

Practice Note 2022

Ashdown Forest:

Screening of planning applications for compliance with the Habitats Regulations



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1.0 Introduction

- 1.1 This Practice Note is intended to guide Tunbridge Wells Borough Council ('the Council') in the discharge of its functions under the Conservation of Habitats and Species Regulations 2017 when considering whether to grant planning permission for a development that might affect the Ashdown Forest Special Protection Area (SPA) and/or Special Area of Conservation (SAC). It is not planning policy and does not override the Council's legal duties; however, decision makers will follow the approach set out in this Practice Note unless the individual circumstances of an application and/or the Council's legal duties require an alternative approach.
- 1.2 Ashdown Forest is an extensive area of common land lying between East Grinstead and Crowborough. It is one of the largest single continuous blocks of heath, semi-natural woodland and valley bog in south-east England, and it supports several uncommon plants, a rich invertebrate fauna, and important populations of heath and woodland birds. It is both a SPA and a SAC.
- 1.3 The SPA is designated for its populations of breeding Dartford Warbler *Sylvia undata* and Nightjar *Caprimulgus europaeus*. The SAC is designated for its Annex I habitats, namely Northern Atlantic wet heaths with *Erica tetralix* and European dry heaths; as well as for its Annex II species, namely Great Crested Newts.
- 1.4 Although the SPA/SAC lies entirely within Wealden District, it is capable of being affected by development consented by the Council. The SPA can be affected by recreational pressure arising from population growth in that part of Tunbridge Wells borough closest to the SPA. The SAC can be affected by an increase in emissions from vehicles using roads (including the A26 and A275) that run through and adjacent to it. As a result, the Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') require the Council, as competent authority, to consider – upon receipt of a planning application – whether it can exclude the possibility that the proposed development could have likely significant effects on the SPA/SAC. If that possibility cannot be excluded at the so-called 'screening' stage, an appropriate assessment of effects is required.
- 1.5 In April 2018, the Council adopted a Practice Note to guide the discharge of its obligations as competent authority when considering the effects of individual planning applications on the Ashdown Forest SAC and SPA. Since that practice note was prepared, the Council has advanced its Local Plan preparation (which is currently at Examination in Public and, in discussion with Natural England, undertaken further studies and has amended its policy in respect of Ashdown Forest. (see Policy EN11 of the Submission Local Plan) In light of those developments, the Council has considered whether it is necessary to revise its practice and has concluded:
 - In relation to planning applications that may add to recreational pressure on the SPA, the Council will – until further notice - continue to apply the pre-existing approach explained in more detail below, with the addition that it now requires financial Strategic Access Management and Monitoring Strategy payments (SAMMS) and Suitable Alternative Natural

Greenspace contributions (SANG) if the application site is within the 7km zone;

- In relation to planning applications that may generate additional vehicle movements through or adjacent to the Ashdown Forest SAC, the Council will continue to apply the approach adopted in 2018 as set out below.

1.6 This Practice Note supersedes the 2018 Practice Note and explains in detail how the Council will consider applications at the screening stage of assessment for compliance with the Habitats Regulations.

2.0 Recreational pressure

Introduction

- 1.7 Tunbridge Wells borough is 4.6km from the SAC/SPA boundary at its closest. In 2010, a visitor survey of Ashdown Forest SAC/SPA was undertaken. This survey fed into Habitats Regulations Assessment ('HRA') reports of strategic documents at the time. These essentially identified a strategy broadly analogous to that devised for the Thames Basin Heaths; namely the identification of a series of zones around the SAC/SPA each of which triggered a combination of provision of alternative greenspace and improved access management. At that time, a 7km 'outer zone' for Ashdown Forest SAC/SPA was agreed with Natural England. Authorities that granted consent for development within the 7km 'zone' were required to provide a financial contribution to SANGs, and/or an access strategy (SAMM) for Ashdown Forest as well as a programme of monitoring and research. This approach was supported by Natural England and the Ashdown Forest Conservators.
- 1.8 In 2016, Footprint Ecology updated the visitor survey on behalf of the participating Councils. The survey was updated to provide comprehensive and up-to-date data on recreational use of Ashdown Forest to inform the strategic implementation of access management measures and the direction of strategic access management and monitoring; to assist in the design and ongoing management of SANGs to ensure they functionally divert recreational pressure from Ashdown Forest; and to assist local authorities in discharging their planning functions under the Habitats Regulations. That updated survey has confirmed that the 7km zone is still the appropriate core zone for delivering mitigation.
- 1.9 Therefore, the Council will continue to apply the 7km zone and, as agreed with Natural England, development within that zone will attract SAMMS and SANGs contributions as follows:
- i. Where proposed development would lead to a net increase in housing within 7km of the Ashdown Forest SAC, financial contributions will be sought to the SAMM Strategy and the provision of SANGs to mitigate the effects of increased recreational pressure on the SPA;
 - ii. In the event that no financial contributions to the SAMM strategy and SANGS provision are offered, applicants will be required to provide sufficient information to allow the Council, as competent authority, to carry out an appropriate assessment of the effects of the proposed development on the integrity of the SPA.
 - iii. Beyond the 7km zone, SAMMS and SANGS contributions and/or appropriate assessment will not generally be required but may be sought where justified on a case-by-case basis. Major¹ development adjacent or close to the 7km zone will be given particular consideration.

