understanding of the project, such as the specific nature, scale and location of development and therefore its potential effects.

3.6 However, it is only appropriate to rely on an assessment at a lower tier plan stage or development project stage where the HRA of a higher tier plan cannot reasonably assess the effects on a European site in a meaningful way. This could be, for example, due to a lack of specific information that will be unknown at that particular stage in the plan process.

3.7 Having said this, on the basis that higher tier plans, including the Wealden Local Plan, may not know the precise nature, scale or precise location of development, the HRA of the plan may rely in part on assumptions about the effects on Natura 2000 sites. Any assumptions made must also include the application of the precautionary approach.

3.8 Where adverse effects are identified in a higher tier plan, it will be necessary to adapt the plan to avoid the adverse effects identified. However, where it is identified that such effects cannot reasonably be known at the higher tier plan stage, then it will be

necessary to indicate what aspects require further assessment at a later stage and how the proposal may be adjusted where a significant effect cannot be ruled out.

3.9 An HRA of a lower tier plan or project is legislatively required and a plan cannot take place unless it is ultimately concluded 'no adverse effect'.

3.10 In the case of Neighbourhood Plans, in many cases the plan will identify the acceptability criteria for developments in a plan area, relating to location, design or the composition of types of development; with the exact detail of the resulting developments agreed via the development management process (where they are determined in accordance with the Neighbourhood Plan, the Local Plan and the National Planning Policy Framework). In most cases, the neighbourhood plan will not identify additional housing or land allocations to the Local Plan, but will set acceptability criteria.

3.11 Therefore, in many cases it would be appropriate to rely on a more detailed Habitats Regulations Assessment, with more detailed mitigation measures, at a later stage in the planning process. This is particularly relevant within Impact Risk Zones for European sites where certain developments are likely alone or in combination, to have a likely significant effect on the site without mitigation.

3.12 The Habitats Regulations Assessment Handbook states:

"It may be possible and appropriate for the higher level plan to outline some aspects of mitigation measures, which must be provided at the later stage or lower level plan, in order to be able to conclude that there would be no adverse effects on site integrity" [8].

"In order to ascertain that there would be no adverse effect on the integrity of a European site, a plan-making body may only rely on mitigation measures in a later stage if the following three criteria are all met:

a. The earlier stage or higher level plan assessment cannot reasonably predict any effect on a European site in a meaningful way;
b. The later stage, which will identify more precisely the nature, timing, duration, scale or location of development, and thus its potential effects, will have the necessary flexibility over the exact nature, timing, duration, scale and location of the proposal to enable an adverse effect on site integrity to be avoided; and
c. The Habitats Regulations Assessment of the plan at the later stage is required as a matter of law or Government policy.

Implementation uncertainty

3.13 In certain situations, the effects arising from a plan may depend on how the plan is implemented. Where these circumstances arise, and to ensure compliance with the habitats legislation, it may be appropriate to impose a caveat within relevant policies, or introduce a freestanding policy to make it clear that any project that could result in an adverse effect on the integrity of a site will not be permitted. This would provide an

8 Tyldesley, D. and Chapman, C. (2013) The Habitats Regulations Assessment Handbook (February 2019 update) DTA Publications Ltd section F.10.1.5

additional level of certainty that neither the plan nor indeed any resulting development projects will be allowed to adversely affect the integrity of a European site. Where such policies are provided, they must be targeted specifically to deal with the issue that is causing the uncertainty.

Expert judgement

3.14 The consideration of potential effects of a plan or project requires consideration by experts. At various stages of the Wealden Local Plan HRA process, the Council has procured the necessary technical expertise to feed into the process at its various stages. Assessing potential effects of a plan, to an extent requires judgement. Such judgement may relate to the methods used for assessing potential impacts and may extend further in relation to assessing information and evidence. Any judgements made within this Appropriate Assessment have been guided by legislation alongside the expert knowledge that has been gathered for the purpose of the assessment.

3.15 Further information in relation to considerations taken during the HRA process are provided below. The information gathered as part of this Appropriate Assessment is considered to be reasonable and practical and in line with the habitats legislation. Where judgements are made these are reported alongside any identified limitations within the relevant section of the Assessment.

Potential effects of a plan

3.16 Internationally designated sites are identified to be vulnerable to a range of adverse or indeed positive effects. Whilst a Neighbourhood Development Plan in itself will not directly result in an adverse effect, the implementation of the policies contained in the Plan may result in an effect through one or more impact pathways. Central to any adverse effect is a consideration of the nature, magnitude, location and timing of a development proposal. These factors can change whether or not a significant effect is likely to result.

3.17 A policy within a plan may have either a direct or indirect effect and it may result at different stages in their life cycle. It is important for an Appropriate Assessment to consider all aspects of a plan proposal that may give rise to significant effects.

Significant effect

3.18 In considering the thrust of the Habitats Directive (Article 6 (2)) the aim is to avoid the deterioration of natural habitats and the habitats of species, as well as disturbance of the species. The European Commission sets out the important parameters. In relation to deterioration any event which contributes to the reduction of the areas covered by a natural habitat for which the site has been designated or any impairment to the factors necessary to long-term maintenance of the habitats can be classed as deterioration and a significant effect.

3.19 Concerning disturbance, the guidance states that any event contributing to the long-term decline of the population of species and any event contributing to the reduction

or to the risk of reduction of the range of the species can be regarded as a significant disturbance. This will need to be assessed on a case-by-case basis.

3.20 Where screening identifies a likely significant effect resulting in habitat deterioration or species disturbance, a further assessment is required to consider the effects of the plan on habitat deterioration or species disturbance against the sites conservation objectives as well as fulfilling the objectives of the Habitats Directive

Habitat Regulations Assessment (HRA) and Sustainability Appraisal (SA)

3.21 The HRA process is an iterative process and has been carried out alongside the production of the Hellingly NDP itself. In addition, the Sustainability Appraisal of the Hellingly NDP has been carried out parallel to the issues considered within the HRA.

3.22 A Habitats Regulations Assessment was submitted alongside the Hellingly Neighbourhood Plan in May 2019. Due to the withdrawal of the Wealden Local Plan this Habitat Regulations Assessment provides an updated position. This is due to there being no emerging plan in which to consider the neighbourhood plan in relation to an in combination assessment.

3.23 This report presents the findings of the Appropriate Assessment of the Hellingly NDP. The Methodology followed is presented in the following sub-section and the conclusions of the appropriate assessment is presented within this report.

Hellingly Neighbourhood Development Plan HRA Methodology

3.24 The following methodology was undertaken to assess whether the Hellingly NDP is likely to result in a significant adverse effect on a Natura 2000 site. The methodology involved a number of different stages. There were some variations in the methodology approach depending on the European Site that was in consideration and the level of information already known. However, the general process that was undertaken is set out below:

Stage 1: Screening for likely significant effect

3.25 Stage 1 of the assessment considered whether the plan is likely to result in a significant effect on a European Site. The following steps were undertaken during the screening stage:

a. Determining whether the plan/ project is directly connected with or necessary to the management of European sites;
b. Identifying the European sites that should be considered within the HRA;
c. Gathering information in relation to the European Sites including:

    i. Characteristics of European Sites
    ii. Qualifying interests
    iii. Conservation Objectives;
    iv. Current site condition;

v. Threats to qualifying interests; and
vi. Identification of relevant site management statements/plans

d. Identification of all plans or projects that could, in combination, have the potential to result in a significant adverse effect on a Natura 2000 site;
e. Screening the plan for likely significant effects, alone and in combination with other plans and projects;
f. Rescreening of the Plan where changes to the Plan were made

3.26 The purpose of this initial stage of the HRA was to assess whether further steps in the HRA process are required. This involved:

- Identifying and eliminating the elements of the plan which will have no effect on a European site;
- Identifying elements of the plan which would not be likely to have a significant effect on a European Site, either alone or in combination with other plans and projects;
- Identifying the elements of the plan where it cannot be ruled out to not result in a likely significant effect, either alone or in combination with other plans or projects; and
- Assessing the significance of any effects on the European Site.

3.27 The assessment involved screening the content of the plan and its policies and recommendations against a number of criteria. During the Stage 1 assessment, existing current information and knowledge about the European Sites were relied upon. The European Commission Guidance endorses this approach.

3.28 The findings of the screening stage are presented in Appendix A of this report and are summarised in the next section.

Stage 2: Appropriate Assessment

3.29 The aim of the Appropriate Assessment is to assess the impact of the Hellingly Neighbourhood Development Plan (either alone or in combination with other projects or plans) on the integrity of the European sites in relation to their conservation objectives. Article 6 (3) of the Habitats Directive states that a plan may only be agreed "...after having ascertained that it will not adversely affect the integrity of the site concerned."

3.30 The following steps were taken during the Appropriate Assessment Stage of the HRA:

1. Scope the requirements for an appropriate assessment including the identification of information required;
2. Gather current information and evidence to undertake the Appropriate Assessment Stage. This evidence and information mirrors that of the Wealden Local Plan Habitats Regulations Assessment:
3. Assessment of the elements of the plan identified to have a potential adverse effect taking into account site integrity, conservation objectives and the ecological status of the site. This involved:

i. Identifying each potential effect;
ii. Assessing the scale and seriousness of each potential effect (in combination and in applying the precautionary principle);
iii. Assessing how effects may change over time;
iv. Assessing the likelihood that the effects may occur; and identifying the degree of certainty.

4. The identification of avoidance measures or mitigation measures
5. Assessment of avoidance or mitigation measures against the adverse effects identified including their deliverability and effectiveness
6. Amendment to the Hellingly NDP to remove likely adverse effects;
7. Re-assess the plan (alone and in combination) to assess whether site integrity would be adversely affected, applying the precautionary principle

3.31 The purpose of the Appropriate Assessment stage is to understand the implications of the plan or project for the site in view of the site's conservation objectives, in order to inform the decision as to whether the proposal will adversely affect the integrity of the site. The concept of favourable conservation status and the conservation objectives provide the parameters within which an assessment can be made.

3.32 The European Methodological Guidance provides a useful site integrity checklist to assist in assessing what would happen to a European site, its qualifying habitats and/or species if a plan or project were to be implemented, in this case the Hellingly NDP. Using the checklist together with further information and evidence, an assessment can be made to determine whether the Hellingly NDP (either alone or in combination) is likely to have an adverse effect on the integrity of a European Site

Requirements of the Habitats legislation

3.33 The following sections set out a number of requirements and considerations as relevant to the HRA process. The Council has referred to and used where necessary guidance produced by the European Commission to explain these.

3.34 The screening stage is based on a 'likely significant effect' test. A 'likely effect' is one that cannot be ruled out based on objective information. European Commission Guidance sets out that the test is a 'likelihood' of effects rather than a 'certainty' of effects[9].

3.35 In the Waddenzee case, the European Court of Justice ruled that a project should be subject to appropriate assessment 'if it cannot be excluded, on the basis of objective information, that it will have a significant effect on the site, either individually or in combination with other plans or projects'. In using this case law, 'likely' should not be interpreted as 'probable' or 'more likely than not', but rather whether a significant effect can objectively be ruled out.

3.36 The European Commission provide guidance on 'significant effect'. Ultimately, the test of significance is where a plan or project could undermine the sites conservation

9 Managing Natura 2000 Sites, EC, 2000. Section 4.4.2

objectives. The likelihood of this occurring is a case-by-case judgement, taking into account the specific features and environmental conditions of the protected site concerned by the plan or project and the precautionary principle.

3.37 During the 'likely significant effect' test, the precautionary principle must be applied in relation to whether the next stage in the HRA process is required.

Scientific uncertainty

3.38 Scientific uncertainty can be experienced at a range of levels. It can be due to a lack of or limited availability of relevant information, inadequate information, and uncertainty about the predicted effects of a plan or policy on the interest features of a site. Scientific uncertainty may also occur where there is limited understanding of ecological responses or where it is not possible to satisfactorily predict or estimate the nature, scale or spatial extent of changes that may result by a plan or project. In some circumstances, such limitations can be overcome by further investigation. However, where the impacts of a plan or project on site integrity remain to be unknown, the Habitats legislation require the precautionary principle to be adopted.

Precautionary principle

3.39 The precautionary principle is defined as "where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation" **(10)**.

3.40 In line with this definition and as appropriate to the Habitats Directive, European Commission guidance states that "…the conservation objectives of Natura 2000 should prevail where there is uncertainty" **(11)**. It further sets out that the use of the precautionary principle in the case that "…a scientific evaluation of the risks which, because of the insufficiency of the data, their inconclusive or imprecise nature, makes it impossible to determine with sufficient certainty the risk in question". The guidance further states that "…this means that the emphasis for assessment should be objectively demonstrating, with supporting evidence, that there will be no adverse effects on the integrity of the site".

3.41 The European Commission in its communication on the use of the Precautionary Principle provides further information **(12)**. Communication sets out a number of steps to be followed as below:

- If a preliminary scientific evaluation shows that there are reasonable grounds for concern that a particular activity might lead to damaging effects on the environment, or on human, animal or plant health, which would be inconsistent with the protection normally afforded to these within the European Community, the Precautionary Principle is triggered;

10 1992 Rio Declaration on Environment and Development
11 Assessment of plans and projects significantly affecting Natura 2000 sites: Methodological guidance on the provisions of Article 6 (3) and (4) of the Habitats Directive 92/43/EEC (European Commission, 2001, pg 11).
12 Communication from the Commission on the Precautionary Principle, (European Commission, 2000)

- Decision-makers then have to determine what action to take. They should take account of the potential consequences of taking no action, the uncertainties inherent in the scientific evaluation, and they should consult interested parties on the possible ways of managing the risk. Measures should be proportionate to the level of risk, and to the desired level of protection. They should be provisional in nature pending the availability of more reliable scientific data; and
- Action is then undertaken to obtain further information enabling a more objective assessment of the risk. The measures taken to manage the risk should be maintained so long as the scientific information remains inconclusive and the risk unacceptable.

3.42 In summary, this means that where there is doubt, further assessment should be undertaken and the worst outcome assumed.

In combination effect

3.43 Article 6 (3) of the Habitats Directive requires a HRA to take into account the in combination effects of plans and projects. The Directive recognises that in some cases the effects of a plan or project on its own could result in an unlikely significant effect or an insignificant effect. However, it is recognised that there may be a number of plans or projects, each which on their own would be unlikely to have a significant effect. However, if their individual effects were added together, by them all coming forward over time, the effects in combination would be likely to be significant.

3.44 It is important to note that the intention of this in-combination provision is to take account of cumulative impacts, and these will often only occur over time. The Directive would be undermined if the combinations of plans and projects escaped assessment, especially if their combined effects are likely to be damaging to a site as the effects of one large plan or project alone [(13)].

3.45 The European Commission Guidance [(14)] makes clear that the phrase 'in combination with other plans or projects' in Article 3(3) refers to cumulative effects caused by the projects or plans that are currently under consideration together with the effects of any existing or proposed projects or plans. This should include approved projects and plans that are currently uncompleted or unimplemented. There is no requirement to consider completed plans and projects. These would normally form part of the site's baseline conditions. However, whilst there is no legislative requirement to consider them, if the effects of completed projects or plans are likely to contribute to the loss of site integrity, then it is important that some account is taken and they are acknowledged in the assessment. When impacts are assessed in combination in this way, it can be established whether or not there may be, overall, an impact which may have significant effects on a Natura 2000 site or which may adversely affect the integrity of a site.

13 Habitats Regulations Appraisal Of Plans - Guidance For Plan-Making Bodies In Scotland, (David Tyldesley and Associates, Version 3.0, January 2015)

14 Assessment of plans and projects significantly affecting Natura 2000 sites - Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC

International sites

3.46 As a general principle, international site boundaries are drawn around the qualifying habitat types or habitats of species for which a site has been selected. However, in some cases, the boundary includes a larger area of land including habitat types, which are not designated features. In these cases, a larger area has been identified to take account of and to ensure that the site operates as a functional whole for the purposes of conserving the habitat types or species [15].

Site integrity

3.47 One of the key considerations when assessing whether the Hellingly NDP will adversely affect a European Site is its effect on its ability to be and continue to be a healthy and ecologically functioning site, with particular focus on its designated features. Site integrity has been defined as:

'the coherence of its ecological structure and function, across its whole area, which enables it to sustain the habitat, complex of habitats and/or the levels of populations of the species for which it was classified'.

3.48 Guidance suggests that the 'integrity of site' relates to a specific site. It also relates to a site's conservation objectives, where the aim is to protect the habitats and species for which the site is designated.

3.49 The term 'integrity' can therefore mean the structure and functioning of its ecological systems, the features for which it is designated and the ability of the site to meet its conservation objectives across all parts of the site.

3.50 It is clear from the above definition that the focus of site integrity relates to the European site as a whole and not just the parts of the site where the qualifying habitats or species exist. It relates to a multitude of ecological factors that contributes to the sites ability to be maintained in favourable conservation status and to have the potential to meet its conservation objectives with minimal management support. When this is achieved a site can be said to have a high degree of site integrity.

3.51 For a plan or project to be approved, an assessment must result in there being 'no reasonable scientific doubt' that a plan or project will not have an adverse effect on the integrity of a European site. Decisions must be made and supported by the best scientific knowledge/evidence available.

Use of SSSI condition assessments and site integrity

3.52 At a national scale, the condition of SACs are understood through a system of Common Standards Monitoring (CSM). The system was developed by the Joint Nature Conservation Committee (JNCC) for the purpose of assessing Sites of Special Scientific Interest (SSSI). Natural England on all internationally / nationally designated sites

15 McLeod, CR, Yeo, M, Brown, AE, Burn, AJ, Hopkins, JJ, & Way, SF (eds.) (2005) The Habitats Directive: selection of Special Areas of Conservation in the UK. 2nd edn. Joint Nature Conservation Committee, Peterborough. www.jncc.gov.uk/SACselection

undertake standard monitoring. Monitoring typically takes place every 6 years but can take place more often.

3.53 With SSSI's often coinciding with European and International sites the SSSI condition assessment is a useful measure to use when undertaking an Appropriate Assessment to determine the effects of a project or plan on site integrity. A condition assessment is where a site, (which is broken down into a number of units), is assessed against a set of targets or target ranges (biological, chemical or physical) that have to be met for each individual unit to be judged in 'favourable condition'.

3.54 Whilst the condition of a SSSI cannot directly be used as an indication of a European sites conservation status (because SSSIs are designated for habitats or species of national importance rather than European or international importance) many of the ecological conditions that help to support site integrity are shared across the designations. On this basis, an understanding of the condition of a SSSI can assist in indicating what the current situation is for a European or International site. This can then be used to assist in identifying whether a project or plan may affect the integrity of a European or International site in the future.

3.55 Having said the above and whilst understanding that standard monitoring contributes to the monitoring of Natura 2000 sites, it does not cover monitoring or reporting of favourable conservation status using the conservation objectives of a Natura 2000 site. However, designated SAC features are described as part of assessment reporting and it is this that forms the basis of information in relation to the condition of the site. It is important to note that a condition assessment provides information about a site at a fixed point in time. It is also important to note that a condition assessment does not and cannot provide information in relation to the structure and function of a habitat or associated species, which are necessary for its long-term maintenance. An assessment as to a sites conservation status therefore requires a further level of information.

Conservation objectives

3.56 Natural England has provided conservation objectives for each European site. The objectives provide a framework to inform Habitat Regulations Assessment. Where the objectives are met, the site is considered to exhibit a high degree of integrity and to be contributing to achieving favourable conservation status for that habitat or species at a UK level. Whilst conservation objectives may vary across different sites, they generally seek the following:

- 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 the habitats of qualifying species rely;
- The populations of qualifying species; and
- The distribution of qualifying species within the site

Conservation status

3.57 Conservation status is defined in Article 1 of the Directive. For a habitat, it is:

> *'The sum of the influences acting on a natural habitat and its typical species that may affect its long-term natural distribution, structure and functions as well as the long-term survival of its typical species'.*

3.58 Favourable conservation status for a natural habitat is considered to be achieved when:

- Its natural range, and areas it covers within that range, are stable or increasing;
- 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

3.59 For species, conservation status is defined as:

> *'The sum of the influences acting on the species concerned that may affect the long-term distribution and abundance of its populations…'*

3.60 Favourable conservation status for a species is considered to occur when:

- The 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 habitat;
- The natural range of the species is neither being 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.

3.61 The favourable conservation status assessment must be considered at both the Natura 2000 network level as well as at site level, seen as it is the contribution of each site which constitutes the overall network.

Avoidance and mitigation

3.62 The approach to identifying and assessing mitigation measures is set out in the European Commission guidelines [16] and the guidance [17]. The Draft Defra guidance sets out that mitigation should be considered in accordance with the mitigation hierarchy.

16 Managing Natura 2000 Sites, The provisions of Article 6 of the 'Habitats' Directive 92/43/EEC, (European Commission, 2018)
17 Assessment of plans and projects significantly affecting Natura 2000 sites: Methodological guidance on the provisions of Article 6 (3) and (4) of the Habitats Directive 92/43/EEC (European Commission)

That is to (a) avoid the negative impact, if this is not possible then (b) to reduce the negative impact, or lastly (c) off-set the negative impact, in a way that will either reduce or avoid an adverse effect on the integrity of the European site. It may be that a combination of all types of mitigation is required. The Defra guidance identifies that in some cases a strategic approach to mitigation may be taken. However, whether strategic or not, a clear message from the draft Defra guidance and relevant to identifying suitable mitigation is that whilst the precautionary approach must be adhered to pragmatic solutions should be sought to ensure that proposed activities are compatible with the protection of European sites.

3.63 Overall mitigation measures should only be used if the competent authority is confident that the approach is legally robust; based on evidence; effective, reliable, timely and sufficiently certain about its delivery. If there is any doubt concerning the identified mitigation measures then these must be considered as part of the HRA process.

3.64 Considering and assessing the effectiveness of mitigation measures to ensure no adverse effect from the implementation of a plan or project on a Natura 2000 site is an integral part of the HRA process. It is for the competent authority to determine what level of mitigation is required, taking into consideration suggestions from the relevant nature conservation authorities, in this case Natural England and the Environment Agency.

3.65 European guidance identifies that if a competent authority considers that residual adverse effects remain, despite the application of mitigation measures, then the project or plan may not proceed.

3.66 To meet the requirements of the Habitat Regulations it is important to ensure that any mitigation measures proposed are sufficient, are in place before any adverse effect can occur and are effective for as long as there is expected to be a risk. To achieve this, it is important to consider and assess the likely effects on a Natura 2000 site that may arise from a project or plan and look at various mitigation options to ensure that the most effective and cost effective solutions are identified and delivered. Any options that would not provide sufficient protection to the site either on their own or in combination with other measures should be rejected.

3.67 To ensure that any proposed mitigation measures are sufficient and to assess their effectiveness it is necessary to:

- Understand the measures proposed and how they will avoid or mitigate any adverse effect;
- Provide evidence in relation to how they will be secured, implemented and by whom;
- Provide evidence on the degree of confidence in their likely success;
- Provide a delivery timescale and identify when they will be implemented; and
- Identify how the measures will be secured, monitored and enforced and how measures would be adapted should mitigation fail.

3.68 Overall, there must be confidence that mitigation will be effective and can be delivered. Only when this exists may plans or projects be agreed.

3.69 On 21st November 2018 the European Commission published its Commission notice "Managing Natura 2000 sites - The provisions of Article 6 of the 'Habitats' Directive 92/43/EEC". This latest guidance adds to the previous version and states in section 3.6.6 that for a competent authority to be able to decide if the mitigation measures are sufficient to remove any potential adverse effects of the plan or project on the site, each mitigation measure must be described in detail, with an explanation based on scientific evidence of how it will eliminate or reduce the adverse impacts which have been identified. The Guidance provides that there is a need for definitive data at the time of authorisation. The latter point is raised in case C-142/16, paragraphs 37-45.

3.70 The latest EU Guidance also provides that should, after the introduction of mitigation measures, there still be a residual adverse effect on site integrity, then the plan or project cannot be approved unless the conditions set out in Article 6(4) are fulfilled.

4 Pathways of Impact

4.1 An important part of HRA is understanding the mechanisms through which plans and projects may adversely affect the European or international site and its qualifying features. These mechanisms are termed 'Pathways of Impact'. In regards to Neighbourhood Plans, current guidance suggests that the following be included in the scope of an assessment:

- All sites within the Neighbourhood Plan area boundary; and
- Other sites shown to be linked to development within the boundary through a known 'pathway'

4.2 Briefly defined, pathways are routes by which a change in activity within a Plan/area can lead to an effect upon a European site.

4.3 The potential pathways of impact for development arising from the Hellingly NDP are:

- Increased atmospheric pollution (Ashdown Forest SAC and Lewes Downs SAC);
- Deterioration of water quality (Pevensey Levels SAC Ramsar); and
- Changes in hydrological conditions (Pevensey Levels SAC Ramsar)

Atmospheric pollution

4.4 Atmospheric pollution has been identified to be a direct threat to biodiversity in England . Effects occur through atmospheric concentrations of pollutants as well as subsequent deposition to land or water.

4.5 With regards to European sites, the main primary pollutants of concern include nitrogen oxides (NO_x); sulphur dioxide (SO_2) and ammonia (NH_3). A brief consideration of each of these pollutants is provided below.

Table 1

Pollutant		Impacts
Sulphur dioxide (SO_2)	The main sources of this pollutant are electricity generation, industry and domestic fuel combustion. Since 1970, SO_2 emissions have declined by 96% due to switching to alternative fuels from solid fuels, improved abatement technology and stringent legislation of sulphur content of some fuels. The occasional increase in SO_2 emissions will now generally only occur where the power sector intermittently increase their coal usage. Road transport produced	Wet and dry deposition of SO_2 acidifies soils and fresh waters, thereby altering the composition of plant communities by causing a decline in species intolerant of more acid conditions. The significance of impacts depends on the levels of deposition and the buffering capacity of the receiving environment; basic environments have a higher buffering capacity while acid soils and waters have a much lower buffering capacity and so are more severely affected.

Pollutant		Impacts
	less than 1% of the total SO_2 emissions in the UK in 2015.	
Ammonia (NH_3)	The dominant source of ammonia emissions is from the agricultural sector, contributing 81% of total emissions in the UK in 2015. Catalytic converters, including older 3-way catalysts and more modern selective catalytic reduction used in modern diesel vehicles, can emit ammonia in significant quantities and research suggests that these technologies trade off a reduction in other pollutants for higher ammonia emissions. Ammonium (NH_4^+) is produced from the reaction of NH_3 with acidic pollutants, such as gaseous nitric acid or nitrate particulates, both products of SO_2 and NO_x emissions. Ammonia and ammonium are reduced forms of nitrogen and is one of the key pollutants that contribute to nitrogen deposition.	Adverse effects are as a result of nitrogen deposition leading to eutrophication, acidification and nitrification of terrestrial and aquatic ecosystems. Ammonia can be more harmful than other components of nitrogen deposition.
Nitrogen Oxides (NO_x)	The term nitrogen oxides (NO_x) is used to describe the sum of two compounds of nitric oxide (NO) and nitrogen dioxide (NO_2). NO_x are primarily formed from atmospheric and fuel nitrogen as a result of high temperature combustion. Road transport was the most dominant source of NO_x in the UK in 2015, contributing to around a third of all UK emissions, with industrial combustion and power generation also accounting for a large fraction of the emissions total. Most of the UK NO_x emissions from road transport in the UK came from diesel vehicles. Since 1970, overall NO_x emissions have decreased by 69%, although this decrease has not been constant. Emissions rose between 1984 - 1989 due to the use of diesel and an increase in car use. Since this time emissions have fallen in the power industry sector and road traffic sector. The latter	Deposition of NO_x can lead to acidification of soils and freshwater. As with SO_2, the degree of harm depends on the level of deposition and on the buffering capacity of these environments. NO_x can also lead to the eutrophication of soils and waters, leading to the competitive exclusion of sensitive species as more vigorous ones take advantage of the increased nutrient levels.

Pollutant		Impacts
	relates to the introduction of catalytic converters and stricter regulations (i.e. Euro Standards). Further reductions in NO_x emissions were anticipated. However, to date the NO_2 concentrations have not decreased as expected due to the failure of Euro vehicle emission standards for diesel vehicles to deliver the anticipated reductions in NO_x emissions in real world driving conditions [18].	

4.6 Atmospheric pollution has the potential to affect heathland habitat (as found on Ashdown Forest SAC) and calcareous grassland habitat (as found on Lewes Downs SAC) as a result of acid deposition, nitrogen deposition and also direct exposure to atmospheric concentrations of pollutants. The three main effects of atmospheric pollution and nitrogen deposition include eutrophication by gradual increase of nitrogen availability, acidification of soil and water and the negative effects of the increased availability of reduced nitrogen (ammonium).

4.7 Critical Loads and Critical Levels have been set by scientists to protect ecosystems under the UNECE Convention on Long-Range Transboundary Air Convention (CLRTAP, the Geneva Air Convention) using empirical evidence from experiments and field studies across Europe. Critical levels and loads are provided by APIS as a tool to assist in the assessment of the risk of air pollution impacts to ecosystems and are frequently used to identify likely significant effects to a Natura 2000 site and to determine whether an adverse effect may occur. Critical loads or levels are useful as an environmental limit. In this sense, where nitrogen background levels are already in exceedance of critical loads/levels it can be argued that any further increase in loads or levels would give rise to a greater risk to the site or worsen effects [19].

4.8 Critical levels are 'concentrations of pollutants in the atmosphere above which direct adverse effects on receptors, such as human beings, plants, ecosystems or materials, may occur according to present knowledge'. Critical loads are 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'. Therefore, a Critical Level is the gaseous concentration of a pollutant in the air and a Critical Load is the quantity of pollutant deposited from the air.

4.9 Critical levels are set for broad vegetation types and are not habitat specific. Critical loads are provided as thresholds for nutrient nitrogen and acidity. For heathland habitats

18 http://naei.beis.gov.uk
19 W.K. Hicks, C.P. Whitfield, W.J. Bealey and M.A. Sutton (eds.) (2011) Nitrogen Deposition and Natura 2000: Science & practice in determining environmental impacts. COST729/Nine/ESF/CCW/JNCC/SEI Workshop Proceedings, published by COST. Available at: http://cost729.ceh.ac.uk/n2kworkshop Accessed on 11/04/18

(as relevant to Ashdown Forest SAC), the nutrient nitrogen critical load threshold for both wet and dry heath is 10-20 kg N/ha/yr. These are applicable to heathland habitat across the UK. Critical loads for nutrient nitrogen and acidity have not been set for the Great crested Newt, as relevant to Ashdown Forest SAC.

4.10 For calcareous grassland (as relevant to Lewes Downs SAC), the nutrient nitrogen critical load threshold is 15-25kg N/ha/yr. This is applicable to calcareous grassland habitat across the UK. Critical loads for nutrient nitrogen and acidity have not been set for the Early Spider-Orchid species, as relevant to Lewes Downs SAC.

4.11 Critical loads are provided as thresholds for nutrient nitrogen and acidity. For coastal and floodplain grazing marsh (which most closely corresponds to habitats within the Pevensey Levels), the nutrient nitrogen critical load threshold is 20-30kg N/ha/yr. This is applicable to coastal and floodplain grazing marsh habitat across the UK. APIS does not provide critical loads for water habitats, such as ditches, which form part of the Ramsar designation, nor for the Annex II species little whirlpool ram's-horn snail. In addition, there are no comparable habitats with an established critical load estimate available for those habitats where the Damselfly, Dragonfly and Invertebrate species occur.

4.12 As can be seen above, air pollution is caused by numerous processes. The Hellingly NDP does not promote energy production facilities or promote changes relating to agricultural or industrial practices. Nor does it allocate specific sites for development or a quantum of growth. However, the Hellingly NDP does contain policies which will facilitate and support housing and economic growth, both of which could lead to increased traffic on local roads within the district and the surrounding area.

4.13 It should be noted that air pollution is not a recognised threat to Pevensey Levels SAC and Ramsar Site.

Altered Hydrological Regime and Deteriorating Water Quality

4.14 Water quality is governed by not only the quantity and type of contaminants but also the volume and velocity of the water conveying the contaminants. Changes to water quality in the Pevensey Levels has the potential to affect the Conservation Objectives of the Pevensey Levels, including maintaining the distribution of habitats and species, and moreover, maintaining the structure, function and supporting processes of those habitats supporting the species.

