

## East Grinstead Neighbourhood Plan

### Habitats Regulations Assessment Screening Report

Produced for Regulation 14 of the Neighbourhood Planning (General) Regulations 2012

15<sup>th</sup> September 2015

#### 1.0 Introduction

- 1.1 This Habitats Regulations Assessment (HRA) screening report has been undertaken by Mid Sussex District Council in respect of the East Grinstead Neighbourhood Plan which has been produced by East Grinstead Town Council in accordance with the Neighbourhood Planning (General) Regulations 2012. This HRA screening report accompanies the East Grinstead Neighbourhood Plan produced for Regulation 14 of the Neighbourhood Planning (General) Regulations 2012.
- 1.2 The East Grinstead Neighbourhood Plan has been produced to guide development within the parish up to 2031. The Neighbourhood Plan sets out a vision for East Grinstead:
- ‘To provide for a positive future for East Grinstead that is socially inclusive for all, vibrant, economically robust and will allow residents to live with a high degree of self-sufficiency in a town with a first rate natural, built and historic environment’ (East Grinstead Neighbourhood Plan, 2015: p13).
- 1.3 If the East Grinstead Neighbourhood Plan is approved by the local community through a referendum and subsequently made by Mid Sussex District Council, it will be used in determining planning applications within the Neighbourhood Plan Area, as part of the development plan.
- 1.4 The aim of this HRA screening report is to assess whether there are any likely significant effects on European sites within relative proximity to the Neighbourhood Plan Area (Appendix 1).
- 1.5 Much of the information used for this screening report has been developed through the HRA for the Mid Sussex District Plan 2014-2031. The most recent version of this document was published in March 2015. It is considered, however, that the background information in the District Plan HRA can be used for this screening report of the East Grinstead Neighbourhood Plan and as such, this screening report should be read in conjunction with it.
- 1.6 Further detail can be found in the [HRA for the Mid Sussex District Plan](#), other [supporting documents](#) and the [District Plan](#).
- 1.7 In producing this HRA screening report, the following guidance has been taken into account:

- David Tyldesley and Associates (for Scottish Natural Heritage) (August 2012) Habitats Regulations Appraisal of Plans: Guidance for Plan-making Bodies in Scotland – Version 2.0<sup>1</sup>
- David Tyldesley and Associates (for the Countryside Council for Wales) (September 2012) Draft Guidance for Plan Making Authorities in Wales: The Appraisal of Plans Under the Habitats Directive<sup>2</sup>

It is noted that there is a different legislative framework in Scotland, however, in the absence of formal guidance for England, it is understood that Natural England has recommended the use of this guidance for Scottish Natural Heritage.

## 2.0 Legislative Background

- 2.1 The Natura 2000 network consists of sites across Europe designated for their nature conservation importance. It aims to be an ecologically coherent network of designated sites that protect threatened species and habitats. The Natura 2000 network is formed of Special Areas of Conservation for species, plants and habitats (designated under the Habitats Directive) and Special Protection Areas for bird species (classified under the Birds Directive).
- 2.2 To help protect the Natura 2000 network, there are particular requirements for plans and projects. Article 6(3) of the European Union Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (the ‘Habitats Directive’) states:

‘Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site’s conservation objectives. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public’.

The Habitats Directive is clear that an ‘appropriate assessment’ of a plan or project applies to both Special Areas of Conservation and Special Protection Areas (see also Article 7).

- 2.3 The Conservation of Habitats and Species Regulations 2010 (the ‘Habitats Regulations’) transpose the Habitats Directive and Regulation 102 provides:

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<sup>1</sup> <http://www.snh.gov.uk/planning-and-development/environmental-assessment/habitat-regulations-appraisal/>

<sup>2</sup> <http://www.ccg.gov.uk/landscape--wildlife/managing-land-and-sea/environmental-assessment/habitats-regulations-assessmen.aspx>

- (1) Where a land use plan –
- (a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and
  - (b) is not directly connected with or necessary to the management of the site, the plan-making authority for that plan must, before the plan is given effect, make an appropriate assessment of the implications for the site in view of that site's conservation objectives'.