¹ For housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more. For non-residential development it means additional floorspace of 1,000m² or more, or a site of 1 hectare or more, or as otherwise provided in the Town and Country Planning (Development Management Procedure) (England) Order 2015.

1.10 The SAMM Strategy contribution is agreed with and set by the SAMMS Partnership. The details of the Partnership and the current tariff is set out on the Council's website on the Ashdown Forest page. The amount required for the SANGs contribution is subject to the agreement of the Local Authority in which the SANGs will be provided. An estimate is provided on the Council's Ashdown Forest webpage based on the current available information but will be subject to confirmation at the time of the application and/or Appropriate Assessment.

3.0 Air quality

Introduction

- 1.11 The protected heathland in the Ashdown Forest SAC can be harmed by exhaust emissions from vehicles on roads which pass through and adjacent to the Forest. It is clear that planning permissions for development in Tunbridge Wells borough can lead to additional vehicle movements on those key roads, thereby increasing exhaust emissions.
- 1.12 Of most concern are oxides of nitrogen (NO_x) which can lead to a harmful increase of nitrogen deposition on the protected heathland but that does not necessarily mean that all emissions will be harmful. The Council has been advised by its air quality consultants, AECOM, on the most appropriate way to consider this issue and undertaking the necessary studies.
- 1.13 The approach taken was to consider the effect of an individual application in the context of the 'in combination' effect of planned growth in all authorities around Ashdown Forest over an extended period. This is because long-term trends in air quality for vegetation are more important than short-term fluctuations. The ecological effects of nitrogen deposition are associated with persistent long-term exposure over many years. A modelling exercise was therefore undertaken to assess the air quality impacts of growth in the region as a whole over an extended period.
- 1.14 The HRA 2020 and in particular appendix 3 of the HRA Ashdown Forest Air Quality Impact Assessment set out the details of the traffic and air quality modelling that was undertaken which included a wide range of possible pollutants and the 'in-combination' planned growth within the Council's Submission Local Plan and that of other LPAs adjoining Ashdown Forest.
- 1.15 In summary, the assessment concluded that even on the roads where the 'in combination' increase in flows was expected to be greatest, there was forecast to be a net improvement in NO_x concentrations, nitrogen deposition rates and acid deposition rates by 2038, notwithstanding the 'in combination' increase in flows deriving from Lewes District, South Downs National Park, Tunbridge Wells Borough, Sevenoaks District, Wealden District, Mid-Sussex District, Tandridge District and authorities further afield. Calculations were also undertaken for intervening years between 2019 and 2038 in order to assess whether NO_x emissions in any given year would increase for any period before a decrease was observed. The modelling indicated that emission rates are projected to fall year on year for each link included in the AECOM modelling approach despite the growth in traffic projected. The interim year emissions calculations demonstrate that there are no points where the increase in traffic due to growth or the local plan offsets the improvements in emission rates over time (using conservative assumptions on improvements in emission rates). The assessment also concludes that, while the in-combination effect of planned growth in the region is likely to retard the improvement in background nitrogen deposition rates, that retardation will not be ecologically significant and will not

affect the improvement of species richness at the most affected area of heathland².

- 1.16 The AECOM analysis also concludes that ammonia concentrations at the closest areas of heathland to affected roads relevant to Tunbridge Wells (5m from the A275) are modelled to be below the relevant critical levels for protection of vegetation³.
- 1.17 For the reasons set out in the HRA 2020 the approach adopted in the AECOM model was precautionary and provides the Council with a high degree of confidence that it can rely on the results. Since a) air quality in 2038 is forecast to be significantly better than in 2017 notwithstanding the precautionary assumptions made about both growth and improvements in vehicle emissions factors, b) no significant in combination retardation of vegetation improvement at the closest and most affected areas of heathland is expected and c) the contribution of Tunbridge Wells Local Plan to the 'in combination' scenario for those nearest areas of heathland is negligible, the modelling does not provide any basis to conclude that there will be an adverse effect on the integrity of the Ashdown Forest SAC as a result of planned growth in Tunbridge Wells borough to 2038. Since no net adverse effect on integrity is forecast, no mitigation is required.

Processing individual applications

- 1.18 The air quality analysis in the HRA 2020 will be relied upon when evaluating live and future planning applications for development in Tunbridge Wells borough.
- 1.19 Unless the specific circumstances of an application require further consideration by way of an appropriate assessment, likely significant effects on the Ashdown Forest SAC will be excluded for residential and/or conventional employment development at the screening stage of assessment, provided:
- The sum total of development consented and completed in Tunbridge Wells borough between the adoption of this Practice Note and 2038 (including outstanding permissions that are not already contributing traffic to the network) is not expected significantly to exceed the new dwellings proposed within the SLP.
 - Cumulatively, the distribution of all development consented in Tunbridge Wells borough between the adoption of this Practice Note and 2038 is not significantly different from the distribution assumed in the AECOM model; and
 - Delivery rates of housing and employment growth in Tunbridge Wells borough have remained generally in line with, or below, those assumed in the AECOM model; i.e. there has not been an unexpected front-loading or anomalous peak of delivery of planned development.

² The area of SAC that will experience the greatest nitrogen deposition due to forecast traffic flows is adjacent to the A26 at Poundgate but the nearest area of heathland is 40m from the road at this point, with the intervening habitat being woodland. Woodland is a feature of the SSSI but not the SAC or SPA. In the event that a desire did emerge to establish heathland at this location in place of the woodland, the forecast deposition rates would not prevent the establishment of this habitat and deposition rates are still forecast to be lower in 2038 than is the case in 2017.

³ Considered to be $3 \mu\text{m}^{-3}$ given the absence of terricolous lichens in this location, although the model forecasts them to also be below the lower critical level for protection of lichens ($1 \mu\text{m}^{-3}$) by 5m from the roadside

1.20 The AECOM model modelled planned residential and conventional employment only. Accordingly, applications that involve other types of development beyond residential and conventional employment would always need to be evaluated on a case-by-case basis⁴ as any vehicle movements generated would be additional to that modelled by AECOM. The scale of any such development (and thus the number of vehicles likely to be added to the network) would be a material consideration in that case-by-case evaluation. Without intending to lay down fixed criteria, a development that was sufficiently small that it would make a change in flows through or adjacent to Ashdown Forest SAC of less than 10 AADT is unlikely to materially alter the air quality data reported in the HRA 2020, based on sensitivity testing of the model undertaken by AECOM. This is for two reasons:

- Firstly, daily traffic flows are not fixed numerals but fluctuate from day to day. The AADT for a given road is an annual average (specifically, the total volume of traffic for a year, divided by 365 days). It is this average number that is used in air quality modelling, but the 'true' flows on a given day will vary around this average figure. Small changes in average flow will lie well within the normal variation (known as the standard deviation or variance) and would not make a statistically significant difference in the total AADT.
- Secondly, when converted into NO_x concentrations, ammonia concentrations or nitrogen deposition rates, such small changes in AADT would only affect those decimal places that are never reported in air quality modelling to avoid false precision. For this reason, nitrogen deposition would generally not be reported to more than 2 decimal places at most (0.01kgN/ha/yr). Anything smaller would simply be reported as less than 0.01 (< 0.01) i.e. probably more than zero but too small to model with precision.

1.21 However, any significant accumulation of such developments not falling within the scope of the AECOM model would trigger the need for updated modelling. The AECOM model can be updated to include any development for which an operational/fully occupied trip generation can be provided in 24hr AADT for the relevant roads.

1.22 As a general rule, it is recommended that the Council's traffic and air quality models are referenced to evaluate any application, rather than requiring each application to undertake its own modelling. This will ensure consistency in assumptions and methodologies and avoid a proliferation of traffic and air quality models for the same geographic area. The potential exception may be for very large developments (e.g. hundreds or thousands of dwellings), or other forms of development that generate particularly large numbers of vehicle movements or unusual patterns of traffic generation for which a bespoke model is more likely to be justified.

1.23 The Council will review this Practice Note at regular intervals to ensure that it remains up to date. Such reviews will include consideration of, inter alia, whether the assumptions in the AECOM model on housing delivery rates, distribution of development, and background improvements in air quality

⁴ The exception to this is planning application 17/02262/FULL, which was specifically included in the AECOM model based on traffic generation data supplied by the applicant.

continue to reflect – in general terms - the actual (or a more precautionary) situation.