4.15 Chemical contaminants carried by water have the possibility of affecting wetland habitat and impacting upon soils, flora and fauna. Pollutants can reach waterbodies in a number of ways:

- Surface water running directly into watercourses;
- Drainage systems which discharge surface water runoff through pies into the channel;
- Groundwater pollution (although this is rare as groundwater is generally protected from pollution by the overlying layers of soil and rock); and
- Surface water collected by the sewer system

4.16 Surface water run-off has the potential to be a major source of water pollution. Pollutants reach wetland areas mainly through run-off whereby water flows over impervious surfaces picking up a number of pollutants generated by human activity. Such pollutants can include sediment from construction sites, toxic metals and petroleum wastes from roadways and industrial or commercial areas, nutrients and bacteria from residential areas and nutrients and pesticides from agriculture and gardening activities

Water Abstraction and the role of water levels and water quality

4.17 The unsustainable abstraction of water also has the potential to cause ecological problems in terms of water quality by reducing river flow and river levels. This can lead to a concentration of nutrients such as phosphate and nitrate, which can ultimately lead to eutrophication and water quality issues.

4.18 The Site Improvement Plan (SIP) for the Pevensey Levels [20] provided by Natural England does confirm that water pollution within the Pevensey Levels catchment is an issue and that a priority action is to identify and implement a successive mechanism to reduce phosphate output from existing point sources without loss of water flow. It is noted that maximum levels of 0.1m/l phosphate can be tolerated by freshwater invertebrate and plant assemblages (which includes the ram's-horn snail) and that downstream of the two WwTW plants, a lower level of phosphate should sought to be achieved

Wastewater Discharge

4.19 Hailsham North WwTW serves the northern part of Hailsham, Horsebridge and several outlying villages including Chiddingly, Hellingly and Lower Dicker. Treated wastewater from the Hailsham North WwTW enters the Hurst Haven. Hailsham South WwTW currently serves the majority of Hailsham itself (to the south of the town), as well as Polegate and Willingdon. Treated wastewater from Hailsham South WwTW enters the Horse Eye Sewer and ultimately enters into the Hurst Haven. Both these WwTWs discharge treated wastewater into the Pevensey Levels, in line with the Environmental Permits granted by the Environment Agency.

4.20 Both of the WwTWs at Hailsham treat wastewater to the highest standards available nationally before the effluent is discharged into the Pevensey Levels. However, in considering the current water quality status of receiving waters there is a risk that increased urbanisation could potentially cause further water quality deterioration. The latest Southern Water Position Statement (February 2018) confirms that a number of options have been explored in terms of the quality of treated effluent and based on current information, Southern Water has concluded that their preferred solution is the provision of high rate secondary treatment process at both WwTWs in order to overcome this environmental constraint.

20 Natural England, October 2014 Site Improvement Plan: Pevensey Levels (SIP 171)

Hydrology

4.21 Hydrology concerns the quantity, duration, rates, frequency and other properties of water flow. In relation to the Pevensey Levels, hydrology is central in maintaining specific designated species, including those species that are considered of European importance. The flora and fauna in the Pevensey Levels are not only dependent on the overall maintenance of water levels but also the velocity and volumes at which water is received into the watercourses, which is critical to the success of the ecosystems. The hydrology, and therefore the Conservation Objectives of the Pevensey Levels SAC and Ramsar site are potentially affected by a number of issues associated with the Hellingly NDP.

4.22 Natural England has published a Site Improvement Plan for the Pevensey Levels (51)(SIP171) that provides a high level overview of the issues (both current and predicted) affecting the condition of the Natura 2000 features on the site(s) and outlines the priority measures required to improve the condition of protected features. In terms of hydrology, it was identified for Pevensey Levels SAC feature (the Anisus vorticulus or little ramshorn whirpool snail) that one of the main threats would be inappropriate water levels. Specifically, maintaining adequate water levels (0.3cm below ditch neck) is critical to the feature and this is currently being delivered through a Water Level Management Plan to achieve appropriate water levels, which should be adequately monitored and maintained.

Increase in impermeable surfaces

4.23 An increase in impermeable surfaces and structures from development can reduce the amount of water being received and stored by the underlying geology. In addition, the introduction of new hard surfaced areas can increase overland flow. This would result in the same amount of water being received but within a shorter period, creating greater volumes and velocities of water in the watercourses.

4.24 In addition, the loss of vegetation in catchment areas would similarly exacerbate this effect. The impact of development through the loss of permeability is dependent on the type of underlying geology and the topography of an area.

Volume of treated wastewater discharge

4.25 The water discharged from the various WwTWS within the catchment of the Pevensey Levels maintains the levels in the receiving watercourses, and any increase or reduction in the volume of discharge has the potential to affect the ecosystem of the Pevensey Levels. The quantity and quality of waste discharge from all WwTW are under a consenting regime.

Water abstraction

4.26 The Cuckmere and Pevensey Levels area is dominated by public water supply abstraction. Of all licensed abstraction by volume, at least 90% is for public water supply and around two thirds of this is for surface water abstraction. The surface water public water supply is held by two large licenses, one filling Arlington Reservoir on the Cuckmere

and the other named Hazards Green on the Wallers Haven. The latter is where South East Water PLC abstracts water from the Wallers Haven, whilst also augmenting it via a system of upstream boreholes. The upstream boreholes ensure suitable water depths in the main channel.

4.27 Management of water abstraction is essential as the unsustainable abstraction of water, in relation to new development, has the potential to cause ecological problems by reducing river flow and river levels. This can have implications in relation to the geological processes that occur within wetland systems, thus affecting soils, habitats and even species composition.

4.28 The latest Cuckmere & Pevensey Levels Abstraction Licensing Strategy [21] confirms that the Pevensey Levels is identified as having 'no water available'. This means that there is not water available for further abstraction licenses at low flows.

21 Environment Agency, March 2013 Cuckmere & Pevensey Levels Abstraction Licencing Strategy

4 Pathways of Impact

5 Summary of the Screening Assessment of the Hellingly NDP

5.1 As part of the HRA process, it is important to identify all relevant sites that could potentially be affected by a plan or proposal, either alone or in combination with other plans or projects. An HRA screening assessment was undertaken for the Hellingly NDP in October 2018. This is provided at Appendix A.

5.2 The screening assessment concluded that Castle Hill SAC, Hastings Cliffs SAC, Ashdown Forest SPA and Dungeness, Romney Marsh and Rye Bay SPA and Ramsar site would not result in a likely significant effect because of the Hellingly NDP, either alone or in combination with other plans or projects. The reasons why are summarised in the table below:

Table 2 Summary of reasons for concluding 'no likely significant effect' on certain Natura 2000 sites

Site	Impact pathway	Conclusion summary
Castle Hill SAC	· Air pollution	Castle Hill SAC is located to the north of Brighton and is some 11.5km from Wealden District and over 25km from the Hellingly NDP Area. The nearest main road is the Falmer Road (B2123), which runs from the A27 at Falmer across the South Downs to the east of Brighton. The road is located approximately 400m west of the SAC. The SAC therefore falls outside of the area where it is considered that an increase in traffic (derived from any new development) could result in a likely significant effect.
Hastings Cliffs SAC	· Air pollution · Water Quality · Hydrology	Hastings Cliffs SAC is located to the east of Hastings, some 12.8km from Wealden District and over 25km from the Hellingly NDP Area. The nearest main road is the A259 (The Bourne and Old London Road), which runs north and west of Hastings. This road is located over 350m at its nearest point to the west of the SAC and although there are 3 roads (Coastguard Lane, Barley Lane and Rocklands Lane) located less than 200m form the SAC, these are small, narrow, residential roads and are therefore unlikely to be heavily used. The SAC therefore falls outside of the area where it is considered that an increase in traffic (derived from any new development) could result in a likely significant effect. Additionally, it is unlikely that development arising from the Hellingly NDP, or within Wealden District overall, would have an effect on the water quality or hydrology of the SAC.
Dungeness SAC and Dungeness, Romney Marsh and Rye Bay SPA and Ramsar site	· Disturbance · Air pollution · Water Quality (SPA and Ramsar site only) · Hydrology	Dungeness SAC and Dungeness, Romney Marsh and Rye Bay SPA and Ramsar site are located approximately 18.4km from Wealden District and over 40km from the Hellimgly NDP Area. Given this distance, development within the Hellingly NDP Area and Wealden District as a whole, will not result in adverse air pollution, water quality or hydrological impacts. The RSPB also limit visitors to the site, therefore new residential development will not result in an adverse impact on the SPA.
Ashdown Forest SPA	· Disturbance	Ashdown Forest SPA is located approximately 18.2km from the Hellingly NDP Area and therefore development arising from the

Site	Impact pathway	Conclusion summary
	· Urbanisation	Hellingly NDP falls outside of the 7km zone within which it has been identified that residential development is likely to result it adverse impacts on the SPA from increases in visitor numbers and effects of urbanisation such as cat predation.

5.3 Table 5 within the screening assessment (Appendix A of this report) provides the findings of that assessment. From the screening assessment, 15 policies were assessed as to not result in a likely significant effect either alone or in combination with other plans and projects. These policies were identified as such for a number of reasons, primarily because they are general criteria based policies relating to areas such as design; they do not identify any quantum or location of development; they provide support for the improvement of existing infrastructure (i.e. amenity and natural greenspaces) and/or are aspirational in nature with no land use implications. In addition, of the 17 recommendations made within the Hellingly NDP, all were assessed as to not result in a likely significant effect either alone or in combination with other plans and projects on any of the European/International sites.

5.4 Policy HNDPE in particular is identified within the policies as having no likely significant effect because it seeks to ensure that new development within the Hellingly NDP area will have no adverse effect, alone or in combination with other plans and projects. This generalised policy endeavours to ensure that the Hellingly NDP meets the Habitats Regulations.

5.5 The remaining five policies within the Hellingly NDP identified in the screening assessment as having the potential to result in a likely significant effect are assessed as such because they seek to facilitate or support growth, subject to certain criteria. The main pathways of impact from these policies are increased atmospheric pollution on the Ashdown Forest SAC, Lewes Downs SAC and potential impacts on the hydrological regime and decreased water quality within the Pevensey Levels SAC and Ramsar site.

5.6 As a result of the HRA Screening Assessment for Hellingly NDP, it was necessary to carry out an Appropriate Assessment. The following section sets out and reports on the Appropriate Assessment that was undertaken for the Hellingly NDP in accordance with the Habitats Regulations.

6 Appropriate Assessment of the Hellingly NDP

Introduction

6.1 Although the Hellingly NDP does not specifically allocate any development sites, policies within the Plan provide scope for development to occur within the defined urban area boundary as well as the Parish as a whole.

6.2 Therefore, in accordance with Part 6 (Regulation 105) of the Habitats Regulations, an Appropriate Assessment must be carried out to ensure that the Plan either alone or in combination does not result in an adverse effect on the integrity of the European sites.

6.3 Paragraphs 3.24 - 3.32 of this report sets out the steps undertaken for the Appropriate Assessment of the Hellingly NDP. The following sections report on the findings of the appropriate assessment for the Hellingly NDP.

Atmospheric pollution

6.4 Stage 1 of the HRA identifies that certain policies within the Hellingly NDP, both alone and in combination with growth elsewhere, have the potential to result in a likely significant effect on the integrity of the Ashdown Forest SAC, Lewes Downs SAC and Pevensey Levels SAC and Ramsar.

6.5 The impact pathway is atmospheric pollution from a potential predicted increase of traffic movements as a result of new residential and/or employment development. It is noted that the Hellingly NDP does not specifically allocate development, however a number of its policies support growth and could therefore result in additional traffic movements. If allowed to proceed unchecked, cumulatively with other development within the district as well as plans and projects outside of the district, such growth could result in an adverse effect on the European sites.

6.6 The following NDP policies have potential to facilitate new development, thus linking the Plan to this impact pathway:

- Policy HNDP 7 'Rural Economy'
- Policy HNDP 8 'Isolated New Dwellings'

Ashdown Forest SAC

An understanding of the ecological status of Ashdown Forest SAC

6.7 Ashdown Forest SAC is designated for its Annex I habitats Northern Atlantic wet heaths with Erica tetralix and European dry heaths, for which it is considered to be one of the best areas in the UK for both habitats. At the European level, Northern Atlantic wet heath is assessed to be in unfavourable bad condition in all European regions except the Mediterranean. European dry heaths has a similar assessment, except in the Mediterranean, Alpine and Black Sea regions.

6.8 As already stated, with SSSIs often coinciding with European and International sites, the SSSI condition assessment is a useful measure to understand the existing condition of a site. The SAC designation includes 119 out of 127 units that are designated as part of the SSSI. Of these 119 units, 71 are identified to be dwarf shrub heath and 60 units are identified as broadleaved mixed woodland. Of the 71 dwarf shrub heath units, only 20 are currently assessed to be in favourable condition. In relation to area this equates to 353.3 ha (23.2%) of those units identified to be lowland heath that are considered to be in favourable condition. Similarly, only 269 ha (22.2%) of broadleaved mixed woodland is considered to be in favourable condition with the remainder in unfavourable recovering condition**.**

6.9 In relation to a SSSI, unfavourable recovering condition is defined as:

> *Units/features not yet fully conserved but all the necessary management measures are in place. Provided that the recovery work is sustained, the unit/feature will reach favourable condition in time. At least one of the designated feature(s) mandatory attributes are not meeting their targets'*

6.10 Favourable status is obtained when designated features are being adequately conserved and features are meeting their mandatory site-specific monitoring targets

6.11 In summary, Ashdown Forest is considered by Natural England overall to be in unfavourable recovering condition.

6.12 Additional information in relation to the current condition of Ashdown Forest can be found in the following studies on the Council's website:

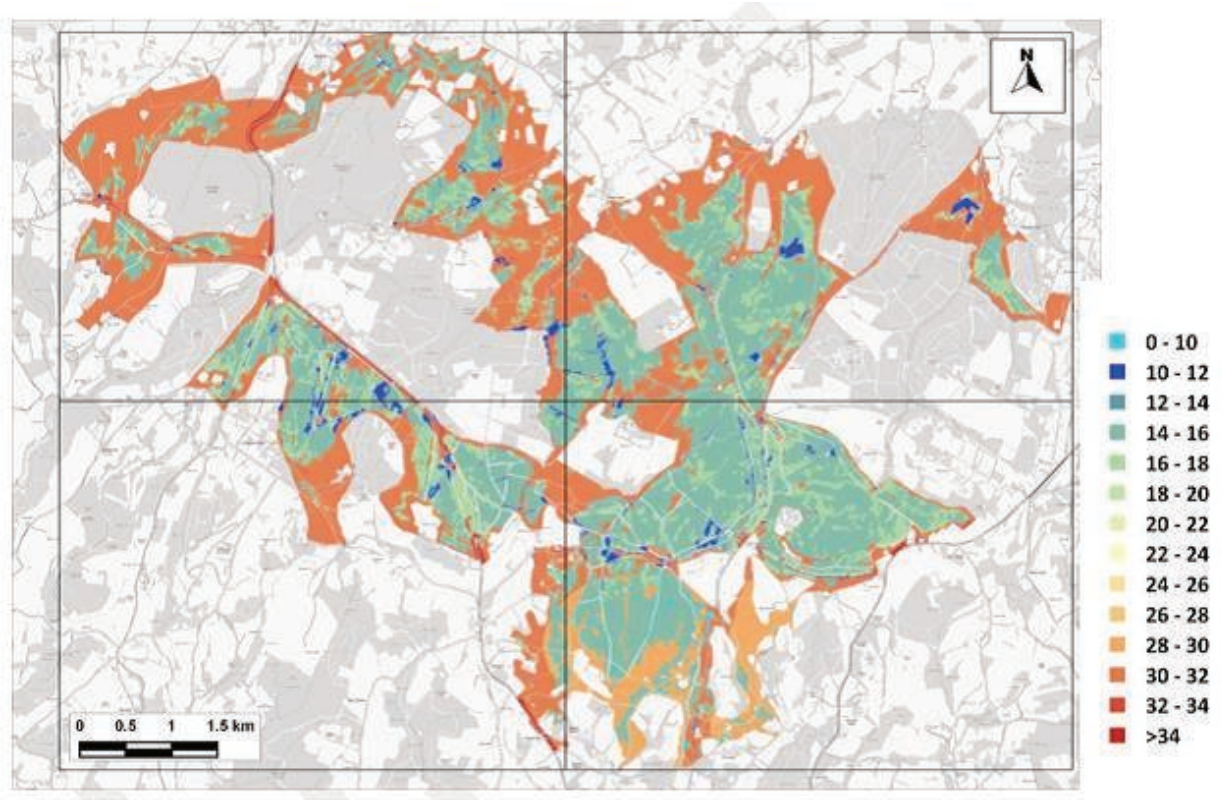
- Ashdown Forest SAC Air Quality Monitoring and Modelling Volumes 1 & 2 (Air Quality Consultants, 2018)
- Ecological Monitoring at Ashdown Forest: Considering the Current and Future Impacts on the SAC caused by Air Quality and Nitrogen Deposition (ECUS Environmental Consultants, 2018

Impact assessment

6.13 Air quality monitoring has taken place across Ashdown Forest SAC since 2014 and has identified that ambient concentrations measured at Ashdown Forest SAC for both NO_x and NH_3 are currently exceeding the critical level at monitor locations close to the road on the A22, A26 and A275, which traverse across Ashdown Forest SAC.

6.14 In addition, dispersion modelling across Ashdown Forest SAC has identified that currently, areas of the SAC are exceeding their critical levels for NO_x, NH_3 and nitrogen deposition. The figure below is provided to show the existing situation with regards to nitrogen deposition at Ashdown Forest SAC.

Figure 1: Existing nitrogen deposition to SAC (kg-N/ha/yr) using the EA method (kg-N/ha/yr)



6.15 The qualifying features underpinning the Ashdown Forest SAC designation are the presence of European dry heath, North Atlantic wet heath and great crested newts. The conservation objectives for the SAC can be summarised as ensuring the favourable conservation status of its qualifying features by, amongst other things, maintaining or restoring qualifying habitats.

6.16 Natural England's supplementary advice on conserving and restoring the SAC, linked to the PPG, explains that the heathland habitat of the Ashdown Forest is sensitive to changes in air quality. Exceedance of 'critical values' for air pollutants may modify its chemical substrate, accelerating or damaging plant growth, altering its vegetation structure and composition and causing the loss of typical heathland species. Accordingly, development could result in an impact pathway to the SAC if it contributes to an exceedance in critical values.

6.17 The heathland habitat in the Ashdown Forest SAC is vulnerable to atmospheric pollution from several sources including vehicle emissions from motor vehicles. There is a potential impact pathway from increased traffic flows associated with new development on the roads which go through, or run adjacent to, the SAC. Many of the characteristic plants, mosses and lichens of heathland habitats are adapted to nutrient poor conditions and extra input of nitrogen can disadvantage these characteristic species in favour of others with a greater tolerance of higher nitrogen levels.

6.18 The Council had proposed a new Local Plan to 2028 which sought to deliver 14,228 homes and 22,500 square metres of business floorspace. Considering the effects of that quantum of growth, Natural England is satisfied that it will not adversely affect the integrity of Ashdown Forest Special Area of Conservation (SAC) from air quality impacts. This advice regarding air quality is that this conclusion can be reached without mitigation measures being needed under the specific requirements of the Habitats Regulations. The advice is based on the evidence provided, their expert knowledge of the particular characteristics, interest features and management of the designated sites in question and professional judgement.

6.19 Natural England has also advised that where an existing national, regional or local initiative can be relied upon to lead to the reduction in background levels of pollution at a site, the competent authority should assess the implications of a plan or project against an improving background trend. Air quality monitoring undertaken by the Council indicates improvements in vehicle technology will come forward and this is a further consideration in assessing the effects on site integrity of the Hellingly NDP on the Ashdown Forest SAC.

6.20 Whilst the above is a consideration in relation to impacts on site integrity, due to the nature of the policies contained in the Hellingly NDP, it is not possible to identify the location, type and quantum of growth that may come forward in the neighbourhood plan area that may result in additional traffic movements on roads adjacent to or within the Ashdown Forest SAC. On this basis, it is not possible to test the potential impacts at the neighbourhood plan level because it is not possible to test windfall development. Instead, it will be necessary for impacts from windfall development that has not already been tested as part of the 14,228 dwellings and 22, 500sq m of employment floor space (as part of the 'withdrawn' Wealden Local Plan) to be assessed at the planning application stage when the required detail of any windfall development will be available for the purpose of undertaking a project level appropriate assessment.

Table 3 Implications of the Hellingly NDP on the integrity of Ashdown Forest SAC to meet its conservation objectives

Conservation Objective	Potential effect
Maintain or restore the extent and distribution of the habitats of qualifying species	This habitat type is considered sensitive to changes in air quality. Exceedance of these critical values for air pollutants may modify the chemical status of its substrate, accelerating or damaging plant growth, altering its vegetation structure and composition and causing the loss of sensitive typical species associated with it. WDC has tested the delivery of 14,228 homes and 22,500 sqm of employment floor space including a number of sites located within and adjacent to the Hellingly Neighbourhood area. Both an 'alone' and 'in combination' assessment was undertaken that included other plans and projects. In considering the sites and quantum of growth that was modelled, using Scenario B, it can be concluded that there would not be an adverse impact on the integrity of Ashdown

Conservation Objective	Potential effect
	Forest SAC and mitigation would not be required for this level of growth both alone and in combination with other plans and projects. Additional windfall to that which has been tested (as part of the 'withdrawn' Wealden Local Plan) may come forward as a result of policies in the Hellingly Neighbourhood Plan. However, it is not possible to identify the location, type and quantum of this growth and therefore to assess the impact of any resultant additional traffic movements on roads adjacent to or within Ashdown Forest SAC that may result from windfall development. Instead, it will be necessary for impacts from windfall development that has not already been tested as part of the 14,228 dwellings and 22, 500sq m of employment floor space (as part of the 'withdrawn' Wealden Local Plan) to be assessed at the planning application stage when the required detail of any windfall development will be available for the purpose of undertaking a project level appropriate assessment development.
Maintain or restore the structure and function of the habitats of qualifying species	This habitat type is considered sensitive to changes in air quality. Exceedance of these critical values for air pollutants may modify the chemical status of its substrate, accelerating or damaging plant growth, altering its vegetation structure and composition and causing the loss of sensitive typical species associated with it. WDC has tested the delivery of 14,228 homes and 22,500 sqm of employment floor space including a number of sites located within and adjacent to the Hellingly Neighbourhood area. Both an 'alone' and 'in combination' assessment was undertaken that included other plans and projects. In considering the sites and quantum of growth that was modelled, using Scenario B, it can be concluded that there would not be an adverse impact on the integrity of Ashdown Forest SAC and mitigation would not be required for this level of growth both alone and in combination with other plans and projects. Additional windfall to that which has been tested (as part of the 'withdrawn' Wealden Local Plan) may come forward as a result of policies in the Hellingly Neighbourhood Plan. However, it is not possible to identify the location, type and quantum of this growth and therefore to assess the impact of any resultant additional traffic movements on roads adjacent to or within Ashdown Forest SAC that may result from windfall development. Instead, it will be necessary for impacts from windfall development that has not already been tested as part of the 14,228 dwellings and 22, 500sq m of employment floor space (as part of the

Conservation Objective	Potential effect
	'withdrawn' Wealden Local Plan) to be assessed at the planning application stage when the required detail of any windfall development will be available for the purpose of undertaking a project level appropriate assessment development.
Maintain or restore the supporting processes on which the habitats of qualifying species rely.	The qualifying heathland habitat relies on low fertility systems and species characteristic of heathland habitats are sensitive to nitrogen deposition and associated increases in fertility. WDC has tested the delivery of 14,228 homes and 22,500 sqm of employment floor space including a number of sites located within and adjacent to the Hellingly Neighbourhood area. Both an 'alone' and 'in combination' assessment was undertaken that included other plans and projects. In considering the sites and quantum of growth that was modelled, using Scenario B, it can be concluded that there would not be an adverse impact on the integrity of Ashdown Forest SAC and mitigation would not be required for this level of growth both alone and in combination with other plans and projects. Additional windfall to that which has been tested (as part of the 'withdrawn' Wealden Local Plan) may come forward as a result of policies in the Hellingly Neighbourhood Plan. However, it is not possible to identify the location, type and quantum of this growth and therefore to assess the impact of any resultant additional traffic movements on roads adjacent to or within Ashdown Forest SAC that may result from windfall development. Instead, it will be necessary for impacts from windfall development that has not already been tested as part of the 14,228 dwellings and 22, 500sq m of employment floor space (as part of the 'withdrawn' Wealden Local Plan) to be assessed at the planning application stage when the required detail of any windfall development will be available for the purpose of undertaking a project level appropriate assessment development.

Lewes Downs SAC

An understanding of the ecological status of Lewes Downs SAC

6.21 The presence of Annex I habitat (semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia)) with the priority habitat type 'orchid rich sites' is the primary reason for designation of the Lewes Downs as an SAC. Other habitat present at the boundary of the SAC includes semi-natural woodland. Together with areas of scrub, this creates a rich habitat mosaic at the site which is of high ecological value.

6.22 This mosaic of habitats is recognised in the SSSI designation for the site, and the woodland belts contribute to the overall ecological value of the site. The belts of woodland also provide an important function in terms of acting as a buffer against air quality impacts

on the calcareous grassland beyond this. Whilst an important component of this habitat mosaic and an integral part of the SSSI, the mature woodland habitat does not support the qualifying habitat that the Lewes Downs SAC has been designated for. This has been verified by Natural England who have also confirmed that there is no intention for the mature woodland components to be managed to create calcareous grassland habitat within these areas as they have an important function in slope stability as well as helping to intercept airborne pollutants between the road and the calcareous grassland.

6.23 In terms of the conservation objectives for the site, these are focused on the calcareous grassland habitats.

6.24 The effects of increased nitrogen deposition on woodland components of the SAC have therefore been scoped out of this Appropriate Assessment The mosaic of habitats, including the woodland habitat, will contribute to the overall structure and function of the site as a whole, and its wider national importance as noted in the Lewes Downs SSSI designation. However, the woodland components are not considered to be a contributing factor to the ecological structure and function of the calcareous grassland habitat that is the qualifying feature of this SAC.

6.25 The only data currently available for Lewes Downs SAC is that provided by SSSI Unit data. The majority of the SSSI units relevant to the SAC are currently considered to be in favourable condition, with only two units being considered to be in unfavourable-recovering condition. In terms of area, this means that only 4.9% (7.3 ha) of the SAC is considered to be failing it's CSM targets.

6.26 The units that are located closest to the road are both in favourable condition. These units, whilst assessed as being in favourable condition, are considered to be at medium risk. This risk, in all cases, relates to encroaching scrub and dominating grasses. The reason for this risk is likely to be related to a number of factors, of which grassland management is likely to be a key component. However, the effects of nitrogen deposition could compound any management issues through reducing diversity, increasing growth of grasses and creating more favourable conditions for scrub growth due to nutrient enrichment.

6.27 Additional information in relation to the current air quality condition of Lewes Downs SAC can be found in the following study on the Council's website:

- Air Quality Input for Habitats Regulations Assessment: Lewes Downs SAC (Air Quality Consultants, 2018)

Impact assessment

6.28 Although not as detailed as that undertaken for Ashdown Forest SAC [(22)], similar dispersion modelling, emission calculations, future year projections, deposition modelling and scenario testing was applied to Lewes Downs SAC. The modelling is presented in

22 This is due to monitoring data availability, including detailed vegetation maps, as well as a larger receptor grid, and a more comprehensive network road network in the traffic data identified in the model for Ashdown Forest SAC

the AQC Report (Lewes Downs SAC Air Quality Input for Habitat Regulations Assessment). This assessment is relevant to the Hellingly NDP HRA.

6.29 Similar to that reported above for Ashdown Forest SAC, the Council had proposed a new Local Plan to 2028 which sought to deliver 14,228 homes and 22,500 square metres of business floorspace. Considering the effects of that quantum of growth, Natural England is satisfied that it will not adversely affect the integrity of Lewes Downs Special Area of Conservation (SAC) from air quality impacts. This advice regarding air quality is that this conclusion can be reached without mitigation measures being needed under the specific requirements of the Habitats Regulations. This advice is based on Natural England's knowledge of the topography of Lewes Downs SAC and the interest features for which it is designated. The only habitat likely to be impacted by air quality deterioration is woodland which is not a qualifying feature of the designated site.

6.30 Natural England has also advised that where an existing national, regional or local initiative can be relied upon to lead to the reduction in background levels of pollution at a site, the competent authority should assess the implications of a plan or project against an improving background trend. Air quality monitoring undertaken by the Council indicates improvements in vehicle technology will come forward and this is a further consideration in assessing the effects of the Hellingly NDP on the integrity of Lewes Downs SAC. Natural England's advice is provided in its Supplementary Advice document for Lewes Downs SAC [(23)].

6.31 Whilst the above is a consideration in relation to impacts on site integrity, due to the nature of the policies contained in the Hellingly NDP, it is not possible to identify the location, type and quantum of growth that may come forward in the neighbourhood plan area that may result in additional traffic movements on roads adjacent to Lewes Downs SAC. On this basis it is not possible to test the potential impacts at the neighbourhood plan level. Instead impacts will be assessed at the planning application stage when the required detail to make an assessment will be available.

Table 4 Implications of the Hellingly NDP on the integrity of Lewes Downs SAC to meet its conservation objectives

Conservation Objective	Potential effect
Maintain or restore the extent and distribution of the habitats of qualifying species	This habitat type is considered sensitive to changes in air quality. Exceedance of these critical values for air pollutants may modify the chemical status of its substrate, accelerating or damaging plant growth, altering its vegetation structure and composition and causing the loss of sensitive typical species associated with it. WDC has tested the delivery of 14,228 homes and 22,500 sqm of employment floor space including a number of sites located within and adjacent to the Hellingly Neighbourhood area. Both an 'alone' and 'in combination' assessment was undertaken that included other plans and projects. In considering the sites and quantum of growth that was modelled, using Scenario B, it can be concluded that there would not be an

23 Natural England (2019). European Site Conservation Objectives: Supplementary advice on conserving and restoring site features: Lewes Downs Special Area of Conservation (SAC) Site Code: UK0012832 http://publications.naturalengland.org.uk/publication/4618459505754112

Conservation Objective	Potential effect
	adverse impact on the integrity of Lewes Downs SAC and mitigation would not be required for this level of growth both alone and in combination with other plans and projects. Additional windfall to that which has been tested (as part of the 'withdrawn' Wealden Local Plan) may come forward as a result of policies in the Hellingly Neighbourhood Plan. However, it is not possible to identify the location, type and quantum of this growth and therefore to assess the impact of any resultant additional traffic movements on roads adjacent to or within Ashdown Forest SAC that may result from windfall development. Instead, it will be necessary for impacts from windfall development that has not already been tested as part of the 14,228 dwellings and 22, 500sq m of employment floor space (as part of the 'withdrawn' Wealden Local Plan) to be assessed at the planning application stage when the required detail of any windfall development will be available for the purpose of undertaking a project level appropriate assessment development
Maintain or restore the structure and function of the habitats of qualifying species	This habitat type is considered sensitive to changes in air quality. Exceedance of these critical values for air pollutants may modify the chemical status of its substrate, accelerating or damaging plant growth, altering its vegetation structure and composition and causing the loss of sensitive typical species associated with it. WDC has tested the delivery of 14,228 homes and 22,500 sqm of employment floor space including a number of sites located within and adjacent to the Hellingly Neighbourhood area. Both an 'alone' and 'in combination' assessment was undertaken that included other plans and projects. In considering the sites and quantum of growth that was modelled, using Scenario B, it can be concluded that there would not be an adverse impact on the integrity of Lewes Downs SAC and mitigation would not be required for this level of growth both alone and in combination with other plans and projects. Additional windfall to that which has been tested (as part of the 'withdrawn' Wealden Local Plan) may come forward as a result of policies in the Hellingly Neighbourhood Plan. However, it is not possible to identify the location, type and quantum of this growth and therefore to assess the impact of any resultant additional traffic movements on roads adjacent to or within Ashdown Forest SAC that may result from windfall development. Instead, it will be necessary for impacts from windfall development that has not already been tested as part of the 14,228 dwellings and 22, 500sq m of employment floor space (as part of the 'withdrawn' Wealden Local Plan) to be assessed at the planning application stage when the required detail of any windfall development will be available for the purpose of undertaking a project level appropriate assessment development
Maintain or restore the supporting processes on which the habitats of qualifying species rely	Calcareous grasslands are reliant on the process of the application of ongoing appropriate management. Without appropriate grazing or cutting, the qualifying habitats would revert to scrub. WDC has tested the delivery of 14,228 homes and 22,500 sqm of employment floor space including a number of sites located within and adjacent to the Hellingly Neighbourhood area. Both an 'alone' and 'in combination' assessment was undertaken that included other plans and projects. In considering the sites and quantum of growth that was modelled, using Scenario B, it can be concluded that there would not be an adverse impact on the integrity of Lewes Downs SAC and mitigation would not be required for this level of growth both alone and in combination with other plans and projects. Additional windfall to that which has been tested (as part of the 'withdrawn' Wealden Local Plan) may come forward as a result of policies in the Hellingly Neighbourhood Plan. However, it is not possible to identify the location, type and quantum of this growth

Conservation Objective	Potential effect
	and therefore to assess the impact of any resultant additional traffic movements on roads adjacent to or within Ashdown Forest SAC that may result from windfall development. Instead, it will be necessary for impacts from windfall development that has not already been tested as part of the 14,228 dwellings and 22, 500sq m of employment floor space (as part of the 'withdrawn' Wealden Local Plan) to be assessed at the planning application stage when the required detail of any windfall development will be available for the purpose of undertaking a project level appropriate assessment development

Pevensey Levels SAC and Ramsar site

An understanding of the ecological status of Pevensey Levels

6.32 Pevensey Levels is one of the largest and least fragmented lowland wet grassland systems in south-east England. A complex network of ditches is present which support important and diverse wetland communities of plants, invertebrates and wintering birds. The ditches are managed to control drainage and to provide drinking water for livestock and this helps to provide a mosaic of habitat in different stages of succession across the site. Habitat types present include fen, marsh and swamp, improved grassland, littoral and supra-littoral sediment.