2.4 This means that any proposed plan that may affect a European site (Special Area of Conservation or Special Protection Area) must first undergo an assessment to look at its potential impacts applying the precautionary principle. This is to determine if the plan will adversely affect the integrity of the European site(s) concerned. This process is known as a Habitats Regulations Assessment and the first stage considers any likely significant effects (the screening stage). Straightforward mitigation measures can be applied at the screening stage which may mean that previous likely significant effects can be ruled out and the plan does not need to progress to the second stage. An appropriate assessment is the second stage of the HRA process and a plan should undertake this where likely significant effects are identified at the screening stage and cannot be ruled out after applying straightforward mitigation measures. The appropriate assessment looks at the implications of a plan for a European site in view of the site's conservation objectives. Further more detailed mitigation measures may be introduced at the appropriate assessment stage to avoid or reduce the effects of a plan on the European site(s). Before a plan may be given effect, the plan-making authority as competent authority must ascertain that it would not adversely affect the integrity of the European site(s).

2.5 In terms of neighbourhood plans, the Neighbourhood Planning (General) Regulations 2012 require a submitted neighbourhood plan to include a statement explaining how the proposed neighbourhood development plan meets the basic conditions set out in paragraph 8 of Schedule 4B of the Town and Country Planning Act 1990<sup>3</sup>. One of these basic conditions is that the neighbourhood plan must be compatible with EU obligations and needs to demonstrate that it is not likely to have a significant effect on a European site.

### **3.0 European Site Information**

3.1 The first step of the screening process is to consider the European sites that could be affected by a plan. Five such sites<sup>4</sup> were identified through the District Plan HRA process, and of these, the screening for the District Plan identified likely significant effects on the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC) as a result of recreational disturbance and atmospheric pollution. Ashdown Forest lies adjacent to the north-east boundary of Mid Sussex and within Wealden District and, therefore, is not within the Neighbourhood Plan Area.

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<sup>3</sup> Regulation 15(1)(d).

<sup>4</sup> Ashdown Forest SPA, Ashdown Forest SAC, Castle Hill SAC, Lewes Downs SAC, and Mole Gap to Reigate Escarpment SAC.

- 3.2 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).
- 3.3 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 (Appendix 1). 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.
- 3.4 Further environmental details can be found in the HRA for the Mid Sussex District Plan (see Chapter 3: European Sites).

#### **4.0 Habitats Regulations Assessment for the Mid Sussex District Plan**

- 4.1 The potential effects of development on Ashdown Forest were assessed during the HRA process for the Mid Sussex District Plan. The screening exercise carried out in late 2007 and early 2008 found likely significant effects<sup>5</sup> on the Ashdown Forest SPA as a result of increased recreational activity arising from new residential development and related population growth that is likely to disturb the ground-nesting birds. Further information can be found in the HRA for the Mid Sussex District Plan (see Chapter 6: Disturbance Impact Pathways).
- 4.2 Data analysis of a survey investigating visitor access patterns at Ashdown Forest found that the majority of regular visitors originated from within a 7km distance from Ashdown Forest. Within this 7km 'zone of influence', measures to reduce recreational pressure would be most effective, therefore, residential development leading to a net increase in dwellings will need to contribute to an appropriate level of mitigation. This will be in the form of providing a Suitable Alternative Natural Greenspace (SANG), either on the development site itself or through a financial contribution towards a strategic SANG, and a separate financial contribution towards a Strategic Access Management and Monitoring (SAMM) strategy.
- 4.3 In terms of atmospheric pollution, the [Mid Sussex Transport Study](#) indicates that projected traffic increases are well below the threshold deemed as significant and, therefore, the HRA report concludes that significant effects are unlikely and no further measures are necessary. In order to promote good practice, however, the emerging District Plan contains measures to encourage sustainable transport and the requirements for avoidance and mitigation in relation to air pollution.

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<sup>5</sup> Based on current evidence, it cannot be shown that there will not be a likely significant effect, so applying the precautionary principle, the HRA considers that proposals resulting in new residential development will have a likely significant effect on Ashdown Forest.

