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Fittleworth Neighbourhood Plan

Habitats Regulations Assessment

South Downs National Park Authority

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Quality information

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1. Introduction

1.1 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 was 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.

An initial HRA report was produced in spring 2017. That report was then updated in November 2018 to reflect changes to the Neighbourhood Plan, the fact that the Community Shop is now operational and changes to the evidence base, notably the emergence of the Sussex Bat Protocol. This most recent (December 2018) report update responds to comments from a consultation with Natural England. Specifically, these changes involve strengthening wording regarding protection of the Sussex Bat SACs and creating separate Likely Significant Effect and Appropriate Assessment sections. In the latter account is taken of anything that could be construed to be '*measures introduced to avoid or reduce harmful effects of the plan*' sensu the People over Wind European Court of Justice ruling¹.

1.2 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:

¹ People Over Wind and Sweetman v Coillte Teoranta (C-323/17)

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.

1.3 Scope of the Project

There is no 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 European site. In terms of the second category of European site 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 Appeal² 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 permission³. 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

² No Adastral New Town Ltd (NANT) v Suffolk Coastal District Council Court of Appeal, 17th February 2015

³ High Court case of R (Devon Wildlife Trust) v Teignbridge District Council, 28 July 2015

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 (currently at Examination) and the lower tier consisting of individual planning applications. The Local Plan already has an HRA that examines strategic issues (i.e. from the totality of growth in the National Park and beyond 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 and detailed measures at a planning application level in some cases. 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.

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. None of the proposed housing sites are considered to provide functionally-linked land for the Bewick swan interest of Arun Valley SPA/Ramsar site given their location within the settlement of Fittleworth itself. Therefore, this report focusses on potential impacts of allocations on The Mens SAC and Ebernoe Common SAC.

1.4 This Report

The 'People Over Wind' European Court of Justice ruling⁴ has determined that measures specifically introduced to avoid or reduce the harmful effects of a plan or project should **not** be taken into account when forming a view on likely significant effects. Mitigation should instead only be taken into account at the 'appropriate assessment' stage. Appropriate assessment is not a technical term; it simply means 'an assessment that is appropriate' for the plan or project in question. As such, the law does not prescribe what it should consist of or how it should be presented; these are decisions to be made on a case by case basis by the competent authority.

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. The appropriate assessment of the Neighbourhood Plan is discussed in Chapter 5, including recommended changes. In-combination assessment is undertaken in Chapter 6. Appendix A, Figure A1 illustrates the location of internationally designated sites in relation to the Fittleworth Neighbourhood Plan area.

⁴ People Over Wind and Sweetman v Coillte Teoranta (C-323/17)

2. Methodology

2.1 Introduction

The HRA has been carried out in the continuing absence of formal central Government guidance, although general EC guidance on HRA does exist⁵. The former Department for Communities and Local Government released a consultation paper on the Appropriate Assessment of Plans in 2006⁶. As yet, no further formal guidance has emerged. However, Natural England has produced its own internal guidance⁷ as has the RSPB⁸ 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.