6.33 The presence of the Annex II species little whirlpool ram's-horn snail is the reason why Pevensey Levels is designated as an SAC and this species is very rare, only found in grazing marshes in well-vegetated open ditches fed by clean, slightly calcareous water. The main threats to the species include land drainage, inappropriate habitat management and eutrophication.

6.34 In relation to the Ramsar, the site is designated because it supports an outstanding assemblage of wetland plants and invertebrates including many British Red Data Book species. Also because the site supports 68% of vascular plant species in Great Britain that can be described as aquatic. It is probably the best site in Britain for freshwater molluscs, one of the five best sites for aquatic beetles Coleoptera and supports an outstanding assemblage of dragonflies Odonata.

6.35 Further detail in relation to Pevensey Levels SAC and Ramsar is provided in Appendix 1 of the screening assessment for the Hellingly NDP (see Appendix A to this report).

6.36 The SSSI is divided into 37 Units and the SAC and Ramsar site are wholly within the area covered by the SSSI. 36 of these Units are considered as lowland fen, marsh and swamp and are currently considered to be in unfavourable-recovering condition, with all considered to experience a high condition threat risk (it is assumed that threat relates principally to inappropriate ditch and grazing management although this is not explicitly stated). This means that the entire SAC and Ramsar Site is failing to meet CSM targets and is therefore in unfavourable condition

Impact pathway - Air pollution

6.37 Air pollution is not a recognised threat to Pevensey Levels SAC and Ramsar Site. Notwithstanding this air quality has been considered on the basis that development facilitated/supported by the Hellingly NDP could increase emissions on roads that are located adjacent to Pevensey Levels SAC Ramsar. The key question which will be considered is whether an increase in emissions will result in an adverse effect on the integrity of the site. This is addressed below assessment.

Impact assessment

6.38 As with the Ashdown Forest SAC and Lewes Downs SAC, air quality modelling was undertaken in relation to the Pevensey Levels SAC and Ramsar site and this is presented in the AQC Report (Pevensey Levels Air Quality Input for Habitat Regulations Assessment, 2018). This assessment is relevant to the Hellingly NDP HRA.

6.39 However, as part of its advice to the Council when considering the effects of the quantum of growth proposed in the new Local Plan to 2028 (which sought to deliver 14,228 homes and 22,500 square metres of business floorspace), Natural England stated it is satisfied that it will not adversely affect the integrity of Pevensey Levels (SAC) and Ramsar site from air quality impacts. This advice is based on Natural England's knowledge of the site which includes a consideration that Pevensey Levels is a phosphorus limited site where significant levels of nitrogen deposition would be required before it would impact on the integrity of the qualifying features of interest.

6.40 Whilst the above is a consideration in relation to impacts on site integrity, due to the nature of the policies contained in the Hellingly NDP, it is not possible to identify the location, type and quantum of growth that may come forward in the neighbourhood plan area that may result in additional traffic movements on roads adjacent to or within the Pevensey Levels. On this basis it is not possible to test the potential impacts at the neighbourhood plan level. Instead should a likely significant effect be identified, impacts will be assessed at the planning application stage when the required detail to make an assessment will be available.

Table 5 Implications of the Hellingly NDP on the integrity of Pevensey Levels SAC and Ramsar site to meet its conservation objectives

Conservation Objective	Potential Effect of Decreased Air Quality at Pevensey Levels SAC and Ramsar
Maintain or restore the extent and distribution of the habitats of qualifying species	The qualifying features of the Pevensey Levels SAC and the Ramsar site are both reliant upon the expansive network of wet ditches within the coastal floodplain grassland. The Pevensey levels have been established as a Phosphorus limiting environment (Natural England 2018). Consequently, the phosphorous concentrations within the site are low enough to limit vascular plant growth.

Conservation Objective	Potential Effect of Decreased Air Quality at Pevensey Levels SAC and Ramsar
	As a phosphorous limited site, significant levels of nitrogen deposition would be required before nitrogen would have an impact on aquatic plant growth within the ditches, which supports the qualifying features of interest. As a phosphorous limited site, changes in levels of nitrogen deposition are not considered to be a threat to the site. Although it is not possible to identify the location, type and quantum of growth that may come forward in the neighbourhood plan area, development supported by the Hellingly NDP will not adversely affect the integrity of the site. Similar to Ashdown Forest and Lewes Downs, a quantum of growth has been tested and using scenario B this growth would not result in an adverse effect on the integrity of the site. Development that may come forward as a result of the policies in the Hellingly Neighbourhood Plan will need to be considered at the planning application stage as appropriate.
Maintain or restore the structure and function of qualifying natural habitats (or Species)	The structure and functionality of the site which supports the qualifying features is determined by the hydrological function of the ditches, which is influenced largely by management practice as well as the distinctive underlying soil type. Present scientific consensus is that an increase in atmospheric nitrogen inputs are largely considered to be insignificant when assessing the functionality of plant growth within closed freshwater systems such as the Pevensey Levels. Increase in nitrogen deposition from air pollution are not anticipated to change plant growth rates or impact on the function of the ditches which support the qualifying features. Although it is not possible to identify the location, type and quantum of growth that may come forward in the neighbourhood plan area, the structure and functionality of the site will not be impacted by an increase in nitrogen deposition and development in the Hellingly neighbourhood plan area will not result in an adverse effect on the integrity of the site. Development that may come forward as a result of the policies in the Hellingly Neighbourhood Plan will need to be considered at the planning application stage as appropriate.

Conservation Objective	Potential Effect of Decreased Air Quality at Pevensey Levels SAC and Ramsar
Maintain or restore the supporting processes on which qualifying natural habitats rely.	Changes to natural soil properties, can impact adjacent aquatic systems through nutrient leaching from the soils. Deposition of nutrients because of increased airborne pollutants may therefore affect the ecological structure, function and processes associated with the fauna and flora associated with the Pevensey Level ditch systems. However, though elevated nitrogen deposition would alter the chemical composition of the soil, it would not have an influence on the availability of the limiting nutrient (Phosphorous). Therefore, an increase in nitrogen deposition will not impact on plant growth due to the ditches at Pevensey Levels being phosphorous limited. Although it is not possible to identify the location, type and quantum of growth that may come forward in the neighbourhood plan area, the supporting processes on which the qualifying habitat relies will not be impacted by an increase in nitrogen deposition and development in the Hellingly neighbourhood plan area will not result in an adverse effect on the integrity of the site. Development that may come forward as a result of the policies in the Hellingly Neighbourhood Plan will need to be considered at the planning application stage as appropriate.
Maintain or restore the populations of qualifying species	The Pevensey levels contains the largest population of Little whirlpool ram's-horn snail in the UK. Population fluctuations in the qualifying species are associated with pond or ditch drying and eutrophication of their aquatic habitat (snail populations are negatively impacted by increased levels of nitrates). There is also a positive association with floristic diversity in UK populations. Of these factors connected to the qualifying species, eutrophication of water bodies and floristic species diversity can be empirically linked to declining ambient air quality. However, within the phosphorous limited Pevensey Levels, increases in nitrogen deposition will not impact upon the population of the qualifying species. Although it is not possible to identify the location, type and quantum of growth that may come forward in the neighbourhood plan area, the population of the qualifying species will not be impacted by an increase in nitrogen deposition and development in the Hellingly neighbourhood plan area will not result in an adverse effect on the integrity of the site. Development that may come forward as a result of the policies in the Hellingly Neighbourhood Plan will

Conservation Objective	Potential Effect of Decreased Air Quality at Pevensey Levels SAC and Ramsar
	need to be considered at the planning application stage as appropriate.

Impact Pathway - Altered Hydrological Regime and Deteriorating Water Quality

6.41 Stage 1 of the HRA identifies that certain policies within the Hellingly NDP, both alone and in combination with growth elsewhere, have the potential to result in a likely significant effect on the integrity of the Pevensey Levels SAC and Ramsar site.

6.42 The impact pathway is an altered hydrological regime and deterioration in water quality from a potential increase in impermeable surfaces arising from new residential and/or employment development as well as from an increase in surface runoff and treated wastewater discharge. It is noted that the Hellingly NDP does not specifically allocate development, however a number of its policies support growth and could therefore result in an increase in impermeable surfaces and additional waste water discharge. If allowed to proceed unchecked, cumulatively with other plans and projects, development could result in an adverse effect on the integrity of the European site.

6.43 The following NDP policies have potential to facilitate new development, thus linking the Plan to this impact pathway:

- Policy HNDP 2 Local Green Spaces
- Policy HNDP3 Areas of Critical Flood and Drainage Concern
- Policy HNDP4
- Policy HNDP7 Rural Economy
- Policy HNDP8 Isolated New Dwellings

6.44 The Pevensey Levels has a large hydrological catchment area that extends far beyond the SAC and Ramsar site boundaries and is fed by three main river systems:

- The western system: the Hurst Haven and the Glynleigh Sewer converge at Rickney to form the Pevensey Haven;
- The Wallers Haven;
- The East Stream

6.45 The drainage network of the Pevensey Levels is complex and comprises pumping stations, water control structures, sluices and channels of varying sizes. The general principle is that groundwater discharge and surface water runoff from the surrounding upland catchment area is carried across the lowland to the sea outfalls via the embarked channels (the three main river systems).

6.46 The water levels of the embarked channels are managed by the operation of a number of large gates located at the downstream end of each of the channels. These

gates regulate the amount of water that is either discharged to the sea through tidal flap sluices or retained within the channel.

6.47 The lowland network of ditches has been modified so that some of the channels flow to pumping stations at specific locations, which can pump floodwater up into the embanked channels. In total, 62% of the Pevensey Levels Ramsar site is pump-drained.

6.48 Other ditches are routed to enable water to be fed from the high level channels into the lowland. Water is fed to provide feed water for agriculture, to address the summer water deficit and also for conservation. Summer feeding i.e. the transfer of water around the ditch network, is a central aspect of water level management on the Pevensey Levels.

6.49 There are over 600km of field ditches across the Pevensey Levels. The field ditches represent the main habitat of interest on the site and are the primary focus of the Ramsar and SAC designations as discussed above. Private ditches can be either linked or isolated from the feed watercourses or pump drains by operation or privately owned sluices.

6.50 The biodiversity of the Pevensey Levels is closely linked to its history of water management in the ditch system. It is recognised that water level management is fundamental in helping to restore or maintain the site in favourable condition. The conservation management for the Pevensey Levels has been improved by the extensive application of agri-environment schemes by riparian landowners who have been largely responsible for water level management in this location.

Current site conditions

6.51 In terms of the current condition of the Pevensey Levels, Natural England does monitor individual units of the SSSI designation (there are 37 units in total) that cover just over 3,603 hectares of land. The assessment of the individual units has taken place at various times, with the most historic unit being assessed in June 2009 and the most up-to-date assessment taking place in January 2019. Of the 37 units assessed, at least 99.5% of the units (or 3,585 hectares) were considered to be in an 'unfavourable recovering' condition, with the remaining 0.5% considered as partially destroyed at the time of the unit's assessment.

6.52 The reasons why the majority of the units fall within the 'unfavourable recovering' condition includes poor water quality, invasive species and inappropriate water levels. However, on many occasions, it has been contended within the unit descriptions that there are a number of agri-environment schemes where the appropriate management is in place; that water levels will be addressed through the implementation of the Water Level Management Plan and that the alien species present will be addressed through an invasive weed strategy, hence the term 'unfavourable recovering' at the time of writing.

Poor water quality

6.53 One of the main areas of concern for the conservation status of the Pevensey Levels is water quality. This is due to the potential impact that poor water quality can have on designated species within the Pevensey Levels SAC and Ramsar site.

6.54 The latest information in relation to water quality for the Pevensey Levels operational catchment has been provided by the Environment Agency within their catchment data explorer [(24)]. This includes the names of the surface water bodies (there are eight in total), the year that the status was checked and whether the water body has been classified as good, moderate or poor in relation to chemical and ecological classifications in line with the Water Framework Directive criteria.

6.55 In addition, the information gathered in relation to water quality for the Pevensey Levels operational catchment confirms that from the eight surface water bodies identified in the Pevensey Levels catchment, six of the surface water bodies have achieved a moderate classification status for phosphate, whilst the remaining two surface water bodies achieved a poor status (Langney Sewer, Eastbourne and Ashbourne and Hugletts Streams) in 2016; these are the same water bodies that are classified as having a poor in ecological terms in 2016 also.

6.56 The latest Water Level Management Plan for the Pevensey Levels SSSI (2006) did confirm that there were 90 consented discharges into the Pevensey Levels and that the main concerns regarded the impact of the two WwTW at Hailsham. In summary, at that time, it was noted that phosphate concentrations within the SSSI had not dropped below the threshold concentration for eutrophication of 0.1 mg/l and that high nitrate emissions from the Hailsham WwTWs were believed to be a principal reason for the spread and invasiveness of floating pennywort, a key reason for the unfavourable ecological status of some water bodies within the Pevensey Levels Ramsar site.

Invasive species

6.57 High nitrate emissions from the WwTWs at Hailsham South and North are believed to be the key reason for the spread and invasiveness of Floating Pennywort (or hydrocotyle ranunculoides). Floating Pennywort is an invasive plant species that clogs ditches and out-competes the designated flora. Furthermore, it cuts off the water from the air and can lead to deoxygenation, which can cause serious harm to fish and other wildlife within the ecosystem. The latest Site Improvement Plan for the Pevensey Levels published by Natural England in October 2014 suggests that there is over 45km of floating pennywort on Pevensey Levels and it is likely to spread across the site unless appropriate controls are put in place.

6.58 In addition to Floating Pennywort, there are areas of the invasive plant species named Crassula which is slowly spreading along the ditches and in scrapes. It is semi-aquatic so the relatively minor increase in water level could provide this plant the potential for colonisation. The Site Improvement Plan for the Pevensey Levels published by Natural England suggests that it has become clear in the last year (2014) that Crassula is more widespread than previously thought, with an area of over 100 ha affected.

Inappropriate water levels

24 See the Environment Agency's latest information on water quality within the Pevensey Levels at the following link: http://environment.data.gov.uk/catchment-planning/OperationalCatchment/3361/Summary

6.59 Within the Environment Agency's Water Level Management Plan for the Pevensey Levels published in 2006, it was reported that approximately 20% of units within the Pevensey Levels SSSI failed for reasons relating directly to inappropriate water level management that covered a total area of approximately 702 ha. This included 56 units that have inappropriate ditch management as a reason cited for downgrading, 30 units that have drainage cited as a reason, and 6 units that have inappropriate water levels cited as a reason. Other reasons include inappropriate scrub control, weed control, invasive species and water quality

Impact assessment

6.60 Whilst not allocating specific sites for growth, the planning policies within the Hellingly NDP could result in some development within the hydrological catchment of the Pevensey Levels that may cause 'a likely significant effect' to the Pevensey Levels SAC and/or Ramsar site in terms of water quality and the hydrological regime of the catchment, as outlined in the screening assessment for the NDP (see Appendix A to this HRA). Therefore, it is necessary to assess which of the potential adverse effects of future development is likely to be a significant effect, taking into account the current national and local control on matters affecting the Pevensey Levels.

6.61 A summary of which NDP policies may result in an adverse effect on the Pevensey Levels SAC and Ramsar site for either hydrology and/or water quality impacts is provided in Appendix A of this assessment and at paragraph 6.43 above. The impact pathways for both hydrology and water quality at the Pevensey Levels SAC and Ramsar site are described in paragraphs 4.14-4.28 of this HRA.

Surface water runoff and impacts on hydrology

6.62 Due to the complexity of wetland habitats, it is not possible to predict the exact direct and indirect effects that increased surface water run-off and pollutants from new development may have on the Pevensey Levels or the extent to which the conservation features of the site could be adversely affected by future development.

6.63 However, any development which increases impermeable surfaces on land will increase surface water run-off, and whilst the Hellingly NDP does not allocate any sites for development or specify a quantum of development, it does support development coming forward within the hydrological catchment area of the Pevensey Levels. Should increased run-off result from such development, it has the potential to create a change in the hydrology of the Pevensey Levels, transporting pollutants to its watercourses and drainage network. It is noted that the creation of additional surface water runoff through new development is in part controlled through national planning policy and Building Regulations.

6.64 In December 2014, the then Secretary of State for Communities and Local Government delivered a Written Ministerial Development (WMS) [25] on the implementation of Sustainable Drainage Systems (SuDS) in Parliament. This statement confirmed the

25 Sustainable Drainage Systems: Written Statement, December 2014

expectations of Government that local planning policies and decisions on planning applications relating to major development, which includes developments of 10 dwellings or more; or equivalent non-residential or mixed development (as set out in Article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015) to ensure that sustainable drainage systems for the management of run-off are put in place, unless demonstrated to be inappropriate. These changes came into effect on 6 April 2015.

6.65 In addition, the National Planning Practice Guidance (PPG) was updated to reflect such changes as to when SuDS should be automatically considered when preparing a planning application for new development and confirms that SuDS are important as they provide opportunities to:

- reduce the causes and impacts of flooding;
- remove pollutants from urban run-off at source;
- combine water management with green space with benefits for amenity, recreation and wildlife

6.66 Building Regulations (2010) [26] also promotes the use of SuDS where there is a requirement for adequate provision to be made for rainwater to be carried from the roof of the building and for paved areas to be adequately drained. The regulations require rainwater to be discharged to one of the following, listed in order of priority:

- An adequate soakaway or some other adequate infiltration system; or, where that is not reasonably practicable;
- a watercourse; or where that is not reasonably practicable
- a sewer

6.67 However, given the above, the current legislation and controls identified above would potentially still allow for development to take place without SuDS when it is not practicable to do so or it is considered inappropriate. Whilst the potential for new development that increases impermeable surfaces within the Pevensey Levels catchment area without SuDS is unquantifiable, based on the precautionary principle it is considered that any additional surface water run off could potentially result in an adverse effect on the integrity of Pevensey Levels SAC and Ramsar site, with the main area of concern being the conveyance of pollutants.

<u>Wastewater discharge and impacts on water quality</u>

6.68 Southern Water is the statutory sewerage undertaker for the District and the Environment Agency (EA) is responsible for monitoring the operation of sewerage and WwTWs as well as setting limits on discharges to watercourses. The EA has previously expressed concerns in regards to new development within the catchment area of the Hailsham North and South WwTWs because of the relationship between the discharge of treated effluent and the continued decline in ecological quality downstream from them both.

26 Building Regulations 2010. Approved Document H – Drainage and Waste Disposal, March 2015

6.69 The WwTWs, both owned and operated by Southern Water, operate in accordance with Environmental permits as set by the EA so that water quality objectives are protected. However, during the preparation of the Wealden Core Strategy it was identified that whilst there was capacity available at both WwTWs, their ability to accommodate future growth beyond the existing headroom would be limited due to the environmental impact of additional treated effluent on the Pevensey Levels. The EA and Southern Water agreed the capacity at both the WwTWs at that time.

6.70 The EA advised Southern Water that it will not be permitted to increase the effluent load discharged above that currently consented at both Hailsham South and North WwTWs due to environmental constraints. In view of this, it is not possible to provide further housing and commercial development above the consented capacity of the WwTWs until a solution is in place

Mitigation Measures and Avoidance Techniques

Increased surface water runoff and pollutants from surface water

6.71 Given the potential for significant adverse effects from increased surface water run-off within the Pevensey Levels catchment on the Conservation Objectives of the Pevensey Levels SAC and Ramsar site as highlighted above, it is considered necessary to ensure that all new development is suitably assessed and mitigation measures, such as suitable and effective Sustainable Drainage Systems (SuDS), are put in place for the catchment area of the Pevensey Levels.

6.72 Natural England has also provided an advice note on SuDS and development around the Pevensey Levels (November, 2017) that recommended that a catchment specific SuDS policy is required to be developed for the Pevensey Levels which addresses both water availability and water quality. It notes that this planning policy could recommend appropriate SuDS features and address the issue of in-perpetuity management of the features.

6.73 SuDS are water management practices which aim to enable surface water to be drained in a way that mimics (as closely as possible) the run-off and drainage prior to site development. The primary benefit of SuDS can be categorised under four distinct themes that includes:

- control the quantity of runoff to maintain and protect the natural water cycle (and the management of flood risk);
- manage the quality of the runoff to prevent pollution;
- create and sustain better places for people; and
- create and sustain better places for nature

6.74 SuDS operate on two main principles that includes:

- Infiltration (slowing and holding back the run-off from a site); and
- Attenuation (allowing natural processes to break down any pollutants)

6.75 All SuDS systems generally fall into one of these categories, or a combination of the two. The benefit is that run-off and pollutants can be dealt with close to source, rather than transporting it elsewhere, for example, via the sewer system.

6.76 SuDS include a range of different techniques, which are suitable at varying scales within a development site. The Wealden Strategic Flood Risk Assessment (SFRA) report [27] that was undertaken by JBA Consulting on behalf of Wealden District Council provides a number of examples of SuDS techniques and potential benefits at paragraph 9.4.1 that includes living roofs, basins and ponds, filter strips and swales, soakaways, permeable surfaces and filter drains. These can be used in various combinations to provide a complete drainage strategy [28].

6.77 The guide is aimed at applicants, architects, developers and planners who want to design and put in place sustainable drainage systems (SuDS) in East Sussex. It also sets out the drainage approval process and requirements in relation to SuDS.

Discharge from Hailsham North and South Wastewater Treatment Works

6.78 As noted above, it was identified in the Core Strategy that whilst there was capacity available at both WwTWs, their ability to accommodate future growth beyond the existing headroom would be limited due to the environmental impact of additional treated effluent on the Pevensey Levels. Since then, Southern Water have identified and initiated works to enable a high rate biological treatment process that is capable of meeting the requirement to achieve a high quality effluent to come forward. Southern Water's Position Statement of December 2019 states that the deadline for the construction, commissioning and operation of the process is 22nd December 2021 but that in the interim they are working with the Environment Agency and Natural England to develop an 'Operating Agreement' to achieve the required high quality effluent from the works. Works to upgrade the Hailsham North WwTWs were granted planning permission by East Sussex County Council on 7th November 2019. Works to upgrade the Hailsham South WwTWs were granted planning permission on 10th January 2020.

Water Levels and Abstraction

6.79 As discussed previously (paragraphs 4.26-4.28), South East Water abstracts a significant amount of water from Hazards Green in the Wallers Haven for the public water supply to serve existing residents. As evidenced within the Cuckmere and Pevensey Levels Abstraction Licensing Strategy (March, 2013), no increase to this licence will be issued due to the sensitivity of the Pevensey Levels ecosystem to changes in water levels. Therefore South East Water will need to confirm that they can locate sustainable sources of water to supply any new developments coming forward through the Hellingly NDP.

6.80 Wealden District is an area of 'serious water stress' as is much of the South East of England. This means that:

27 Wealden District SFRA – Final Report, JBA Consulting on behalf of Wealden District Council, June 2017
28 Guide to Sustainable Drainage Systems in East Sussex, East Sussex County Council, June 2015

- the current household demand for water is a high proportion of the current effective rainfall which is available to meet the demand; or
- the future household demand for water is likely to be a high proportion of the effective rainfall available to meet that demand

6.81 The River Basin Management Plan (Part 1) for the South East River Basin District was published in December 2015 by DEFRA and the Environment Agency and confirms the actions to improve the water environment by 2021 and sets out the Environment Agencies position that in the Southern Region, local government should set out local plan policies requiring new homes to meet the tighter water efficiency standard of 110 litres per person per day as described in relevant parts of the Building Regulations. In the absence of such a policy, all new homes already have to meet the mandatory national standard set out in the Building Regulations of 125 litres/person/day and this will apply to development brought forward through the Hellingly NDP. However, this does not preclude development proposals from aiming for lower water use.

6 Appropriate Assessment of the Hellingly NDP

7 In combination Assessment

7.1 The Hellingly NDP HRA has included an 'in combination' assessment with other plans and projects.

Atmospheric pollution

7.2 In relation to the impact pathway atmospheric pollution an in combination assessment was undertaken as per that provided for in the Ashdown Forest Transport Model. The AFTM is designed to directly predict all traffic flows on the assessment highway network by taking account of:

- traffic generated by both existing and new residential development in all local authority areas;
- individual TEMPRO based growth for each local authority area[29]; and
- locational variation in employment growth within each local authority area [30].

7.3 The model generates estimates of traffic flows on the assessment network directly. This is based on amended TEMPRO 7.2 household and employment data for the scenario forecast year for all parts of the country (England and Wales). Census Medium Super Output Areas were used as the basic geographic modelling unit. These are the smallest unit for which Census Journey to Work origin/destination by travel mode information is available. Within Wealden District, and in some instances elsewhere, some MSOAs are quite large geographically and have been disaggregated. Outside Wealden District, including within some adjoining local authority areas, MSOAs have been aggregated.

7.4 The model provides traffic estimates in the form of Annual Average Daily Traffic (AADT), which includes Other Goods Vehicles (OGVs). The AADT and OGV proportion is then used as an input to air quality models. Further information on the Ashdown Forest Transport Model can be found in a technical note[31].

7.5 It is through this model that 14,228 dwellings and 22,500 sqm of employment floorspace to be delivered in Wealden District has been tested. This included a combination of specific site allocations as well as a proportion of windfall development including site allocations and windfall development in the Hellingly neighbourhood area. It is not possible to undertake an assessment at the neighbourhood plan level on the basis that windfall numbers and locations are currently unknown. Where any additional windfall development comes forward in the Hellingly Neighbourhood Area, above that already tested as part of the 'withdrawn' Wealden Local Plan, it will be necessary to consider this as part of a project appropriate assessment.

29 The housing figures contained within TEMPRO 7.2 have been amended to reflect the housing figures supplied by Rother District, Eastbourne Borough, Tunbridge Wells Borough, Sevenoaks District and Tandridge District
30 The Employment provision of Mid Sussex District was amended
31 Ashdown Forest Traffic Model: Technical note - model generation AFTM REV10 V7 (gta civils, April 2018)

Hydrology and Water Quality

7.6 As well as Wealden District, the Pevensey Levels Hydrological Catchment Area also extends into Rother District, meaning development within Rother District could have a likely significant effect in regards to this impact pathway either alone and/or in combination with the Hellingly NDP.

7.7 As such, the following Plans were considered in combination with the Hellingly NDP[32].

- Rother Local Plan Core Strategy (September 2014)
- Rother Development and Site Allocations Local Plan (December 2019)

Rother Local Plan Core Strategy (September 2014)

7.8 The Rother Local Plan Core Strategy was subject to HRA in September 2010 as part of a joint HRA with the Wealden Local Plan Core Strategy. The Pevensey Levels Hydrological Catchment Area, which includes the SAC and Ramsar site, runs through the southwest of Rother District.

7.9 The Rother Local Plan Core Strategy proposes a quantum of residential and employment growth within the hydrological catchment area of the Pevensey Levels. The HRA of the Plan identified that the direction provided by the Rother Core Strategy (and the Wealden Core Strategy) would result in some development within the hydrological catchment of the Pevensey levels, and could have potential adverse effects on the site that are likely to be a significant effects taking into account the national and local control on matters affecting the Pevensey Levels.

7.10 The HRA concluded that given the potential for significant effects from increased surface water runoff on the hydrology and water quality of the Pevensey Levels SAC and Ramsar site specific mitigation policy would be required within in any development plans. For the regulation and remediation of increased surface water run-off/pollutants and to mitigate the loss of natural drainage patterns, the HRA recommended that the relevant Plan include a policy, which requires all new development that creates impermeable surfaces, within the hydrological catchment area of the Pevensey Levels to incorporate suitable sustainable drainage systems (SuDS).

7.11 The Rother Local Plan Core Strategy, whilst providing for a level of development within the wider Pevensey Levels Hydrological Catchment, also provides suitable policy protection against adverse effects upon the SAC and Ramsar site by way of Policy SRM2 'Water Supply and Wastewater Management' which requires:

"iii) The promotion of sustainable drainage systems to control the quantity and rate of runoff as well as to improve water quality wherever practicable and specifically for all development that creates impermeable surfaces within the hydrological catchment of the Pevensey Levels"

32 Please see Table 3 in the Hellingly NDP Screening Assessment for a review of all relevant Plans (page 29)

7.12 As a result of this policy, any development coming forward within the hydrological catchment of the Pevensey Levels from the Rother Local Plan Core Strategy will mitigate its own impact on the Pevensey Levels SAC and Ramsar site in regards to this impact pathway.

Rother Development and Site Allocations Local Plan (December 2019)

7.13 This document is effectively "part two" of Rother District Council's Local Plan. Together with the Core Strategy, the Development and Site Allocations Local Plan (DaSA), adopted on 16th December 2019, provides the basis for determining planning applications in much of the district and supersedes all generic policies and relevant spatial policies from the earlier 2006 Rother District Local Plan. This Plan allocates sites for particular uses as well as setting out more detailed policies for the effective management of development in relation to key issues. The DaSA Local Plan (December 2019) implements the development strategy and core policies set out in the adopted Core Strategy (September 2014). However, the DaSA Local Plan does not include housing allocations in designated Neighbourhood Plan Areas.

7.14 The Rother DaSA Local Plan was subject to HRA in September 2018 and July 2019 and covers the same geographical scope as the 2014 Core Strategy and therefore the Pevensey Levels Hydrological Catchment Area also falls within its remit.