- 4.4 Policy DP15 in the pre-submission draft Mid Sussex District Plan 2014-2031 (June 2015) outlines the proposed approach to protecting Ashdown Forest. Any residential development allocation included within the East Grinstead Neighbourhood Plan will be subject to the requirements of the District Plan policy for the Ashdown Forest SPA and SAC or the approach being implemented at the time of a planning application. It is noted that the East Grinstead Neighbourhood Plan contains a policy on Ashdown Forest (Policy EG16).
- 4.5 It should be noted that the District Plan has not yet been adopted and, therefore, the District Plan HRA has not been tested and accepted at Examination. Whilst this is the case, the District Plan HRA did consider that some housing allocations in the District would be through neighbourhood plans. The expected level of development was taken into account and as such, it is considered that the District Plan HRA can be used as background information for the HRAs of neighbourhood plans. Currently, as advised by Natural England, all planning applications proposing a net increase in residential dwellings within the 7km zone around the Ashdown Forest SPA will be required to mitigate their effects of increased recreational pressure in the form of providing two separate financial contributions towards SANG and SAMM measures. The [East Court & Ashplats Wood SANG Strategy](#) has been agreed by the District Council and a [SAMM interim mitigation strategy](#) has been approved by Natural England. The provision of mitigation will be taken into account when preparing the HRA for the neighbourhood plan.

## **5.0 Screening Assessment for the East Grinstead Neighbourhood Plan**

- 5.1 The screening assessment has regard to the conservation objectives of the Ashdown Forest SPA and SAC. It also makes reference to other plans and projects (the emerging Mid Sussex District Plan and other neighbourhood plans in Mid Sussex). Key questions relating to the neighbourhood plan are included below and along with the screening assessment, help to establish if an appropriate assessment is required.

### **5.2 Is the East Grinstead Neighbourhood Plan directly connected with, or necessary to the management of a European site for nature conservation?**

From review of the East Grinstead Neighbourhood Plan, it is considered that it is not directly connected with, or necessary to the nature conservation management of Ashdown Forest, and so a Habitats Regulations Assessment is required.

### **5.3 Does the East Grinstead Neighbourhood Plan propose new development or allocate sites for development?**

Yes – 11 sites have been allocated for residential development in Policies EG6A and EG6B. The Neighbourhood Plan allocates the following sites:

#### EG6A – sites with planning permission

1. St. Lukes House and St. Lukes Church, Holtye Avenue (14 units)
2. 1-25 Bell Hammer, Ship Street (28 units)

3. Warrenside, College Lane (14 units)

EG6B – sites which could be brought forward

4. Meadway Garage, Lowdells Lane (9 dwellings)
5. Land at junction of Windmill Lane and London Road (30-35 dwellings)
6. Imberhorne Lane Car Park (18 dwellings)
7. 67-69 Railway Approach (7 dwellings)
8. Post Office and delivery office, 76 London Road (12 dwellings)
9. Cantelupe House, Cantelupe Road (10-12 dwellings)
10. Imberhorne Lower School, Windmill Lane (200 dwellings)
11. Ashplats House, off Holtye Road (35-45 dwellings)

This amount of development is in line with the emerging Mid Sussex District Plan and is within the numbers assessed in the District Plan HRA.

**5.4 Are there any other projects or plans that together with the East Grinstead Neighbourhood Plan could impact on the integrity of a European site, the ‘in combination’ impact?**

Yes, the emerging Mid Sussex District Plan and other neighbourhood plans being produced in the District, especially those within the 7km zone. It is considered that the level of development proposed in the East Grinstead Neighbourhood Plan has been assessed as part of the housing strategy considered through the District Plan HRA.

The East Grinstead Neighbourhood Plan may also have an in combination effect with other plans being produced by local authorities that have land within the 7km zone, such as Wealden District Council, Lewes District Council and Tunbridge Wells Borough Council. It is understood though that with regards to recreational disturbance, Wealden District Council and Lewes District Council will be making provision for SANG and contributing to the wider joint SAMM strategy that is currently being prepared. Any development in Tunbridge Wells Borough only needs to make a contribution towards SAMM measures.

