

Habitats Regulations Assessment (HRA)

Please note that all references to the Habitats Regulations in this HRA refer to the Conservation of Habitats and Species Regulations 2017 (as amended).

Under Regulation 63(1) of the Habitats Regulations, it is the responsibility of the decision-maker as the competent authority to undertake the HRA process, however, under Regulation 63(2) of the Habitats Regulations, it is the responsibility of the applicant to provide the competent authority with the information they require for the purposes of undertaking the HRA.

HRA details	
HRA drafting date:	07/05/2025
HRA completion date:	15/05/2025

Planning application details	
Application reference:	DM/25/0852
Application address:	Reign Gallery, 26 Railway Approach, East Grinstead, West Sussex, RH19 1BP
Application description:	Change of use of Class E commercial, business and service to C3 residential

Details of the planning application (the project)	
European sites for nature conservation potentially impacted by the planning application:	Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC)
Proximity to the Ashdown Forest SPA:	Within the 7km zone of influence for the Ashdown Forest SPA
Is the planning application directly connected with or necessary to the management of the European sites for nature conservation?	No. The planning application is for a net increase in dwellings which is neither connected with nor necessary to the management of the European sites.
Net increase in dwellings:	1

European site information
Ashdown Forest lies within Wealden District, and is adjacent to the north-east boundary of Mid Sussex.
Ashdown Forest SPA
The Ashdown Forest SPA was classified in 1996. It is a 3,200Ha site comprising predominantly of lowland heathland and woodland. The Ashdown Forest SPA is an internationally important habitat classified because of the presence of breeding

populations of Dartford warbler *Sylvia undata* and European nightjar *Caprimulgus europaeus*. Ashdown Forest is also notified as a Site of Special Scientific Interest (SSSI).

European Site Conservation Objectives for the Ashdown Forest SPA

With regard to the SPA and the individual species and/or assemblage of species for which the site has been classified (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 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 populations of each of the qualifying features, and,
- The distribution of the qualifying features within the site.

Qualifying Features:

A224 *Caprimulgus europaeus*; European nightjar (Breeding)

A302 *Sylvia undata*; Dartford warbler (Breeding)

Ashdown Forest SAC

The Ashdown Forest SAC was designated in 2005 and covers 2,700Ha. It has a different boundary to the SPA, but the two designations overlap. The qualifying features for the designation are the Annex I habitats: Northern Atlantic wet heaths with *Erica tetralix* and European dry heaths, and the Annex II species: Great crested newt *Triturus cristatus*. It is also part of the SSSI.

European Site Conservation Objectives for the Ashdown Forest SAC

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

Qualifying Features:

H4010 Northern Atlantic wet heaths with *Erica tetralix*; Wet heathland with cross-leaved heath

H4030 European dry heaths

S1166 *Triturus cristatus*; Great crested newt

Ashdown Forest SPA

Stage 1 – HRA screening for the Ashdown Forest SPA

To test for a likely significant effect on the Ashdown Forest SPA under Regulation 63(1)(a) of the Habitats Regulations

How might the planning application affect the Ashdown Forest SPA?

The proposed development is within the 7km zone of influence for the Ashdown Forest SPA. In accordance with advice from Natural England, the HRA for the Mid Sussex District Plan, and as detailed in the District Plan Policy DP17, a net increase in residential development within the 7km zone of influence is likely to have a significant effect on the Ashdown Forest SPA.

Increased recreational activity arising from new residential development and related population growth is likely to disturb the protected near-ground and ground nesting birds on Ashdown Forest.

The impacts to heathland breeding birds can be summarised as follows:

- Increased nest predation by natural predators when adults are flushed from the nest or deterred from returning to it by the presence of people or dogs;
- Chicks or eggs dying of exposure because adult birds are kept away from the nest;
- Accidental trampling of eggs by people, where nests are on the ground and may be close to paths;
- Predation of chicks or eggs by domestic dogs; and
- Increasing stress levels in adult birds in response to perceived predation risk.