7.15 Further HRA assessment has refined the Core Strategy's approach to controlling the quantity and rate of runoff within the hydrological catchment and this is reflected in Policy DEN5 'Sustainable Drainage' of the Plan as well as the following site specific policies:

- Policy BEX6 Land adjacent to 276 Turkey Road;
- Policy BEX7 Land at Moleynes Mead, Fryatts Way, Bexhill;
- Policy BEX9 Land off Spindlewood Drive, Bexhill;
- Policy BEX10 Land at Northeye (Former UAE Technical Training Project), Bexhill

7.16 Policy DEN5 requires that:

"…vi) within the Pevensey Levels Hydrological Catchment Area, SuDS designs should incorporate at least two stages of suitable treatment, unless demonstrably inappropriate…"

7.17 Policies BEX6 – BEX10 reinforce this requirement for their respective sites with requirements for at least two forms of appropriate SuDS to be incorporated in accordance with Policy DEN5. Policy BEX9 and BEX10 go further with the requirement for a site specific Appropriate Assessment to be undertaken to demonstrate beyond reasonable scientific doubt that any SuDS measures proposed can be delivered on the sites without harming the integrity of the Pevensey Levels SAC and Ramsar site. This requirement is at the request of Natural England through the consultation process on the Plan.

7.18 The HRA of the Rother DaSA Local Plan concluded that whilst the Plan does provide for a level of development within the Pevensey Levels Hydrological Catchment Area, the overall policy framework provided by the Plan (Policy DEN5 and Policies BEX6

– BEX10) and Policy SRM2 from the Core Strategy (2014) will ensure that the sites will not have adverse effects on the integrity of the SAC and Ramsar site.

7.19 As a result of this policy framework, any development coming forward within the hydrological catchment of the Pevensey Levels from the Plan will mitigate its own impact on the Pevensey Levels SAC and Ramsar site in regards to this impact pathway.

8 Conclusions and Recommendations

Recommendation

8.1 Firstly turning to air quality there are a number of policies contained in the Hellingly Neighbourhood Plan that promote or indeed support development within the Neighbourhood Plan area. The testing of 14,288 dwellings (allocations and windfall) and 22,500sqm of employment floorspace within Wealden District concluded that there would not be an adverse effect on the integrity of Ashdown Forest SAC, Lewes Downs SAC and Pevensey Levels SAC and Ramsar site. This included a number of site allocations and also a proportion of windfall development within the Hellingly Neighbourhood area. However, where any additional windfall development comes forward in the Hellingly Neighbourhood Area, above that already tested as part of the 'withdrawn' Wealden Local Plan, it will be necessary to consider this as part of a project level appropriate assessment at the planning application stage. This is due to it not being possible at the Neighbourhood Plan level (due to the nature of the planning policies) to determine whether any additional windfall development will come forward as a result of the planning policies or indeed the type or location of any windfall development.

8.2 As set out in paragraph's 1.15 – 1.17, this conclusion is supported by Feeney [33] and The Advocate General's Opinion in UK v Commission as discussed in paragraph 1.16 where it is accepted that adverse effects must be assessed at every relevant stage of the procedure to the extent possible on the basis of the precision of the plan. The assessment is then to be updated with increasing specificity in subsequent stages of the procedure. The subsequent and relevant stage for assessing potential adverse effects is at the planning application stage, when the required level of detail in which to undertake an assessment will be available.

8.3 In relation to the Pevensey Levels, and in a similar way to air quality impacts, without knowing the quantum, location or type of development that may come forward in the Hellingly Neighbourhood plan area it is not possible to determine whether sufficient capacity exists at the relevant waste water treatment works or determine the appropriate urban drainage solution to deal with surface water run off. This is because there are a number of different drainage techniques that may or may not be suitable depending on the location of development and existing drainage conditions. Whilst it can be identified that mitigation is required at the neighbourhood plan level, whether development may result in an adverse effect can only be effectively determined when the level of detail is made available at the planning application stage.

8.4 On this basis, it is considered that through the inclusion of a policy requiring the incorporation of SuDS in any new development within the hydrological catchment area of the Pevensey Levels that the drainage regime for the Pevensey Levels will not be affected by additional surface water run-off / associated pollutants created by new development.

33 Sean Feeney v Oxford City Council and the Secretary of State CLG para 92 of the judgment dated 24 October 2011 Case No CO/3797/2011, Neutral Citation [2011] EWHC 2699 Admin http://www.oxford.gov.uk/Library/Documents/Barton%20AAP/Barton%20AAP%20CD%207.20.1%20Appendix%20Feeney%20v%20OC

8.5 The scope of the policy is wide ranging and will apply to both greenfield and brownfield sites and to cover all new development which creates impermeable surfaces within the Pevensey Levels catchment area. In other words, any proposed development that would lead to an increased rate and volume of surface water run-off leaving a developed site and would include major developments, such as housing schemes and commercial development, and more minor development such as household extensions. Both Natural England and the Environment Agency have considered the approach to be acceptable.

8.6 In respect of wastewater, the policy confirms that planning permission for development proposals facilitated by the Hellingly NDP is conditional upon waste water treatment capacity being made available at the appropriate time. In other words, development within the Pevensey Levels catchment area would need to ensure that there is waste water treatment capacity available under the current headroom or that new infrastructure is provided to ensure that the integrity of the Pevensey Levels SAC and Ramsar site is maintained.

8.7 The NDP also contains measures to promote the sustainable management of surface runoff, conveyance of pollutants and flood storage within the catchment of the Pevensey Levels, but specifically adjacent to the Pevensey Levels SAC and Ramsar site. This includes requirements to provide green space (creating an area of natural green space to be protected for biodiversity and ecological purposes); the incorporation of appropriate SuDS, holding ponds and other natural drainage features and the provision of wastewater treatment and appropriate drainage. These are intended to improve/maintain the hydrology and water quality of the Pevensey Levels SAC and Ramsar site, as well as having multifunctional benefits for the environment, biodiversity and local population in general.

8.8 The HRA recommends the following safeguarding policy be included within the NDP to ensure that the neighbourhood plan is compliant with the Habitats Regulations. This will provide the necessary safeguards in that the competent authority has been able to effectively delay further assessment to the application stage to ensure a conclusion of 'no adverse effect':

Recommended HRA Policy

Development either supported or proposed by policies or projects contained within the Hellingly Neighbourhood Plan, or any other development that may come forward in the Neighbourhood Plan area, may only be permitted if it can be concluded that the proposals, either alone or in combination with other plans or projects, will not adversely affect the integrity of a European site. Any proposals for development must be accompanied by information to allow the competent authority to complete a full Habitat Regulations Assessment of the impacts of the development

To ensure that development does not adversely impact the Pevensey Levels Special Area of Conservation and Ramsar site proposals for development may only be

permitted where there is sufficient capacity at the relevant Waste Water Treatment Works or alternative foul water drainage solution. Where impermeable surfaces are proposed within the hydrological catchment area then mitigation, such as sustainable drainage systems, will be required to control the quality and volume of surface water run-off to a level that will avoid an adverse effect on the integrity of the SAC and Ramsar when considered both alone and in combination with other Plans or projects.

Conclusion

8.9 This assessment has been undertaken on the basis of the proposals and policies contained within the Hellingly Neighbourhood Development Plan (Regulation 16). The Hellingly NDP HRA has been considered alongside other relevant Plans and projects. The information and evidence gathered through Wealden District Councils air quality and ecological monitoring and modelling work is directly relevant to the Hellingly NDP. The Hellingly NDP HRA has used the most up-to-date information, knowledge, evidence and Natural England guidance to inform its conclusions.

8.10 In relation to the Hellingly NDP, Wealden District Council, as competent authority under the Habitats Regulations, has concluded, following its Habitats Regulations Assessment and as reported in this document, that the Hellingly Neighbourhood Development Plan will not adversely affect the integrity of any European or International site.

8 Conclusions and Recommendations

9 Statutory Consultee Response

9.1 Regulation 105(2) of The Conservation of Habitats and Species Regulations 2017 requires that the plan-making authority must for the purposes of the assessment consult the appropriate nature conservation body and have regard to any representations made by that body within such reasonable time as the authority specifies. Wealden District Council consulted with Natural England (the appropriate nature conservation body) on the Hellingly Neighbourhood Plan HRA for a period of 5 weeks from 27th January 2020 to 2nd March 2020.

9.2 Natural England responded on 25th February 2020 and their response is detailed below. Wealden District Council has had regard to Natural England's response and accordingly no amendments have been made to the Hellingly Neighbourhood Plan HRA.

Natural England

9.3 Natural England concurs with the findings of the HRA insofar that the proposed Hellingly Neighbourhood Development Plan is unlikely to have an adverse effect on the integrity of European sites alone or in-combination with other plans or projects.

9 Statutory Consultee Response

Hellingly Neighbourhood Plan – October 2018

Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) Screening

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1.0 Introduction

1.1 This screening report is an assessment of whether or not the contents of the Hellingly Neighbourhood Plan (hereafter known as 'Hellingly NDP') requires a Strategic Environmental Assessment (SEA) in accordance with the European Directive 2001/42/EC and associated Environmental Assessment of Plans and Programmes Regulations 2004. This screening assessment has taken place on the Hellingly NDP that is to be published and consulted upon under Regulation 16 of the Neighbourhood Planning (General) Regulations 2012 (as amended).

1.2 The report also undertakes a preliminary screening to determine whether the Hellingly NDP requires a Habitats Regulations Assessment (HRA) in accordance with Article 6(3) and (4) of the EU Habitats Directive and with Regulation 63 of the Conservation of Habitats and Species Regulations 2017. An appropriate assessment is required when it is deemed that a plan is likely to have a significant effect on a protected European Site (Natura 2000 sites) or on a Ramsar Site as a result of the implementation of a plan/project.

1.3 The purpose of the Hellingly NDP is to provide a set of statutory planning policies to guide development within the Parish of Hellingly over the life of the plan. The Hellingly NDP sets out the community's vision of how the area will look by 2028 and a series of policies focused on the economy, transport, built environment, design and tourism within the town. This is discussed in more detail in Section 2 of this document.

1.4 The legislative background for the SEA and HRA Screening Assessment are set out in Section 3 of this document and outlines the regulations that require the need for this screening exercise. Section 4, provides a screening assessment of both the likely significant environmental effects of the Hellingly NDP and whether there is a need for an SEA. Section 5 provides a screening assessment of both the likely significant effects of the implementation of the Hellingly NDP and whether an appropriate assessment for the Hellingly NDP is required under the Habitats Directive. Section 6 provides a summary of the statutory consultee responses in relation to the SEA and HRA Screening of the Hellingly NDP. A summary of the findings and conclusions for both screening processes can be found in the conclusions at Section 7 of this report.

2.0 Draft Hellingly Neighbourhood Development Plan (Regulation 16)

2.1 Hellingly Parish Council, as the relevant body for the purposes of NDP designation, applied for designation of the whole Parish as a Neighbourhood Plan Area under Section 61G of the Town and Country Planning Act 1990 (as amended). Following consultation, it was concluded appropriate to approve the application to designate the extent of the Hellingly Parish as Neighbourhood Plan Area effective from 5th November 2015. Since then, Hellingly Parish Council published a pre-submission version (regulation 14) of the Neighbourhood Development Plan for public consultation (between 1 December 2017 and 26 January 2018) that was the subject of a SEA/HRA screening assessment.

2.2 Since then, Hellingly Parish Council has drafted a proposed submission version (Regulation 16) of the Hellingly Neighbourhood Development Plan, which is intended to be submitted to independent examination, and if successful in this process, a public referendum. It was noted in the previous HRA/SEA screening that if the content of the NDP, (notably, the proposed planning policies) changed, there may be a need for a further screening exercise to be undertaken on a modified version of the NDP. This screening exercise takes into account the changes made to planning policies within the Hellingly NDP, as part of this Draft Regulation 16 document, as well as changes to the interpretation of the HRA regulations as detailed in the paragraphs below.

2.3 On the 12th April 2018, a significant European court judgement[1] regarding the interpretation of the HRA Directive was published. The Judgement relates to the interpretation of the HRA Directive. Informal advice in relation to the Judgement was received from Natural England on 24th May 2018. The advice stated:

> "Although an official position from NE has yet to be released, the following advice has been formulated through conversations with our legal and policy team.
>
> Competent authorities undertaking HRAs should be aware of a recent ruling made by the Court of Justice of the European Union (the CJEU) on the interpretation of the Habitats Directive in the case of People Over Wind and Sweetman vs Coillte Teoranta (ref: C 323/17). The case relates to the treatment of mitigation measures at the screening stage of a HRA when deciding whether an appropriate assessment of a plan/project is required. The Court's Ruling goes against established

[1] Judgement of the European Court of Justice (CJEU) 12th April 2018; *People Over Wind and Sweetman v Coillte Teoranta* (C-323/17)).

practice in the UK that mitigation measures can, to a certain degree, be taken into account at the screening stage.

As a result, NE advises that any "embedded" mitigation relating to protected sites under the Habitat Regulations 2017 Regulation 63 (1) should no longer be considered at the screening stage, but taken forward and considered at the appropriate assessment stage to inform a decision as whether no adverse effect on site integrity can be ascertained. In light of the recent case law, any reliance on measures intended to avoid or reduce harmful effects at the likely significant stage is vulnerable to legal challenge.

The judgement is not retrospective as far as I am aware so reliance on existing HRAs through adopted Local Plans should be sound however the implications of the judgement will need to be considered within Local Plan reviews and emerging Local Plans. Mitigation (such as the Strategic Solution for Ashdown Forest) can, of course, be taken into account within a full Appropriate Assessment. You may also want to seek your own legal advice on any implications of this recent ruling for your decisions".

2.4 The Judgement as well as advice received from Natural England has necessitated a review of the Hellingly Neighbourhood Plan to ensure that prior to submission of the Plan for independent examination that the requirements of the Habitats Directive / Regulations has been met and the plan is legally compliant with the relevant legislation.

2.5 As part of the NDP process, Hellingly Parish Council have drafted a vision, 20 planning policies and 17 recommendations that would cover the plan area and, if adopted, be used in the determination of planning applications within the plan area. The vision included within the Hellingly NDP is as follows:

'that the growth proposed for Hellingly Parish within the emerging Wealden Plan will have been successfully delivered, with all appropriate supporting infrastructure and in the most suitable locations locally. Hellingly will remain an essentially rural parish providing a green and accessible lung for the growing town of Hailsham'.

2.6 The draft planning policies and recommendations within the Hellingly NDP are documented at Appendix 3 where a summary of the intentions of each draft policy is outlined. These draft planning policies are the subject of the SEA/HRA screening assessment that is considered at Section 4 and 5 of this report respectively. There are also a number of recommendations contained within the Hellingly NDP. These recommendations are made to Wealden District Council with regards to its emerging Wealden Local Plan and to other public and private

bodies concerning infrastructure provision. The NDP policies and recommendations are of course subject to change and the screening assessment will only take into account the policies published within the Regulation 16 Hellingly NDP.

3.0 Legislative Requirements

Strategic Environmental Assessment (SEA)

3.1 The basis for the Strategic Environmental Assessment (SEA) and Sustainability Appraisal (SA) legislation is European Directive 2001/42/EC that was transposed into English law by the Environmental Assessment of Plans and Programmes Regulations 2004, or simply known as the SEA Regulations. Detailed guidance of these regulations was published by the Government in 2005 (the Office of the Deputy Prime Minister (ODPM)), named 'A Practical Guide to the Strategic Environmental Assessment Directive' and this has been considered throughout the document below.

3.2 The Planning and Compulsory Purchase Act 2004 requires local authorities to produce SAs for all local Development Plan Documents (DPD) to meet the requirement of the EU Directive for the SEA. Paragraph 165 of the National Planning Policy Framework (NPPF) published in March 2012[2] confirmed that a SA which meets the requirements of the European Directive on the SEA should be an integral part of the plan preparation process. There is no legal requirement for a Neighbourhood Development Plan (NDP) to have a sustainability appraisal, although the qualifying body would need to demonstrate how its plan would contribute to achieving sustainable development and what policy options were considered. The SA is a potential approach to attaining this and is a tried and tested method of achieving sustainable development through the plan-making process.

3.3 In addition, where an NDP is likely to have significant environmental effects, it may require an SEA. Given there are a number of internationally designated sites of importance for biodiversity (such as Special Areas of Conservation (SAC), Special Protection Areas (SPA) and Ramsar Sites) within and outside the district, there is a possibility that NDP proposals could have significant environmental effects. Therefore, draft neighbourhood plan proposals should be assessed to determine whether the plan is likely to have significant environmental effects and this process is commonly referred to as a 'screening' assessment, as set out in regulation 9 of the SEA regulations (2004). Wealden District Council is considered to be the 'responsible' authority for carrying out the assessment. The purpose of this report is to determine if an SEA is required for the Hellingly NDP.

3.4 If likely significant environmental effects are identified, an environmental report (an SEA) must be prepared in accordance with paragraphs (2) and (3) of regulation 12 of the SEA regulations. Indeed, a basic condition that the examiner

[2] Please note that the Hellingly Neighbourhood Development Plan has been considered under the NPPF published in March 2012. Paragraph 214 of the revised NPPF (published in July 2018) confirms that Neighbourhood Development Plans submitted on or before 24 January 2019 will be considered under the previous March 2012 Framework.

will consider in assessing a neighbourhood plan is whether it meets this SEA Directive.

3.5 The National Planning Practice Guidance (PPG) contains specific advice in relation to neighbourhood plans and the SEA[3]. This guidance has been considered and taken account of through this screening assessment.

3.6 Wealden District Council is required to consult with three statutory consultation bodies as per the requirements of regulation 4 of the SEA regulations; this includes Historic England, Natural England and the Environment Agency on whether an SEA is required. Details of the consultation responses will be summarised in section 6 of this report.

Habitats Regulation Assessment (HRA)

3.7 The Conservation of Habitats and Species Regulations 2017 (known as the 'Habitat Regulations') transpose the requirements of the EC Directive 79/409/ECC on the Conservation of Wild Birds (the Birds Directive) and EC Directive 92/43/ECC on the Conservation of Natural Habitats and of Wild Fauna and Flora (the Habitats Directive).

3.8 The Habitats Regulations sets out the requirement for a Habitat Regulations Assessment (HRA) to be applied to all land use plans to assess the potential effect of a plan against the conservation objectives of European Sites including SACs, SPAs and Sites of Community Importance (SCIs). The NPPF states that Ramsar Sites should be given the same protection as other European sites[4].

3.9 SACs are sites classified in accordance with Article 3 of the Habitats Directive, which seeks to establish a European network of important high-quality conservation sites that will make a significant contribution to conserving habitat types and species identified in Annex I and Annex II of the Habitats Directive. SPAs are sites classified in accordance with Article 4 of the Birds Directive. This seeks to protect rare, vulnerable and regulatory migratory birds as listed in Annex 1 of the Birds Directive. SPAs and SACs are commonly referred to as European Sites, and as part of the system known as the Natura 2000 network.

3.10 The main aim of the Habitats Directive is to promote the maintenance of biodiversity by requiring Member EU States to take measures to maintain or restore natural habitats and wild species listed in the Annexes of the Directive at

[3] See the PPG at paragraph 26 – Reference ID: 11-026-20140306 onwards of the Strategic Environmental Assessment and Sustainability Appraisal Guidance.

[4] Paragraph 118 of the NPPF (published March 2012) confirms that the following wildlife sites should be given the same protection as European sites:

- potential SPAs and possible SACs;
- listed or proposed Ramsar sites; and
- sites identified, or required, as compensatory measures for adverse effects on European sites, potential SPAs, possible SACs, and listed or proposed Ramsar sites.

a favourable conservation status, including robust protection for those habitats and species of European importance (Habitats Directive, Article 2(2)). This aim relates to habitats and species, not the European sites themselves, although the sites have a significant role in delivering conservation measures including management plans to achieve favourable conservation status and the objective of the Directive within designated site.

3.11 Ramsar sites are designated under the International Convention on Wetlands of International Importance (the Ramsar Convention in Iran, 1971 and amended by the Paris protocol 1992). The Habitats Directive does not protect Ramsar sites in law, but as discussed above, paragraph 118 of the NPPF confirms that they should be protected in the same way as other European Habitat sites.

3.12 Under the Habitat Regulations (Regulation 63, 105 and 106), competent authorities (such as District Councils) have the duty to undertake an appropriate assessment where a land use plan or any other regulatory activity including projects and programmes is likely to have a significant effect on a European site. The purpose of an appropriate assessment is to assess the implications of a plan against the conservation objectives of the European site, and to ascertain that the plan would not, even in combination with other plans or projects, adversely affect the integrity of the site. The Habitats Directive applies the precautionary principle to European sites when assessing whether the effects of a plan are significant. This means that a plan can only be permitted after it has been determined that there is no likely significant effect, using the precautionary principle, or there is scientific certainty that there will be no adverse effect on the integrity of the site(s) in question.

3.13 Where an adverse effect is identified, the Habitat Regulations promote the use of mitigation measures and avoidance of any potential damaging effects to the site. However, article 6 (4) of the Habitats Directive provide several exceptions, which allows the plan or project to be approved in limited circumstances even if it would or may have an adverse effect on the integrity of a European site.

3.14 Under article 6 (4) a plan may only progress provided three sequential tests are met:

- there must be no feasible alternative solutions to the plan which are less damaging to the affected European site;
- there must be social or economic ‘imperative reasons of overriding public interest’ (IROPI) for the plan or project to proceed; and
- all necessary compensatory measures must be secured to ensure that the overall coherence of the network of European sites is protected.

3.15 These tests can only formally be considered once an appropriate assessment in line with article 6 (3) of the Directive has been undertaken and in the case of the plans, it is for the competent authority to prove, as a prerequisite, that each test can be met. With regards to public interest, this must be overriding, be of long-term gain and must outweigh the potentially damaging impacts that the plan or project may have on a European site. IROPI should only be considered in exceptional circumstances. However, if the above tests are met the plan or project can be approved.

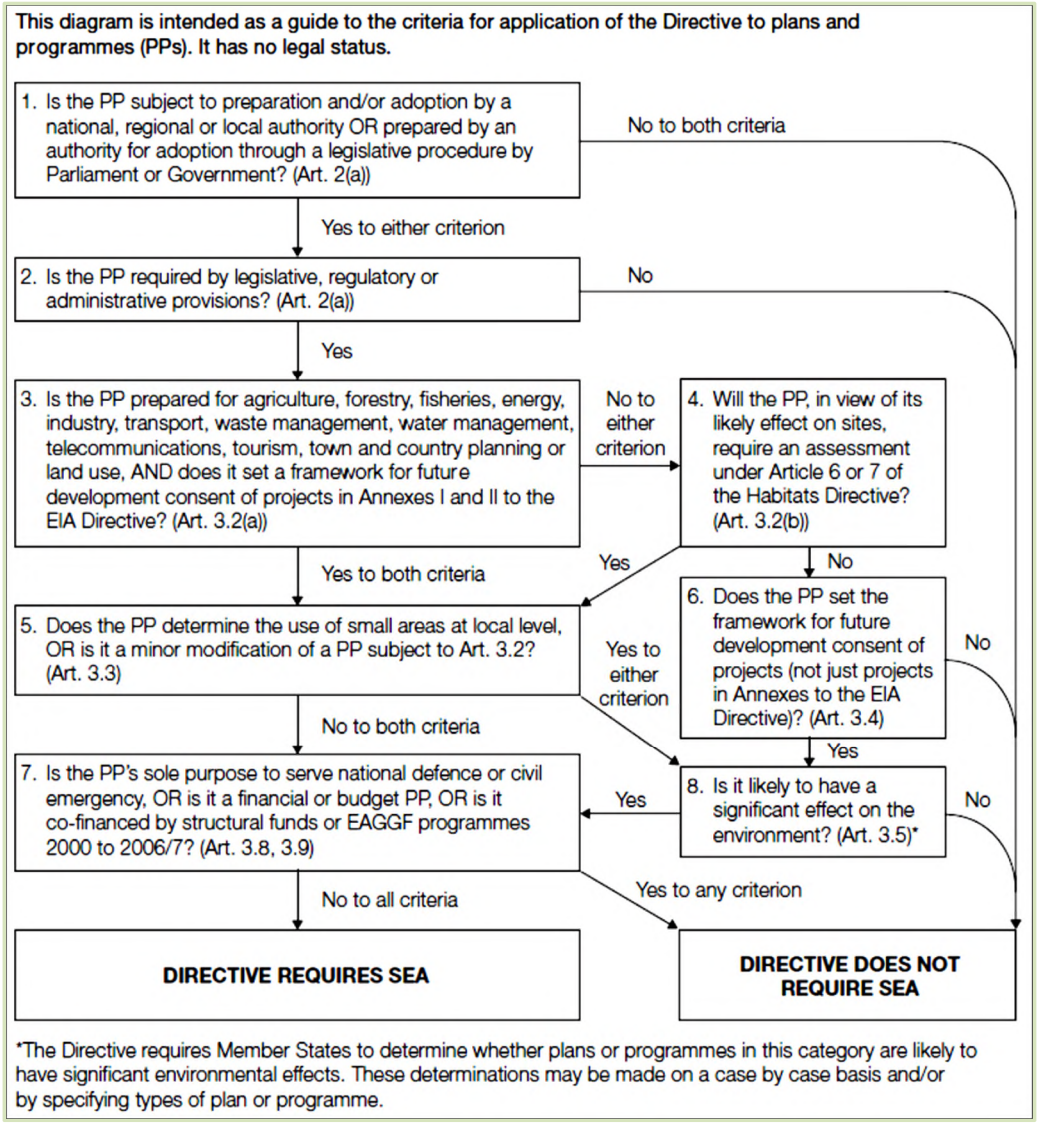
3.16 Whilst it is the responsibility of the competent authority to prove that the sequential tests can be met, the decision as to whether a plan or project can proceed lies with the Secretary of State, who must grant authorisation only when satisfied that any necessary compensation measures are taken to ensure the overall coherence of the network of European sites.

3.17 Prior to undertaking an appropriate assessment, a local authority must first assess whether or not a plan is likely to result in a significant effect. This is essentially a risk assessment or screening process to decide whether or not the full appropriate assessment is required. Should it be determined that a plan will not result in significant effects then no further assessment will be required. If significant effects cannot be ruled out as unlikely, then an appropriate assessment will be required to consider any potential impacts further. This is discussed further within the conclusions to the HRA/SEA screening below.

4.0 Screening Assessment for the Strategic Environmental Assessment (SEA)

4.1 The screening assessment for the SEA is undertaken in two parts and will firstly assess whether the Hellingly NDP requires an SEA as per the detailed guidance contained within 'A Practical Guide to the Strategic Environmental Assessment Directive' that is shown in Figure 1 that follows below[5]. The second element of the assessment will consider whether the Hellingly NDP is likely, in its current form, to have a significant effect on the environment, using the criteria drawn from Schedule 1 of the SEA Regulations. Figure 1 below is a guide as to how the criteria for the application of the Directive should be assessed.

Figure 1: Application of the SEA Directive to plans and programmes



[5] See page 13 of 'A Practical Guide to the Strategic Environmental Assessment Directive' (2005) and Figure 2 – Application of the SEA Directive to plans and programmes for the original diagram.

4.2 The process in Figure 1 has been undertaken in terms of the Hellingly NDP and the findings can be viewed in Table 1. This establishes whether this NDP would require an SEA. The questions in Table 1 are drawn from the diagram above which sets out how the SEA Directive should be applied.

4.3 It should be noted at this stage that, as required by the National Planning Policy Framework (NPPF) published in March 2012 at paragraph 184 and the revised NPPF published in July 2018 (see paragraph 29, footnote 16), NDPs must be in general conformity with the strategic policies of Wealden District Council's Local Plan and should not promote less development than set out in the Local Plan or undermine its strategic policies. The development plan for the Wealden District is currently made up of the Core Strategy Local Plan that was adopted in February 2013, the saved policies of the Wealden Local Plan (1998)[6], the Non-Statutory Wealden Local Plan (2005), the Affordable Housing Delivery Local Plan (2016)[7], the East Sussex, South Downs and Brighton and Hove Waste and Minerals Local Plan (2013) and the East Sussex, South Downs and Brighton and Hove Minerals Sites Plan (2017). Therefore, the Hellingly NDP must be in general conformity with these policies in these Plans.

Table 1: Establishing the Need for the SEA

Stage	Yes/No	Reason
1. Is the PP (plan or programme) subject to preparation and/or adoption by a national, regional or local authority OR prepared by an authority for adoption through a legislative procedure by Parliament or Government? (Art. 2(a)).	**Yes**	This Neighbourhood Development Plan is prepared by Hellingly Parish Council (as the qualifying body) under the provisions of the Town and Country Planning Act (as amended by the Localism Act 2011). The Hellingly Neighbourhood Plan will be 'made' (adopted) by Wealden District Council once it has completed the formal stages of its preparation as required under the Neighbourhood Planning (General) Regulations 2012 as amended. This includes an independent examination process where the Hellingly NDP will be considered against its EU obligations (particularly the SEA Directive). **Go to Stage 2**
2. Is the PP required by legislative, regulatory or	**Yes**	The Hellingly NDP is not a requirement and is optional under the provisions of the Town and Country Planning (as

[6] As of 27 September 2007 a number of policies in the Wealden Local Plan were saved by approval of the Secretary of State under paragraph 1(3) of Schedule 8 of the Planning and Compulsory Purchase Act 2004.

[7] The Affordable Housing Delivery Local Plan (2016) supersedes policy WCS8 of the adopted Core Strategy Local Plan (2013) concerning affordable housing only.

administrative provisions? (Art. 2(a))		amended by the Localism Act 2011). However, once 'made' the Hellingly NDP would form part of the statutory development plan, and will be used when making decisions on planning applications within the designated neighbourhood plan area. Therefore, it is considered necessary to establish whether there is a need for an SEA. **Go to Stage 3**
3. Is the PP prepared for agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use, AND does it set a framework for future development consent of projects in Annexes I and II to the EIA Directive? (Art. 3.2(a))	**Yes**	The Hellingly NDP is being prepared for both town and country planning and land use and therefore meets the first part of this question. The draft planning policies contained within the Hellingly NDP are largely regarding the enhancement of existing development and the design of new development proposed for the future or allocated in a higher order plan (such as the Core Strategy Local Plan (2013) adopted by Wealden District Council). Within the Hellingly NDP are a number of recommendations for sites for both residential and employment development. The recommendations do name sites for development, but do not specifically allocate these sites or identify the scale of development. Within the Hellingly NDP are a number of recommendations relating to transport, waste management and telecommunications. However, these recommendations are quite general in nature and only seem to encourage improvements in each area, as opposed to a draft policy which sets out a strategy to provide a service improvement. Nevertheless, it is considered that the Hellingly NDP does set the framework for development consent projects within Annexes I and II to the EIA Directive. **Go to Stage 4**
4. Will the PP, in view of its likely effect on sites,	**Yes**	The Hellingly NDP could potentially have a significant impact on

require an assessment under Article 6 or 7 of the Habitats Directive? (Art. 3.2(b))		internationally designated wildlife sites covered by the Habitats Directive. A screening assessment to consider whether an Appropriate Assessment is required for the Hellingly NDP is provided in section 5 of this report. **Go to Stage 5**
5. Does the PP determine the use of small areas at local level, OR is it a minor modification of a PP subject to Art. 3.2? (Art. 3.3)	**Yes**	The Hellingly NDP does not specifically allocate any land for development at a local level through draft planning policies. It does make recommendations of sites for development (for example in recommendations LHB R3 and LD R1). These recommendations do refer to specific named sites, but are otherwise general in nature and do not set out proposals in terms of the type and amount of development. Recommendation LD R2 does refer to allocating development on a specific site but the allocation of the site is only suggested if appropriate. The Hellingly NDP does recommend that land is allocated for recreational use (for example, recommendation RPR2 suggests a 2.8 hectare extension to Hellingly Country Park) but these policies and recommendations are general in nature and do not specifically allocate land. However, the recommendations do include development schemes that have either been allocated by Wealden District Council, (through the Core Strategy (2013)) some of which are in the process of development while others are yet to formally come forward. **Go to Stage 8**
6. Does the PP set the framework for future development consent of	**Yes**	The Hellingly NDP will form part of the statutory Development Plan once 'made' by Wealden District Council[8].