**Screening Assessment**

5.5 The following table illustrates the findings of the screening assessment for each of the policies within the East Grinstead Neighbourhood Plan. This assesses whether there is a likely significant effect from these policies on the Ashdown Forest SPA and SAC.

5.6 For it to be concluded that a policy would have no likely significant effect on a European site, one of the following reasons usually applies (this is taken from the guidance for Scottish Natural Heritage, p19-20):

- a) Intended to protect the natural environment, including biodiversity, or to conserve or enhance the natural, built or historic environment, where enhancement measures will not be likely to have any negative effect on a European site;

- b) Which will not themselves lead to development or other change, for example, because they relate to design or other qualitative criteria for development or other kinds of change;
- c) Which make provision for change but which could have no conceivable effect on a European site, because there is no link or pathway between them and the qualifying interests, or any effect would be a positive effect, or would not otherwise undermine the conservation objectives for the site;
- d) Which make provision for change but which could have no significant effect on a European site (but is a minor residual effect), because any potential effects would be insignificant, being so restricted or remote from the site that they would not undermine the conservation objectives for the site;
- e) For which effects on any particular European site cannot be identified, because the policy is too general, for example, it is not possible to identify where, when or how the policy may be implemented, or where effects may occur, or which sites, if any, may be affected.

<b>East Grinstead Neighbourhood Plan Policy</b>	<b>Policy</b>	<b>Comment</b>	<b>Likely Significant Effect on the Ashdown Forest SPA and SAC</b>
EG1	Protection of the High Weald AONB	This policy seeks to protect the High Weald AONB from inappropriate development.	No likely significant effect – reason a).
EG2	Areas of Development Constraint	This policy seeks to protect areas outside the built-up area boundary and prevent coalescence of settlements.	No likely significant effect – reason a).
EG3	Promoting Good Design	This policy seeks to promote good design in development proposals	No likely significant effect – reasons a) and b).
EG4	Heritage Assets	This policy seeks to protect heritage assets (listed buildings, conservation areas, ancient woodland, and AONBs).	No likely significant effect – reason a).

East Grinstead Neighbourhood Plan Policy	Policy	Comment	Likely Significant Effect on the Ashdown Forest SPA and SAC
EG5	Housing	This policy outlines criteria for new housing development, but does not allocate sites for development. It is noted that this policy requires contributions to be made towards SANG and SAMM.	No likely significant effect – reason b).
EG6A	Housing Sites that are committed via planning permissions	<p>This policy sets out three sites that already have planning permission:</p> <ol style="list-style-type: none"> <li>1. St. Lukes House and St. Lukes Church, Holtye Avenue (14 units)</li> <li>2. 1-25 Bell Hammer, Ship Street (28 units)</li> <li>3. Warrenside, College Lane (14 units)</li> </ol>	<p>Natural England has advised the District Council that new residential development within 7km of Ashdown Forest is likely to have a significant effect, alone and in combination with other housing proposals, on the special conservation features of Ashdown Forest.</p> <p>Development proposing a net increase in residential dwellings will be required to mitigate their effects of increased recreational pressure. These three planning permissions have already been assessed under the Habitats Regulations. St. Lukes House and Warrenside were granted planning permission before mitigation was required, and Bell Hammer has provided a financial contribution towards the District Council’s interim SAMM Strategy. Therefore, these three sites will not have a likely significant effect on the Ashdown Forest SPA and SAC.</p>