Work undertaken on behalf of Natural England in 2010¹ (using data from a visitor survey on Ashdown Forest undertaken in 2008²) indicates that:

- The current level of visitor pressure is not affecting the distribution of nightjar, woodlark³ or Dartford warbler within the Ashdown Forest SPA, although there will be a point at which levels of visitor pressure are so great that birds will abandon otherwise suitable breeding habitat and the ability of the site to support a given density of birds will be compromised.
- The current level of visitor pressure is not displacing the birds from otherwise suitable habitat, however, the level at which recreational pressure will be such that birds will begin to be displaced is not known.
- Evidence from other sites would suggest that if access levels were to increase, there may be avoidance of otherwise suitable habitat and there may be impacts on breeding success.
- Recreational disturbance may still be having an impact on the Annex I bird species at Ashdown Forest and 'in the absence of data on breeding success, and without understanding why bird densities are low, it currently cannot be concluded on the basis of scientific evidence that the ecological integrity of nightjar and Dartford warbler populations is not being adversely affected by a combination of existing pressure and/ or habitat management' (Clarke *et al.*, 2010: p29).
- An increase in population from new residential development is likely to result in additional recreational pressure on Ashdown Forest.

¹ Clarke, R. T., Sharp, J. and Liley, D. (2010) Ashdown Forest visitor survey data analysis: Natural England Commissioned Reports, Number 048.

² UE Associates (2009) Visitor access patterns on Ashdown Forest.

³ The woodlark is present in qualifying numbers on Ashdown Forest, but it is not listed as a qualifying feature of the Ashdown Forest SPA.

The 2010 data analysis report concludes that ‘information is not available to say definitively whether the quantum of new housing proposed in the vicinity of Ashdown Forest will impact upon breeding success or cause bird displacement. Taking into account the wider body of research available, along with the principles established and mitigation and monitoring being pursued as a result of plan level Habitats Regulations Assessments at other heathland sites, it is advised that a similar approach should be taken forward for Ashdown Forest SPA’ (Clarke *et al.*, 2010: p30).

In order to understand the pattern and origin of visitors to Ashdown Forest, visitor surveys have been conducted in 2008, 2016⁴ and 2021⁵. The data and information in these reports will be updated through monitoring and surveys in the future.

Are there any other projects or plans that together with this planning application could affect the European site, the ‘in combination’ impact?

Yes. All new residential development within 7km of the Ashdown Forest SPA is considered to contribute towards a significant effect on the site as a result of increased recreational disturbance in combination with other residential development in other local authority areas surrounding the Ashdown Forest SPA.

The following local planning authorities have agreed that, based on current evidence, 7km remains the most appropriate distance for a strategic zone for mitigation:

- Lewes District Council
- Mid Sussex District Council
- Sevenoaks District Council
- Tandridge District Council
- Tunbridge Wells Borough Council
- Wealden District Council

Would the proposed development lead to a likely significant effect on the Ashdown Forest SPA?

**Yes.
Proceed to Stage 2 – HRA appropriate assessment for the Ashdown Forest SPA.**

Stage 2 – HRA appropriate assessment for the Ashdown Forest SPA

To test for an adverse effect on site integrity on the Ashdown Forest SPA under Regulation 63(1) of the Habitats Regulations

The proposed development is likely to have a significant effect on the Ashdown Forest SPA. The District Plan HRA assessed recreational disturbance impacts as potentially affecting the Ashdown Forest SPA, however, the impacts were considered to be adequately avoided and mitigated by the District Plan policy response.

In accordance with District Plan Policy DP17, mitigation measures are necessary to counteract the effects of potential increasing recreational pressure and are required for developments proposing a net increase in dwellings within a 7km zone of influence around the Ashdown Forest SPA.

The Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring (SAMM) mitigation approach set out in Policy DP17 aligns with the strategic solution for recreational disturbance on the Ashdown Forest SPA. This strategic solution is supported by Natural England and ensures the requirements of the Habitats Regulations are met with regard to the in combination effects of increased recreational pressure on the Ashdown Forest SPA arising from new residential development. The

⁴ Liley, D., Panter, C. and Blake, D. (2016) Ashdown Forest Visitor Survey.

⁵ Liley, D. and Caals, Z. (2022) Ashdown Forest Visitor Survey 2021.

strategic solution is a partnership approach between the following local authorities and is supported by Natural England:

- Lewes District Council
- Mid Sussex District Council
- Sevenoaks District Council
- Tandridge District Council
- Tunbridge Wells Borough Council
- Wealden District Council

Policy DP17: Ashdown Forest SPA and SAC

Strategic Objectives: 3) To protect valued landscapes for their visual, historical and biodiversity qualities.

Evidence Base: Ashdown Forest Visitor Survey Data Analysis, Habitats Regulations Assessment for the Mid Sussex District Plan, Visitor Access Patterns on Ashdown Forest.

In order to prevent adverse effects on the Ashdown Forest SPA and SAC, new development likely to have a significant effect, either alone or in combination with other development, will be required to demonstrate that adequate measures are put in place to avoid or mitigate any potential adverse effects.

Within a 400 metres buffer zone around Ashdown Forest, mitigation measures are unlikely to be capable of protecting the integrity of the SPA and, therefore, residential development will not be permitted.

Within a 7km zone of influence around the Ashdown Forest SPA, residential development leading to a net increase in dwellings will be required to contribute to mitigation through:

- 1) The provision of Suitable Alternative Natural Greenspace (SANG) to the minimum level of 8Ha per 1,000 net increase in population; or a financial contribution to SANGs elsewhere; or the provision of bespoke mitigation; and**
- 2) A financial contribution to the Ashdown Forest Strategic Access Management and Monitoring (SAMM) Strategy.**

Large schemes proposed adjacent or close to the boundary of the 7km zone of influence may require mitigation for the SPA. Such proposals for development will be dealt with on a case-by-case basis.

Where bespoke mitigation is provided, these measures will need to be in place before occupation of development and must be managed and maintained in perpetuity. The effectiveness of such mitigation will need to be demonstrated prior to approval of the development. Bespoke mitigation will need to be discussed and agreed by the District Council as the competent authority following advice from Natural England.

Mitigation approach – SANG

The District Council has a strategic SANG at East Court & Ashplats Wood in East Grinstead. The District Council agreed the East Court & Ashplats Wood SANG Strategy in October 2014 and it came into effect in January 2015. Natural England also supports the East Court & Ashplats Wood SANG Strategy. This SANG has now reached capacity.

A new strategic SANG at Hill Place Farm is now operational (from September 2022) and this has capacity for future residential development.

Work is in progress to deliver additional SANGs that will provide further capacity.

The SANG mitigation for this proposed development will take the form of a financial contribution for a strategic SANG. The District Council will advise which SANG will provide mitigation for the proposed development. This will be dependent on, inter alia, the

available SANG capacity, the size of the proposed development and the location of the proposed development. Applicants will not be able to choose which SANG will be used to provide mitigation for their proposed development. The SANG contribution will be calculated by reference to the total costs of the SANG over its lifetime divided by the number of units it can serve and the current SANG tariffs are available to view on the District Council's website⁶.

When a strategic SANG is available for the development or when there is certainty of delivery of a strategic SANG in a timescale consistent with the first occupation of the development, there will be certainty that the effects of the development on the Ashdown Forest SPA will be appropriately mitigated so as to ensure no adverse effect on the integrity of the Ashdown Forest SPA alone or in combination.

The financial contribution towards SANG is secured through a Planning Obligation pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended).