[8] The Hellingly NDP can only become 'made' following the completion of the formal stages of its preparation as required under the Neighbourhood Planning (General) Regulations 2012 as amended, that includes an independent examination and referendum.

projects (not just projects in Annexes to the EIA Directive)? (Art. 3.4)		When the NDP is 'made' it will become a material consideration in the determination of planning applications in the NDP area. It therefore sets the framework for future development of the local area. **Go to Stage 8**
7. Is the PP's sole purpose to serve national defence or civil emergency, OR is it a financial or budget PP, OR is it co-financed by structural funds or EAGGF programmes 2000 to 2006/7? (Art. 3.8, 3.9)	**No**	The NDP does not serve national defence or civil emergency issues; it is not a financial or budgetary plan or programme and it is not co-financed by structural funds or EAGGF programmes.
8. Is it likely to have a significant effect on the environment? (Art. 3.5)	**Yes**	This question is considered within the screening assessment itself that follows in Table 2 below.

4.4 A number of the criteria above suggest that an SEA of the Hellingly NDP may be required. Both criteria 4 and 8 of both Figure 1 and Table 1 above consider that the Hellingly NDP has the 'potential' to have a significant effect on the environment, particularly in relation to European/International habitat sites. The criteria for undertaking such an assessment for the SEA are drawn from Schedule 1 of the Environmental Assessment of Plans and Programmes Regulations (2004). A separate screening assessment as to whether the Hellingly NDP requires an appropriate assessment and is therefore likely to result in a significant effect under the Habitats Directive is undertaken at section 5 of this report.

4.5 Consequently, Table 2 below assesses the likelihood of the Hellingly NDP (as published under regulation 16 of the Neighbourhood Planning (General) Regulations 2012 as amended) of having a significant effect on the environment and therefore, requiring an SEA.

Table 2: Likely Significant Effects on the Environment

Criteria for determining the likely significance of effects on the environment (Schedule 1 of the Environmental Assessment of Plans and Programmes Regulations (2004))	**Commentary on Likely Significant Effects (if any)**
1. The characteristics of plans and programmes, having regard, in particular, to:	

a) the degree to which the plan or programme sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources;	Once 'made', the Hellingly NDP will form part of the statutory development plan for the Hellingly NDP area and hence the plan will provide guidance to the framework of planning policies that will determine future development consent of projects in the Hellingly Parish. The Hellingly NDP does not allocate specific land for development, or outline a quantum of development expected over the plan period. It does make reference to a withdrawn residential planning application in Recommendation LHB R3 and proposed development sites in Recommendation LD R1 and LD R2; however these sites are recommended and not specifically allocated for development. Within the plan, a recommendation is also made for the development of recreational facilities and open space, although the proposals for such development would still need to be accompanied by a full Habitat Regulations Assessment (HRA) outlining the potential impacts on European sites, and so would not be approved if the development would result in harmful impacts in this regard. The Hellingly NDP must be in general conformity with the strategic policies of the District's Local Plan, and moreover, the NPPF. For the Wealden District, this includes the 'saved' policies of the Wealden Local Plan (1998), the Core Strategy (2013) and the Affordable Housing Delivery Local Plan (2016). In addition, the most recent Habitats Regulation Assessment that accompanied the Proposed Submission Wealden Local Plan (published by Wealden District Council in August 2018) has concluded that an Appropriate Assessment was required in the case of the Ashdown Forest SAC, Lewes Downs SAC and Pevensey Levels SAC and Ramsar Site. Therefore, although the projects for which Hellingly NDP helps to set a framework are local in nature and will have limited resource implications, it

	is considered that an SEA should be undertaken to assess whether the plan is likely to have significant environmental effect(s). **Conclusion: Yes**
b) the degree to which the plan or programme influences other plans and programmes including those in a hierarchy;	As discussed above, the Hellingly NDP must be in general conformity with the adopted statutory development plan for the District and the NPPF. Once a NDP has demonstrated its general conformity with the strategic policies of the Local Plan and is brought into force (i.e. a 'made' NDP), the policies it contains take precedence over existing non-strategic policies in the Local Plan for that neighbourhood, if there are conflicts. The Hellingly NDP would therefore have substantial influence on non-strategic issues within the NDP area, but no influence on strategic matters. The Proposed Submission Wealden Local Plan for the Wealden district has been approved by Full Council to proceed to Regulation 19 stage but has not yet been adopted by Wealden District Council or been subject of an independent examination by the Planning Inspectorate. As such, the NDP cannot be influenced by or influence this document in relation to strategic matters. The Hellingly NDP only provides for the area it covers and the WLP, once adopted, will provide the necessary strategic context when determining planning applications. **Conclusion: No**
c) the relevance of the plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development	A NDP is required to contribute to the achievement of sustainable development and therefore the likelihood of significant effects on the environment should be minimal. As discussed previously, the Hellingly NDP does not contain policies specifically allocating sites for development, but rather recommendations for this and in addition, policies relating to the design and enhancement of new and existing

	development. Reference is made to sustainable development in Policy HNDP 7, in relation to rural development, but this policy does not specifically allocate land for development. The NDP does provide recommendations relating to development on named sites within the Parish (e.g. recommendation is made for development on a site with a previously withdrawn planning application). Where recommendation has been made for a site for new development, the sustainability of the proposed site has been offered as a reason for recommending the proposed site. However, as mentioned previously, the named sites are recommended for development only and are not allocated for development. In addition all proposed developments in the NDP area would need to be accompanied by a full HRA outlining the potential impacts on European sites, so would not be approved if development would result in harmful impacts on such assets. However, a recent European Court judgement has ruled that both mitigation and avoidance measures cannot be considered at the screening stage of the HRA, and as a result, an appropriate assessment would be required if the screening of the Hellingly NDP could not rule out a likely significant effect upon the designated European Conservation Sites. This is the case, as discussed in section 5 below. The Hellingly NDP is not supported by a Sustainability Appraisal at present and although there is no legal requirement for a neighbourhood plan to have a sustainability appraisal, the Parish Council does need to demonstrate how the plan will contribute to achieving sustainable development. This is considered further in the screening conclusions below.

	Conclusion: Yes
d) environmental problems relevant to the plan or programme; and	The main environmental matter relevant to the Hellingly NDP relate to the designated European sites within close proximity to this Parish, particularly the Pevensey Levels SAC, Ramsar site and Site of Specific Scientific Interest (SSSI). As discussed, the Hellingly NDP is also the subject of an HRA screening assessment that considers the impact of individual draft policies upon the designated European sites; this is discussed separately within section 5 of this report. A number of the policies and recommendations in the Hellingly NDP are in relation to the design and enhancement of new and existing development within the Parish. Whilst it could be considered that design policies and recommendations have the potential to impact on the wider landscape/countryside surrounding Hellingly, this is unlikely due to its local scope and the proposed policies. There are a few recommendations which relate to the development of new recreational facilities or the regeneration of existing facilities (for example, the provision of new recreational facilities in the Roebuck Park 'village centre focus'), and such development may impact on the environment dependent on the nature and scale of the use. The Hellingly NDP would also include policies that support isolated new dwellings within the countryside, subject to certain criteria. However, the Hellingly NDP does not provide enough detailed information at this stage to ascertain whether such development would result in adverse environmental impacts. In addition to this, it is noted that the aforementioned development is contained in a recommendation within the plan, as opposed to a policy.

	As a result, an appropriate assessment would be required if the screening of the Hellingly NDP could not rule out a 'likely significant effect' upon the designated European Habitat sites. This is the case, as discussed in section 5 below. **Conclusion: Yes**
e) the relevance of the plan or programme for the implementation of Community legislation on the environment (e.g. plan and programmes linked to waste management or water protection).	The Hellingly NDP is not directly relevant to the implementation of European legislation, although it will need to take into account the impact of the Habitats Directive; this is discussed in greater detail in part of the HRA Screening Assessment in section 5 of this report. **Conclusion: No**
2. Characteristics of the effects and of the area likely to be affected, having regard, in particular, to:	
a) the probability, duration, frequency and reversibility of the effects;	As discussed previously, the Hellingly NDP does not contain policies that specifically allocate land for development. It does contain recommendations that encourage development on named sites; however these sites are not specifically allocated. Any potential effects of the drafted policies and recommendations will be assessed as part of the normal planning application process. These decisions will be made in line with the NDP, once 'made' as well as the Statutory Development Plan for the District as a whole and the NPPF. Therefore, it is unlikely there will be significant environmental effects on these criteria. **Conclusion: No**
b) the cumulative nature of the effects;	The scope of the policies proposed and recommendations within the Hellingly NDP are local in nature and are unlikely to have significant environmental effects, either singularly or in a cumulative sense. It is possible that issues could arise with regard to the cumulative environmental impact of new development (such as residential development under Policy HNDP 8) and the enhancement of existing recreational facilities, as

	recommended within the NDP. This could be through increased vehicle movements through the Ashdown Forest SAC, Lewes Downs SAC and Pevensey Levels SAC and Ramsar site or through the provision of hardstanding within the hydrological catchment of the Pevensey Levels SAC and Ramsar Site that may impact the hydrological regime or water quality in this location. This is discussed further in section 5 of this report. **Conclusion: Yes**
c) the transboundary nature of the effects;	It is expected that a NDP should only deal with local matters in line with the NPPF requirements. As a result, it is not expected that any of the drafted policies contained within the Hellingly NDP would have any significant transboundary effects. **Conclusion: No**
d) the risks to human health or the environment (e.g. due to accidents);	The Hellingly NDP does not pose any significant risks to human health. With regards to environmental risks, there is potential for the European designated sites, which are the Pevensey Levels SAC and Ramsar site, Ashdown Forest SAC and the Lewes Downs SAC, to be impacted by the draft proposals in the Hellingly NDP. This will be further discussed in section 5. **Conclusion: Yes**
e) the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected)	The Hellingly NDP area covers the whole Hellingly Parish, including the Hellingly village, Lower Dicker, Lower Horsebridge and Roebuck Park. As of 2014, the estimated population of the Hellingly Parish was 7,158; however with the ongoing development in the Parish, this population is likely to have increased over the last four years. The majority of the population live within the settlement and could be affected over the lifetime of the Plan. The majority of the draft policies in the NDP seek to influence the design and enhancement of the area as opposed to new development; however

	some of the recommendations are in relation to both new residential and employment development in the Parish. Therefore, as the Plan does encourage residential growth, it is likely that the population affected by the Hellingly NDP will be higher. This would not include people who work in the Parish, but choose to live outside the Parish. In terms of geographical area, the Parish of Hellingly is relatively small at approximately 19.6km. There could be potential issues surrounding the cumulative impacts of expanded or even new developments supported through the Hellingly NDP, via increased vehicle movements through Ashdown Forest SAC, Lewes Downs SAC and Pevensey Levels SAC and Ramsar, or through the provision of hardstanding within the catchment of the Pevensey Levels SAC and Ramsar site that may impact the hydrological regime or water quality in this location. This is considered further in section 5 of this report where the potential for a 'likely significant effect' on the relevant European Habitat sites are identified within the HRA screening assessment. **Conclusion: Yes**
f) the value and vulnerability of the area likely to be affected due to: (i) special natural characteristics or cultural heritage,	The Hellingly NDP is likely to affect the value and vulnerability of the Parish to the special natural characteristics or cultural heritage, due to impacts that may come forward through development proposals recommended in the Hellingly NDP. On the other hand, the Hellingly NDP does include several draft policies and recommendations in relation to the protection, conservation and enhancement of the existing natural environment and heritage assets (e.g. Policy HNDP 1), as does the adopted

	Statutory Development Plan of the District. Nevertheless, Historic England has confirmed that an SEA would be required in terms of the potential impacts of development on heritage assets and that the SEA should test whether the plan policies (specifically relating to the Hellingly Conservation Area and former hospital at Roebuck Park) should test whether the plan policies are suitable or successful in achieving the plans objectives and if there are any potential conflict with the other planning policies contained within the draft Hellingly NDP. As a result, it is concluded that an SEA would be required in relation to cultural heritage assets. **Conclusion: Yes**
f) the value and vulnerability of the area likely to be affected due to: (ii) exceeded environmental quality standards or limit values,	The main vulnerable area to be affected by the Hellingly NDP is the Pevensey Levels SAC and Ramsar site which has the potential for water quality standards to be exceeded through changes to the hydrological regime, where pathways of impact to the European Habitats site can include the increase of impermeable hardstanding, which is supported through the Hellingly NDP. There could also be potential issues surrounding the cumulative impacts of expanded or even new development supported within the Hellingly NDP, through increased vehicle movements through Ashdown Forest SAC, Lewes Downs SAC and Pevensey Levels SAC and Ramsar site. A Habitats Regulations screening assessment is therefore required as stated in section 5 of this report. As a result, the Hellingly NDP could lead to a 'likely significant effect' on a European designated site. **Conclusion: Yes**
f) the value and vulnerability of the area likely to be affected due to:	The Hellingly NDP does not specifically allocate land for development through policies, although it does make some

(iii) intensive land-use	recommendations for named sites for residential development. The recommendations are quite general in nature and therefore there is not enough evidence to ascertain how the land proposed in these recommendations would be used; however it is unlikely that proposals within the NDP will lead to intensive land use and will not affect the value and vulnerability of the area on this criterion. **Conclusion: No**
g) the effects on areas or landscapes which have a recognised national, Community or international protection status.	There are no nationally or internationally recognised landscapes within the Hellingly NDP area. However, as discussed throughout this document, there are a number of European Conservation sites in close proximity to the Hellingly Parish that could be affected by a Neighbourhood Plan of this nature. This is considered within the HRA screening exercise contained within section 5 of this report. **Conclusion: Yes**

SEA Screening Conclusions

4.6 As a result of the screening assessment, it is concluded that there is a possibility for significant environmental effects to arise as a result of the scope and policies of the Hellingly NDP. As currently written, the Hellingly NDP does require an SEA to be undertaken. This screening opinion is considered to be a 'snapshot in time' and if the scope and/or policies contained within the Hellingly NDP should change, then a new screening process will need to be undertaken to determine whether an SEA would be required at that time.

4.7 Although the Hellingly NDP does not specifically allocate land for new development and there is no legal requirement to complete a Sustainability Appraisal (SA), Wealden District Council advises that it would be beneficial for the Parish Council to prepare an SA in order to comply with its basic condition to demonstrate how its plan or order will contribute to achieving sustainable development in its area[9]. This appraisal should be light-touch and proportionate to the issues that have been considered in the NDP. As discussed, at paragraph

[9] See National Planning Practice Guidance (PPG) for Strategic Environmental Assessment and Sustainability Appraisal, paragraph 26.

165 of NPPF (published in March 2012), the SA approach is now framed to enable SEA to be incorporated, as it is now recommended. It is therefore recommended that the Hellingly NDP Steering Group prepare its SA, as advised by Wealden District Council, giving consideration to the aspects of the plan outlined above. As part of the SA for Hellingly NDP, all reasonable alternatives to its draft policies should be assessed and detailed within the final Environmental Report.

4.8 It should be noted that this screening opinion, in accordance with the SEA Regulations has been consulted on with the Environment Agency, English Heritage and Natural England. The responses received have been considered in full and are summarised within Section 6 of this report.

5.0 Screening Assessment for the Habitats Regulations Assessment (HRA)

Screening Assessment Methodology

5.1 There is no statutory method for undertaking a Habitats Regulations Assessment (HRA); however, the method used must be appropriate to its purpose under the Habitats Directive and Regulations.

5.2 The European Commission[10] recommends a four stage approach to addressing the requirements of Articles 6 (3) and (4) of the Habitats Directive, as set out below:

- **Stage 1: Formal Screening / Likely Significant Effect test** – The first stage in the HRA process is to identify the likely impacts of a plan or project upon a European site, either alone or in combination with other plans or projects. This stage considers whether any of the potential impacts are likely to be significant. The objective is to 'screen out' those sites or elements of the plan, without any detailed appraisal, which will not result in a likely significant adverse effect on a European site. This stage will be the focus of this screening assessment.

- **Stage 2: Appropriate Assessment (AA)** - An appropriate assessment is required if it is identified at the screening stage that the plan is likely to result in a significant effect either alone or in combination with other projects or plans. An appropriate assessment considers the impacts on the integrity of the European or Ramsar site(s). Where there are adverse impacts, it also includes an assessment of the potential avoidance and mitigation of those impacts.

- **Stage 3: Assessment of alternative solutions** – Following the appropriate assessment stage and consultation on this, should it be considered by a competent authority that residual adverse effects remain then it is necessary as part of a Stage 3 assessment to examine whether there are alternative ways of achieving the objectives of the plan that avoid the adverse impacts on the integrity of European or Ramsar sites or reduce them. It must be objectively concluded that no alternative solutions exist.

- **Stage 4: Imperative Reasons of Overriding Public Interest (IROPI)** If there are no alternative solutions or mitigation solutions to remove or reduce any identified adverse effect to a level that is considered acceptable in view of a sites conservation objectives then it will be necessary, under regulation 107 of the Habitats Regulations, to demonstrate that there are Imperative Reasons of Overriding Public Interest to continue with the implementation of the Plan. The IROPI stage should only be explored in

[10] Assessment of plans and projects significantly affecting Natura 2000 sites. European Commission, 2001

exceptional circumstances. Compensatory measures to offset negative impacts must be identified and assessed as appropriate before the project or plan can proceed.

5.3 The following methodology was undertaken to assess whether the Hellingly Neighbourhood Development Plan is likely to result in a significant adverse effect on a European site.

Stage 1: Screening Assessment/Likely Significant Effect Test

5.4 Stage 1 of the HRA (i.e. the screening assessment) considers whether the plan is likely to result in a significant environmental effect on a European site. The following steps were undertaken during the screening stage:

a. Determining whether the plan/ project is directly connected with or necessary to the management of European sites;

b. Identifying the European sites that should be considered within the HRA;

c. Gathering information in relation to the European Sites including:

    i. Characteristics of European Sites;

    ii. Qualifying interests;

    iii. Conservation objectives;

    iv. Current site condition;

    v. Threats to qualifying interests; and

    vi. Identification of relevant site management statements/plans

d. Identification of all plans or projects that could, in combination, have the potential to result in a significant adverse effect on a Natura 2000 site;

e. Screening the plan for likely significant effects, alone and in combination with other plans and projects;

f. Rescreening of the Plan where changes to the Plan were made.

5.5 In terms of all plans and projects that could, in combination, have the potential to result in a significant adverse effect on a Natura 2000 site, the following table provides information on those plans and the elements of those plans that could cause harm to Natura 2000 sites:

Table 3: Review of Other Relevant Plans

Local Plan and Stage in Process	Aim of the Document	Elements of the Plan that could cause 'in-combination' effects
Wealden Core Strategy Local Plan (adopted February 2013)	The Wealden Core Strategy is the main strategic planning policy document for the District that sets out how the places and communities within Wealden will change up until 2027. This includes strategic allocation for residential, employment and retail development, amongst other matters.	The Wealden Core Strategy planned to provide for 9,440 dwellings over the period 2006-2027. Provision will be made for some net additional 40,000 sq. metres net employment floorspace (B1/B2/B8) to provide for 128,695 sq. metres net employment floorspace and 17,000 sq. metres net additional retail floorspace over the period 2006-2027.
Wealden Affordable Housing Delivery Local Plan (adopted May 2016)	This document is the Affordable Housing Delivery Local Plan, which reviews the Wealden District (incorporating the SDNP) Core Strategy Local Plan Policy WSC8 concerning affordable housing. This Local Plan is limited to affordable housing provision and the adopted Core Strategy Policy WCS8 concerning affordable housing, and does not affect any other Core Strategy policy.	This Plan only reviews affordable housing policy and does not look to allocate new land for development so is not likely to cause significant 'in-combination' effects.
Wealden Local Plan (Proposed Submission Version August 2018)	The Proposed Submission Version of the Wealden Local Plan (August 2018) outlines the growth and change that will take place within the Wealden District (excluding the SDNP) between 2013 and 2028 and provides both strategic and local policies for development and change. When adopted, the Wealden Local Plan will supersede the policies contained within the adopted Wealden District Affordable Housing Delivery Local Plan (2016), Wealden District Core Strategy Local Plan (2013) and the saved policies of the	The draft policies within the pre-submission version of the Plan will not have 'full weight' in terms of planning decisions until its adoption. However, the draft plan does confirm that it will make overall provision for 14,228 (net) dwellings between 2013 and 2028 within the Wealden District. The Plan also identifies land for the delivery of up to 22,500 net additional square metres of employment floorspace

Local Plan and Stage in Process	Aim of the Document	Elements of the Plan that could cause 'in-combination' effects
	adopted Wealden Local Plan (1998).	(Use Class B1, B2 and B8) and 4,350 square metres of net additional retail floorspace over the period 2015 to 2028.
Rother Local Plan Core Strategy (adopted September 2014)	The Rother Core Strategy sets out the Council's vision and objectives that will guide the future pattern and form of development within the district over the Plan period up until 2028.	The Rother Core Strategy planned for at least 5,700 dwellings (net) and 100,000 sq. metres of gross additional business floorspace in the district over the period. It was envisaged that 3,100 dwellings and at least 60,000 sq. metres of business floorspace would be located in/around Bexhill.
Tunbridge Wells Borough Core Strategy (adopted June 2010)	The Tunbridge Wells Borough Core Strategy is to guide new development and change in the district for the period up to 2026.	The Tunbridge Wells Core Strategy planned for at least 6,000 dwellings to be provided in the Borough in the period 2006 to 2026. The Core Strategy also seeks to deliver in the order of 26,500 sq. metres of comparison retail floorspace to the end of 2017.
Tunbridge Wells Borough Site Allocations Local Plan (adopted July 2016)	The main purpose of the Tunbridge Wells Borough Site Allocations Local Plan is to allocate land for housing, employment, retail and other land uses to meet the identified needs of the communities within Tunbridge Wells borough to 2026 and beyond. This follows the strategic objectives and sustainable development objectives set out within the Core Strategy.	This Plan only seeks to allocate specific parcels of land to meet the targets for individual settlements and types of development within the Borough as published within the Tunbridge Wells Borough Core Strategy. As a consequence, this Plan does not seek to deliver more dwellings, retail floorspace or employment floorspace

Local Plan and Stage in Process	Aim of the Document	Elements of the Plan that could cause 'in-combination' effects
		than is outlined within the Tunbridge Wells Borough Core Strategy, albeit those specific locations for such new development have now been established.
Mid Sussex District Plan 2014 -2031 (adopted March 2018)	The Plan sets out a vision for how Mid Sussex wants to evolve and a delivery strategy for how that will be achieved. As such, it sets out broad guidance on the distribution and quality of development in the form of 'higher level' strategic policies.	The Mid Sussex District Plan (adopted in March 2018) seeks to provide a minimum of 16,390 dwellings between 2014 and 2031 within the District. For employment, the Plan confirms that the total number of additional jobs required within the District over the plan period is estimated to be average of 543 jobs per year, with only a single allocation of 25 hectares of land as a high quality business park at Burgess Hill.
Eastbourne Core Strategy Local Plan (adopted February 2013)	The Eastbourne Core Strategy Local Plan sets out the Council's spatial vision for Eastbourne up to 2027 and the primary land-use policies to deliver it. It is the key strategic Local Plan upon which other development plan documents are based.	The Eastbourne Core Strategy states that a minimum of at least 5,022 dwellings and 55,430 sq. metres of employment land will delivered by 2027 within the built-up area boundary of Eastbourne.
Eastbourne Town Centre Local Plan (adopted November 2013)	The Eastbourne Town Centre Local Plan seeks to set out a strategy and proposals for the regeneration of the Town Centre and seeks to shape development within the town centre to 2027. The document was prepared in accordance with the Eastbourne Core Strategy Local Plan, which sets out the overarching policy direction for Eastbourne.	The Eastbourne Town Centre Local Plan confirms that the five Development Opportunity Sites will deliver a minimum of 450 net residential units and new Use Class B1(a) office space, the quantum of which will be confirmed in the Employment Land Local Plan (as confirmed

Local Plan and Stage in Process	Aim of the Document	Elements of the Plan that could cause 'in-combination' effects
		below, this was 3,750 sqm).
Eastbourne Employment Land Local Plan (adopted November 2016)	The Eastbourne Employment Land Local Plan is a document that seeks to guide job growth and economic development in Eastbourne up to 2027 as well as identifying an appropriate supply of land for future employment development. This Plan specifically relates to land and buildings within Use Class B1, B2 and B8.	The Eastbourne Employment Land Local Plan has a new requirement for employment floorspace of 48,750 sqm to be delivered by 2027. The employment floorspace was to be distributed through the intensification of existing industrial estates (21,875 sqm), the town centre (3,750 sqm) and Sovereign Harbour (23,125 sqm).
Lewes District Local Plan Part 1 (adopted May 2016)	The Lewes District Local Plan Part 1 is the main strategic planning document for the area, which covers the whole Lewes District (including the South Downs National Park) and has been prepared to guide new development and change in the district for the period up to 2030.	The Lewes District Local Plan (Part 1) states that a minimum of 6,900 net additional dwellings will be provided between 2010 and 2030 in the District. For employment, the Plan provides for 74,000 sq. metres of employment floorspace (B1, B2 and B8) in the District.
South Downs Local Plan (Pre-Submission Version September 2017)	The Pre-Submission South Downs Local Plan (September, 2017) sets out the vision and policies for the South Downs National Park Area and will cover the time period 2014 to 2033.	The draft policies within the pre-submission version of the Plan will not have 'full weight' in terms of planning decisions until its adoption. However, the draft plan does confirm that it will make overall provision for approximately 4,750 net additional dwellings between 2014 and 2033 within the SDNP.
Tandridge District Core Strategy	The Tandridge District Core Strategy is the main strategic planning document for the	The Tandridge District Core Strategy states that a minimum net increase

Local Plan and Stage in Process	Aim of the Document	Elements of the Plan that could cause 'in-combination' effects
(adopted October 2008)	area, which covers the Tandridge District and has been prepared to guide new development and change in the District for the period up to 2026.	of at least 2,500 dwellings will be built in the period 2006 to 2026.
Tandridge Local Plan Part 2: Detailed Policies (adopted July 2014)	The Tandridge Local Plan Part 2: Detailed Policies supports the adopted Core Strategy and contains a set of detailed planning policies to be applied locally in the assessment and determination of planning applications over the plan period (2014 -2029).	The Tandridge Local Plan Part 2: Detailed Policies only seeks to review more detailed development management policies and does not contain strategic targets for the quantum of development in the District or seek to allocate sites for development so is not likely to cause significant 'in-combination' effects.
Tandridge District: Our Local Plan: 2033 (Pre-Submission Version June 2018)	The Pre-Submission Version of the Tandridge Local Plan (Our Local Plan 2033) sets out the land use requirements for the Tandridge District up to 2033 in accordance with national policy and guidance. Once adopted, the Local Plan is intended to replace the Council's Core Strategy (2008) in full and certain planning policies within the Council's adopted Detailed Policies Development Plan Document (2014).	The draft policies of the pre-submission version of the Plan will not have 'full weight' in terms of planning decisions until its adoption. However, the pre-submission version of the Tandridge Local Plan is purported to provide 6,124 homes within the Plan period to 2033 and confirms that the Council will support the delivery of at least 15.3ha of B-class employment space and associated sui-generis uses.
Brighton and Hove City Plan Part One (adopted March 2016)	The purpose of the Brighton and Hove City Plan – Part One is to provide the overall strategic and spatial vision for the future of Brighton and Hove through to 2030. It will help shape the future of the city and plays important role in ensuring	The Brighton and Hove City Plan - Part One states that the Council will make provision for at least 13,200 new homes to be built over the plan period (2010 – 2030). There are a number of

Local Plan and Stage in Process	Aim of the Document	Elements of the Plan that could cause 'in-combination' effects
	that other citywide plans and strategies achieve their objectives.	strategic allocations for both employment and retail within the adopted Plan, but no overall quantum of development has been given.
Sevenoaks Core Strategy (adopted February 2011)	The Sevenoaks Core Strategy sets out the vision and policies for the future development in the District over the period to 2026 as well as providing the policy context for other Development Plan Documents.	The Sevenoaks Core Strategy plans to provide 3,300 additional dwellings over the Plan period from 2006 to 2026.
Sevenoaks Allocations and Development Management Plan (adopted February 2015)	The Sevenoaks Allocations and Development Management Plan supports the adopted Core Strategy and contains a set of detailed planning policies to be applied locally in the assessment and determination of planning applications over the plan period (2006 -2026). The document also includes allocations for housing, mixed use development and employment development.	The Sevenoaks Allocations and Development Management Plan supports the Core Strategy and states that the Council can demonstrate a housing land supply of 4,282 dwellings for the plan period of 2006-2026 (this is higher than the Core Strategy). The Plan also seeks to allocate a grand total of 75.5 hectares of employment development largely within Sevenoaks, Swanley and Edenbridge.
Crawley Borough Local Plan 2015 – 2030 (adopted 2015)	The Crawley Borough Local Plan sets out the vision and policies for the future development in the Borough over the Plan period from 2015 to 2030 as well as providing a number of residential allocations.	The Crawley Borough Local Plan states that a minimum of 5,100 net dwellings will be built within the borough in the period 2015 to 2030. For employment, the Plan provides for approximately 23ha of employment land over the early part of the Plan period and as a

Local Plan and Stage in Process	Aim of the Document	Elements of the Plan that could cause 'in-combination' effects
		minimum, an additional 35ha of land for business uses is required over the whole Plan period.
East Sussex, South Downs and Brighton and Hove Waste and Minerals Plan (adopted February 2013)	The East Sussex, South Downs and Brighton and Hove Waste and Minerals Local Plan (2013) sets out the vision and strategic policy decisions for specific sites to cater for unmet waste needs within the County and the safeguarding of mineral resources up to 2030.	This Plan identifies a series of waste and mineral sites across East Sussex and Brighton and Hove, which are to be safeguarded, as well as allocations for new opportunities and expansion of existing sites. A number of sites are located within Wealden District.
East Sussex, South Downs and Brighton and Hove Waste and Minerals Sites Plan (adopted February 2017)	The East Sussex, South Downs and Brighton and Hove Waste and Minerals Sites Plan (2017) provides the spatial details for the requirements contained within the Waste and Minerals Plan that was adopted in 2013. The Sites Plan identifies potential locations for the future waste facilities and safeguards existing waste and minerals resource.	The Plan identifies a series of waste and minerals sites across East Sussex and Brighton and Hove, which are to be allocated for waste management development that includes the land at Lower Dicker and Hailsham or safeguarded for mineral extraction, which includes land at Horam (Horam Brickworks) and Ninfield (Little Standard Hill Farm).
West Sussex Joint Minerals Local Plan (Pre-Submission Version January 2017)	The Minerals Local Plan covers the period to 2033 and sets out the vision and strategic objectives associated with minerals supply developments in West Sussex and within the South Downs National Park where located within West Sussex. Once adopted, it will provide the basis for making consistent land-use planning decisions about planning applications for	This Proposed Submission Draft of the Minerals Local Plan allocates strategic minerals sites for clay, soft sand, chalk and stone in West Sussex amongst other matters. The Plan only confirms (at this stage) that allocations for additional minerals sites would include an extension to West Hoathly claypit

Local Plan and Stage in Process	Aim of the Document	Elements of the Plan that could cause 'in-combination' effects
	minerals production facilities including quarries.	(clay) and Steyning (soft sand).
West Sussex Waste Local Plan (adopted April 2014)	West Sussex County Council and South Downs National Park Authority have worked in partnership on the preparation of the West Sussex Waste Local Plan. The Plan covers the period to 2031 and is the most up-to-date statement of the authorities' land-use policy for waste.	This Plan identifies a series of waste sites across West Sussex which are to be safeguarded, as well as allocations for new opportunities and expansion of existing sites. There are five sites allocated for new built waste management facilities (including for inert waste recycling) at Ford, Climping, Chichester, Horsham and Goddards Green.
Other Neighbourhood Development Plans (NDPs)	The aim of these documents is to provide specific planning policies for designated Neighbourhood Development Plan areas (usually Parishes) and should support the respective Local Plans of the districts and boroughs they are located in.	The Neighbourhood Development Plans, once 'made' should, comply with the respective Local Plans of the districts and boroughs mentioned above and therefore these documents should not cause 'in combination' effects over and above the district level plans.

5.6 The purpose of screening/stage 1 was to assess whether further steps in the HRA process are required (i.e. stages 2, 3 and 4). This involved:

- Identifying and eliminating the elements of the plan which will have no effect on a European site;
- Identifying elements of the plan which would not be likely to have a significant effect on a European site, either alone or in combination with other plans and projects;

- Identifying the elements of the plan where it cannot be ruled out to not result in a likely significant effect, either alone or in combination with other plans or projects; and
- Assessing the significance of any effects on the European site.

5.7 The assessment involved screening the content of the plan and its policies against a number of criteria.

5.8 During the Stage 1 assessment, existing current information and knowledge about the European Sites were relied upon. The European Commission Guidance endorses this approach.

Important Considerations taken into account during Stage 1 of the HRA

5.9 As part of the HRA, in particular the stage 1 assessment, it was necessary to consider a number of provisions provided by the Habitats Directive and Regulations. The application of these provisions is paramount to meeting the legislation.

What is a 'likely significant effect'?

5.10 The screening stage is based on a 'likely significant effect' test. A 'likely effect' is one that cannot be ruled out on the basis of objective information. The European Commission Guidance sets out that the test is a 'likelihood' of effects rather than a 'certainty' of effects[11].

5.11 In the Waddenzee case, the European Court of Justice ruled that a project should be subject to an appropriate assessment 'if it cannot be excluded, on the basis of objective information, that it will have a significant effect on the site, either individually or in combination with other plans or projects'. In using this case law, 'likely' should not be interpreted as 'probable' or 'more likely than not', but rather whether a significant effect can be objectively ruled out.

5.12 The European Commission provides guidance on 'significant effect'. Ultimately, the test of significance is where a plan or project could undermine the sites conservation objectives. The likelihood of this occurring is a case-by-case judgement taking into account the specific features and environmental conditions of the protected site concerned by the plan or project and the precautionary principle.

5.13 During the 'likely significant effect' test, the precautionary principle must be applied in relation to whether the next stage in the HRA process (an 'appropriate assessment') is required.

[11] Managing Natura 2000 Sites, EC, 2000. Section 4.4.2

5.14 In addition, in recent months a European Court Judgement (Judgement of the European Court of Justice (CJEU) 12th April 2018; *People Over Wind and Sweetman v Coillte Teoranta* (C-323/17)) concluded that Article 6(3) of the Habitats Directive must be interpreted as meaning that, in order to determine whether it is necessary to carry out, subsequently, an appropriate assessment of the implications for a site concerned, of a plan or project, it would not be appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site. In practical terms, it is considered that if at the first screening stage of a plan or project, it is identified that a planning policy or project could result in a likely significant effect on a European site, than an Appropriate Assessment would need to be undertaken.

Precautionary Principle

5.15 The precautionary principle is defined as 'where there are threads of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation'[12].

5.16 In line with this definition and as appropriate to the Habitats Directive, European Commission guidance states that 'the conservation objectives of Natura 2000 should prevail where there is uncertainty'[13] (Section 2.2). It further sets out that the use of the precautionary principle in the case that 'a scientific evaluation of the risks which, because of the insufficiency of the data, their inconclusive or imprecise nature, makes it impossible to determine with sufficient certainty the risk in question. The guidance further states that 'this means that the emphasis for assessment should be objectively demonstrating, with supporting evidence, that there will be no adverse effects on the integrity of the site'.

5.17 Further information is provided by the European Commission in its communication on the use of the Precautionary Principle[14]. The Communication sets out a number of steps to be followed as below:

- If a preliminary scientific evaluation shows that there are reasonable grounds for concern that a particular activity might lead to damaging effects on the environment, or on human, animal or plant health, which would be inconsistent with the protection normally afforded to these within the European Community, the Precautionary Principle is triggered;

[12] 1992 Rio Declaration on Environment and Development
[13] Assessment of plans and projects significantly affecting Natura 2000 sites: Methodological guidance on the provisions of Article 6 (3) and (4) of the Habitats Directive 92/43/EEC (European Commission, 2001, page 11).
[14] Communication from the Commission on the Precautionary Principle, (European Commission, 2000)

- Decision-makers then have to determine what action to take. They should take account of the potential consequences of taking no action, the uncertainties inherent in the scientific evaluation, and they should consult interested parties on the possible ways of managing the risk. Measures should be proportionate to the level of risk, and to the desired level of protection. They should be provisional in nature pending the availability of more reliable scientific data; and

- Action is then undertaken to obtain further information enabling a more objective assessment of the risk. The measures taken to manage the risk should be maintained so long as the scientific information remains inconclusive and the risk unacceptable.

In Combination Effect

5.18 Article 6 (3) of the Habitats Directive requires a HRA to take into account the in combination effects of plans and projects. The Directive recognises that in some cases the effects of a plan or project on its own could result in an unlikely significant effect or an insignificant effect. However, it is recognised that there may be a number of plans or projects, each of which on their own would be unlikely to have a significant effect. However, if their individual effects were added together, by them all coming forward over time, the cumulative effects, in combination, would likely be significant.

5.19 It is important to note that the intention of this in-combination provision is to take account of cumulative impacts, and these will often only occur over time. The Directive would be undermined if the combinations of plans and projects escaped assessment, especially if their combined effects are likely to be damaging to a site as the effects of one large plan or project alone.

5.20 The European Commission Guidance provides that the focus of the in combination assessment should be on those plans or projects actually proposed. This should also include approved projects and plans that are currently uncompleted or unimplemented. Recent case law identifies the need to consider completed plans and projects as part of the in combination assessment.

Habitats Regulations Assessment (Screening) for the Hellingly NDP

5.21 As discussed at paragraph 5.4 above, the methodology for the screening exercise has been split into a number of phases (from A to G), each of which are considered in detail below:

a) Determining whether the Hellingly NDP is directly connected with or necessary to the management of a European site

5.22 The Hellingly NDP is not directly connected with, or necessary to the nature conservation management of a European site/Ramsar site. As a consequence, the Plan is therefore subject to a HRA as required by the Habitats Regulations.

b) Identifying the European sites that should be considered within the HRA

5.23 The screening exercise identifies the following European sites for consideration in the HRA:

- Ashdown Forest Special Area of Conservation (SAC);
- Ashdown Forest Special Protection Area (SPA);
- Pevensey Levels SAC and Ramsar site;
- Lewes Downs SAC;
- Castle Hill SAC;
- Hastings Cliffs SAC; and
- Dungeness, Romney Marsh and Rye Bay SPA and Ramsar site.

c) Information gathered in relation to European sites:

5.24 Appendix 1 provides a summary of the information considered as part of the screening process (stage 1 of the HRA process).

d) Screening the Plan for likely significant effects, alone and in combination with other Plans and Projects

5.25 The following impact pathways are identified that could result from the Hellingly Neighbourhood Plan, either alone or in combination with other plans or projects and is tabulated below:

Table 4: Impact Pathway(s) of Natura 2000 sites considered within the scope of this Assessment

Site Name	Impact Pathway(s)
Ashdown Forest SAC	Atmospheric pollution and urbanisation
Ashdown Forest SPA	Disturbance and urbanisation
Castle Hill SAC	Air pollution
Dungeness SAC and Dungeness, Romney Marsh and Rye Bay SPA and Ramsar	Disturbance, air pollution, water quality (SPA and Ramsar site only) and hydrology
Hastings Cliffs SAC	Air pollution, water quality and hydrology

Lewes Downs SAC	Atmospheric pollution
Pevensey Levels SAC and Ramsar	Atmospheric pollution (SAC only), water quality and hydrology.

5.26 The Proposed Submission Wealden Local Plan (August, 2018) is accompanied by a Habitats Regulations Assessment (HRA) for the Wealden Local Plan that considers all the sites and impact pathways above[15]. It concludes that there would be 'no likely significant effect' as a result of the Proposed Submission Wealden Local Plan on a number of Natura 2000 sites that included Castle Hill SAC, Hastings Cliffs SAC and Dungeness SAC and Dungeness, Romney Marsh and Rye Bay SPA and Ramsar site. In addition, the Hellingly Neighbourhood Plan Area is not located within the Ashdown Forest SPA or its associated 7km buffer zone where new accommodation or development (even on a smaller scale) is considered to have the potential to adversely affect the integrity of the Ashdown Forest SPA in view of the site's conservation objectives. The reasons for screening out these particular sites are given at appendix 4 of this document. It follows that the Regulation 16 version of the Hellingly NDP, that has to conform to the strategic planning policies of the Wealden District, would also have 'no likely significant effect' on those sites that were screened out from the HRA for the Proposed Submission Wealden Local Plan[16].

5.27 It is considered that the Regulation 16 version of the Hellingly NDP may still have an impact upon the remaining Natura 2000 sites considered within this screening assessment and the following potential significant effects are identified that could result from the Hellingly Neighbourhood Plan.

- Increased atmospheric pollution at Ashdown Forest SAC, Lewes Downs SAC and Pevensey Levels SAC;
- Altered hydrological regime at Pevensey Levels SAC/Ramsar site; and
- Decreased water quality at Pevensey Levels SAC/Ramsar site.

<u>e) Screening the Plan for likely significant effects, alone and in combination with other plans and projects</u>

[15] The screening exercise for the Wealden Local Plan is the most up-to-date HRA screening exercise and therefore supersedes that associated with the Core Strategy.
[16] The current Development Plan Document (DPD) for Wealden District Council is the adopted Core Strategy (February, 2013) that similarly only screens in the Ashdown Forest SAC, Ashdown Forest SPA, Lewes Downs SAC and the Pevensey Levels pSAC (at that time) and Ramsar site.

5.28 Table 5 below provides the findings of the screening assessment for each of the policies within the Hellingly NDP[17] and whether there is a potential for a 'significant effect' on the environment either alone, or in combination with other plans and projects.

[17] Appendix 3 outlines the draft Hellingly Neighbourhood Development Plan policies and their intent as described in the Regulation 16 document.

Table 5: Screening Assessment of Planning Policies within the Hellingly NDP

Hellingly Neighbourhood Development Plan (NDP) Policies	Pevensey Levels SAC and Ramsar site	Ashdown Forest SAC	Lewes Downs SAC	Likely Significant Environmental Effect Either Alone or 'In Combination'?
Policy HNDPE This planning policy confirms the protection for Ashdown Forest Special Area of Conservation (SAC), Ashdown Forest Special Protection Area (SPA), Pevensey Levels Special Area of Conservation (SAC) and Ramsar site and Lewes Downs Special Area of Conservation (SAC).	No	No	No	This planning policy relates to the protection of the Ashdown Forest SAC, Lewes Downs SAC and Pevensey Levels SAC and Ramsar site by ensuring that development may only take place once suitable mitigation or compensation measures are in place to avoid an adverse impact upon the integrity of the site. As a result, it can be concluded that this planning policy will not result in a likely significant effect due to the intention of the policy to protect the environment. This policy has therefore been screened out.
Policy HNDP1 – Area of Locally Valued Landscape This planning policy confirms the protection of the Hellingly Locally Valued Landscape Area by only allowing development that would not have a detrimental impact upon the area and/or could be appropriately mitigated. Additionally, the policy lists five criteria that must be met by any development proposals, including the need to protect long distance views of the South Downs and the need to	No	No	No	This policy is general in nature and does not identify any quantum or specific location for new development. The policy supports proposals which preserve the existing rural character of the area. As a result, it can be concluded that this planning policy will not result in a likely significant effect. The policy also seeks to protect and enhance the natural environment. There are no impact pathways present and therefore, this policy has been screened out.

Hellingly Neighbourhood Development Plan (NDP) Policies	Pevensey Levels SAC and Ramsar site	Ashdown Forest SAC	Lewes Downs SAC	Likely Significant Environmental Effect Either Alone or 'In Combination'?
minimise the potential for light trespass and glare, amongst other matters.				
Policy HNDP 2 – Local Green Space This planning policy seeks to protect local green spaces within the Parish from development and encourages opportunities for increased enjoyment and accessibility to these spaces. Additionally, the policy confirms that development resulting in the loss of green spaces will be resisted unless it can be demonstrated that the area is no longer used or an equivalent site within the Parish can be provided.	Yes	No	No	This policy identifies a number of Local Green Spaces on the Proposals Map that are considered to be valued locally and should be afforded protection. This element of the policy would not result in a 'likely significant effect'. The planning policy also provides support for opportunities for increased enjoyment and accessibility to these Local Green Spaces. The location of the Local Green Spaces are known and it is considered that the provision of new or improved links could have an adverse hydrological impact upon Pevensey Levels SAC/Ramsar site due to the sites, and therefore the access links being located within the Pevensey Levels hydrological catchment area. The impact pathway relates to the potential for hydrological conditions to be altered due to a potential increase in impermeable surfaces. Whether a significant effect is likely will depend on the scale, location, design, materials and overall nature of new or improved links. At this higher stage of the plan making process, it is not possible to

Hellingly Neighbourhood Development Plan (NDP) Policies	Pevensey Levels SAC and Ramsar site	Ashdown Forest SAC	Lewes Downs SAC	Likely Significant Environmental Effect Either Alone or 'In Combination'?
				have a precise understanding of specific project details; it is not therefore possible to reasonably assess the potential effects of this policy element in a meaningful way. However, the policy expresses support for development within the hydrological catchment area of Pevensey Levels. For this reason, it is not possible to screen out the impact of any supported development due to a lack of information at this plan making stage. For example, certain development could result in a likely significant effect as a result of scale, design or materials used and therefore a likely significant effect could result, either alone or in combination with growth elsewhere. An appropriate assessment is therefore required to further consider any potential impacts.
Policy HNDP 3 – Areas of Critical Flood and Drainage Concern This planning policy seeks to resist development within Areas at Risk of Flooding, as identified on the proposals map, unless the benefits of development outweigh the flood	Yes	No	No	This planning policy relates to a specified area which is considered to be at risk from flooding. The specified area is located within the hydrological catchment area of the Pevensey Levels. The policy is general in nature and does not identify any quantum or type of new development. However, the

Hellingly Neighbourhood Development Plan (NDP) Policies	Pevensey Levels SAC and Ramsar site	Ashdown Forest SAC	Lewes Downs SAC	Likely Significant Environmental Effect Either Alone or 'In Combination'?
risk and the flood risk can be mitigated. The policy also requires that, where development is permitted within a flood risk area, a sustainable drainage scheme, with suitable maintenance, will be required and that the proposals will be required to demonstrate that there will be no flood risk to neighbouring land.				policy does seek the provision of suitable sustainable drainage schemes where development may be considered appropriate. There are a number of different types of drainage schemes that could be implemented and without specific detail at the plan making stage it is not possible to assess the effect of any such scheme and therefore the effect of the policy on the Pevensey Levels. The impact pathway relates to the potential for hydrological conditions to be altered due to potential impacts of SUDs on water quality and surface water run-off. Whether a significant effect is likely will depend on the scale, location, design, materials and overall nature of SUDs. At this higher stage of the plan making process, it is not possible to have a precise understanding of these specific project details; it is not therefore possible to reasonably assess the potential effects of this policy element in a meaningful way. In accordance with HRA guidance in that it is not possible to conclude 'no likely significant effect' due to a lack of

Hellingly Neighbourhood Development Plan (NDP) Policies	Pevensey Levels SAC and Ramsar site	Ashdown Forest SAC	Lewes Downs SAC	Likely Significant Environmental Effect Either Alone or 'In Combination'?
				information at the plan making stage, the policy has been screened in due to the location of the Areas of Flood Risk within the hydrological catchment area. An appropriate assessment is therefore required to further consider any potential impacts.
Policy HNDP 4 This planning policy seeks to minimise flood risk within the Parish, firstly by requiring flood risk assessments to assess run-off from a variety of surfaces. In addition, the policy seeks to resist land raising within new developments and where land raising is proposed, it states that mitigation will be required and will need to satisfy a variety of organisations, including the Local Planning Authority and East Sussex County Council as the flood authority.	Yes	No	No	The first element of the planning policy would not result in a 'likely significant effect' because it does not result in development or change and no pathway impact exists. However, the planning policy does confirm a presumption against land raising within new developments and where such land raising is proposed, mitigation would be considered necessary and would need to satisfy certain consultees and the local planning authority. The second policy element relates to land raise and where this is acceptable requires satisfactory mitigation. Hellingly is located within the hydrological catchment area of the Pevensey Levels. Although the policy is general in nature, mitigation schemes proposed by this policy would also need to ensure that the Pevensey Levels SAC

Hellingly Neighbourhood Development Plan (NDP) Policies	Pevensey Levels SAC and Ramsar site	Ashdown Forest SAC	Lewes Downs SAC	Likely Significant Environmental Effect Either Alone or 'In Combination'?
				Ramsar is not adversely affected. Mitigation could be in various forms and without specific detail at the plan making stage it is not possible to assess the effect of any such scheme and therefore the effect of the policy on the Pevensey Levels. The impact pathway relates to the potential for hydrological conditions to be altered as a result of mitigation. Whether a significant effect is likely will depend on the scale, location, design and overall nature of the proposal/mitigation. At this higher stage of the plan making process, it is not possible to have a precise understanding of specific project details; it is not therefore possible to reasonably assess the potential effects of this policy in relation to the Pevensey Levels SAC/Ramsar in a meaningful way. The planning policy seeks to resist land raising as part of new developments within the hydrological catchment area of Pevensey Levels, although it allows for this under special circumstances. It is not possible to screen out the impact of land raise or associated mitigation due to a lack of information at the plan making stage. For

Hellingly Neighbourhood Development Plan (NDP) Policies	Pevensey Levels SAC and Ramsar site	Ashdown Forest SAC	Lewes Downs SAC	Likely Significant Environmental Effect Either Alone or 'In Combination'?
				example, land raising or associated mitigation could result in a likely significant effect as a result of its scale, design or the mitigation proposed. In accordance with HRA guidance in that it is not possible to conclude 'no likely significant effect' due to a lack of information at the plan making stage, the policy has been screened in due to the location of Hellingly within the hydrological catchment area of Pevensey Levels SAC / Ramsar and it not being possible to conclude 'no likely significant effect' should development come forward as a result of this policy, either alone or in combination with growth elsewhere. An appropriate assessment is therefore required to further consider any potential impacts.
Policy HNDP 5 – Green and Blue Infrastructure This planning policy states that development proposals must maintain and enhance existing green and blue infrastructure, to ensure the integrity of existing wildlife corridors and community amenity value.	No	No	No	This policy is general in nature and does not identify any quantum or specific location for new development. The policy seeks to protect and enhance the natural or built environment. As a result, it can be concluded that this planning policy will not result in a likely significant effect. There are

Hellingly Neighbourhood Development Plan (NDP) Policies	Pevensey Levels SAC and Ramsar site	Ashdown Forest SAC	Lewes Downs SAC	Likely Significant Environmental Effect Either Alone or 'In Combination'?
				no impact pathways present and therefore, this policy has been screened out.
Policy HNDP 6 – Biodiversity This planning policy seeks to protect and enhance biodiversity within the Parish.	No	No	No	This policy is general in nature and does not identify any quantum or specific location for new development. The policy seeks to protect and enhance the natural environment. As a result, it can be concluded that this planning policy will not result in a likely significant effect. There are no impact pathways present and therefore, this policy has been screened out.
Policy HNDP 7 – Rural Economy This policy supports the development of agricultural and other land based rural businesses, subject to such proposals demonstrating that they are economically, socially and environmentally sustainable and that they can provide suitable access, well-designed buildings and not adversely affect the surrounding landscape.	Yes	Yes	Yes	This policy is general in nature and does not allocate specific land for new employment development. However, the policy overall supports employment development in the Hellingly NDP area. This could have an adverse hydrological impact upon the Pevensey Levels SAC/Ramsar site due to the site(s), and therefore, development being located within the Pevensey Levels hydrological catchment area. The impact pathway relates to the potential for hydrological conditions to be altered due to a potential increase in impermeable surfaces. Whether a significant effect is likely will depend on

Hellingly Neighbourhood Development Plan (NDP) Policies	Pevensey Levels SAC and Ramsar site	Ashdown Forest SAC	Lewes Downs SAC	Likely Significant Environmental Effect Either Alone or 'In Combination'?
				the scale, location, design, materials and overall nature of the development. At this higher stage of the plan making process, it is not possible to have a precise understanding of specific project details; it is not therefore possible to reasonably assess the potential effects of this policy in relation to the Pevensey Levels SAC/Ramsar in a meaningful way. The planning policy could also result in an adverse air quality impact on Ashdown Forest SAC, Lewes Downs SAC and Pevensey Levels SAC/Ramsar. The impact pathway relates to additional vehicle movements that may be associated with any additional development or the intensification of activities as a result of development. Whether a significant effect is likely will depend on the scale, location and overall nature of the development proposal. It is not possible at this stage in the plan process to know whether development would result in additional traffic movements on the Natura 2000 sites identified. On this basis, it is not therefore possible to reasonably assess the potential effects of this policy element in a meaningful way.

Hellingly Neighbourhood Development Plan (NDP) Policies	Pevensey Levels SAC and Ramsar site	Ashdown Forest SAC	Lewes Downs SAC	Likely Significant Environmental Effect Either Alone or 'In Combination'?
				It is not possible to screen out the impact of this policy and associated development due to a lack of information at the plan making stage. For example, certain development could result in a likely significant effect if it results in additional vehicle movements or as a result of an increase in impermeable surfaces. In accordance with HRA guidance, the policy has therefore been screened in due to the location of the potential employment sites being within the hydrological catchment area of Pevensey Levels SAC / Ramsar and it not being possible to conclude 'no likely significant effect' should development come forward as a result of this policy, either alone or in combination with growth elsewhere. In addition, the policy has been screened in due to the knowledge that if development intensifies vehicle trips, that a 'likely significant effect' cannot be ruled out. An appropriate assessment is therefore required to further consider any potential impacts.
Policy HNDP 8 – Isolated New Dwellings	Yes	Yes	Yes	This policy is general in nature and does not allocate specific land for the provision of

Hellingly Neighbourhood Development Plan (NDP) Policies	Pevensey Levels SAC and Ramsar site	Ashdown Forest SAC	Lewes Downs SAC	Likely Significant Environmental Effect Either Alone or 'In Combination'?
The planning policy relates to proposals for new dwellings within the countryside and relevant special circumstances where such development could proceed, such as where there is an essential need to live at or near the place of work to support a rural employment use. This draft planning policy does not allocate specific land for such development within the Hellingly NDP area.				development. However, the policy overall supports the provision of isolated dwellings within the Hellingly NDP area subject to certain criteria. This could have an adverse hydrological impact upon Pevensey Levels SAC/Ramsar site due to the site, and therefore, the supported development being located within the Pevensey Levels hydrological catchment area. The impact pathway relates to the potential for hydrological conditions to be altered due to a potential increase in impermeable surfaces. Whether a significant effect is likely will depend on the scale, location, design, materials and overall nature of the development. At this higher stage of the plan making process, it is not possible to have a precise understanding of specific project details; it is not therefore possible to reasonably assess the potential effects of this policy in relation to the Pevensey Levels SAC/Ramsar in a meaningful way. The policy could also result in an adverse air quality impact on Ashdown Forest SAC, Lewes Downs SAC and Pevensey Levels SAC/Ramsar. The impact pathway relates to additional vehicle movements that may

Hellingly Neighbourhood Development Plan (NDP) Policies	Pevensey Levels SAC and Ramsar site	Ashdown Forest SAC	Lewes Downs SAC	Likely Significant Environmental Effect Either Alone or 'In Combination'?
				be associated with any additional development or the intensification of activities as a result of development. Whether a significant effect is likely will depend on the scale, location and overall nature of the development proposal. It is not possible at this stage in the plan process to know whether development would result in additional traffic movements on the Natura 2000 sites identified. On this basis, it is not therefore possible to reasonably assess the potential effects of this policy element in a meaningful way. It is not possible to screen out the impact of this policy and associated development due to a lack of information at the plan making stage. For example, certain development could result in a likely significant effect if it results in additional vehicle movements or as a result of an increase in impermeable surfaces. For example, certain development could result in a likely significant effect if it results in additional vehicle movements or as a result of an increase in impermeable surfaces. In accordance with HRA guidance, the policy has therefore been screened in due to the

Hellingly Neighbourhood Development Plan (NDP) Policies	Pevensey Levels SAC and Ramsar site	Ashdown Forest SAC	Lewes Downs SAC	Likely Significant Environmental Effect Either Alone or 'In Combination'?
				location of residential developments being within the hydrological catchment area of Pevensey Levels SAC / Ramsar and it not being possible to conclude 'no likely significant effect' should development come forward as a result of this policy, either alone or in combination with growth elsewhere. In addition, the policy has been screened in due to the knowledge that if development intensifies vehicle trips, that a 'likely significant effect' cannot be ruled out. An appropriate assessment is therefore required to further consider any potential impacts.
Policy HNDP 9 – Housing Type This planning policy states that where appropriate, new residential development coming forward, if agreed in principle under the Wealden Local Plan, should provide for a higher percentage of homes for the elderly, starter homes or shared ownership, especially homes which are 2-3 bedrooms or less.	No	No	No	This policy is general in nature and does not identify any quantum or specific location for new residential development. The policy relates only to the specific housing types and provision of these. There are no impact pathways present and therefore, this policy has been screened out.
Policy HNDP 10 – Sustainable Transport	No	No	No	This planning policy relates to criteria for the provision of vehicle charging points

Hellingly Neighbourhood Development Plan (NDP) Policies	Pevensey Levels SAC and Ramsar site	Ashdown Forest SAC	Lewes Downs SAC	Likely Significant Environmental Effect Either Alone or 'In Combination'?
This planning policy requires that any new residential development will be required to provide electric vehicle charging points at a rate of one charging point per dwelling, apart from flats without an allocated parking space whereby provision for communal charging points should be made.				only. There are no impact pathways present and therefore, this policy has been screened out.
Policy HV1 This policy states that new development must clearly demonstrate how the design of proposals will conserve and contribute to the defining settlement characteristics and appearance of the designated Hellingly Village Character Area. The policy sets out a total of seven criteria that must be met by any development proposals.	No	No	No	This draft planning policy promotes design requirements for new development schemes. The policy is general in nature and does not allocate specific land for new development. There are no impact pathways present and therefore, this policy has been screened out.
Policy HV2 – Specific Design Criteria Hellingly Village This draft planning policy states how new development must meet a number of specific design criteria within the Hellingly Village area. This includes the retention of existing features and materials, as well as design criteria for new development.	No	No	No	This planning policy promotes design criteria for new development schemes within the Hellingly Village. The planning policy is general in nature and does not allocate specific land for new development. There are no impact pathways present and therefore, this policy has been screened out.
Recommendation 1 – HV R1	No	No	No	This recommendation is a request to take forward discussions with Wealden District

Hellingly Neighbourhood Development Plan (NDP) Policies	Pevensey Levels SAC and Ramsar site	Ashdown Forest SAC	Lewes Downs SAC	Likely Significant Environmental Effect Either Alone or 'In Combination'?
This recommendation requests Wealden District Council to produce a Management Plan for the Hellingly Conservation Area, in consultation with local residents, Hellingly Parish Council and others, in order to address concerns over the preservation of the designated area.				Council regarding the Hellingly Conservation Area and its preservation. There are no impact pathways present and therefore, this recommendation has been screened out.
Recommendation 2 – HV R2 This recommendation requests Wealden District Council and East Sussex County Council, as the Highways Authority, to produce a traffic management scheme to help alleviate recognised traffic problems within Hellingly. However, the recommendation does not suggest specific traffic management solutions within the Hellingly NDP.	No	No	No	This recommendation is general in nature and does not suggest specific traffic management solutions. There are no impact pathways present and therefore, this recommendation has been screened out.
Recommendation 3 – HV R3 This recommendation advises Wealden District Council that the emerging proposal to accommodate 30 new dwellings within the Hellingly Core Area, in the Wealden Local Plan, is inconsistent with its own policies and National Policy in respect to Conservation Areas and Listed Buildings.	No	No	No	This recommendation is a request to Wealden District Council regarding the proposal to accommodate 30 new dwellings within the Hellingly Core Area. The decision to include such a policy within the Wealden Local Plan is with Wealden District Council and has been considered as part of the SEA/HRA screening process for the current Wealden Local Plan. There are no impact pathways present and therefore, this recommendation has been screened out.

Hellingly Neighbourhood Development Plan (NDP) Policies	Pevensey Levels SAC and Ramsar site	Ashdown Forest SAC	Lewes Downs SAC	Likely Significant Environmental Effect Either Alone or 'In Combination'?
Policy LHB1 This policy states that new development must clearly demonstrate how the design of the proposal will conserve and contribute to the defining settlement characteristics and appearance of the Lower Horsebridge Character Area. The policy lists a total of eight criteria that must be met by any new development proposals.	No	No	No	This planning policy promotes design requirements for new development schemes. The policy is general in nature and does not allocate specific land for new development. There are no impact pathways present and therefore, this policy has been screened out.
Policy LHB2 – Specific Design Criteria – Lower Horsebridge This policy relates to the proposed design criteria of all new development in the Lower Horsebridge area and sets out a total of seven criteria that must be met by any development proposals. In summary, this policy outlines the expected requirements for the design of new development in Lower Horsebridge.	No	No	No	This planning policy promotes a set of design criteria for new development, but does not identify any quantum or specific locations for new development. There are no impact pathways present and therefore, this policy has been screened out.
Recommendation 1 – LHB R1 This recommendation relates to further proposals for allocation of land for residential development at North Street, Lower Horsebridge as contained within the Wealden	No	No	No	This recommendation relates to further proposals for allocation of land for residential development at North Street, Lower Horsebridge as contained within the Proposed Submission Wealden Local Plan. The decision to include such a policy within

Hellingly Neighbourhood Development Plan (NDP) Policies	Pevensey Levels SAC and Ramsar site	Ashdown Forest SAC	Lewes Downs SAC	Likely Significant Environmental Effect Either Alone or 'In Combination'?
Local Plan. Instead, the recommendation supports the allocation of land for residential development elsewhere in the Parish, although it does not specifically allocate a site for such residential development.				the Wealden Local Plan is with Wealden District Council and has been considered as part of the SEA/HRA screening process for the current Wealden Local Plan. There are no impact pathways present and therefore, this recommendation has been screened out.
Recommendation 2 – LHB R2 This recommendation outlines the need for East Sussex County Council and Wealden District Council to work with Hellingly Parish Council to address issues within the Parish regarding movement, access and the needs of pedestrians and cyclists. The recommendation only encourages that solutions to these issues are found. This recommendation does not allocate land for development.	No	No	No	The recommendations are general in nature and do not suggest specific traffic/access management solutions. There are no impact pathways present and therefore, this recommendation has been screened out.
Recommendation 3 – LHB R3 This recommendation advises Wealden District Council that a previous planning application (WD/2016/2813/MAJ), that was later withdrawn, would be supported subject to the agreement that additional land would be given to the Parish to be used for recreational	No	No	No	The recommendation is general in nature and does not specifically allocate land for housing development, although it suggests that support would be given by the Parish Council for such a proposal. There are no impact pathways present and therefore, this recommendation has been screened out.

Hellingly Neighbourhood Development Plan (NDP) Policies	Pevensey Levels SAC and Ramsar site	Ashdown Forest SAC	Lewes Downs SAC	Likely Significant Environmental Effect Either Alone or 'In Combination'?
purposes. This recommendation does allocate a specific site for development, subject to the additional allocation of land for recreational purposes. The recommendation does not allocate a specific site for the recreation ground.				
Policy LD1 This planning policy relates to the preservation and enhancement of the Lower Dicker Character Area in relation to proposed new development. Preservation and enhancement methods include: supporting designated heritage assets, respecting the rural character of the settlement and using locally sourced materials for the construction of new development. The policy does not allocate land for development.	No	No	No	This planning policy promotes design requirements for new development schemes in the Lower Dicker Character Area. The policy is general in nature and does not allocate specific land for new development. There are no impact pathways present and therefore, this policy has been screened out.
Policy LD2 – Specific Design Criteria – Lower Dicker This planning policy relates to the proposed design criteria of all new development in the Lower Dicker Character Area. In summary, this policy outlines the expected requirements of the design of new development in Lower Dicker in the form of six design criteria and does not allocate land for development.	No	No	No	This planning policy promotes design requirements for new development schemes in the Lower Dicker Character Area. The policy is general in nature and does not allocate specific land for new development. There are no impact pathways present and therefore, this policy has been screened out.

Hellingly Neighbourhood Development Plan (NDP) Policies	Pevensey Levels SAC and Ramsar site	Ashdown Forest SAC	Lewes Downs SAC	Likely Significant Environmental Effect Either Alone or 'In Combination'?
Recommendation 1 – LD R1 This recommendation relates to both the delivery and location of proposed employment development in the Lower Dicker area. In addition, the recommendation states that the Parish Council does not support a development boundary for Lower Dicker area. It states that consideration should be given to the location of employment land in relation to the Lower Dicker Village Character Assessment and the existing village identity of the settlement. The recommendation does not specifically allocate land for development but it does refer to proposed preferred locations for the delivery of the 38,000 sq. m. of employment land as drafted within the then published version (March 2017) of the Wealden Local Plan.	No	No	No	This recommendation relates to both the delivery and location of proposed employment development in the Lower Dicker area. The decision on the contents of such a policy within the Wealden Local Plan is with Wealden District Council and has been considered as part of the SEA/HRA screening process for the current Wealden Local Plan. There are no impact pathways present and therefore, this recommendation has been screened out.
Recommendation 2 – LD R2 This recommendation relates to the location of the required Local Waste Transfer Station in Lower Dicker. It is in favour of locating the site to the north of the A22, thus allowing the former pottery site to the south of the A22 to be used for residential development. The recommendation also encourages the	No	No	No	This recommendation relates to proposals for development on two sites, although it does not specifically allocate such sites for development. The decision to determine new development proposals lies with the relevant local planning authority. There are no impact pathways present and therefore, this recommendation has been screened out.

Hellingly Neighbourhood Development Plan (NDP) Policies	Pevensey Levels SAC and Ramsar site	Ashdown Forest SAC	Lewes Downs SAC	Likely Significant Environmental Effect Either Alone or 'In Combination'?
allocation of the land at the former pottery site for residential development and suggests that it incorporates local design and materials. In summary, this recommendation encourages the allocation of two sites for development, but does not specifically allocate these sites.				
Recommendation 3 – LD R3 This recommendation relates to the monitoring of air pollution as a result of traffic movements in the area. It seeks to encourage East Sussex County Council to be more proactive in monitoring air pollution and providing solutions to combat the negative impact of traffic movement on air pollution. This recommendation does not allocate any land for development.	No	No	No	This recommendation relates to the monitoring of air pollution by East Sussex County Council and does not allocate or support land for development. There are no impact pathways present and therefore, this recommendation has been screened out.
Policy RP1 This planning policy relates to the preservation and enhancement of Roebuck Park in relation to proposed new development. Such preservation and enhancement methods demonstrating that development will retain existing views over woodland, parkland and buildings within the Parish, not negatively impact the parkland setting and support the provision of local	No	No	No	The planning policy is general in nature and does not identify any quantum or specific location for development, although it does refer to the general area of Roebuck Park and supporting the provision of local facilities within or adjacent to the retained former hospital building to serve the development given its distance from local services. Nevertheless, there are no impact pathways present and therefore, this policy has been screened out.

Hellingly Neighbourhood Development Plan (NDP) Policies	Pevensey Levels SAC and Ramsar site	Ashdown Forest SAC	Lewes Downs SAC	Likely Significant Environmental Effect Either Alone or 'In Combination'?
facilities. In summary the policy aims to ensure that new development does not adversely impact upon Roebuck Park and the policy does not allocate land for development.				
Policy RP2 – Specific Design Criteria – Roebuck Park This policy relates to the proposed design criteria of all new development within Roebuck Park and sets out four criteria that must be met by development proposals. In summary, this policy outlines the expected requirements of the design of new development in Roebuck Park and does not allocate any land for development.	No	No	No	This planning policy promotes design criteria proposals for new development, but does not identify any quantum or specific locations for new development. There are no impact pathways present and therefore, this policy has been screened out.
Recommendation 1 – RPR1 This recommendation relates to the development of community facilities within Roebuck Park to create a 'village centre' focus as identified in the Roebuck Park masterplan. Proposals suggested include a multi-purpose community and the social use of the former Hellingly Chapel building. The recommendation does not specifically allocate land for development; however it does encourage development at the	No	No	No	This recommendation relates to the development of community facilities within Roebuck Park to create a 'village centre' focus as identified in the Roebuck Park masterplan. The decision to include such a policy within the Wealden Local Plan is with Wealden District Council and would be considered as part of the SEA/HRA screening process. There are no impact pathways present and therefore, this recommendation has been screened out.

Hellingly Neighbourhood Development Plan (NDP) Policies	Pevensey Levels SAC and Ramsar site	Ashdown Forest SAC	Lewes Downs SAC	Likely Significant Environmental Effect Either Alone or 'In Combination'?
aforementioned sites in liaison with Wealden District Council.				
Recommendation 2 – RPR2 This recommendation relates to the provision of a recreational area of at least 2.8 hectares in size for use by residents of the new residential development north of New Road, Hellingly and nearby. The proposed recreation area would be an extension of Hellingly Country Park to alleviate increased use of the existing Country Park resulting from the new residential development. In addition, it is requested that Wealden District Council addresses the under provision of open space in the Hellingly Parish. No specific land is allocated for development or recreational use and is aspirational in nature.	No	No	No	This recommendation is aspirational in nature and would be reliant upon Wealden District Council support for such proposals, amongst other bodies/developers. Given the above, there are no impact pathways present and therefore, this recommendation has been screened out.
Policy LHA1 This planning policy relates to the protection of local heritage assets in the Hellingly Parish. It seeks to ensure that all new development in the Hellingly Parish respects existing Local Heritage Assets by preserving, conserving and enhancing them. New developments that are judged to significantly alter or affect local	No	No	No	This planning policy relates to the protection of a non-designated heritage asset and/or its setting, but does not identify any quantum or specific locations for new development. There are no impact pathways present and therefore, this policy has been screened out.

Hellingly Neighbourhood Development Plan (NDP) Policies	Pevensey Levels SAC and Ramsar site	Ashdown Forest SAC	Lewes Downs SAC	Likely Significant Environmental Effect Either Alone or 'In Combination'?
heritage assets, through either demolition or substantial redevelopment will be refused, whilst new developments that enhance local heritage assets through restoration or conversion will be supported.				
Roads and Transport – Recommendations This recommendation requests East Sussex County Council, as the Highways Authority, to provide a comprehensive road design for the area west of the Cuckoo Trail and the proposed developments using Park Road and the A271, in order to improve traffic issues through Station Road and Hellingly Village. The recommendation also requests an extension to speed restrictions (40mph) along a section of the A267, amongst other matters.	No	No	No	Elements of the recommendation are reliant upon both the District Council and/or County Council's support and as such the projects are aspirational in nature. Furthermore, the details of such projects do not wholly relate to land uses (such as speed restrictions). Given the above, there are no impact pathways present and therefore, this recommendation has been screened out.
Education – Recommendations This recommendation requests East Sussex County Council, and relevant bodies, to develop a new primary school facility on land already identified at Park Road, and enhance the existing secondary school provision at Hailsham Community College in order to address under provision of school places in the area.	No	No	No	This recommendation is reliant upon both the District Council and/or County Council's support and as such the projects are aspirational in nature. Furthermore, the details of such projects do not wholly relate to land use requirements. Given the above, there are no impact pathways present and therefore, this recommendation has been screened out.

Hellingly Neighbourhood Development Plan (NDP) Policies	Pevensey Levels SAC and Ramsar site	Ashdown Forest SAC	Lewes Downs SAC	Likely Significant Environmental Effect Either Alone or 'In Combination'?
Sport and Leisure – Recommendations This recommendation requests Wealden District Council to address significant sport and leisure under provision by delivering a new sports facility for the area, as well as a minimum 2.8 hectare outdoor play area extension to the existing Hellingly Country Park. The recommendation also requests the early implementation of sporting, leisure and social facilities in relation to new residential developments as proposed by the Wealden Local Plan.	No	No	No	This recommendation is reliant upon the District Council's support and as such, the projects identified are aspirational in nature. Given the above, there are no impact pathways present and therefore, this recommendation has been screened out.
Digital Communication Recommendation This recommendation seeks to encourage British Telecommunications to improve digital communications in the Hellingly Parish through the provision of faster download speeds and greater mobile coverage in the area. The recommendation is in relation to a digital aspect and therefore no land is allocated for development.	No	No	No	This recommendation encourages the improvement of digital communications in the Parish and does not identify any quantum or specific location for new telecommunications development. There are no impact pathways present and therefore, this recommendation has been screened out.
Retail, Employment and Other Services – Recommendations This recommendation is in relation to the increased provision of shopping facilities and	No	No	No	This recommendation is reliant upon the District Council's and the Eastbourne, Hailsham and Seaford Clinical Commissioning Group's support and as such, the projects identified are aspirational

Hellingly Neighbourhood Development Plan (NDP) Policies	Pevensey Levels SAC and Ramsar site	Ashdown Forest SAC	Lewes Downs SAC	Likely Significant Environmental Effect Either Alone or 'In Combination'?
healthcare centres in the Parish. It is suggested that a new healthcare facility is included in either of the new residential developments off Park Road or in Roebuck Park. In addition the recommendation suggests that provision for local shopping facilities is made in association with the new residential developments. Overall, sites are suggested for the provision of a new healthcare centre; however no specific site is allocated.				in nature. This recommendation does mention a general area for development but does not identify a quantum or specific location for development. Given the above, there are no impact pathways present and therefore, this recommendation has been screened out.
Sewerage – Recommendation This recommendation encourages the District Council to ensure that all new developments in the Hellingly Parish have the capability to be connected to the main drainage network and subsequently the main sewerage network, thus easing the process of sewerage disposal. No allocations for development are made in this recommendation.	No	No	No	This recommendation is reliant upon the District Council and sewerage operator (along with developers) to implement and is therefore aspirational in nature. Given the above, there are no impact pathways present and therefore, this recommendation has been screened out.

Results of Screening Exercise

5.29 A number of draft planning policies and recommendations within the Hellingly NDP were identified to have potential to result in a likely significant effect on a European Habitats site or Ramsar site. The screening assessment considered all policies and recommendations within the Hellingly NDP and assessed each for their potential to have a likely significant effects on:

- Ashdown Forest SAC;
- Pevensey Levels SAC and Ramsar site; and
- Lewes Downs SAC

The impact pathways assessed for each site are provided in paragraphs 5.25 to 5.27.

5.30 A number of policies and recommendations are assessed as to not result in a likely significant effect. This includes policies HDNPE, HNDP 1, HNDP 5, HNDP 6, HNDP 9, HNDP 10, HV 1, HV , LHB 1, LHB 2, LD 1, LD 2, RP 1, RP 2 and LHA 1, and moreover, all the recommendations with the Hellingly NDP as identified in Table 5 above.

5.31 The Hellingly NDP does not specifically allocate sites for an amount of growth within the Plan, although it does support windfall residential and non-residential growth and recommend sites for development. It does not, however seek to deliver growth to meet any identified local need, as set out in the Wealden District Council Core Strategy (February 2013).

5.32 The draft planning policies identified in the screening exercise which may result in a likely significant effect are assessed as such, because they hinge on the delivery of development or change. In addition, where such policies could support windfall development that is not identified within the current adopted development plan (i.e. Core Strategy), then this would be considered as additional development that would require specific consideration in relation to the Habitats Regulations on the basis that such development has not been considered previously (i.e. as part of the Core Strategy HRA).

5.33 Table 6 below identified the policies within the Hellingly NDP that could result in a likely significant effect on the identified European Habitat Sites. These policies are identified because they either facilitate growth or support growth, subject to certain criteria.

Table 6: Policies contained within the Hellingly Neighbourhood Development Plan (Regulation 16) that may result in a likely significant effect

Draft Planning Policies contained within the Hellingly Neighbourhood Development Plan that may result in a 'likely significant effect'
Policy HNDP 2 – Local Green Space **Policy HNDP 3** – Areas of Critical Flood and Drainage Concern **Policy HNDP 4** – Assessing Runoff **Policy HNDP 7** – Rural Economy **Policy HNDP 8** – Isolated New Dwellings

5.34 Following the HRA work relating to the emerging Wealden Local Plan[18] information is available to reasonably assess potential impacts of a Neighbourhood Plan. In using this information it has been possible to identify that certain policies may result in a 'likely significant effect'. However, in considering that the locations for growth or proposed development have not been identified, it is not possible to assess fully or conclude at this stage whether or not a significant effect is likely to occur from the implementation of policies contained in the Hellingly Neighbourhood Plan either alone or in combination with other projects or plans. However, in accordance with the Habitats legislation a reasonable assessment of potential effects must be made at the appropriate stage and as relevant to a higher tier plan, including the Hellingly Neighbourhood Plan.

5.35 The European Court Judgement (Judgement of the European Court of Justice (CJEU) 12th April 2018; *People Over Wind and Sweetman v Coillte Teoranta* (C-323/17)) that was concluded recently has confirmed that where a 'likely significant effect' is identified following stage 1 HRA screening, then a Stage 2 appropriate assessment will be required to assess and consider more fully the potential effects of the Plan. It is at the appropriate assessment stage where the potential effects can be considered in adequate detail and mitigation and avoidance measures can be identified and considered with regard to their effectiveness to ensure that the Plan will not result in an adverse effect on the integrity of a European or International site.

5.36 Where adverse effects are identified it will be necessary to adapt the plan to avoid the adverse effects identified. However, where it is identified that such effects cannot reasonably be known at this stage then it will be necessary to indicate what aspects require further assessment at a later stage and how the proposal may be adjusted where a significant effect cannot be ruled out.

[18] The Wealden Local Plan Habitats Regulation Assessment (June, 2018) can be at the following link: http://council.wealden.gov.uk/documents/s58945/REVISED%20Background%20Paper%20-%20Habitats%20Regulations%20Asssessment.pdf

5.37 Given the above, it is concluded that a stage 2 Appropriate Assessment is required on the basis that the plan may result in a likely significant effect, either alone or in combination with other plans or projects, on the following sites:

- Ashdown Forest SAC;
- Pevensey Levels SAC and Ramsar Site; and
- Lewes Downs SAC.

6.0 Statutory Consultee Responses

6.1 The screening opinion has been considered by the statutory consultation bodies, which includes Historic England, Natural England and the Environment Agency. All three consultation bodies have provided responses in relation to the SEA and HRA Screening on the Hellingly Neighbourhood Development Plan and a summary of the responses has been provided.

Environment Agency

6.2 The Environment Agency has stated that they do not consider that the Hellingly Neighbourhood Development Plan would have a significant environmental effect, and as such, would not require an SEA in terms of the issues relating to their remit. The Environment Agency did not make any specific comment in relation to HRA.

Historic England

6.3 Historic England have confirmed that they agree that whilst the plan does not allocate land for development, the 'support' given and/or the acceptance of the principle of development at specific sites, means that there is some potential for significant environmental effects resulting from the Plan and that an SEA would be required.

6.4 Historic England have suggested that they consider the Hellingly NDP introduces additional planning policy requirements for development in a number of areas based on the potential impacts of development on heritage assets, including the Hellingly Conservation Area and the former hospital at Roebuck Park. These additional policy requirements are considered necessary to prevent harmful effects of development that are otherwise supported on the significance of these heritage assets. This suggests it is considered there are potential effects for the historic environment arising from the plan would either require mitigation through the plan policy or that there is potential to have beneficial effects for the historic environment by imposing such specific requirements.

6.5 Historic England consider that the same principle of not taking mitigation measures into account in screening impacts on cultural heritage should be afforded in the SEA screening and that where mitigation measures have been included in the plan, it is appropriate that the SEA should test whether the draft plan policies, with regards to the historic environment and specified designated and non-designated heritage assets, are appropriate and whether they successfully assist in achieving Plan objectives or potentially conflict with other policies in the Plan.

6.6 Lastly, Historic England have suggested that it may be necessary to prepare a short evidence statement setting out an agreed statement on the

significance of the conservation area and (in overview) the listed buildings it contains as well as the significance of the hospitals buildings and their settings to inform consideration of the policy elements.

Natural England

6.6 In relation to the Strategic Environmental Assessment (SEA), Natural England have concurred with the screening assessment conclusion that an SEA is required on the basis that, in so far as their strategic environmental interests are concerned, chiefly the Pevensey Levels SAC and Ramsar site (and Site of Special Scientific Interest (SSSI)), that there are likely to be significant environmental effects.

6.7 Natural England have also agreed that if the scope and/or policies contained within the Hellingly NDP should change, then a new screening process will be needed to determine whether an SEA would be required at that time.

6.8 In relation to the Habitats Regulation Assessment (HRA), Natural England has stated that they concur with the conclusions reached and that an Appropriate Assessment is required on the basis that the plan may result in a likely significant effect on European Designated sites, either alone or in combination with other plans or projects. Accordingly and in discussion with Hellingly Parish Council Neighbourhood Plan Steering group, Wealden District Council as the competent authority under the Habitats Regulations will now look to undertake an Appropriate Assessment for the Hellingly NDP.

6.9 For information, Natural England has recently provided its response[19] to the Proposed Submission Wealden Local Plan (Regulation 19)[20] and the accompanying Habitats Regulation Assessment (HRA). The Habitats Regulations require Wealden District Council to consider the position of Natural England before completing the Wealden Local Plan Appropriate Assessment. The work to consider the position of Natural England is underway and it is anticipated that the Council will provide an update to this towards the end of the year. The Wealden Local Plan HRA is relevant to the Hellingly NDP Appropriate Assessment. Due to this, it will not be possible to complete the appropriate assessment for the Hellingly NDP until Wealden District Council has considered Natural England's response and once work is complete for the Submission Wealden Local Plan Appropriate Assessment[21].

[19] The response from Natural England has been received and is available on the Council's consultation portal.
[20] The Proposed Submission Wealden Local Plan was published for representation under regulation 19 of the Town and Country (Local Planning) (England) Regulations 2012 for the period between 13 August 2018 and 8 October 2018.
[21] The Wealden Local Plan will be submitted to the Planning Inspectorate no later than 24th January 2019.

6.10 Both the SEA and HRA screening representation from Natural England for the Hellingly NDP and the representation for the Proposed Submission Wealden Local Plan (Regulation 19) will be considered as part of any forthcoming Appropriate Assessments. This will also include a consideration of the scope and European sites to be considered in any Appropriate Assessment.

7.0 Conclusions

7.1 The report contains the detail of the assessment of the need for the Hellingly NDP to be subject to a Strategic Environmental Assessment (SEA) as required by the SEA Directive and Habitats Regulations Assessment as required by the Habitats Directive.

7.2 The assessment of both these requirements has been undertaken on the Hellingly NDP that will be published by Hellingly Parish Council under Regulation 16 of the Neighbourhood Planning (General) Regulations 2012 (as amended). As such if the content of the NDP is significantly changed there, may be the need for a further screening exercise to be undertaken on any modified version of the Neighbourhood Development Plan.

Strategic Environmental Assessment (SEA) Screening Outcomes

7.3 In relation to the requirement for the Hellingly NDP to be subject to a Strategic Environmental Assessment, the assessment detailed in section 4 of this report concludes that the plan in its current form may result in a likely significant environmental effect and therefore an SEA will be required.

7.4 It is therefore recommended that an SEA should be undertaken for the Hellingly NDP that incorporates an SA, which considers reasonable alternatives to the policies and recommendations proposed within the Hellingly NDP.

Habitats Regulations Assessment (HRA) Screening Outcomes

7.5 The HRA process identified a number of European sites within and adjacent to the Wealden District and also concluded that a number of policies contained within Hellingly Neighbourhood Development Plan (Regulation 16) may lead to a likely significant effect upon those European sites identified, as tabulated in Table 6 above. These policies have been identified because they either facilitate growth or support growth, subject to certain criteria.

7.6 The current Hellingly Neighbourhood Development Plan includes Policy HNDPE. This policy confirms that development within the Hellingly NDP area, including any relevant projects identified in the NDP, will initially be required to demonstrate that they will have no likely significant effect alone or in combination with other plans and projects upon the Ashdown Forest SAC and SPA; the Pevensey Levels Ramsar Site and SAC; or the Lewes Downs SAC. It also notes that any proposals for development must be accompanied by information to allow the competent authority to complete a full Habitat Regulations Assessment of the impacts of the development at this project stage.

7.7 However, Policy HNDPE of the Hellingly NDP was provided for the purpose of avoiding or reducing the potential harmful effects of the Hellingly NDP on the

relevant European and International Conservation sites at the screening stage. In accordance with the Habitats legislation (and the recent European Court Judgement[22]), it is now not possible to account for such embedded mitigation measures at the screening stage of a Neighbourhood Development Plan. This means that where a HRA screening assessment has identified that the planning policy may result in a 'likely significant effect' on a European Habitat site, a full appropriate assessment would then be required to assess and consider more fully the potential environmental effects of the Plan on those specific European Sites. It is at the appropriate assessment stage where the potential effects can be considered in adequate detail and mitigation and avoidance measures can be identified and considered with regard to their effectiveness to ensure that the Plan will not result in an adverse effect on the integrity of a European or International Conservation Site.

7.8 It is therefore concluded that as a number of draft planning policies within the Hellingly NDP have been identified as leading to a 'likely significant effect' on the European or International sites considered, that an Appropriate Assessment for the Hellingly NDP would be required to ensure that the integrity of the European or International site is maintained.

7.9 As noted above, the screening opinion has been considered by the statutory consultation bodies, which includes Historic England, Natural England and the Environment Agency. The statutory consultee responses have been considered within this report at Section 6 above.

[22] European Court Judgement (Judgement of the European Court of Justice (CJEU) 12th April 2018; People Over Wind and Sweetman v Coillte Teoranta (C-323/17))

Appendix 1: European and Ramsar Site Information

Site	Lewes Downs Special Area of Conservation (SAC)
Characteristics of European Site	• Heath, Scrub, Maquis and Garrigue, Phygrana (5%) • Dry grassland, Steppes (85%) • Humid grassland, Mesophile grassland (5%) • Improved grassland (5%) **Other characteristics** 1. Terrestrial: Soil & Geology: sedimentary, nutrient-poor, basic 2. Terrestrial: Geomorphology and landscape: valley, slope, lowland
Qualifying Interests	**Annex I habitats that are a primary reason for selection of this site:** **6210 Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites)** This site hosts the priority habitat type "orchid rich sites". This chalk grassland site consists largely of CG2 Festuca ovina-Avenula pratensis and CG3 Bromus erectus calcareous grasslands. This site contains an important assemblage of rare and scarce orchids, including early spider-orchid Ophrys sphegodes, burnt orchid Orchis ustulata and musk orchid Herminium monorchis. The colony of burnt orchid is one of the largest in the UK. **Annex I habitats present as a qualifying feature, but not a primary reason for selection of this site:** Not applicable. **Annex II species that are a primary reason for selection of this site:** Not applicable.

	<u>Annex II species present as a qualifying feature, but not a primary reason for site selection:</u> Not applicable.
Conservation Objectives	Conservation objectives have not been specifically published. However, the Conservation Objectives are likely to be the same as other SAC sites and are as follows: 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 the habitats of qualifying species rely; • The populations of qualifying species, and, • The distribution of qualifying species within the site.
Current Site Condition	The SSSI is considered to be in 95.55% favourable condition and 4.45% unfavourable (recovering) condition.[23]
Threats to Qualifying Interests	**<u>Threats and pressures</u>** <u>Negative</u>

[23] This is the latest position from Natural England's website (December, 2017).

	• HO4 Air pollution, air-borne pollutants (inside and outside site) • FO3 Hunting and collection of wild animals (terrestrial), including damage caused by game etc. (inside site) • GO1 Outdoor sports and leisure activities, recreational activities (inside site) • AO4 Grazing (inside site) <u>Positive</u> • AO2 Modification of cultivation practices (inside site) • AO4 Grazing (inside site) • BO2 Forest and Plantation management & use (inside site) • DO5 Improved access to site (inside site)
Key Environmental Conditions to Maintain Site Integrity	• Appropriate grazing by sheep and cattle (to conserve and enhance plant species diversity) • Absence of encroachment by scrub • Absence of leaching • Absence of spray-drift from surrounding arable fields • Absence of exposure to atmospheric pollutants
Relevant Site Management Plans / Statements	**<u>Improvement Programme for England's Natura 2000 Sites (IPENS): Site Improvement Plan Lewes Downs</u>** The plan identifies a number of priorities, issues and actions in relation to: • Game management: pheasant rearing

	• Undergrazing • Public access / disturbance • Air pollution: impact of atmospheric nitrogen deposition The plan can be accessed here: http://publications.naturalengland.org.uk/publication/5857326774878208?category=6149691318206464

Site	Pevensey Levels SAC
Characteristics of European Site	Pevensey Levels is one of the largest and least-fragmented lowland wet grassland systems in southeast England. The low-lying grazing meadows are intersected by a complex system of ditches which support a variety of important wetland communities, including nationally rare and scarce aquatic plants and invertebrates. The site also supports a notable assemblage of breeding and wintering wildfowl. A small area of shingle and intertidal muds and sands is included within the site. **Habitat present** • NO6 – Inland water bodies (standing water, Running water) (2.5% coverage) • N10 – Humid grassland, Mesophile grassland (97.5% coverage) **Other characteristics** 1. Terrestrial: Soil & Geology:nutrient-poor,clay,alluvium,peat,basic,shingle,sand,mud,sedimentary 2. Terrestrial: Geomorphology and landscape: lowland, coastal, floodplain.
Qualifying Interests	**Special Area of Conservation** **Annex I habitats that are a primary reason for selection of this site:** Not applicable **Annex I habitats present as a qualifying feature, but not a primary reason for selection of this site:** Not applicable **Annex II species that are a primary reason for selection of this site:** 4056 Ramshorn snail *Anisus vorticulus*

	Anisus vorticulus occurs across a range of sites in southern and eastern England. Pevensey Levels is a large and expansive grazing marsh that supports *Anisus vorticulus* in both a wide spatial distribution and in good population density classes. The Pevensey Levels is considered to be one of the best areas in the United Kingdom for this species. **Annex II species present as a qualifying feature, but not a primary reason for site selection:** Not applicable
Conservation Objectives	**Special Area of Conservation** Conservation objectives have not been specifically published. However, the Conservation Objectives are likely to be the same as other SAC sites and are as follows: 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 the habitats of qualifying species rely; • The populations of qualifying species, and, • The distribution of qualifying species within the site.

Current Site Condition	The SSSI is considered to be in 99.5% unfavourable recovering and 0.5% partially destroyed.[24]
Threats to Qualifying Interests	**Threats and Pressures** Negative • H02 - Pollution to groundwater (point sources and diffuse sources) (inside and outside site) • I01 - Invasive non-native species (inside and outside site) • J02 - Human induced changes in hydraulic conditions (inside and outside site) Positive • B02 - Forest and Plantation management & use (inside site) • A02 - Modification of cultivation practices (inside site) • A06 - Annual and perennial non-timber crops (inside site) • A04 – Grazing (inside site) • D05 - Improved access to site (inside site)
Factors that could adversely affect the site's ecological character including changes in land (including water) use and	• Introduction / invasion of non-native plant species (of particular relevance is floating pennywort); • Pollution – domestic sewage (sewage treatment works). *Anisus vorticulus* is a species of the upper water levels of ditches, frequently amidst botanically rich vascular plant assemblages in a mid to upper mid successional state. It favours alkaline waters although it appears tolerant of a relatively wide range of physio-chemical parameters. Appropriate ditch management is the key to the conservation of this species. Control of shade-inducing marginal vegetation is also important, as is maintaining access to the water's edge for livestock. It is also important to ensure good water quality by

[24] This is the latest position from Natural England's website (December, 2017).

development projects	instigating the appropriate safeguards. This is being implemented through good environmental management, Catchment Sensitive Farming, Environmental Stewardship and Environment Agency's review of existing discharge and abstraction consents. A Water Level Management Plan, devised and managed by Environment Agency, is in place to control ditch levels. Environmental Stewardship schemes continue to encourage sensitive management, particularly of the ditches to address problems brought about my neglect. The main threats to the species include land drainage, inappropriate habitat management and eutrophication, and studies of its requirements and conservation management have been undertaken.
Key Environmental Conditions to Maintain Site Integrity	The Lesser whirlpool ram's-horn snail *Anisus vorticulus* is a small aquatic snail with a flattened spiral shell rarely more than 5 mm in diameter. It occurs in unpolluted, calcareous waters in marsh drains with a dense aquatic flora, and favours ditches with a diverse flora but little emergent vegetation. It often floats on the surface amongst duckweed Lemna spp. Ditches that are either completely cleared of vegetation or are choked with weed and silt are unsuitable. Winter flooding may be important in enabling young snails to colonise new ditches.
Relevant Site Management Plans / Statements	**Improvement Programme for England's Natura 2000 Sites (IPENS): Site Improvement Plan Pevensey Levels SAC** The plan identifies a number of priorities, issues and actions in relation to: • Inappropriate water levels; • Invasive species; and • Water pollution. The plan can be accessed here: http://publications.naturalengland.org.uk/publication/6057793526169600?category=6149691318206464

Site	**Pevensey Levels Ramsar Site**
Characteristics of European Site	Pevensey Levels is one of the largest and least-fragmented lowland wet grassland systems in southeast England. The low-lying grazing meadows are intersected by a complex system of ditches that support a variety of important wetland communities, including nationally rare and scarce aquatic plants and invertebrates. The site also supports a notable assemblage of breeding and wintering wildfowl. A small area of shingle and intertidal muds and sands is included within the site.
Qualifying Interests	Ramsar Criterion 2a The site supports an outstanding assemblage of wetland plants and invertebrates including many British Red Data Book species. Ramsar Criterion 2b The site is of special value for maintaining the genetic and ecological diversity of the region. It is probably the best site in Britain for freshwater molluscs, one of five best sites for aquatic Coleoptera and supports an outstanding assemblage of dragonflies Odonata spp.
Ecological Features	Pevensey Levels supports a range of important communities of wetland flora and fauna. Various stages of succession are present in the ditches. Floating and submerged aquatic plants such as duckweeds Lemna spp, pondweeds Potamogeton spp, or water fern Azolla spp. represent the pioneer stages. Larger floating or emergent plants such as frogbit Hydrocharis morsusranae, bur-reed Sparganium erectum and arrow head Sagittaria sagittifolia follow these. Finally, common reed Phragmites australis or hawthorn Crataegus monogyna becomes dominant. Left undredged, the ditches lose their diversity and varied structure. A rich bankside flora is also present on site. An area of shingle and intertidal muds and sands is another important component of the site. Some flora associated with the shingle is present. For example, yellow horned-poppy *Glaucium flavum* and sea campion *Silene uniflora.* The site supports outstanding invertebrate populations and is a top site for Mollusca and aquatic Coleoptera. Over 15 species of dragonfly (Odonata) have been recorded, including several scarce species. One of Britain's largest and rarest spiders, the fen raft spider Dolomides plantarius has its stronghold at Pevensey.

	The lowland wet grassland supports a variety of bird species. For example, wintering lapwing and snipe. Breeding bird species include sedge warblers, reed warblers that nest in the scrub and reeds in the ditches respectively. <u>Noteworthy Flora</u> Nationally important species occurring on the site Higher plants: • Althaea officinalis • Ceratophyllum submersum • Crambe maritima • Potamogeton acutifolius • Potamogeton friesii • Potamogeton trichoides • Sium latifolium • Stratiotes aloides <u>Noteworthy fauna</u> Nationally important species occurring on the site: Invertebrates • Segmentina nitida • Anisus vorticulus • Valvata macrostoma • Hydrophilus piceus • Gyrinus suffriani • Elmatophilus brevicollis • Bagous puncticollis • Dolomedes plantarius

	• Atylotus rusticus • Odontomyia ornate • Pherbellia argyra • Psacadina zernyi • Limophalia pictipennis • Tipula marginata • Placobdella costata <u>Assemblage of International importance</u> The site supports an appreciable assemblage of rare, vulnerable or endangered species or subspecies of plant or animal. Pevensey Levels is probably one of the best sites in Great Britain for freshwater molluscs, one of the very best sites for aquatic Coleoptera and supports an outstanding assemblage of Odonata.
Adverse Factors affecting the Ecological Character of the Site	• Vegetation succession; • Eutrophication; • Introduction of invasive / exotic species; • Pollution – domestic sewage; • Pollution – fertilisers; and • Pollution – pesticides/ agricultural runoff.
Key Environmental Conditions of Importance in Sustaining the Site Integrity	• Unpolluted water • Low levels of nutrient enrichment (primarily from surface runoff and hydrological pathways, but also from atmospheric deposition) • Control of non-native species (e.g. pennywort and Crassula sp.) • Maintenance of appropriate hydrological regime • Control of recreational disturbance
Current Site Condition	See above in relation to SAC.

Relevant Site Management Plans / Statements	**<u>Improvement Programme for England's Natura 2000 Sites (IPENS): Site Improvement Plan Pevensey Levels Ramsar Site</u>** This is the same as the IPENS for the SAC. Please see above.

Site	**Ashdown Forest SAC**
Characteristics of European Site	N08 – Heath, Scrub, Maquis and Garrigue, Phygrana 60% coverage N19 – Mixed woodland 40% coverage **<u>Other Characteristics</u>** 1. Terrestrial: Soil & Geology: sandstone, acidic, clay, nutrient-poor 2. Terrestrial: Geomorphology and landscape: lowland
Qualifying Interests	**Special Area of Conservation (SAC)** **<u>Annex I habitats that are a primary reason for selection of this site:</u>** **4010 Northern Atlantic wet heaths with Erica tetralix for which this is considered to be one of the best areas in the United Kingdom.** Ashdown Forest contains one of the largest single continuous blocks of lowland heath in south-east England, with both 4030 European dry heaths and, in a larger proportion, wet heath. The M16 *Erica tetralix – Sphagnum compactum* wet heath element provides suitable conditions for several species of bog-mosses *Sphagnum spp*., bog asphodel *Narthecium ossifragum*, deergrass *Trichophorum cespitosum*, common cotton-grass *Eriophorum angustifolium*, marsh gentian *Gentiana pneumonanthe* and marsh clubmoss *Lycopodiella inundata*. The site supports important assemblages of beetles, dragonflies, damselflies and butterflies, including the nationally rare silver-studded blue *Plebejus argus*, and birds of European importance, such as European nightjar *Caprimulgus europaeus*, Dartford warbler *Sylvia undata* and Eurasian hobby *Falco subbuteo*. **4030 European dry heaths for which this is considered one of the best areas in the United Kingdom.**

	The dry heath in Ashdown Forest is an extensive example of the south-eastern H2 *Calluna vulgaris – Ulex minor* community. This vegetation type is 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. **Annex I habitats present as a qualifying feature, but not a primary reason for selection of this site:** Not applicable **Annex II species that are a primary reason for selection of this site:** Not applicable **Annex II species present as a qualifying feature, but not a primary reason for site selection:** 1166 Great crested newt[25] *Triturus cristatus* for which the area is considered to support a significant presence.
Conservation Objectives	The conservation objective is set for each habitat or species of a SAC. Where the objectives are met, the site will be considered to exhibit a high degree of integrity and to be contributing to achieving Favourable Conservation Status for that species or habitat type at a UK level. The term 'favourable conservation status' is defined in Article 1 of the Habitats Directive. Natural England published the conservation objective for Ashdown Forest SAC on 30th June 2014, updating the earlier version dated 29th May 2012: 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;

[25] See link below: http://jncc.defra.gov.uk/protectedsites/sacselection/species.asp?FeatureIntCode=S1166

	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 the habitats of qualifying species rely; • The populations of qualifying species, and, • The distribution of qualifying species within the site.
Current Site Condition	Ashdown Forest SSSI is currently considered to be in 20.31% favourable condition, 79.29% unfavourable recovering condition and 0.40% unfavourable declining condition.[26]
Threats to Qualifying Interests	Negative • H04 - Air pollution, air-borne pollutants (inside and outside site) • J02 - Human induced changes in hydraulic conditions (inside and outside site) • A02 - Modification of cultivation practices (inside site) • G01 - Outdoor sports and leisure activities, recreational activities (inside site) Positive • A02 - Modification of cultivation practices (inside site)
Ecological Requirements of Annex I Habitats and Annex II Species	H4010 Northern Atlantic Wet Heaths Erica *tetralix* – Wet heath is a community that requires acid, nutrient poor soils that are at least seasonally water logged. Wet heath often occupies areas of impeded drainage on lower valley sides and less-steeply sloping ground. Drainage is a key factor. Wet heath can occur naturally, due to abiotic factors such as soil acidity, low nutrient status and waterlogged soil conditions, which impedes succession to woodland. Wet heaths require relatively high rainfall and an even spread of rain throughout the year. Relative humidity is required to remain moderately high with winters not too cold

[26] This is the latest position from Natural England's website (December, 2017).

	and summers not too hot. Mild winter temperatures are important for many of the individual plant and animal species. H4030 European dry heaths – European dry heaths typically occur on freely-draining, dry acidic to calcareous soils with generally low nutrient content. Nearly all dry heath is semi-natural, being derived from woodland and developed through grazing and burning. Dry heaths vary in their flora and fauna according to climate, and are also influenced by altitude, aspect, soil conditions (especially base-status and drainage), maritime influence and grazing and burning intensity. Great crested newt - Great crested newts rely on waterbodies for breeding but otherwise they spend much of their lives on land. They over winter on land, normally hibernating underground and emerge soon after the first frost-free days in January or February to begin the migration to breeding ponds. Movement on land occurs almost exclusively at night and their progress is dependent on factors such as evening temperatures and rainfall, favouring wet or damp conditions with temperatures above 5 oC. Great crested newts require quite specific pond conditions for breeding. Ponds ideally need to have neutral to alkaline water (pH 6 or above) with areas of open water and well vegetated margins. Breeding ponds tend to be nutrient rich, not too shaded, free of fish with not too many waterfowl present. They require suitable refuges to use in extreme weather and during daytimes, such as large pieces of rotting deadwood, rubble piles or disused mammal burrows.
Relevant Site Management Plans / Statements	**Improvement Programme for England's Natura 2000 Sites (IPENS): Site Improvement Plan Ashdown Forest SAC** The plan identifies a number of priorities, issues and actions in relation to: • Change in land management; • Air Pollution: impact of atmospheric nitrogen deposition; • Public Access/Disturbance; and • Hydrological changes. The plan can be accessed here: http://publications.naturalengland.org.uk/publication/5793096570765312?category=6149691318206464

Site	Ashdown Forest Special Protection Area (SPA)
Characteristics of European Site	**<u>Special Protection Area</u>** Ashdown Forest is located in the High Weald of East Sussex in south-east England, where valley mires, heath and damp woodland have developed on soils derived from Hastings Sands (Lower Cretaceous). Once a royal hunting forest, reduced grazing has resulted in the accelerated development of woodland and encroachment of bracken over former heath. Nevertheless, some fine examples of heathland habitats remain, with humid or wet heath predominating, dominated by Heather *Calluna vulgaris*, Bell Heather *Erica cinerea* and Cross-leaved Heath E*. tetralix* in the dampest conditions. Where drier heaths occur they are dominated by heather in association with Gorse *Ulex europaeus* and Dwarf Gorse *U. minor*. Streamsides and mires add further variety, with *Sphagnum* mosses, Cottongrass *Eriophorum* sp., Bog Asphodel *Narthecium ossifragum* and Round-leaved Sundew *Drosera rotundifolia* all characteristic plants. The woodlands are also varied, with Birch *Betula* sp. typically establishing first over heath, followed by Oak *Quercus robur*, Willow *Salix* sp. and Pine *Pinus* sp. in places, eventually forming dense and shaded areas with sparse ground flora. Breeding birds of heath, scrub and woodland are associated with the varied mosaic of their respective habitats, distributed over the higher slopes and valleys of the High Weald. Together with the nearby Wealden Heaths SPA and Thames Basin Heath SPA, Ashdown Forest forms part of a complex of heathlands in southern England that support breeding bird populations of European importance.
Qualifying Interests	**<u>Special Protection Area</u>**

	Ashdown Forest qualifies under Article 4.1 of the Birds Directive by regularly supporting nationally important breeding populations of two Annex 1 species as it is used by 1% or more of the Great Britain population of species of European importance listed in Annex I of the Directive. During the breeding season this includes: **Annex I species/habitats that are a primary reason for selection of this site:** During the breeding season: • Dartford Warbler *Sylvia undata*, 20 pairs representing at least 1.3% of the breeding population in Great Britain (Count as at 1994). • Nightjar *Caprimulgus europaeus*, 35 pairs representing at least 1% of the breeding population in Great Britain (Two year mean, 1991 & 1992). The European Commission affords the Dartford warbler protection under Annex 1 of the Wild Birds Directive because the species is threatened by destruction, fragmentation and degradation of habitats throughout its range, as a result of agricultural intensification, forestry, urban development and fires[27] **Annex I species/habitats present as a qualifying feature, but not a primary reason for selection of this site:** Not applicable **Annex II species/habitats that are a primary reason for selection of this site:** Not applicable **Annex II species/habitats present as a qualifying feature, but not a primary reason for site selection:**

[27] European Commission: http://ec.europa.eu/environment/nature/conservation/wildbirds/threatened/s/sylvia_undata_en.htm

	1166 Great crested newt[28] *Triturus cristatus* for which the area is considered to support a significant presence.
Conservation Objectives	The conservation objective is set for each bird feature for the SPA. Where the objectives are met, the site will be considered to exhibit a high degree of integrity and to be contributing to achieving the aims of the Wild Birds Directive. Natural England published the conservation objective for Ashdown Forest SPA on 30th June 2014, updating the earlier version dated 29th May 2012. With regard to the SPA and the individual species and/or assemblage of species for which the site has been classified (Qualifying features) 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 population of each of the qualifying features; and • The distribution of the qualifying features within the site.
Current Site Condition	Please also see SSSI data presented above for Ashdown Forest SAC. <u>Dartford Warbler – Current Status at Ashdown Forest SPA</u> The Dartford warbler re-colonised Ashdown Forest in 1989 (one pair) and the population at the SPA has since expanded from 28 territories recorded in 1994 to 38 in 2006. No formal surveys have been undertaken since 2006; however, records provided by the Sussex Biodiversity Record centre identified 53 records of possible or probable breeding and 20 records of presence in 2014.

[28] See link below: http://jncc.defra.gov.uk/protectedsites/sacselection/species.asp?FeatureIntCode=S1166

	Nightjar – Current Status at Ashdown Forest SPA According to the 2004 survey, Sussex typically holds 5.8% of the UK's nightjars. In regards to Ashdown Forest the nightjar population grew by almost 29% from 1997 – 2004, while the national population increased by 35% between 1992 and 2004. However, there was a decline in the 2005 population by 21.7% based on the 2001 figures. The reasons for this are not known but could relate to weather conditions, survey coverage, or increasing disturbance from visitors or other activities.
Threats to Qualifying Interests	Main threats to Dartford Warbler: • Habitat fragmentation • Lack of or inadequate habitat management • Development pressures • Increased levels of disturbance and recreational use affecting breeding productivity • Provision of suitable habitat to account for any future changes in the global range of Dartford warbler distribution i.e. from southern Europe to more counties in the UK.
Key Environmental Conditions to Maintain Site Integrity	Main threats to Nightjar: • Loss of nesting habitat – The area of heathland in the UK has undergone a dramatic reduction during the course of this century due to agricultural land claim, afforestation and built development. For example, it is estimated that 40% of England's lowland heathland has been lost since the 1950s. Threats continue from housing and infrastructure developments and where heathland lacks appropriate management, it will become unsuitable as nesting habitat due to invasion by bushes and trees. • Loss of feeding habitat – Nightjars require extensive areas of suitable feeding habitat, especially uncultivated land, therefore the loss of such habitats within a few kilometres of the nesting area may result in the decline in the number of birds.

	• Decline in food availability – It is possible that a decline in the availability of large insects caused by changes in agriculture (such as the indirect effects of pesticides) and/or climate change, may have affected nightjar populations. • Disturbance by humans and recreational activities – Nightjars are ground nesting birds and can be disturbed by humans and dogs that may range into heather dominated areas and may flush birds from their nest.
Ecological Requirements of SPA Bird Species	The Dartford warbler requires an adequate provision of suitable habitat in relation to extent and distribution. Habitat should include the provision of gorse at a various age and structure amongst a mainly heathland habitat. Invasive scrub and bracken need to be controlled. Scattered European and/or Western gorse (Ulex europaeus and Ulex gallii) cover of 5% is optimal, and should be of a range of ages to provide a continuum of suitable bushes, i.e. dense (6-12 years old) and up to 1.5 m high. Larger blocks of dense gorse have been shown to be especially important during periods of snow, when the birds retreat to them. It also requires an abundance of shrub layer insects. Nightjars feed on seasonally available suitable prey consisting of flying insects (such as moths, beetles and flies), being most active at dusk and dawn and in some circumstances well into the night. The nightjar will travel from nest sites to feed on a range of habitats such as heathland, deciduous or mixed woodland, orchards, diverse plantations, riparian habitats, freshwater wetlands and gardens. The birds will travel an average 3km from the nest site to locate suitable feeding areas, although they can range further. To achieve favourable conservation condition the nightjar requires: • an abundance of night flying insects; • open ground with predominantly low vegetation; • bare patches and sparse woodland/scrub cover; • reduction of displacement birds; and • extent and distribution of habitat area.
Relevant Site Management	**Improvement Programme for England's Natura 2000 Sites (IPENS): Site Improvement Plan Ashdown Forest SPA** The plan identifies a number of priorities, issues and actions in relation to:

Plans / Statements	• Change in land management; • Air Pollution: impact of atmospheric nitrogen deposition; • Public Access/Disturbance; and • Hydrological changes. The plan can be accessed here: http://publications.naturalengland.org.uk/publication/5793096570765312?category=6149691318206464

Site	**Castle Hill SAC**
Characteristics of European Site	Castle Hill SAC is one of the best examples in East Sussex of the nationally uncommon chalk grassland habitat. The variation of plant and animal communities with aspect and slope is of special ecological interest. The chalk grassland consists of a mosaic of calcareous semi-natural dry grasslands, notably sheep's-fescue – meadow oat-grass (Festuca ovina – Helictotrichon pratense) grassland and upright brome Bromopsis erecta grassland, as well as the taller tor-grass Brachypodium pinnatum grassland which is valuable for grasshoppers and crickets. Castle Hill's important assemblage of rare and scarce species includes early spider-orchid Ophrys sphegodes and burnt orchid Orchis ustulata. The colony of early spider-orchid is one of the largest in the UK. Castle Hill is located within Brighton and Hove and covers an area of 114.68 hectares. The character of the site includes: • N08 - Heath, Scrub, Maquis and Garrigue, Phygrana (5% coverage) • N09 - Dry grassland, Steppes (90% coverage)

	• N10 - Humid grassland, Mesophile grassland (5% coverage) <u>Other site characteristics</u> 1. Terrestrial: Soil & Geology: basic, nutrient-poor, sedimentary 2. Terrestrial: Geomorphology and landscape: slope, lowland, valley
Qualifying Interests	**<u>Annex I species/habitats that are a primary reason for selection of this site:</u>** **6210 Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites)[29]** This site hosts the priority habitat type "orchid rich sites". This chalk grassland consists of a mosaic of calcareous semi-natural dry grasslands, notably CG2 *Festuca ovina – Avenula pratensis* grassland, CG3 *Bromus erectus* grassland and CG4 *Brachypodium pinnatum* grassland. Castle Hill's important assemblage of rare and scarce species includes early spider-orchid *Ophrys sphegodes* and burnt orchid *Orchis ustulata*. The colony of early spider-orchid is one of the largest in the UK. **<u>Annex I species/habitats present as a qualifying feature, but not a primary reason for selection of this site:</u>** Not applicable **<u>Annex II species/habitats that are a primary reason for selection of this site:</u>** Not applicable **<u>Annex II species/habitats present as a qualifying feature, but not a primary reason for site selection:</u>** 1654 Early gentian[30] Gentianella anglica
Conservation Objectives	With regard to the SAC and the natural habitats and/or species for which the site has been designated (the 'Qualifying Features' listed above), and subject to natural change.

[29] See the link below: http://jncc.defra.gov.uk/protectedsites/sacselection/habitat.asp?FeatureIntCode=H6210
[30] See the link below: http://jncc.defra.gov.uk/protectedsites/sacselection/species.asp?FeatureIntCode=S1654

	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 the habitats of qualifying species rely; • The populations of qualifying species; and • The distribution of qualifying species within the site.
Current Site Condition	Castle Hill SSSI is currently considered to be in 40.34% favourable condition and 64.80% unfavourable recovering condition.[31]
Threats to Qualifying Interests	Threats and pressures: <u>Negative</u> • H04 - Air pollution, air-borne pollutants (inside and outside site) • A04 – Grazing (inside site) • A08 – Fertilisation (inside and outside site) <u>Positive</u> • D05 - Improved access to site (inside site) • A02 - Modification of cultivation practices (inside site) • A04 – Grazing (inside site)

[31] This is the latest position from Natural England's website (December, 2017).

Key Environmental Conditions to Maintain Site Integrity	• Minimal air pollution; • Controlled scrub encroachment; • Maintenance of grazing; • Absence of direct fertilisation; • Absence of nutrient enrichment; • Low / controlled recreational pressure; • Absence of non-native species; and • Absence of leaching and spray-drift of chemicals from bordering arable land
Relevant Site Management Plans / Statements	Improvement Programme for England's Natura 2000 Sites (IPENS): Site Improvement Plan Castle Hill SAC The plan identifies a number of priorities, issues and actions in relation to: • Undergrazing; • Fertiliser use; and • Air pollution: impact of atmospheric nitrogen deposition. The plan can be accessed here: http://publications.naturalengland.org.uk/publication/6241234389565440?category=6149691318206464

Appendix 2: Potential Effects of the Hellingly NDP on Castle Hill SAC

Links or effects that may arise from the draft Hellingly Neighbourhood Development Plan have been considered alongside the site's qualifying features and the following conclusions made.

Recreational pressure

Recreational pressure has not specifically been identified as a key issue at Castle Hill SAC within the Natural England Site Improvement Plan. In addition, the whole SAC is a designated National Nature Reserve (NNR) and a series of bye-laws are in force to protect the wildlife of the site. Should recreational pressure be an issue in the future, visitor management mechanisms could be put in place. In addition, the Wealden District lies 11.5km from the site and the Parish of Hellingly is a further distance again. Whilst visitor survey data does not exist for this site visitor survey data from elsewhere would suggest that the Wealden District is beyond the core catchment area of the site.

Air Pollutants

The site is currently estimated by Air Pollution Information Systems (APIS) to be:

- above its minimum critical load range for acid deposition as nitrogen but below its critical load range for acid deposition as sulphur; and
- above the minimum critical load range for ammonia but below its maximum critical level in relation to the sites interest features.

The site is below its critical load range for nutrient nitrogen, nitrogen oxides and sulphur dioxide.

Information and literature provided by Natural England[32] and the Department of Transport[33] provide that although effects from vehicle emissions can occur beyond 200 metres, air pollutant contributions beyond 200 metres of a road are not considered to be significant.

Castle Hill SAC is located to the north of Brighton and is located some 11.5km from Wealden District. The nearest main road is the Falmer Road (B2123) which runs from the A27 at Falmer across the South Downs to the east of Brighton. This road is located approximately 400 metres to the west of the site. The site therefore falls outside the area where it is considered that an increase in traffic (derived from any new development) could result in a significant effect.

[32] The ecological effects of air pollution from road transport: an updated review (Natural England, 2016).
[33] Design Manual for Roads and Bridges: Volume 11, Section 3:Part 1 HA 207/07 Air Quality Summary (Department for Transport, May 2007).
http://www.standardsforhighways.co.uk/ha/standards/dmrb/vol11/section3/ha20707.pdf

In combination effects

It is not considered that the draft Hellingly Neighbourhood Development Plan will result in a likely significant effect, either alone or in combination with other plans or projects due to there being no pathways present connecting the draft Hellingly Neighbourhood Development Plan with the European site that could result in an adverse effect, either alone or in combination.

Conclusion

Based on the information considered above, it is possible to conclude that the draft Hellingly Neighbourhood Development Plan will not result in a likely adverse significant effect on the integrity of Castle Hill SAC. Achieving the sites conservation objectives is governed by the management of the site through grazing and reducing the use of fertilisers adjacent to the site. It is unlikely that development in the Hellingly Parish will result in harm caused by an increase in visitors to the site due to the sites character and existing access management mechanisms. Similarly, the distance of the site from Hellingly Parish, along with its distance from the nearest road, means that air pollution from an increase in traffic associated with new development is unlikely to adversely impact the site.

Appendix 3: Hellingly Neighbourhood Development Plan Policies

Policy Reference	Policy Description	Policy Intention (Summary)
Policy HNDPE	Habitats Regulations	This policy is design to ensure that no adverse effects upon Ashdown Forest SAC and SPA, Pevensey Levels SAC and Ramsar site and Lewes Downs SAC occur as a result of the content of the Hellingly NDP. The policy also confirms that should a likely significant effect be identified, an appropriate assessment would be required, development proposals must be accompanied by sufficient information for a Habitats Regulations Assessment to be undertaken and development will only be allowed to commence once suitable mitigation measures are in place.
Policy HNDP1	Area of Locally Valued Landscape	This policy states that any development proposals within the Hellingly Locally Valued Landscape Area will not be permitted unless it can be shown how such developments will not be detrimental to the rural character and scenic quality of the area. Where appropriate, proposals will only be granted permission when landscaping measures can improve ecological conditions.
Policy HNDP2	Local Green Space	This policy states that identified local green space will be protected from development unless the land no longer has

		any community value, or an equivalent green area is provided in compensation.
Policy HNDP3	Areas of Critical Flood and Drainage Concern	This policy states that development proposals within an area at risk of flooding will be resisted, unless the risk of flooding can be shown to be satisfactorily mitigated. Where development is considered appropriate, the developer must provide a suitable sustainable drainage scheme, including maintenance regimes, and demonstrate that there will be no resulting impact upon the neighbouring land.
Policy HNDP4	Assessing run-off	This policy states that development proposals must assess surface water runoff with a presumption against land raising developments which increases the risk of flooding. Where appropriate, land raising proposals will only be granted permission when mitigation measures can be shown to deal with any identified risk.
Policy HNDP5	Green and Blue Infrastructure	This policy states that development proposals must maintain and enhance existing green and blue infrastructure and ensure the integrity of such infrastructure.
Policy HNDP6	Biodiversity	This policy states that development proposals must protect and enhance biodiversity. Developments with 5 or more dwellings must produce an ecological

		management plan to ensure the effective management of biodiversity features.
Policy HNDP7	Rural Economy	This policy states that the development and diversification of rural based businesses will be supported provided they are sustainable and benefit the local area.
Policy HNDP8	Isolated New Dwellings	This policy states that isolated new dwellings will not be permitted unless it can be satisfactorily demonstrated there is an essential need to live at that location, or will significantly enhance the immediate area.
Policy HNDP9	Housing Type	This policy states that where appropriate, new residential development that provides for a high percentage of homes for the elderly, starter homes or shared ownership (2-3 bed or smaller) will be supported.
Policy HNDP10	Sustainable Transport	This policy requires that any new residential development provides charging points for electric vehicles. The policy sets the quantum of charging points to be provided as one unit per house and per flat with an allocated parking space, and communal charging points for flats without an allocated parking space.
Policy HV1	Development within Hellingly Village	This policy states that development proposals are required to clearly demonstrate how it will conserve and contribute to the appearance of the designated Hellingly Conservation Area.

Policy HV2	Specific Design Criteria Hellingly Village	This policy sets out a list of design criteria for new development primarily in relation to extensions or alterations of existing buildings.
Recommendation 1 – HV R1	Management Plan for Hellingly Conservation Area	This recommendation requests Wealden District Council to produce a management plan for the Hellingly Conservation Area in consultation with local residents and Parish Council to preserve and enhance the area.
Recommendation 2 – HV R2	Traffic Management Schemes	This recommendation requests Wealden District Council and East Sussex County Council to produce a traffic management scheme to help alleviate existing traffic issues.
Recommendation 3 – HV R3	Proposed Development within Hellingly Conservation Area	This recommendation advises Wealden District Council that the emerging proposal to accommodate 30 new dwellings within the Hellingly Conservation Area in the Local Plan is inconsistent with National Policy in respect to heritage and conservation.
Policy LHB1	Lower Horsebridge Character Area	This policy states that new development proposals within the Lower Horsebridge Character Area must demonstrate how they will positively contribute and enhance the existing designated heritage assets.
Policy LHB2	Specific Design Criteria Lower Horsebridge	This policy seeks to ensure that new development in Lower Horsebridge does not negatively impact the image of the area by

		ensuring that building height and design are uniform to existing development, that new development design is innovative and current building gaps are retained.
Recommendation 1 – LHB R1	Land for residential development at North Street, Lower Horsebridge	The aim of this recommendation is to persuade Wealden District Council not to allocate further land for development at North Street in Lower Horsebridge. The recommendation is instead in favour of allocating land for development elsewhere in the Parish.
Recommendation 2 - LHB R2	Traffic calming solutions for Lower Horsebridge	The aim of this recommendation is to encourage the Council to produce traffic calming measures in the Lower Horsebridge area and in addition to consider the impact of enhanced recreation facilities on traffic in the area. It also recommends that any proposed traffic calming scheme be subject to public consultation.
Recommendation 3 – LHB R3	Previous application WD/2016/2813/MAJ	This recommendation seeks to encourage Wealden District Council to consider development on the land to the rear of the Kings Head Public House, Lower Horsebridge in exchange for a donation of land to the Parish for recreations purposes. In addition, it is mentioned that this would positively contribute towards the recreation targets for the District.

Policy LD1	Development in Lower Dicker	This policy overall requires new development in Lower Dicker to clearly demonstrate that it will not negatively impact the image and heritage of the area. This includes ensuring that important buildings and designated heritage assets are preserved and enhanced, as well as enhancing the rural character of the area. In addition, new developments must use locally sourced materials where possible and retain existing fields, hedgerows and trees.
Policy LD2	Specific Design Criteria Lower Dicker	This policy seeks to ensure that new development in Lower Dicker does not negatively impact the existing development. This should be done by ensuring that new development adheres to requirements with regard to building height, roof angle and roof and building extensions. In addition, gaps between existing buildings must be retained and infill dwellings will be resisted.
Recommendation 1 – LD R1	Recommendations for Lower Dicker	This recommendation seeks to advise Wealden District Council to review the proposed location for development in the Lower Dicker area. The recommendation discusses the delivery of employment land in Lower Dicker and seeks to ensure that this will not negatively impact upon the village character of

		the area. In addition, the introduction of a development boundary for Lower Dicker is discouraged in favour of other optimum areas.
Recommendation 2 – LD R2	Recommendation for land north of the A22 (Lower Dicker)	This recommendation encourages both the District and County Council to locate a local waste transfer station to the north of the A22, as opposed to on a site to the south of the A22, thereby allowing the site to the south to be allocated for housing. The recommendation also seeks to encourage the site to the south of the A22 to be allocated for residential development which is encouraged to use local styles and materials.
Recommendation 3 – LD R3	Air Pollution	This recommendation encourages the responsible bodies to be more proactive with regards to the monitoring of air pollution from traffic movement. It seeks to encourage the relevant bodies to implement solutions, following widespread public consultation, to reduce air pollution and enhance road safety.
Policy RP1	Development in Roebuck Park	This policy seeks to ensure that any new development in Roebuck Park does not adversely impact the current residential development, open space and surrounding area. New development would be required to demonstrate that it enhances the local

		area through: supporting the provision of local facilities, protecting designated and non-designated heritage assets and ensuring that views towards the South Downs National Park, ancient woodland and the hospital building are retained. In addition, development that does not maintain the rural character of the area will be resisted.
Policy RP2	Specific Design Criteria Roebuck Park	This policy seeks to ensure that development in Roebuck Park is of a uniform standard and does not negatively impact the existing development and area. This should be done by ensuring that development adheres to requirements with regard to roof angle, dwelling design, building height and parking.
Recommendation 1 – RPR1	'Village centre' of Roebuck Park	This recommendation seeks to encourage the Council to bring forward development in Roebuck Park to create a 'village centre focus'. This includes a proposed multi-purpose community building and seeks to convert the former Hellingly Chapel building for social use.
Recommendation 2 – RPR2	Provision of outdoor space	This recommendation seeks to encourage the Council to provide a substantial amount of land for recreational use to minimise the impact of new residential development upon Hellingly Country Park. In

		addition, the recommendation also urges the Council to address the lack of open spaces in the Hellingly area as identified in the 2017 Wealden Open Space Study.
Policy LHA1	Protection of local heritage assets	This policy is regarding the conservation, preservation and enhancement of non-designated heritage assets. The policy aims to do this through the requirement for new development to demonstrate that their design and building materials positively impact the non-designated heritage asset concerned. In addition, the policy seeks to protect local heritage assets through the refusal of developments that would significantly alter the asset.
Recommendation	Roads and Transport	This recommendation requests East Sussex County Council to provide a comprehensive road design for the area west of the Cuckoo Trail and proposed developments using Park Road/A271 to reduce through traffic and improve traffic calming through Station Road and Hellingly Village. Also a request to extend speed restrictions (40mph) along a section of the A267.
Recommendation	Education	This recommendation requests East Sussex County Council to develop a new primary school facility at Park Road and enhance the

		existing secondary school provision at Hailsham Community College.
Recommendation	Sports and Leisure	This recommendation requests Wealden District Council to address significant sport and leisure under provision by delivering a new sports facility and a 2.8 hectare outdoor play area extension to Hellingly Country Park.
Recommendation	Digital Communications	This recommendation seeks to encourage British Telecommunications to significantly improve the digital communications in the Parish with regard to download speeds and mobile coverage.
Recommendation	Retail, Employment and Other Services	This recommendation encourages the relevant bodies to improve community facilities in the Parish. The recommendation seeks to secure a new healthcare facility and local shops in development centres to serve the new development within the Parish.
Recommendation	Sewerage	The recommendation seeks to ensure that all new developments in the Parish are capable of being joined to the main drainage system to allow efficient sewerage connections.

Appendix 4: Summary of the Reasons for concluding 'no likely significant effect' on certain Natura 2000 sites

Site	Impact Pathway	Conclusions
Castle Hill SAC	Air Pollution	Castle Hill is located to the north of Brighton and is located some 11.5km from Wealden District. The nearest main road is the Falmer Road (B2123) which runs from the A27 at Falmer across the South Downs to the east of Brighton. The road is located approximately 400 metres to the west of the site. The site therefore falls outside the area where it is considered that an increase in traffic (derived from any new development) could result in a likely significant effect.
Hastings Cliffs SAC	Air Pollution Water Quality Hydrology	Hastings Cliffs SAC is located to the east of Hastings and is located some 12.8km from Wealden District. The nearest main road is the A259 (The Bourne and Old London Road) which runs north and west of Hastings. This road is located over 350 metres at its nearest point to the west of the site and although there are three roads (Coastguard Lane, Barley Lane and Rocklands Lane) located less than 200m from the site, these are small, narrow, residential roads and are therefore unlikely to be heavily used. The site therefore falls outside the area where it is considered that an increase in traffic (derived from any new development) could result in a significant effect. Additionally, it is unlikely that development in the Hellingly NDP area would have an effect on the water quality or hydrology of the site.
Dungeness SAC and Dungeness, Romney Marsh and Rye Bay SPA and Ramsar	Disturbance Air Pollution Water Quality (SPA and Ramsar site only)	Dungeness, Romney Marsh and Rye Bay SPA and Ramsar are located approximately 18.4km from the District. Given the distance between the Hellingly NDP area and the sites, development in the NDP area will not result in adverse air pollution, water quality or hydrological impacts. The RSPB also limit visitors to the site, therefore new residential development will not result in an adverse impact on the SPA.
Ashdown Forest SPA	Disturbance Urbanisation	The Hellingly Neighbourhood Plan Area is not located within the Ashdown Forest SPA or its associated 7km buffer zone where new accommodation or development (even on a

		smaller scale) is considered to have the potential to adversely affect the integrity of the Ashdown Forest SPA in view of the site's conservation objectives. Therefore, new residential development will not result in adverse impact on the SPA