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| Fittleworth Neighbourhood PlanHabitat Regulations Assessment South Downs National Park Authority   March 2017 |

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# Introduction

## Background to the Project

AECOM was appointed by South Downs National Park Authority to assist in undertaking a Habitats Regulations Assessment (HRA) of the Fittleworth Neighbourhood Plan (hereafter referred to as the Neighbourhood Plan or the ‘Plan’) produced by Fittleworth Parish Council. The objectives of the assessment were to:

* Identify any aspects of the Neighbourhood Plan that would cause a likely significant effect on Natura 2000 sites, otherwise known as European sites (Special Areas of Conservation (SACs), Special Protection Areas (SPAs) and, as a matter of Government policy, Ramsar sites), either in isolation or in combination with other plans and projects; and
* To advise on appropriate policy mechanisms for delivering mitigation where such effects were identified.

## Legislation

The need for Habitats Regulations Assessment is set out within Article 6 of the EC Habitats Directive 1992, and interpreted into British law by the Conservation of Habitats and Species Regulations 2010. The ultimate aim of the Directive is to “*maintain or restore, at favourable conservation status, natural habitats and species of wild fauna and flora of Community interest”* (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 favourable conservation status.

The Habitats Directive applies the precautionary principle to European sites. Plans and projects can only be permitted having ascertained that there will be no adverse effect on the integrity of the site(s) in question. Plans and projects with predicted adverse impacts on European sites may still be permitted if there are no alternatives to them and there are Imperative Reasons of Overriding Public Interest (IROPI) as to why they should go ahead. In such cases, compensation would be necessary to ensure the overall integrity of the site network.

In order to ascertain whether or not site integrity will be affected, a Habitats Regulations Assessment should be undertaken of the plan or project in question:

**Box 1: The legislative basis for Appropriate Assessment**

**Habitats Directive 1992**

Article 6 (3) states that:

*“Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives.”*

**Conservation of Habitats and Species Regulations 2010 (as amended)**

The Regulations state that:

“*A competent authority, before deciding to … give any consent for a plan or project which is likely to have a significant effect on a European site … shall make an appropriate assessment of the implications for the site in view of that sites conservation objectives… The authority shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site*”.

Over the years the phrase ‘Habitats Regulations Assessment’ has come into wide currency to describe the overall process set out in the Conservation of Habitats and Species Regulations from screening through to IROPI. This has arisen in order to distinguish the process from the individual stage described in the law as an ‘appropriate assessment’. Throughout this report we use the term Habitats Regulations Assessment for the overall process.

## Scope of the Project

There is no pre-defined guidance that dictates the physical scope of a HRA of a Neighbourhood Plan. Therefore, in considering the physical scope of the assessment, we were guided primarily by the identified impact pathways rather than by arbitrary ‘zones’. Current guidance suggests that the following European sites be included in the scope of 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’.

Briefly defined, pathways are routes by which a change in activity within the Neighbourhood Plan area can lead to an effect upon a Europeansite. In terms of the second category of Europeansite listed above, guidance from the former Department of Communities and Local Government states that the HRA should be ‘*proportionate to the geographical scope of the* [plan policy]’ and that ‘*an AA need not be done in any more detail, or using more resources, than is useful for its purpose’* (CLG, 2006, p.6). More recently, the Court of Appeal[[1]](#footnote-1) ruled that providing the Council (competent authority) was duly satisfied that necessary mitigation could be ‘*achieved in practice’* to ensure that the proposed development would have no adverse effect, then this would suffice. This ruling has since been applied to a planning permission[[2]](#footnote-2). In this case the High Court ruled that for ‘*a multistage process, so long as there is sufficient information at any particular stage to enable the authority to be satisfied that the proposed mitigation can be achieved in practice it is not necessary for all matters concerning mitigation to be fully resolved before a decision maker is able to conclude that a development will satisfy the requirements of the Habitats Regulations’*.

There is one European designated site located within the area covered by the Fittleworth Neighbourhood Plan: The Mens SAC. Ebernoe Common SAC is located 7km for the area covered by the Fittleworth Neighbourhood Plan and is designated for its maternity colonies of barbastelle (*Barbastellus barbastellus*) bats and Bechstein’s bats (*Myotis bechsteinii*) Arun Valley SAC/SPA and Ramsar site is located 2-3km from the Neighbourhood Plan area, mostly on the opposite side of the River Arun, and is designated for populations of whirlpool ram’s-horn snail and Bewick’s swan as well as for generally supporting large numbers of over-wintering waterfowl. Duncton to Bignor Escarpment SAC is also with 5km of the Neighbourhood plan boundary and is designated for its beech forest which is also unlikely to be impacted by Neighbourhood Plan development. The location of the Neighbourhood Plan area and European designated sites are illustrated in Appendix A.

No other European designated sites are located within 5km of the Neighbourhood Plan area.

The Neighbourhood Plan does not exist in isolation but constitutes the latest (but not final) stage of a multi-tier process, with the higher (i.e. more strategic) tier constituting the emerging South Downs Local Plan (due for submission to the Secretary of State in the first quarter of 2018) and the lower tier consisting of individual planning applications. The draft Local Plan already has an HRA that examines strategic issues (i.e. from the totality of growth in the National Park) on European sites such as Arun Valley SAC/SPA/Ramsar site and The Mens SAC) and identified that the level of development intended for the National Park Authority as a whole could be delivered without adverse effects on the integrity of European sites, subject to the implementation of some strategic policy safeguards. The Neighbourhood Plan HRA does not therefore need to reinvestigate those strategic issues since it must be in general conformity with the Local Plan and an emerging Local Plan, even if not yet adopted, is still a material consideration in planning. These strategic issues will continue to be explored, and addressed as necessary, through the Local Plan HRA process.

However, the Neighbourhood Plan does need to consider whether it contains policies or allocations that potentially raise impacts that would not be identified at the Local Plan level. In this case, it is considered that the only potential for such an impact arises through the allocation of three specific potential development sites in the Neighbourhood Plan, which are all located within relatively close proximity to The Mens SAC and Ebernoe Common SAC. Therefore, this report focusses on potential impacts of those allocations on those European sites.

## This Report

Chapter 2 of this report explains the process by which the HRA has been carried out. Chapter 3 details the features for which the European designated sites are designated and identifies potential environmental vulnerabilities. Chapter 4 is the screening assessment of the policies within the Neighbourhood Plan, and identifies policies that have been screened in for further consideration. Impact pathways and likely significant effects resulting from the Neighbourhood Plan are discussed in Chapter 5, including recommended changes. In-combination assessment is undertaken in Chapter 6, with key findings summarised in Chapter 7: Conclusions. Appendix A, Figure A1 illustrates the location of internationally designated sites in relation to the Fittleworth Neighbourhood Plan area.

# Methodology

## Introduction

The HRA has been carried out in the continuing absence of formal central Government guidance, although general EC guidance on HRA does exist[[3]](#footnote-3). The former Department for Communities and Local Government released a consultation paper on the Appropriate Assessment of Plans in 2006[[4]](#footnote-4). As yet, no further formal guidance has emerged. However, Natural England has produced its own internal guidance[[5]](#footnote-5) as has the RSPB[[6]](#footnote-6) and at least one private consultancy. All of these have been referred to alongside the guidance outlined in Section 1.2 in undertaking this HRA. Figure 1 below outlines the stages of HRA according to current draft CLG guidance. The stages are essentially iterative, being revisited as necessary in response to more detailed information, recommendations and any relevant changes to the plan until no significant adverse effects remain.

**HRA Task 1**: Likely significant effects (‘screening’) –identifying whether a plan is ‘likely to have a significant effect’ on a European site

**HRA Task 2**: Ascertaining the effect on site integrity – assessing the effects of the plan on the conservation objectives of any European sites ‘screened in’ during HRA Task 1

**HRA Task 3:** Mitigation measures and alternative solutions – where adverse effects are identified at HRA Task 2, the plan should be altered until adverse effects are cancelled out fully

**Evidence Gathering** – collecting information on relevant European sites, their conservation objectives and characteristics and other plans or projects.

Figure 1: Four Stage Approach to Habitats Regulations Assessment. Source CLG, 2006.

## HRA Task 1 – Likely Significant Effects (LSE)

Following evidence gathering, the first stage of any Habitats Regulations Assessment is a Likely Significant Effect (LSE) test - essentially a risk assessment to decide whether the full subsequent stage known as Appropriate Assessment is required. The essential question is:

”*Is the Plan, either alone or in combination with other relevant projects and plans, likely to result in a significant effect upon European sites?”*

The objective is to ‘screen out’ those plans and projects that can, without any detailed appraisal, be said to be unlikely to result in significant adverse effects upon European sites, usually because there is no mechanism for an adverse interaction with European sites. This stage is undertaken in Chapter 5 of this report.

In evaluating significance, AECOM have relied on our professional judgement as well as the results of previous stakeholder consultation regarding development impacts on the European sites listed in Section 1.3.

The level of detail in land use plans concerning developments that will be permitted under the plans will never be sufficient to make a detailed quantification of adverse effects. Therefore, we have again taken a precautionary approach (in the absence of more precise data) assuming as the default position that if an adverse effect cannot be confidently ruled out, avoidance or mitigation measures must be provided. This is in line with the former Department of Communities and Local Government guidance that the level of detail of the assessment, whilst meeting the relevant requirements of the Habitats Regulations, should be ‘appropriate’ to the level of plan or project that it addresses (see Appendix B for a summary of this ‘tiering’ of assessment).

Case law has confirmed that it is entirely acceptable for an HRA Likely Significant Effect test (aka screening) to give consideration to mitigation measures (or, with regard to a plan, the policy mechanisms to deliver such measures) in forming a view on likely significant effects.

## Other Plans and Projects That May Act in Combination

It is a requirement of the Regulations that the impacts of any land use plan being assessed are not considered in isolation but in combination with other plans and projects that may also be affecting the European site(s) in question.

For the purposes of this assessment we have determined that, due to the nature of the identified impacts, the key other plans and project with potential for in combination likely significant effects are those schemes that can result in the fragmentation, loss and/or disturbance of commuting routes and foraging areas for maternity colonies of barbastelle bats within the Mens SAC.

When undertaking this part of the assessment it is essential to bear in mind the principal intention behind the legislation i.e. to ensure that those projects or plans which in themselves have minor impacts are not simply dismissed on that basis, but are evaluated for any cumulative contribution they may make to an overall significant effect. In practice, in combination assessment is therefore of greatest relevance when the plan would otherwise be screened out because its individual contribution is inconsequential.

As discussed earlier in this document, the HRA for the over-arching Local Plan for the South Downs National Park considers the impacts of the totality of development in the National Park as well as ‘in combination’ with Local Plans of surrounding authorities. The Local Plan is the appropriate scale to undertake such an assessment and that is thus not repeated or duplicated in this HRA.

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# European Designated Sites, Interest Features and Conservation Objectives

## The Mens SAC

### Introduction

The Mens SAC is approximately 203.28 hectares in size and is comprised of an extensive area of mature beech (*Fagus sylvatica*) woodland. The Mens SAC supports one of the largest tracts of Atlantic acidophilous beech forests in the south-east. The woodland is important for its size and structural diversity and the woodland habitat supports lichens, bryophytes, fungi and dead wood invertebrates. The Mens has one of the richest lichen flora in the south-east. The Mens SSSI is also a component of the SAC. The site supports important populations of barbastelle bat (*Barbastella barbastellus*).

### Reasons for Designation

The site is designated as an SAC for the following features;

* Atlantic acidophilous beech forests with *Ilex* and sometimes also *Taxus* in the shrub layer (*Quercion robori-petraeae or Ilici-Fagenion*). (Beech forests on acid soils);
* Barbastelle bats (*Barbastella barbastellus*).

### Potential Environmental Vulnerabilities

* Fragmentation, loss and disturbance of commuting routes and foraging areas for barbastelle bats; and
* Recreational pressure to beech forests.

### Conservation Objectives[[7]](#footnote-7)

With regard to the SAC and the natural habitats and/or species for which the site has been designated (the ‘Qualifying Features’, listed in Section 3.1.2), and subject to natural change, the following conservation objectives apply;

* 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.

## Ebernoe Common SAC

### Introduction

Ebernoe Common is approximately 234.05 hectares in size and has an extensive block of beech (*Fagus sylvatica*) high forest and areas of former wood-pasture with rich epiphytic lichen flora. Ebernoe Common supports a maternity colony of Barbastelle bats and holds a maternity colony of Bechstein’s bats (*Myotis bechsteinii*).

### Reasons for Designation

The site is designated as an SAC for the following features;

* Atlantic acidophilous beech forests with Ilex and sometimes also Taxus in the shrub layer (Quercion robori-petraeae or Ilici-Fagenion). (Beech forests on acid soils);
* Barbastelle bats (Barbastella barbastellus).
* Bechstein’s bat (Myotis bechsteinii)

### Potential Environmental Vulnerabilities

* Fragmentation, loss and disturbance of commuting routes and foraging areas for barbastelle bats.

### Conservation Objectives[[8]](#footnote-8)

With regard to the SAC and the natural habitats and/or species for which the site has been designated (the ‘Qualifying Features’, listed in Section 3.1.2), and subject to natural change, the following conservation objectives apply;

* 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.

# HRA Screening of the Fittleworth Neighbourhood Plan

Following the analysis of the draft Fittleworth Neighbourhood Plan, Table 1 provides a HRA screening assessment of the policies included. Green shading in the final column indicates that the policy has been screened out from further consideration due to the absence of any mechanism for an adverse effect on designated sites. Orange shading indicated that further assessment is required since a pathway of impact potentially exists that cannot be screened out at this point.

Table 1. Screening of Neighbourhood Plan Policies

|  |  |  |
| --- | --- | --- |
| Policy | Policy Description | HRA Implications |
| Policy FITT1 – Landscape Character | Development proposals which conserve and enhance the landscape character of Fittleworth parish and comply with all other relevant policies will be permitted. It should be clearly demonstrated that development proposals have had regard to:a) The key characteristics, sensitivities and development and management considerations for the landscape character area in which the development is located as set out in the South Downs Integrated Landscape Character Assessment: b) The retention and reinforcement where appropriate of natural, cultural and historic landscape features on the site such as trees, hedgerows and topography;c) Safeguarding important local views such as those from Hesworth Common and from publically accessible areas and public rights of way;d) Conserving and enhancing the tranquillity of Fittleworth, particularly in the north west and south east of the parish;e) Conserving and enhancing the intrinsically dark night skies of Fittleworth. | No HRA implications.This is a development management policy relating to protected landscapes and the protection of the countryside from inappropriate development. It does not identify any location, type or quantum of development.There are no impact pathways present |
| Policy FITT2 – Biodiversity  | Fittleworth offers an interesting range of habitats for wildlife including the internationally recognised SAC at the Mens to the north of the parish. * Development proposals which conserve and enhance the biodiversity of Fittleworth and comply with all other relevant policies will be permitted. It should be clearly demonstrated that development proposals have had regard to:
* a) The requirements of the Habitats Regulations, in particular the need to carry out an ‘Appropriate Assessment’ where development is likely to have a significant effect on the integrity of The Mens Special Area of Conservation, Hesworth and Fittleworth Commons;
* b) The requirement to carry out an Ecological Impact Assessment if the proposal affects a SSSI or a SNCI;
* c) The need to protect and take opportunities to enhance the biodiversity of Fittleworth.

Development proposals on greenfield sites and sites which support or are in close proximity to protected species will be required to incorporate necessary surveys and ensure that National and SDNPA guidelines are followed in full. | No HRA implications.This is a development management policy relating to the conservation of biodiversity within the parish. It states that development will only be acceptable if it can be demonstrated that there will be no detrimental effects on biodiversity and designated sites. It does not identify any location, type or quantum of development.There are no impact pathways present.It does, however, present a core policy for ensuring that development in the Fittleworth area is delivered without an adverse effect by underlining the risk such development poses to The Mens SAC and the legal obligation to examine potential effects.In addition to this policy wording, Page 9 of the Neighbourhood Plan expands on this matter by explaining the importance of The Mens SAC and providing the following guidance to developers in the Neighbourhood Plan Area: ‘*Development proposals on greenfield sites and sites that support or are in close proximity to suitable commuting and foraging habitat (including mature vegetative linear features such as woodlands, hedgerows, riverine and wetland habitats) within 7km of the Mens Special Area of Conservation should have due regard to the possibility that barbastelle and Bechstein bats will be utilising the site and will be required to incorporate necessary surveys and ensure that key features (foraging habitat and commuting routes) are retained, in addition to a suitable buffer to safeguard against disturbance. This will ensure no loss or severance of existing commuting and foraging routes occurs either from direct land take or disturbances from lighting, noise and vibrations both during construction and operational phase of any development’.* This essentially mirrors the approach the Local Plan is taking to the same issue. |
| Policy FITT3 – Water Management  | All new developments will need to demonstrate that there is a surface water management plan that shows that the risk of flooding both on and off site is minimised and managed. Proposals which seek to manage and improve the drainage function, water quality and biodiversity of the River Rother, the River Arun, the Fleet Stream and other local watercourses will be supported.  | No HRA implications.This is a development management policy relating to developments within potential flood risk zones, and flood prevention.There are no impact pathways present. |
| Policy FITT4 – Built Heritage | The sustainable re-use, maintenance and repair of listed buildings and other heritage assets will be supported where the intrinsic character and historic value of the asset is conserved and enhanced. Parts of Fittleworth village lie within a Conservation Area and there are two other Conservation Areas in the parish; namely Coates Conservation area and Little Bognor Conservation Area. The Conservation Areas in particular but not exclusively, contain numerous Listed Buildings. Across the parish there are 89 Listed, including two Grade I Listed Buildings; the Church of St Agatha at Coates and the Church of St Mary within Fittleworth village. Finally, Fittleworth Bridge is a Scheduled Ancient Monument.  | No HRA implications.This is a development management policy relating to the heritage character of the area, and the protection of heritage buildings and ancient monuments.There are no impact pathways. |
| Policy FITT5 – Design of New Development | Development proposals will contribute to the high quality built and natural environment of Fittleworth parish by having regard to the form, layout, architectural style and materials of the parish’s vernacular architecture. Careful innovation in design and modern reinterpretations of historic designs are supported. Design principles for new development and alterations to existing buildings will demonstrate:• That the scale of development is suitable for its location;• That the density is in keeping with the surrounding development and reflects the need for smaller units of accommodation to meet local needs;• That adequate circulation and parking spaces together with private and secure gardens for each unit are incorporated within the development to enable ease of movement benefit existing and future residents and provide safe play areas for children without undue supervision;• That connectivity exists or is improved, particularly by foot and/or public transport from the development to nearby facilities; • That the boundary treatment around individual plots clearly defines public and private spaces, is appropriate to Fittleworth, and is not suburban in character;• That traditional materials will be used such as locally sourced or second-hand sandstone, brick, wood and clay tiles;• That sustainable construction methods will be used that minimise the use of resources during construction and the lifetime of the building; and• That the development will contribute to and be compatible with local fibre or internet connectivity.  | No HRA implications.This is a development management policy relating to the design principles for new development and alterations to existing buildings.There are no impact pathways.  |
| FITT6 – New Community Shop | * A site adjacent to the Fittleworth Village Hall is allocated for a new community shop, subject to the development principles outlined below:
* a) The existing play area will be replaced by one of equivalent or better size and quality elsewhere on the recreation ground before the existing facility is removed;
* b) Parking will be provided in the village Hall car park but it is hoped that being in the centre of the settlement area that shop users will walk to the shop.
 | Potential HRA implications.This policy provides details of a site allocated for a community shop.Potential impact pathways present include:* Fragmentation or disturbance of commuting routes and foraging areas of barbastelle bats.
 |
| FITT7 – Extensions to Existing Dwellings | * The extension of existing dwellings beyond what is allowed by permitted development rights will be permitted provided that:
* a) It complies with other relevant policies;
* b) It does not result in the loss of a small dwelling (defined as under 100 square metres); and

c) It does not increase the floorspace of the dwelling by more than 30%. | No HRA implications.This is a development management policy relating to the extension of existing dwellings. It does not identify any location, type or quantum of development and specifically states that other relevant policies (such as FITT2) must be complied with.There are therefore no impact pathways present |
| FITT8 – New Housing Development  | * New housing development within the settlement boundary of Fittleworth that complies with all other relevant policies will be supported provided that:
* a. The development is located where there is easy access to public transport and pedestrian access to and within the settlement area and opportunities are taken where appropriate to mitigate the impact of the development on the local transport network, and provide a safe access point onto the highway; and
* b. The development includes a range of homes that respond to peoples’ needs both now and in the future including a percentage and tenure of affordable housing that complies with the relevant development plan policies and is secured for occupation in perpetuity by people with a local connection to Fittleworth.

New housing development outside of the settlement boundary of Fittleworth will not normally be permitted unless it is demonstrated that it is necessary for the purposes of agriculture, horticulture, forestry or another use that requires a rural location. | No HRA Implications.This is a development management policy relating to the development boundaries and locations of development within the settlement boundary of Fittleworth. It state that a certain percentage of new housing should comprise of affordable housing. It does not identify any location, type or quantum of development.There are no impact pathways present. |
| FITT9 – Sites Allocated for Housing Development  | A number of sites to be allocated for housing have been identified by local residents, the Neighbourhood Development Plan Steering Group and the South Downs National Park Authority.The following sites are allocated for housing development, as shown on the Policies Map, subject to the development principles outlined below (rejected sites are discussed at Appendix 9):**Greatpin Croft** (site CH031). This was an area developed for social housing between the 1930s and 1950s. A number of units have been sold under the “right to buy” legislation, but much of the area is still owned by the successor to the Chichester District Council, Hyde Housing Association. While no sites are currently available for the development of 6 or more units we anticipate that windfall sites will become available.If sites do become available the following rules should apply: i) All the dwellings are affordable housing and secured for occupation in perpetuity by people with a local connection to Fittleworth; andii) The type and tenure of the housing reflects local need, in particular for one and two bedroom dwellings.**Fleet Cottage** (CH032) is allocated for about 6 homes provided that:i) The settlement area to which this site abuts is extended to incorporate this site.ii)Appropriate contributions are secured towards the provision of affordable housing elsewhere in the village in accordance with Development Plan policiesiii)The type and tenure of the housing reflects local need, in particular for one and two bedroom dwellings;iv)Development is predominantly arranged to allow only one entry and exit point for cars onto the A283 whilst a buffer area of land is used to reduce the visual impact from Fittleworth Common and the impact on adjacent properties to the east and west is adequately mitigated; andv) Appropriate measures are taken to manage the speed of traffic entering the village on the A283 from the east, including widening and improving the footway on the southern side of the road linking the site to village facilities.vi) Each unit incorporates a private and secure garden area .**Land at corner of Limbourne Lane/The Fleet** (CH033) is allocated for about up to 12 homes provided that:i)At least 40% of the units (i.e. 5 homes) are affordable housing and secured for occupation in perpetuity by people with a local connection to Fittleworth;* ii)The type and tenure of the housing reflects local need, in particular for family dwellings;
* iii)The development is designed to minimise impact on the trees and other vegetation on the site and its visual impact on this sensitive site is adequately mitigated;
* iv)It is demonstrated that surface water and ground water on the site can be adequately managed and will not cause flooding further down the Fleet Stream; and
* v)Appropriate measures are taken to manage the speed of traffic entering the village on the A283.
* vi)Each unit incorporate a private and secure garden area
* vii)Safe vehicle access to the A283 and pedestrian access to the bus stop and village facilities must be provided.

The justification of inclusion of this site are that it is potentially available, will be incorporated within the settlement area, is on a public transport route, and is in close proximity to village community facilities.A  | Potential HRA implications.This policy provides details of the sites allocated for new dwellings within the Plan area during the Plan period at a number of allocated sites and windfall sites. Identified sites are:* Greatpin Croft;
* Fleet Cottage; and
* Land at corner of Limbourne Lane/The Fleet.

Potential impact pathways present are:* Fragmentation or disturbance of commuting routes and foraging areas of barbastelle bats; and
 |

Having established that policy FITT6 and FITT9 need to be the main focus of the HRA, a fuller screening assessment is undertaken in the following chapter.

# Likely Significant Effects Test

## Fragmentation, loss and disturbance of commuting routes and foraging areas for barbastelle bats

The Fittleworth Neighbourhood Plan Area includes a section of The Mens SAC within the northern part of the parish. The SAC is partly designated for its population of barbastelle bats, and supports a maternity roost site with 17 barbastelle roosts being recorded in 2008 (Greenaway, 2008). Barbastelle bats regularly travel through the South Downs between feeding sites and their roosts via a network of establish flight paths. Bechstein’s bats generally remain close to their roosts (within c. 1.5km) but barbastelle bats forage over a wide area; for example one barbastelle bat has been recorded foraging approximately 10km from its roost in a recent radio-tracking study for the South Downs Barbastelle Project (Brennan, 2016).[[9]](#footnote-9)

Therefore linear features are required for the bats to move through the landscape. Barbastelle bats are also sensitive to light, and will actively avoid lit areas. Interruption of a flight path by light disturbance, as with physical removal or obstruction would force bats to find an alternative route and incur an additional energy burden, threatening the viability of the bat colony.

Barbastelle bats utilise old meadows, hedgerows and woodlands as well as rivers and streams for foraging habitat and have flight lines that follow these natural features.

A series of radio-tracking studies have been undertaken to identify core foraging areas within and around the Mens SAC and Ebernoe Common SAC[[10]](#footnote-10) [[11]](#footnote-11). Breeding females from colonies with the Mens SAC and Ebernoe Common SAC were radio tagged and tracked to track roost locations, flight lines and foraging areas.

The results of these studies revealed that barbastelle bats at Ebernoe Common SAC had directional flight lines that followed watercourses, specifically the River Kird and woodland cover for distances up to 10.46km. Out of the 20 barbastelle bats radio tagged the 75th percentile has been calculated which shows the distance within which ¾ of all bat activity was recorded. This distance gives a fair indication of the extent of the zone of likely greatest importance to the sustenance of the bat populations by preventing the data from being distorted by outliers. The 75th percentile of distances travelled the barbastelle bat population in order to reach productive forage areas at Ebernoe Common SAC was found to be 7km from roost sites.

The studies also revealed that barbastelles of The Mens SAC were found to follow flightlines towards the east of the SAC. The greatest distance travelled by one individual barbastelle bat from The Mens colony was 11.98km. The 75th percentile of distances travelled by the 18 barbastelle bas radio tagged was 9km. This data suggests that any development within 9km of The Mens SAC and 7km of Ebernoe SAC has the potential to cause significant adverse effects to barbastelle flight lines and/or foraging areas either through direct loss of habitat or through disturbances during construction and operational phases of development.

That is not to say that features outside these zones are unimportant for barbastelles in the National Park (since radio tracking indicates that some individuals do venture further at least occasionally) but it provides a frame of reference to identify the zone within which loss of suitable features is very likely to negatively affect the SAC.

The following Neighbourhood Plan policies have the potential to provide for new residential development, thus linking the Neighbourhood Plan to this impact pathway:

* Policy FITT6: New Community Shop
* Policy FITT9: Sites Allocated for Housing Development

### Policy FITT6: New community Shop

Policy FITT6 includes a site adjacent to the existing Village hall which is allocated for a new community shop. Protective mechanisms are in place to ensure survey of this site at the project stage as follows:

* Policy FITT1 – Landscape character of the Fittleworth Neighbourhood Plan states that “*Development proposals which conserve and enhance the landscape character of Fittleworth parish and comply with all other relevant policies will be permitted. It should be clearly demonstrated that development proposals have had regard to…b) The retention and reinforcement where appropriate of natural, cultural and historic landscape features on the site such as trees, hedgerows and topography…”*
* Policy FITT2 – Biodiversity, gives protection to barbastelle bats and their habitats and states that developments must “*protect and take opportunities to enhance the biodiversity of Fittleworth*.”

The Fittleworth Village Hall is situated adjacent to Fittleworth Common, an area representing the BAP Priority habitat deciduous woodland. Deciduous woodland is an important foraging habitat for barbastelle bats and Fittleworth Common is approximately 2.6km from The Mens SAC and thus lies well within the commuting range of barbastelle bats.[[12]](#footnote-12) Any development that has potential to impact existing mature vegetation lines, including light and sound/ vibration pollution, has potential to impact upon the commuting and foraging routes of barbastelle bats for which the Mens SAC is designated.

The site itself is situated adjacent to several residential dwellings and the community shop will utilise the current parking facilities at the Village Hall. Based on the information available at this stage of the planning process it is unlikely to provide foraging habitat or the linear features required for commuting routes.

 To support a planning application, a suitably qualified ecologist will be required to visit the site and assess the existing (and likely) barbastelle bat habitat.

To protect the woodland as part of the detailed design for any planning application, it is considered that any new outside lighting should be designed so that any light spill on the woodland is limited to no greater than 0.5 lux.

However, given the quantum and nature of the site, it is considered that the development could be delivered without a likely significant effect on the SAC provided the aforementioned polices FITT1 and FITT2 of the Neighbourhood Plan are applied.

### Policy FITT9: Sites Allocated for Housing Development

The following sites have been allocated for housing development:

* Greatpin Croft;
* Fleet Cottage; and
* Land at corner of Limbourne Lane/The Fleet.

The Fittleworth Neighbourhood Plan contains three policies that provide some form of protection for internationally designated sites and the species for which the site is classified:

* Objective 1: *To conserve and enhance the local environment, taking opportunities to enhance the local landscape, ecology and heritage and incorporate measures to reduce the risk of flooding, or other damage to the environment.*
* Policy FITT1 – Landscape character of the Fittleworth Neighbourhood Plan states that “*Development proposals which conserve and enhance the landscape character of Fittleworth parish and comply with all other relevant policies will be permitted. It should be clearly demonstrated that development proposals have had regard to…b) The retention and reinforcement where appropriate of natural, cultural and historic landscape features on the site such as trees, hedgerows and topography…”*
* Policy FITT2 – Biodiversity, gives protection to barbastelle bats and their habitats and states that developments must “*protect and take opportunities to enhance the biodiversity of Fittleworth*.” This policy also states that “*Development proposals on greenfield sites and sites which support or are in close proximity to protected species will be required to incorporate necessary surveys and ensure that National and SDNPA guidelines are followed in full*.”

The Fittleworth Neighbourhood Plan also states that ‘*Development proposals on greenfield sites and sites that support or are in close proximity to suitable commuting and foraging habitat (including mature vegetative linear features such as woodlands, hedgerows, riverine and wetland habitats) within 7km of the Mens Special Area of Conservation should have due regard to the possibility that barbastelle and Bechstein bats will be utilising the site and will be required to incorporate necessary surveys and ensure that key features (foraging habitat and commuting routes) are retained, in addition to a suitable buffer to safeguard against disturbance. This will ensure no loss or severance of existing commuting and foraging routes occurs either from direct land take or disturbances from lighting, noise and vibrations both during construction and operational phase of any development.*’

All three allocated sites lie well within the travelling range for foraging areas for barbastelle bats and without appropriate design could have a significant effect on the integrity of the Mens SAC if they affected commuting routes or foraging habitat (including by inappropriate illumination). Each site is considered below with recommendations for these sites made based on information gathered from freely available aerial imagery and mapping, Sussex Wildlife Trust[[13]](#footnote-13) and the data obtained from radio-tracking surveys.

Greatpin Croft

Greatpin Croft, a previously developed site, may become available for windfall development. The site is located 115m from Hesworth Common, an area of BAP Priority habitat of deciduous woodland. Based on the information available the development site itself is unlikely to provide foraging habitat or the linear features required for commuting routes, but it is surrounded by a network of connecting hedgerows and trees which may provide flight paths for foraging barbastelle bats, including at the western boundary of the site. Consequently development has the potential to cause potential disturbance during construction and operational phases through either loss of connecting hedgerows or treelines, or through inappropriate illumination of those features.

a suitably qualified ecologist will be required to visit the sites and assess the site and adjacent tree line for and suitability to provide connectivity to foraging areas that could potentially be utilised by barbastelle bats.

Appropriate lighting design should be put in place as part of the development in line with Policies FITT1 and FITT2 in order to prevent significant effects on the integrity of the Mens SAC through excessive light spill and no loss of boundary features.

Given that the majority of site itself is existing hardstanding and buildings which will potentially be re-developed, and this will be the focus of new housing, it is considered that development could be delivered without a likely significant effect on the SAC provided the aforementioned policies in the Neighbourhood Plan are applied.

Land at corner of Limbourne Lane

The Land at the corner of Limbourne Lane is proposed for the development of 12 new homes. The site is situated adjacent to Limbourne Hill which is a BAP Priority Habitat of deciduous woodland. Deciduous woodland can provide sustenance for barbastelle bats and within commuting range of the population of barbastelle bats that the Mens SAC supports. The majority of the site is comprised of an open grassland field. The margins of the site are surrounded by a network of hedgerows which provides a linear feature which could be utilised as a connecting flight path by barbastelle bats into forage area.

As bats are mobile beyond the designated site boundary of the Mens SAC it is possible that development ion this site may have an impact on the species populations for which the European sites are designated by causing fragmentation and isolation. Consequently the site has the potential to result in likely significant effects upon the barbastelle bats of The Mens SAC via direct habitat loss of linear features used for flight paths or disturbances from lighting both during construction and operational phases of development. As such, care will need to be taken during detailed design to ensure that artificial lighting does not illuminate these surrounding hedgerows and treelines above 0.5 lux.

Mature hedgerows and treelines surrounding the site should be preserved where possible. Since these features form the boundary of the site this should be achievable. Where loss of foraging habitat is unavoidable, avoidance and mitigation should be considered. A suitably qualified ecologist will be required to visit the site and assess the existing barbastelle bat habitat which may be subject to a full suite of bat surveys (April to October inclusive) that would enable a conclusion of whether the land was currently of value to barbastelle bats.

Policy FITT9 states that development of this land should “*designed to minimise impact on the trees and other vegetation on the site and its visual impact on this sensitive site is adequately mitigated*”. Consequently appropriate design and mitigation should be put in place as part of the development in line with Policies FITT1 and FITT2 which should aim to retain boundary features.

Fleet Cottage

The Fleet Cottage site has been allocated for six homes. The site is situated adjacent to Fittleworth Common which is a BAP Priority Habitat of deciduous woodland. The development has the potential to cause disturbances from lighting, both during construction and operational phases of development. It is considered that this is a matter that could be managed for this site through standard planning conditions associated with any planning permission. Appropriate design and mitigation should be put in place, including limiting light spill to no greater than 0.5 lux outside the boundaries of the new development.

## Recreational pressure on the beech forests

The South Downs National Park Authority Local Plan HRA has already considered whether recreational pressure on the Mens SAC was a concern due to future housing growth and concluded that this was not a particular vulnerability for the European interest features of this SAC. The Natural England Site Improvement Plan[[14]](#footnote-14) for The Mens SAC does not consider recreational pressure as a particular concern. As such there is no link with the Neighbourhood Plan and this impact pathway can be screened out from further consideration.

# In Combination Assessment

Development promoted through policies within the draft Fittleworth Neighbourhood Plan must be considered in combination with other plans and projects that might also affect the Mens SAC. The pathway of impact through which such effects could occur would be fragmentation, loss and disturbance of commuting routes and foraging areas for barbastelle bats for which the European site is designated. Although the law requires that potential impacts of a scheme are considered ‘in combination’ with other projects and plans, it does not specify at what point in a multi-tier process the assessment must be undertaken. It clearly makes sense for the analysis to be undertaken at the appropriate tier of the process, which in this case is the Local Plan.

The overall quantum of development to be delivered in the Neighbourhood Plan area has been set by the SDNP Local Plan The development management policies that govern assessment and strategic mitigation for ‘in combination’ impacts on European sites are also set by the Local Plan since, by definition, they cannot be addressed by a Neighbourhood Plan body on its own. The HRA of the Neighbourhood Plan does not therefore reinvestigate strategic issues associated with the overall amount of housing development in the Neighbourhood Plan area. In summary, the HRA of the Local Plan has not identified any in combination effects on The Mens SAC relating to future housing and employment growth, provided that individual development sites take due regard of the need to preserve undisturbed commuting corridors..

# Conclusions

During the initial screen of the Fittleworth Neighbourhood Plan, two policies (Policy FITT6: New Community Shop and Policy FITT9: Sites Allocated for Housing Development) were initially screen in for further assessment (see Chapter 4) as impact pathways potentially existed that could have a likely significant effect upon the Mens SAC and Ebernoe Common SAC via fragmentation, loss and disturbance of commuting routes and foraging areas for barbastelle bats.

Radio-tracking data for The Mens SAC and Ebernoe Common SAC suggests that ¾ of bat activity was recorded within 9km of The Mens SAC (75% percentile) and 7km of Ebernoe Common SAC. This data suggests that any development within 9km of The Mens SAC and 7km of Ebernoe SAC has the potential to cause significant adverse effects to barbastelle flight lines and/or foraging areas either through direct loss of habitat or through disturbances during construction and operational phases of development.

Following this initial screening exercise, further investigation was undertaken and a Likely Significant Effect test (Chapter 5) was conducted of the two policies that could not be initially screen out during the screening exercise. However, given the quantum and nature of the sites, it is considered that the development could be delivered without a likely significant effect on the SAC provided the aforementioned polices FITT1 and FITT2 of the Neighbourhood Plan are applied and careful attention is given to detailed design to control lighting and fragmentation.

## Fragmentation, loss and disturbance of commuting routes and foraging areas for barbastelle bats

The Neighbourhood Plan contains the following policies that are of relevance to the protection of barbastelle bats in the Mens SAC.

“*Policy FITT1 – Landscape Character*

*Development proposals which conserve and enhance the landscape character of Fittleworth parish and comply with all other relevant policies will be permitted. It should be clearly demonstrated that development proposals have had regard to:*

*a) The key characteristics, sensitivities and development and management considerations for the landscape character area in which the development is located as set out in the South Downs Integrated Landscape Character Assessment:*

*b) The retention and reinforcement where appropriate of natural, cultural and historic landscape features on the site such as trees, hedgerows and topography;*

*c) Safeguarding important local views such as those from Hesworth Common and from publically accessible areas and public rights of way;*

*d) Conserving and enhancing the tranquillity of Fittleworth, particularly in the north- west and south east of the parish;*

*e) Conserving and enhancing the intrinsically dark night skies of Fittleworth.”*

Many species of bats are known to sample the light levels before emerging from their roost and will only emerge to forage when the light intensity outside reaches a critical level. As a consequence dark night skies are a fundamental aspect of bat ecology which enables bats to commute larger distances to suitable forage area without being disturbed by light spill.

And

“*Policy FITT2 – Biodiversity*

*Fittleworth offers an interesting range of habitats for wildlife including the internationally recognised SAC at the Mens to the north of the parish.*

*Development proposals which conserve and enhance the biodiversity of Fittleworth and comply with all other relevant policies will be permitted. It should be clearly demonstrated that development proposals have had regard to:*

*a) The requirements of the Habitats Regulations, in particular the need to carry out an ‘Appropriate Assessment’ where development is likely to have a significant effect on the integrity of The Mens Special Area of Conservation, Hesworth and Fittleworth Commons;*

*b) The requirement to carry out an Ecological Impact Assessment if the proposal affects a SSSI or a SNCI;*

*c) The need to protect and take opportunities to enhance the biodiversity of Fittleworth.*

*Development proposals on greenfield sites and sites which support or are in close proximity to protected species will be required to incorporate necessary surveys and ensure that National and SDNPA guidelines are followed in full.”*

This is in addition to the policies outline in the SDNP Local Plan including emerging Policy SD13: International Sites which in the previous draft of the Local Plan stated that “*Development proposals on greenfield sites within 7km of the Mens SAC… should have due regard to the possibility that barbastelle and Bechstein bats will be utilising the site, and will be required to undertake necessary surveys and ensure that key features (foraging habitat and commuting routes) are retained*."

All three sites allocated for housing in the Neighbourhood Plan have been assessed as having a potential effect on barbastelle bats due to potential impacts to sustenance and flight paths within the flight range of the Mens SAC population of barbastelle bats. However, given the nature of the sites and the policy framework provided by the SDNP Local Plan and Fittleworth Neighbourhood Plan, it is considered that sites could be delivered without a likely significant effect on the Mens SAC by careful detailed design and lighting controls.

All allocated site that are deemed as suitable for barbastelle bats should be surveyed to support a planning application to determine the usage of the sites by barbastelle bats. Additionally appropriate design and mitigation should be put in place, including limiting light spill to no greater than 0.5 lux outside the boundaries of the new development. This should be specified in the part of the document where these site allocations are presented, such that developers are clear as to the requirement.

In addition to this policy wording, Page 9 of the Neighbourhood Plan explains the importance of The Mens SAC and provides the following guidance to developers in the Neighbourhood Plan Area: ‘*Development proposals on greenfield sites and sites that support or are in close proximity to suitable commuting and foraging habitat (including mature vegetative linear features such as woodlands, hedgerows, riverine and wetland habitats) within 7km of the Mens Special Area of Conservation should have due regard to the possibility that barbastelle and Bechstein bats will be utilising the site and will be required to incorporate necessary surveys and ensure that key features (foraging habitat and commuting routes) are retained, in addition to a suitable buffer to safeguard against disturbance. This will ensure no loss or severance of existing commuting and foraging routes occurs either from direct land take or disturbances from lighting, noise and vibrations both during construction and operational phase of any development’.* This essentially mirrors the approach the Local Plan is taking to the same issue.

We would advise that this wording is adjusted as follows:

* Recent analysis of the existing radio-tracking data for both of these sites by AECOM for the National Park suggests that the distances currently used to identify likely supporting habitat should be increased to the third quartile (i.e. the zone within which 75% of bat activity occurs). This would increase the zone to **9km** for The Mens SAC. Since the change in distance doesn’t really affect Fittleworth as the whole parish is within 5km, we suggest simply referring to ‘*the Neighbourhood Plan Area’* in this part of the Neighbourhood Plan, rather than specifying a distance, as it could change again before the Local Plan is actually submitted, based on new data or further analysis. If development protects features of potential commuting and foraging importance to bats from The Mens SAC, then it will also protect them for Ebernoe Common SAC
* Replace the phrase ‘*utilising the site’* with *‘ utilising these features to access The Mens SAC’*
* Insert reference to Ebernoe Common SAC as well as The Mens SAC

We would also advise that Policy FITT2 is adjusted to remove reference to Hesworth and Fittleworth Commons from the first bullet point. This is because that first bullet point is about Habitat Regulations Assessment, which only applies to internationally important wildlife sites. Neither Hesworth nor Fittleworth Commons are designated as internationally important wildlife sites.

1. Tiering’ in Habitats Regulations Assessment

**National Planning Policy Framework**

**AA**

**Sub-Regional Strategies (where relevant)**

**AA**

**Local Plans**

**AA**

**AA**

**Individual projects**

Increasing specificity in terms of evidence base, impact evaluation, mitigation, consideration of alternatives etc.

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1. No Adastral New Town Ltd (NANT) v Suffolk Coastal District Council Court of Appeal, 17th February 2015 [↑](#footnote-ref-1)
2. High Court case of R (Devon Wildlife Trust) v Teignbridge District Council, 28 July 2015 [↑](#footnote-ref-2)
3. European Commission (2001): Assessment of plans and projects significantly affecting Natura 2000 Sites: Methodological Guidance on the Provisions of Article 6(3) and 6(4) of the Habitats Directive. [↑](#footnote-ref-3)
4. CLG (2006) Planning for the Protection of European Sites, Consultation Paper [↑](#footnote-ref-4)
5. http://www.ukmpas.org/pdf/practical\_guidance/HRGN1.pdf [↑](#footnote-ref-5)
6. Dodd A.M., Cleary B.E., Dawkins J.S., Byron H.J., Palframan L.J. and Williams G.M. (2007)

*The Appropriate Assessment of Spatial Plans in England: a guide to why, when and how to do it.* The RSPB,

Sandy. [↑](#footnote-ref-6)
7. JNCC (2015) Natura 2000 – Standard Data Form: The Mens SAC [↑](#footnote-ref-7)
8. JNCC (2015) Natura 2000 – Standard Data Form: Ebernoe Common SAC [↑](#footnote-ref-8)
9. Brennan, E. (2016) End of project evaluation report of the South Downs Barbastelle Project. [pdf]. Available from: <https://www.southdowns.gov.uk/wp-content/uploads/2016/06/GOV_July-5-2016_Agenda-Item-14-Appendix-1.pdf> [Accessed 7 March 2017]. Note that this is maximum recorded distance rather than an indication of typical distance. [↑](#footnote-ref-9)
10. • Greenaway, F. (2004) Advice for the management of flightlines and foraging habitats of the barbastelle bat Barbastellus barbastellus. English Nature Research Report, Number 657. [↑](#footnote-ref-10)
11. Greenaway, F. (2008) Barbastelle bats in the Sussex West Weald 1997 - 2008 [↑](#footnote-ref-11)
12. Bat Conservation Trust (2010) Barbastelle bat Barbastella barbastellus.[pdf] Available from: <http://www.bats.org.uk/data/files/Species_Info_sheets/barbastelle_11.02.13.pdf> [Accessed 8 March 2017] [↑](#footnote-ref-12)
13. Sussex Wildlife Trust (2014) Biodiversity and Planning in Sussex. [pdf] Avilable from: <http://assets.sussexwildlifetrust.org.uk/Files/swt-planning-guidance-2014.pdf> [Accessed 8 March 2017] [↑](#footnote-ref-13)
14. Site Improvement Plans for the South East are available at the following link: <http://publications.naturalengland.org.uk/category/6149691318206464> (accessed 23/06/15) [↑](#footnote-ref-14)