SANG mitigation needs to be in place before any development can be occupied otherwise there is a risk of an impact on the Ashdown Forest SPA through increased recreational activity.

If a SANG is not yet operational, a Grampian-style condition may be placed on the planning permission of the proposed development preventing occupancy of the development until a future SANG is delivered and operational. If such a condition is used, a future SANG is expected within the lifetime of the planning permission. This condition will need to be discharged before the development can be occupied. Enforcement action can be taken against development that breaches this planning condition.

The Planning Obligation pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) may include a requirement to ensure that the development is not occupied until the SANG is delivered and operational. This requirement will also apply to permitted development requiring prior approval under the Town and Country Planning (General Permitted Development) (England) Order 2015 and consideration under Regulations 75-78 of the Habitats Regulations. Enforcement action can be taken against development that breaches this requirement.

The District Council will be monitoring the commencement and completions of new development.

The SANG mitigation for this proposed development will take the form of a financial contribution to the strategic SANG at Hill Place Farm. The current financial contribution is:

SANG Tariff		
Per unit	£5,253	Comprising: SANG management £3,701 SANG monitoring £233 Bluebell Railway Access Fee £1,319

An appropriate scale of SANG mitigation for the proposed development is £5,253.

There is sufficient SANG capacity at Hill Place Farm for the proposed development.

The applicant has been informed of the need for SANG mitigation.

Mitigation approach – SAMM

The District Council agreed a Joint SAMM Strategy on the 15th January 2018 and it came into effect on the 1st April 2020. The Joint SAMM Strategy is a strategic co-ordinated approach to mitigation in partnership with Lewes, Sevenoaks, Tandridge and Wealden District Councils, Tunbridge Wells Borough Council, Natural England, and the Conservators of Ashdown Forest.

⁶ <https://www.midsussex.gov.uk/planning-building/protecting-ashdown-forest/>

The Joint SAMM Strategy sets out the current financial contributions for SAMM:

SAMM Tariff	
Per unit	£1,170

An appropriate scale of SAMM mitigation for the proposed development is £1,170.
 The financial contribution towards SAMM is secured through a Planning Obligation pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended).
 The applicant has been informed of the need for SAMM mitigation.

Initial conclusion of the appropriate assessment

The District Plan HRA assessed recreational disturbance impacts as potentially affecting the Ashdown Forest SPA, however, the impacts were considered to be adequately avoided and mitigated by the District Plan policy response.

It is considered that provided the SANG mitigation is secured through a Planning Obligation along with any necessary restrictions preventing occupancy of the development until the SANG mitigation is delivered and operational such as through a Grampian-style condition placed on the planning permission or a requirement within the Planning Obligation, and the SAMM mitigation is secured through a Planning Obligation, there is sufficient certainty to conclude there would not be an adverse effect on the integrity of the Ashdown Forest SPA from this proposed development.

The proposed development complies with District Plan Policy DP17.

Consultation with Natural England

Under Regulation 63(3) of the Habitats Regulations, the competent authority (Mid Sussex District Council) must consult the nature conservation body (Natural England) on the appropriate assessment.

Summary of Natural England's comments:

Natural England advises that the specific measures (including financial contributions) identified in the strategic solution can prevent harmful effects from increased recreational pressure on those European Site within the ZOI.

Natural England is of the view that if these measures are implemented, they will be effective and sufficiently certain to prevent an adverse impact on the integrity of those European Site(s) within the ZOI for the duration of the proposed development.

The appropriate assessment concludes that the proposal will not result in adverse effects on the integrity of any of the sites as highlighted above (in view of its conservation objectives) with regards to recreational disturbance, on the basis that the strategic solution will be implemented by way of mitigation.

Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects likely to occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions. If all mitigation measures are appropriately secured, we are satisfied that there will be no adverse impact on the sites from recreational pressure.