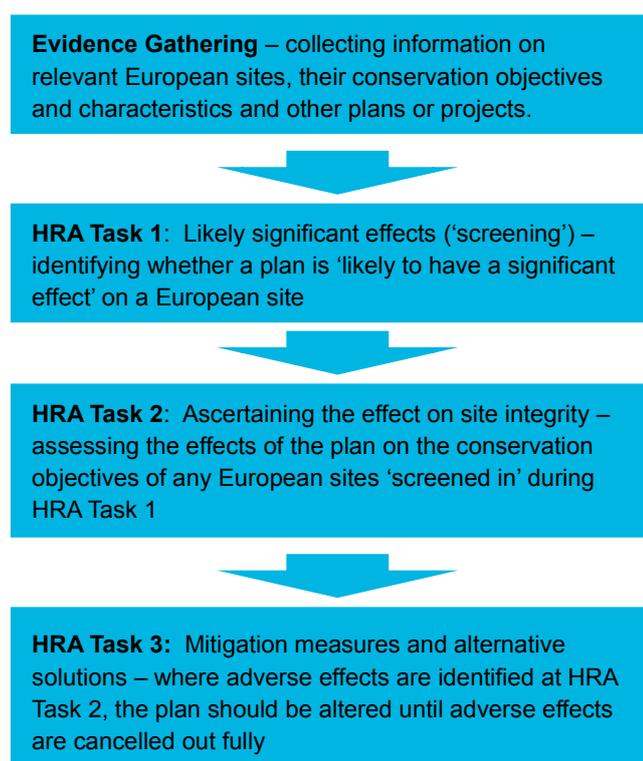


Figure 1: Four Stage Approach to Habitats Regulations Assessment. Source CLG, 2006.

2.2 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

⁵ 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.

⁶ CLG (2006) Planning for the Protection of European Sites, Consultation Paper

⁷ http://www.ukmpas.org/pdf/practical_guidance/HRGN1.pdf

⁸ 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.

adverse interaction with European sites. This stage is undertaken in Chapter 4 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.

2.3 Appropriate Assessment

As established by case law, 'appropriate assessment' is not a technical term; it simply means whatever further assessment is necessary to confirm whether there would be adverse effects on the integrity of any European sites that have not been dismissed at screening. Since it is not a technical term it has no firmly established methodology except that it essentially involves repeating the analysis for the likely significant effects stage, but to a greater level of detail on a smaller number of policies and sites, this time with a view to determining if there would be adverse effects on integrity.

One of the key considerations during appropriate assessment is whether there is available mitigation that would entirely address the potential effect. In practice, the appropriate assessment would take any policies or allocations that could not be dismissed following the high-level Screening analysis and analyse the potential for an effect in more detail, with a view to concluding whether there would actually be an adverse effect on integrity (in other words, disruption of the coherent structure and function of the European site(s)).

In any plan, there are policies for which there is a limit to the degree of assessment that is possible at this plan level. This is because either:

1. The policy in question does not contain any specifics as to what will be delivered or where so literally cannot be assessed in detail at the plan level. In these cases the appropriate assessment focusses on precautionary mitigation that can be included in the plan to ensure that whatever proposals come forward will not result in adverse effects on integrity; or
2. The nature of the potential impacts (notably lighting, noise and visual disturbance during construction, or loss of functionally-linked land) are very closely related to exactly how the development will be designed and constructed, or detailed development site-specific survey data, and therefore cannot be assessed in detail at the plan level. In these instances, the appropriate assessment focusses on the available mitigation measures, the extent to which such measures would be achievable and effective and whether an adequate protective framework exists to ensure that the policy would not lead to an adverse effect on the integrity of any internationally designated sites.

In these occasions the advice of Advocate-General Kokott⁹ is worth considering. She commented that: *'It would ...hardly be proper to require a greater level of detail in preceding plans [rather than planning applications] or the abolition of multi-stage planning and approval procedures so that the assessment of implications can be concentrated on one point in the procedure. Rather, adverse effects on areas of conservation must be assessed at every relevant stage of the procedure to the extent possible on the basis of the precision of the plan. This assessment is to be updated with increasing specificity in subsequent stages of the procedure'* [emphasis added]. This is the approach taken in the HRA.

2.4 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.

⁹ Opinion of Advocate General Kokott, 9th June 2005, Case C-6/04. Commission of the European Communities v United Kingdom of Great Britain and Northern Ireland, paragraph 49.
<http://curia.europa.eu/juris/document/document.jsf?docid=58359&doclang=EN>

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.

3. European Designated Sites, Interest Features and Conservation Objectives

3.1 The Mens SAC

3.1.1 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*).

3.1.2 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 robur-petraeae* or *Ilici-Fagenion*). (Beech forests on acid soils);
- Barbastelle bats (*Barbastella barbastellus*).

3.1.3 Potential Environmental Vulnerabilities

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

3.1.4 Conservation Objectives¹⁰

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.

3.2 Ebernoe Common SAC

3.2.1 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*).

¹⁰ JNCC (2015) Natura 2000 – Standard Data Form: The Mens SAC

3.2.2 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)

3.2.3 Potential Environmental Vulnerabilities

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

3.2.4 Conservation Objectives¹¹

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.

¹¹ JNCC (2015) Natura 2000 – Standard Data Form: Ebernoe Common SAC

4. Likely Significant Effects of the Fittleworth Neighbourhood Plan

Following the analysis of the draft Fittleworth Neighbourhood Plan, Table 1 provided an HRA screening assessment of the policies included. Green shading in the final column indicated that the policy was screened out from further consideration due to the absence of any mechanism for an adverse effect on designated sites. Orange shading indicated that appropriate assessment was required.

Policy	Policy Description	HRA Implications
<p>Policy FITT1 – Landscape Character</p>	<p>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:</p> <ul style="list-style-type: none"> 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, heathland and topography; c) Safeguarding important local views such as those from Hesworth Common and from publicly accessible areas and public rights of way; and d) Conserving and enhancing the tranquillity of Fittleworth, particularly in the north west and south east of the parish 	<p>No HRA implications.</p> <p>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.</p> <p>There are no impact pathways present</p>
<p>Policy FITT2 – Biodiversity</p>	<p>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:</p> <ul style="list-style-type: none"> 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 and Ebernoe Common Special Area of Conservation; b) The requirement to carry out an Ecological Impact Assessment if the proposal affects a SSSI or a SNCI; and c) The need to protect and take opportunities to enhance the biodiversity of Fittleworth including existing habitat networks and wildlife corridors. <p>Development proposals which could 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.</p>	<p>No HRA implications.</p> <p>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.</p> <p>It does not identify any location, type or quantum of development.</p> <p>There are no impact pathways present.</p> <p>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 10 of the</p>

		<p>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: <i>'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 the Neighbourhood Plan area should have due regard to the possibility that barbastelle and Bechstein bats will be utilising these features to access The Mens Special Area of Conservation and Ebernoe Common Special Area of Conservation 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'</i>. This is taken into account in the appropriate assessment.</p>
<p>Policy FITT3 – Water and Utility Infrastructure Management</p>	<p>All new developments will need to demonstrate that there is a surface water management plan that shows 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. New and improved utility infrastructure will be encouraged and supported in order to meet the identified needs of the community, subject to other policies in the Plan.</p> <p>Part of the Neighbourhood Plan area falls within a Ground Water Protection Zone (see map overleaf), therefore new development should ensure that it does not negatively impact on this zone and hence affect water quality.</p>	<p>No HRA implications.</p> <p>This is a development management policy relating to developments within potential flood risk zones, and flood prevention.</p> <p>There are no impact pathways present.</p>
<p>Policy FITT4 – Built Heritage</p>	<p>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 and of the wider historic environment is conserved and enhanced. The South Downs National Park is committed to the preparation of character appraisals and management plans for the conservation areas, but admits it will take many years to achieve comprehensive coverage. The one Grade II listed building at risk has been fully restored in the last year.</p>	<p>No HRA implications.</p> <p>This is a development management policy relating to the heritage character of the area, and the protection of heritage buildings and ancient monuments.</p> <p>There are no impact pathways.</p>
<p>Policy FITT5 – Design of New Development</p>	<p>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:</p> <ul style="list-style-type: none"> • That the scale of development is suitable for its location; 	<p>No HRA implications.</p> <p>This is a development management policy relating to the design principles for new development and alterations to existing buildings.</p>

	<ul style="list-style-type: none"> • 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 incorporated 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; • That the development will contribute to and be compatible with local fibre or internet connectivity; • That the development incorporates where appropriate renewable and low carbon technology. Such technology should not detract from the from the high quality landscape and built environment of the parish; • Where appropriate development should employ Sustainable Urban Drainage Systems; and • That appropriate landscaping and screening will be required on the boundaries of each site. 	<p>There are no impact pathways.</p>
<p>Policy FITT6 – New Community Shop</p>	<p>A site adjacent to the Fittleworth Village Hall, as shown on the Policies Map, is allocated for a new community shop, subject to the development principals outlined below:</p> <ol style="list-style-type: none"> a) The existing play area will be replaced by one of equivalent or better size and quality elsewhere on the recreation ground; b) Customers will be able to use the Village Hall car park but it is hoped that being in the centre of the settlement area shop users will walk to the shop; and c) The design should be congruent with the principles laid out in Objective 2. 	<p>No HRA implications. The community shop is consented and operational. As such a conclusion of no likely significant effect can be drawn and no further discussion of the site is required.</p>
<p>Policy FITT7 – Extensions to Existing Dwellings</p>	<p>The extension of existing dwellings beyond what is allowed by permitted development rights will be permitted provided that:</p> <ol style="list-style-type: none"> 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%. 	<p>No HRA implications.</p> <p>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.</p> <p>There are therefore no impact pathways present</p>
<p>Policy FITT8 – New Housing Development</p>	<p>New housing development within the settlement boundary of Fittleworth that complies with all other relevant policies will be supported provided that:</p> <ol style="list-style-type: none"> a) The development is located where there is easy access to public transport and pedestrian access to and within the settlement area; 	<p>No HRA Implications.</p> <p>This is a development management policy relating to the development boundaries and locations of development within the settlement boundary of</p>

	<p>b) Opportunities should be taken where appropriate to mitigate the impact of the development on the local transport network, and provide a safe access point onto the highway;</p> <p>c) The development includes a range of homes that response to peoples' needs both now and in the future including a percentage and tenure of affordable homes that complies with the relevant development plan policies. This policy will be applied to new build and resale on the sites within the plan.</p> <p>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.</p>	<p>Fittleworth. It state that a certain percentage of new housing should comprise of affordable housing.</p> <p>It does not identify any location, type or quantum of development.</p> <p>There are no impact pathways present.</p>
<p>Policy FITT9 – Sites Allocated for Housing Development</p>	<p>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 in the Appendix of the Neighbourhood Plan):</p> <p>a) Fleet Cottage is allocated for about 6 homes provided that:</p> <ol style="list-style-type: none"> 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 policies; iii) 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 and the development is small in scale and situated along the road frontage whilst a buffer area of land is used to reduce the visual impact on Fittleworth Common and the impact on adjacent properties to the east and west is adequately mitigated; v) 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; vii) Appropriate design and mitigation should be put in place with regard to impacts on bats, including retaining key features used by bats, avoiding installation of lighting, and limiting light spill to no greater than 0.5 lux outside of the boundaries of the development site; and viii) A survey by a suitably qualified ecologist should be undertaken to support a planning application to assess the existing and likely barbastelle bat habitat. <p>The justification for the inclusion of this site is that it stands within existing housing development, it is potentially available, it will be within the settlement area with pedestrian access to the village community facilities, and with immediate access to public transport.</p> <p>b) Land at corner of Limbourne Lane/The Fleet is allocated for about 12 homes provided that:</p> <ol style="list-style-type: none"> i) At least 40% of the units (i.e. homes) are affordable housing and secured as such in perpetuity; ii) The type and tenure of the housing reflects local need, in particular for family dwellings; iii) The development is designed to retain trees and other vegetation on the site with amenity value and ensure there is no hard urban edge within this sensitive street scene; 	<p>Potential HRA implications.</p> <p>This policy provides details of three 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:</p> <ul style="list-style-type: none"> • Fleet Cottage; • Land at corner of Limbourne Lane/The Fleet; and • Greatpin Croft. <p>Potential impact pathways present are:</p> <ul style="list-style-type: none"> • Fragmentation or disturbance of commuting routes and foraging areas of barbastelle bats

	<ul style="list-style-type: none"> iv) Due to the water logging issues on site a Flood Risk Assessment and Strategy must be produced to ensure that surface water and ground water on the site can be adequately managed and will not cause flooding further down the Fleet Stream; 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; viii) Appropriate design and mitigation should be put in place with regard to impacts on bats, including retaining key features used by bats, avoiding installation of lighting, and limiting light spill to no greater than 0.5 lux outside of the boundaries of the development site.; ix) An Ecological Assessment should be carried out to establish if any priority species are present and to identify suitable mitigation; and x) A survey by a suitably qualified ecologist should be undertaken to support a planning application to assess the existing and likely barbastelle bat habitat. <p>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.</p> <p>A number of sites were proposed by the Housing Surveys or by the SDNP but only those that can support 6 or more units have been incorporated as smaller sites are considered as windfall sites. These, if brought forward for development will face the same requirements as set out in this NDP. One of these sites which merits mention is:</p> <p>Greatpin Croft (site CH031) 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 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:</p> <ul style="list-style-type: none"> i) All the dwellings 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 one and two bedroom dwellings; and iii) A survey by a suitably qualified ecologist should be undertaken to support a planning application to assess the existing and likely barbastelle bat habitat. <p>The justification for the inclusion of this site is that the area was originally designated for social housing and should not be released for private non-affordable housing. The area is well within the settlement area with good access to the village school, hall, proposed shop, recreation ground and churches.</p>	
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Having established that policy FITT9 needs to be the main focus of the HRA, appropriate assessment is undertaken in the following chapter.

5. Appropriate Assessment

5.1 Fragmentation or disturbance of commuting routes and foraging areas of 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 established 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).¹²

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^{13 14}. 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 bats 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.

To facilitate sustainable development within proximity to these European sites, the South Downs National Park in conjunction with Natural England produced the 'Sussex Bat Special Area of Conservation Planning and Landscape Scale Enhancement Protocol' (2017)¹⁵. This is based upon published data¹⁶. The final draft version of the protocol identifies two key impact zones surrounding the three bat SACs as follows:

¹² 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.

¹³ • Greenaway, F. (2004) Advice for the management of flightlines and foraging habitats of the barbastelle bat *Barbastellus barbastellus*. English Nature Research Report, Number 657.

¹⁴ Greenaway, F. (2008) Barbastelle bats in the Sussex West Weald 1997 - 2008

¹⁵ Final draft version

¹⁶ Scoping study for the West Sussex Bat Project - Assessing current evidence to recommend conservation measures important to barbastelle and Bechstein's bats of consequence in the project area A report to Natural England. Bat Conservation Trust 2015

Bat conservation Trust Core Sustenance Zones http://www.bats.org.uk/data/files/Core_Sustenance_Zones_Explained_-_04.02.16.pdf

- 6.5km: Key conservation area – all impacts assessed;
- 12km: Wider conservation area – significant impacts or severance to flightlines to be considered

The 6.5 km includes the key conservation area in which all impacts must be considered as habitats within this zone are considered critical for sustaining the populations of bats within the SACs. The 12km encompasses the wider conservation area which is the full extent of the range of foraging areas required by the bats.

5.1.1 Policy FITT9 – Sites Allocated for Housing Development

The following sites have been allocated for housing development:

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

The Fittleworth Neighbourhood Plan contains 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 biodiversity and states that developments must “*protect and take opportunities to enhance the biodiversity of Fittleworth.*” This policy also states that there will be requirements to comply with Habitats Regulations, and that existing habitat networks and wildlife corridors should be protected. **However, it is recommended that this wording is adjusted to specifically relate the protection of existing habitat networks and wildlife corridors to the barbastelle and Bechstein’s bats and their foraging and commuting habitats within the Neighbourhood Plan area, particularly any future development not covered under Policy FITT9 (which has its own policy wording on this issue). Since other windfall sites not specifically allocated in FITT9 may come forward it is also advised that the specific wording in FITT9 regarding protection of the Sussex bat SACs is added to this policy as follows: “If site survey indicates that habitat on or adjacent to any development site constitutes key features for barbastelle or Bechstein bats, appropriate design and mitigation should be put in place including retaining such key features and limiting light spill onto key features within or outside of the boundaries of the development site to no greater than 0.5 lux”.**
- Policy FITT2 then links explicitly to Section 5 of the Neighbourhood Plan which further explains the importance of barbastelle and Bechstein’s bats in the local area. Paragraph 5.4 states that “*Development proposals on greenfield sites and sites that support or are in close proximity to suitable commuting and foraging habitat...within the Neighbourhood Plan area should have due regard to the possibility that Barbastelle and Bechstein’s bats will be utilising these features to access The Mens Special Area of Conservation and Ebernoe Common Special Area of Conservation*”. In addition, this paragraph states that developments should “*ensure that key features (foraging habitat and commuting routes) are retained, in addition to a suitable buffer to safeguard against disturbance*”. This has the aim of ensuring “*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 the key conservation area identified in the Sussex Bat Protocol (6.5km, with a 12km wider conservation area). Therefore, without appropriate design they could have a significant effect on the integrity of the Mens SAC if any of the sites were delivered in such a way that they affected commuting routes or foraging habitat (including by inappropriate illumination). Each site is considered below with recommendations for the planning applications for these sites

made based on information gathered from freely available aerial imagery and mapping, Sussex Wildlife Trust¹⁷ 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 boundary hedgerows or treelines, or through inappropriate illumination of those features.

Policy FITT9 already requires a suitably qualified ecologist to visit the site in support of any planning application to assess the existing and likely barbastelle bat habitat. However, it is also considered necessary that appropriate lighting design must 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 that there is no loss of key habitat features shown to be used by barbastelle bat. 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 designed such that it would not have an adverse effect on the SAC, provided the aforementioned policies in the Neighbourhood Plan are applied when devising any planning application. However, it would be in line with the wording for the other two allocated sites if the wording was amended to explicitly state ***‘Appropriate design and mitigation should be put in place with regard to impacts on bats, including retaining key features used by bats and limiting light spill to no greater than 0.5 lux onto key features within or outside of the boundaries of the development site’***

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 development site itself comprises 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 on this site may have an impact on the species populations for which the European site is designated by causing fragmentation and isolation if the masterplanning for the site does not take due consideration of these issues. Consequently a planning application for this site has the potential to result in effects upon the barbastelle bats of The Mens SAC via direct habitat loss of linear features used for flight paths or disturbance from lighting both during construction and operational phases of development. As such, care will need to be taken during detailed design of the site to ensure that artificial lighting does not illuminate these surrounding hedgerows and treelines above 0.5 lux.

Mature hedgerows and treelines surrounding the site must be preserved. Since these features form the boundary of the site this should be achievable without compromising site deliverability. A suitably qualified ecologist will need 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 recognises the importance of this issue and the need to retain key features for SAC bats, by stating that when developing this land *“Appropriate design and mitigation should be put in place with regard to impacts on bats, including retaining key features used by bats, avoiding installation of lighting, and limiting light spill to no greater than 0.5 lux outside of the boundaries of the development site”*. As such, it is considered that the Neighbourhood Plan contains an appropriate policy for this site to ensure the interest features of the Sussex bat SACs are protected. **However, it is recommended that the wording of this provision is slightly amended to read: *‘Appropriate design and mitigation should be put in place with regard to impacts on bats, including retaining key features used by bats and limiting light spill to no greater than 0.5 lux onto key features within or outside of the boundaries of the development site’***. The amendments will ensure that the intent of the

¹⁷ Sussex Wildlife Trust (2014) Biodiversity and Planning in Sussex. [pdf] Available from: <http://assets.sussexwildlifetrust.org.uk/Files/swt-planning-guidance-2014.pdf> [Accessed 8 March 2017]

provision is clear with regard to lighting restrictions i.e. that this applies to illuminating key features for bats rather than as a general provision irrespective of habitat use by bats.

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 must therefore be put in place, including limiting light spill to no greater than 0.5 lux outside the boundaries of the new development. Policy FITT9 recognises the importance of this issue and the need to retain key features for SAC bats by stating that when developing this site “*Appropriate design and mitigation should be put in place with regard to impacts on bats, including retaining key features used by bats, avoiding installation of lighting, and limiting light spill to no greater than 0.5 lux outside of the boundaries of the development site*”. In addition, the Policy states that “*A survey by a suitably qualified ecologist should be undertaken to support a planning application to assess the existing and likely barbastelle bat habitat*”. **However, it is recommended that the wording of this provision is slightly amended to read: ‘Appropriate design and mitigation should be put in place with regard to impacts on bats, including retaining key features used by bats and limiting light spill to no greater than 0.5 lux onto key features within or outside of the boundaries of the development site’.** The amendments will ensure that the intent of the provision is clear with regard to lighting restrictions i.e. that this applies to illuminating key features for bats rather than as a general provision irrespective of habitat use by bats.

5.2 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 Plan¹⁸ 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.

¹⁸ Site Improvement Plans for the South East are available at the following link:
<http://publications.naturalengland.org.uk/category/6149691318206464> (accessed 23/06/15)

6. 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.

7. Conclusions

Policies within the Neighbourhood Plan protect barbastelle bats by ensuring their commuting and foraging routes remain intact and with limited lighting impacts.

Policy FITT9 states that for the Fleet Cottage and Land at corner of Limbourne Lane/The Fleet “*Appropriate design and mitigation should be put in place with regard to impacts on bats, including retaining key features used by bats, avoiding installation of lighting, and limiting light spill to no greater than 0.5 lux outside of the boundaries of the development site*”. For Greatpin Croft, the policy states “*A survey by a suitably qualified ecologist should be undertaken to support a planning application to assess the existing and likely barbastelle bat habitat*”. **However, it is recommended that this wording is slightly adjusted to read “*Appropriate design and mitigation should be put in place with regard to impacts on bats, including retaining key features used by bats and limiting light spill to no greater than 0.5 lux onto key features within or outside of the boundaries of the development site*’ and that the same wording is applied to the reference to Greatpin Croft in this policy.**

Policy FITT2 - Biodiversity gives protection to biodiversity and states that developments must “*protect and take opportunities to enhance the biodiversity of Fittleworth.*” Policy FITT2 then links explicitly to Section 5 of the Neighbourhood Plan which further explains the importance of barbastelle and Bechstein’s bats in the local area. Paragraph 5.4 states that “*Development proposals on greenfield sites and sites that support or are in close proximity to suitable commuting and foraging habitat...within the Neighbourhood Plan area should have due regard to the possibility that Barbastelle and Bechstein’s bats will be utilising these features to access The Mens Special Area of Conservation and Ebernoe Common Special Area of Conservation*”. In addition, this paragraph states that developments should “*ensure that key features (foraging habitat and commuting routes) are retained, in addition to a suitable buffer to safeguard against disturbance*”. This has the aim of ensuring “*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 policy also states that there will be requirements to comply with Habitats Regulations, and that existing habitat networks and wildlife corridors should be protected. **However, it is recommended that this wording is adjusted to specifically relate the protection of existing habitat networks and wildlife corridors to the barbastelle and Bechstein’s bats and their foraging and commuting habitats within the Neighbourhood Plan area, particularly any future development not covered under Policy FITT9 (which has its own policy wording on this issue). Since other windfall sites not specifically allocated in FITT9 may come forward it is also advised that the specific wording in FITT9 regarding protection of the Sussex bat SACs is added to this policy as follows: “*If site survey indicates that habitat on or adjacent to any development site constitutes key features for barbastelle or Bechstein bats, appropriate design and mitigation should be put in place including retaining such key features and limiting light spill onto key features within or outside of the boundaries of the development site to no greater than 0.5 lux*”.**

With these recommendation incorporated, the Neighbourhood Plan would have a sufficient policy framework in place to ensure that it would not result in adverse effects, alone or ‘in combination’ with other plans and projects.

Appendix A Tiering in Habitats Regulations Assessment