East Grinstead Neighbourhood Plan Policy	Policy	Comment	Likely Significant Effect on the Ashdown Forest SPA and SAC
EG6B	Housing Sites which could be brought forward	<p>This policy allocates the following sites for residential development:</p> <p>4. Meadway Garage, Lowdells Lane (9 dwellings)</p> <p>5. Land at junction of Windmill Lane and London Road (30-35 dwellings)</p> <p>6. Imberhorne Lane Car Park (18 dwellings)</p> <p>7. 67-69 Railway Approach (7 dwellings)</p> <p>8. Post Office and delivery office, 76 London Road (12 dwellings)</p> <p>9. Cantelupe House, Cantelupe Road (10-12 dwellings)</p> <p>10. Imberhorne Lower School, Windmill Lane (200 dwellings)</p> <p>11. Ashplats House, off Holtye Road (35-45 dwellings)</p>	<p>Likely significant effect – alone. Natural England has advised the District Council that new residential development within 7km of Ashdown Forest is likely to have a significant effect, alone and in combination with other housing proposals, on the special conservation features of Ashdown Forest.</p> <p>Development proposing a net increase in residential dwellings will be required to mitigate their effects of increased recreational pressure.</p>
EG7	Housing Mix and Density	This policy sets out criteria for housing mix and density on new housing schemes.	No likely significant effect – reason b).
EG8	East Grinstead Town Centre	This policy seeks to retain the character of the town centre and sets out criteria for changes of use.	No likely significant effect – reason b).
EG9	Temporary Community Uses	This policy seeks to support the temporary use of a long-term vacant commercial or retail property where a community use is provided.	No likely significant effect – reason b).

East Grinstead Neighbourhood Plan Policy	Policy	Comment	Likely Significant Effect on the Ashdown Forest SPA and SAC
EG10	Employment Provision	This policy sets out criteria for the redevelopment, extension or alteration of existing business premises.	No likely significant effect – reason b).
EG11	Mitigating Highway Impact	This policy expects new housing and business development proposals to not cause a severe cumulative impact in terms of road safety and increased congestion and provide appropriate mitigation.	No likely significant effect – reason b).
EG12	Car Parking	This policy outlines that parking provision should be in accordance with parking standards and where it does not dominate the street scene.	No likely significant effect – reason b).
EG13	Modern Technology	This policy seeks to encourage modern sustainable and communication technologies to be factored into development proposals.	No likely significant effect – reason b).
EG14	Protection of Open Space	This policy seeks to protect publicly accessible open space, green space of visual amenity or other community assets.	No likely significant effect – reason a).
EG15	Sport, Recreation and Community use Provision Policy	This policy identifies sites for children’s equipped open space, and informal open space and play space. The policy also resists proposals that would result in the loss of open space.	No likely significant effect – reasons a) and c).

East Grinstead Neighbourhood Plan Policy	Policy	Comment	Likely Significant Effect on the Ashdown Forest SPA and SAC
EG16	Ashdown Forest Special Area of Conservation and Special Protection Area	This policy requires residential development leading to a net increase in dwellings within the Neighbourhood Plan Area to provide mitigation in the form of SANG and SAMM.	No likely significant effect – reason a). This policy will have a positive effect on Ashdown Forest by requiring new residential development to mitigate its potential impact.
SS1	Railway Approach	This policy sets out criteria for the redevelopment of the site at Railway Approach, including the provision of residential development.	Likely significant effect – alone. Natural England has advised the District Council that new residential development within 7km of Ashdown Forest is likely to have a significant effect, alone and in combination with other housing proposals, on the special conservation features of Ashdown Forest. Development proposing a net increase in residential dwellings will be required to mitigate their effects of increased recreational pressure.
SS2	Queens Walk	This policy sets out criteria for the redevelopment of Queens Walk, including the provision of residential development.	Likely significant effect – alone. Natural England has advised the District Council that new residential development within 7km of Ashdown Forest is likely to have a significant effect, alone and in combination with other housing proposals, on the special conservation features of Ashdown Forest. Development proposing a net increase in residential dwellings will be required to mitigate their effects of increased recreational pressure.

East Grinstead Neighbourhood Plan Policy	Policy	Comment	Likely Significant Effect on the Ashdown Forest SPA and SAC
SS3	Imberhorne Lower School, Windmill Lane	This policy sets out criteria for the redevelopment of the site at Imberhorne Lower School, including the provision of residential development.	Likely significant effect – alone. Natural England has advised the District Council that new residential development within 7km of Ashdown Forest is likely to have a significant effect, alone and in combination with other housing proposals, on the special conservation features of Ashdown Forest. Development proposing a net increase in residential dwellings will be required to mitigate their effects of increased recreational pressure.
SS4	Birches Industrial Estate	This policy sets out criteria for the business development at Birches Industrial Estate.	No likely significant effect – reason c).
SS5	Charlwood’s Industrial Estate	This policy sets out criteria for the redevelopment of Charlwood’s Industrial Estate, including the provision of residential development.	Likely significant effect – alone. Natural England has advised the District Council that new residential development within 7km of Ashdown Forest is likely to have a significant effect, alone and in combination with other housing proposals, on the special conservation features of Ashdown Forest. Development proposing a net increase in residential dwellings will be required to mitigate their effects of increased recreational pressure.
SS6	Queen Victoria Hospital	This policy resists the loss of the hospital use and sets out criteria for new and extended facilities.	No likely significant effect – reason b).

East Grinstead Neighbourhood Plan Policy	Policy	Comment	Likely Significant Effect on the Ashdown Forest SPA and SAC
SS7	St. Margaret's Loop	This policy resists the loss of St. Margaret's Loop open space and seeks to improve the pedestrian and cycle route.	No likely significant effect – reason a).
SS8	Land South of Birches Industrial Estate and West of Imberhorne Lane	This policy supports the use of this area as public open space, recreation and amenity use, improving the green infrastructure of the Neighbourhood Plan Area. The policy considers the possibility of the site being used for SANG; any such proposal would need to accord with the Natural England SANG criteria and be subject to the approval of Mid Sussex District Council.	No likely significant effect – reason a). If this broad location is used for a SANG site, then this would have a positive effect on Ashdown Forest as it could form part of the mitigation for new residential development.

5.7 The screening assessment looks at the policies individually (alone) to identify if there is an effect on the European site. It is possible to apply straightforward mitigation measures to the plan if there are any policies likely to have a significant effect alone (in this case, Policies EG6A, EG6B, SS1, SS2, SS3 and SS5 which seek to allocate land for housing), and then re-screen the policy to see if it can then be determined no likely significant effect. Examples of straightforward mitigation include the deletion of the policy, alteration of the spatial distribution of the potentially damaging proposal or reduction in the scale of the potentially damaging proposal. It is considered, however, that the type of mitigation proposed by the District Plan HRA (that is, SANG and SAMM) is more complex and bespoke and, therefore, EG6B, SS1, SS2, SS3 and SS5 should be tested through the next stage, the appropriate assessment. (The sites listed in EG6A already have planning permission and have been assessed under the Habitats Regulations, providing mitigation where appropriate).

5.8 No other policies in the East Grinstead Neighbourhood Plan were found to have a likely significant effect alone on the Ashdown Forest SPA, nor have any policies been given reason d) (minor residual effect). There is, therefore, no in-plan in combination effect (that is, there is unlikely to be an in combination effect from the policies and proposals in the Neighbourhood Plan), and any wider in combination effect with other plans will be considered through the appropriate assessment.

## 6.0 Conclusion of the Screening Assessment

- 6.1 The screening assessment table above shows that there would be no likely significant effects on the Ashdown Forest SPA and SAC from the majority of the policies included within the East Grinstead Neighbourhood Plan. The development proposed in EG6B, SS1, SS2, SS3 and SS5 may have a likely significant effect alone since it is within 7km of the Ashdown Forest SPA. The East Grinstead Neighbourhood Plan also has a policy (Policy EG16) on Ashdown Forest and identifies a broad location that could be used for SANG (Policy SS8) subject to further more detailed work.
- 6.2 A full HRA (that is, the appropriate assessment stage that ascertains the effect on integrity of the European site) of the East Grinstead Neighbourhood Plan is required as the impacts from the development proposed in the East Grinstead Neighbourhood Plan need to be fully considered.



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Date: 15<sup>th</sup> September 2015

**Appendix 1: The East Grinstead Neighbourhood Plan Area in relation to the Ashdown Forest Special Protection Area and Special Area of Conservation**