Date: 14/05/2025

Overall conclusion of the appropriate assessment

In the absence of the mitigation measures identified above, the proposed development would have a likely significant effect on the Ashdown Forest SPA since it is within the 7km zone of influence and proposes a net increase in residential dwellings. In accordance with Policy DP17, mitigation measures are necessary to counteract the effects of potential increasing recreational pressure.

The applicant is prepared to make financial contributions towards both SANG and SAMM mitigation in accordance with the mitigation measures identified above and enter into the requisite legal documentation at the appropriate time. The applicant understands that the development cannot be occupied until the SANG mitigation is delivered and operational. Taking into account Natural England's comments, the competent authority concludes the proposed development with mitigation would not have an adverse effect on the integrity of the Ashdown Forest SPA.

Ashdown Forest SAC

Stage 1 – HRA screening for the Ashdown Forest SAC

To test for a likely significant effect on the Ashdown Forest SAC under Regulation 63(1)(a) of the Habitats Regulations

How might the planning application affect the Ashdown Forest SAC?

Increased traffic emissions as a consequence of new development may result in atmospheric pollution on Ashdown Forest. The main pollutant effects of interest are acid deposition and eutrophication by nitrogen deposition. High levels of nitrogen may detrimentally affect the composition of an ecosystem and lead to loss of species.

Are there any other projects or plans that together with this planning application could impact on the integrity of the European site, the 'in combination' impact?

Yes. Other proposals for development in the District and other local authority areas may lead to an 'in combination' effect on the Ashdown Forest SAC.

How have the potential transport impacts of the proposed development been assessed?

As part of the preparation for the Site Allocations DPD, Mid Sussex District Council commissioned SYSTRA to build a strategic in combination highway model to underpin the Mid Sussex Transport Study and update the Mid Sussex Transport Study. The SYSTRA work is required to test the impact of proposed development on the strategic and local transport network and upon significant routes in Ashdown Forest. The subsequent air quality modelling and ecological interpretation of the Sites DPD Scenario (which reflects the growth proposed at the Regulation 19 stage) considers that the highways improvements will serve to improve the functioning of the road network and reduce congestion. It is apparent from the modelling results that these highways improvements are likely to be making a small but positive contribution to reducing the air quality impacts of new growth.

The modelling results for the Sites DPD scenario is such that the breaches of 1% of the critical loads for pollutants at some locations are so low that, having regard for the wider context, they are considered to be a minor retardation low enough to rule out adverse effects on integrity, as a result of the development in Mid Sussex and neighbouring authorities. This conclusion is drawn with consideration of factors such as the long-term trajectory of air quality improvement and the scientific basis of those predictions, and consideration of other wider measures relating to Ashdown Forest that are likely to come forward.

The proposed development was modelled in the Mid Sussex Transport Study as a **windfall development** such that its potential effects are incorporated into the overall results of the transport model, which indicates there would not be an overall impact on Ashdown Forest. Additionally, based on analysis of Census 2011 data, the proposed development is not likely to generate travel to work journeys across Ashdown Forest. This

means that there is not considered to be a significant in combination effect on the Ashdown Forest SAC by this development proposal.

Would the proposed development lead to a likely significant effect on the Ashdown Forest SAC?

No.

Conclusion of the HRA

This HRA represents the competent authority's duty under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) (the "Habitats Regulations"), Article 6(3) of the Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (the "Habitats Directive") and having regard to its duty under Section 40(1) of the Natural Environment and Rural Communities Act 2006 to the purpose of conserving biodiversity.

Ashdown Forest SPA

The proposed development in this planning application would not have an adverse effect on the integrity of the Ashdown Forest SPA, alone or in combination with other development.

Ashdown Forest SAC

The proposed development in this planning application would not have a likely significant effect on the Ashdown Forest SAC, alone or in combination with other development.

Having undertaken a Habitats Regulations Assessment of the implications of the project for the site in view of that site's conservation objectives, and having consulted Natural England and fully considered any representation received, the competent authority may now agree to the project under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended).