CSA environmental

Land off Fryatts Way, Bexhill

Shadow Habitats Regulations Assessment

Prepared by
CSA Environmental

on behalf of
Gladman Developments

Report Ref: CSA/4648/01

April 2021

urban design | ecology | landscape | heritage

This report may contain sensitive ecological information. It is the responsibility of the Local Authority to determine if this should be made publicly available.

Report Reference	Date	Revision	Prepared by	Approved by	Comments
CSA/4648/01	31/01/2020	-	JMT	MR	Draft for comment
CSA/4648/01	14/04/2021	A	TF	CC	Final Issue
CSA/4648/01	11/01/2022	B	-	MR	Revision further to comments from and consultation with Natural England

CONTENTS

1.0 INTRODUCTION

1.1 This shadow Habitats Regulations Assessment (sHRA) has been prepared by CSA Environmental on behalf of Gladman Developments, in relation to land off Fryatts Way, Bexhill in East Sussex (hereafter referred to as 'the Site').

1.2 The Site is situated on the north-western edge of Bexhill around central grid reference TQ 72390 08814. It currently comprises grazed grassland pasture, with fields bordered by mature trees and hedgerows. There is one pond within the Site and another located at the south-western boundary. There are seven ditches within and around the Site, some of which contain flowing water.

1.3 Residential development consisting of up to 210 dwellings with associated landscaping and infrastructure is proposed at the Site, for which outline planning permission will be sought. A Preliminary Ecological Appraisal (PEA) undertaken by FPCR Environment and Design Ltd (November 2019) identified that the Site's proximity to designated European sites represented a potential constraint to development, for which further investigation and consultation under a shadow Habitats Regulations Assessment (sHRA) was required.

1.4 The sHRA presented here provides information to assist Rother District Council, as competent authority, in their consideration of whether the proposed development will have likely significant effects on European sites, and in ascertaining any adverse effects on their integrity, as required under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended).

1.5 This revision (C) of the sHRA has been updated further to comments made on planning application RR/2021/1656/P by Natural England (dated 09 November 2021), and subsequent telephone consultation between CSA Environmental and Natural England on 16 December 2021. Natural England presented concerns that the information presented by the sHRA and Flood Risk Assessment & Outline Surface Water Drainage Strategy left uncertainty over the potential for adverse effects on European sites of the Pevensey Levels. The revision is intended to address any such uncertainty, such that the competent authority may make their assessment in the absence of reasonable scientific doubt.

2.0 LEGISLATION AND PLANNING POLICY SUMMARY

2.1 Special Areas of Conservation (SACs) and Special Protection Areas (SPAs), termed 'European sites', collectively form part of a suite of sites known in the UK as the national site network. For ease of reference and consistent with their treatment under UK government policy, Ramsar sites are also referred to here as European sites.

2.2 All European sites in England and Wales are afforded strict protection through the Conservation of Habitats and Species Regulations 2017 (as amended). These Regulations, widely referred to as the 'Habitat Regulations', establish a framework for decision-making authorities to assess the potential for harmful effects on European sites to arise as a result of proposed plans or projects. This assessment process is commonly referred to as 'Habitats Regulations Assessment' (HRA).

2.3 Within Rother development management policies relevant to the protection of European sites are set out within DEN4 and DEN5 of the Development and Site Allocations Local Plan (2019). Further guidance for developers is set out within the Sustainable Access and Recreation Management Strategy (SARMS) document (2017).

2.4 Further detail of the legislative and case law context, as well as national and local planning policies relevant to HRA, are provided within Appendix B.

3.0 EXEMPTION, EXCLUSION AND ELIMINATION

3.1 If the proposed development passes any of Questions 1-3 (Table 1), then no further screening for likely significant effects under the Habitats Regulations is required.

Table 1. Preliminary Screening

Screening Test	Pass?	Further screening required?
Q1. Is the whole proposed development directly connected with or necessary to the management of a European site for nature conservation purposes?	No	Yes
Q2. Is the proposed development the continuation, without material change, of ongoing activities not subject to any form of authorisation?	No	Yes
Q3. In light of the nature, scale, duration and location of the proposed development, is it obvious that it could not have any conceivable effect on any European site?	No	Yes

3.2 In view of the final preliminary screening test (Table 1), the following European sites have been identified as being conceivably affected by the proposed development:

- Dungeness, Romney Marsh and Rye Bay SPA
- Pevensey Levels SAC
- Pevensey Levels Ramsar
- Hastings Cliffs SAC

3.3 Mapping showing the locations of these European designations in relation to the Site are shown in Appendix A. Comprehensive details on the characteristics of the above European sites are presented in Appendix C, including their distances from the Site, component Sites of Special Scientific Interest (SSSI), qualifying features, published conservation objectives and any known vulnerabilities or threats to their favourable conservation statuses.

4.0 SCREENING FOR LIKELY SIGNIFICANT EFFECTS

4.1 In the context of the information on European site characteristics (Appendix C), potential impact pathways between the Site and the European sites are screened within Appendix D. The screening outcome is summarised in Table 2 below.

4.2 Pathways are considered on the basis of the development as proposed, including any facets which may, in addition to their primary purpose, act to mitigate potential effects on European sites. However, in accordance with the 'People Over Wind' ruling of the CJEU (Case C-323/17), screening for likely significant effects takes place in the absence of measures specifically adopted to avoid or reduce harmful effects on European sites.

Table 2. Screening Summary of Likely Significant Effects – Potential Impact Pathways

European site	Dungeness, Romney Marsh and Rye Bay SPA	Pevensey Levels SAC	Pevensey Levels Ramsar	Hastings Cliffs SAC
Land take by development within European site	No	No	No	No
Fragmentation of European site habitats	No	No	No	No
Increased mortality of key species	No	No	No	No
Disturbance to key species / deterioration of habitats	**Yes**	No	No	No
Damage or deterioration of supporting habitats, outside European site	No	No	No	No
Atmospheric pollution/air quality	No	No	No	No
Changes to soil chemistry	No	No	No	No
Hydrological regime change	No	No	No	No
Pollution of surface/ ground/marine water	**Yes**	**Yes**	**Yes**	No

4.3 Informed by the identified impact pathways, conclusions on the potential for likely significant effects on European sites to arise from the proposed development, alone and in combination with other plans or projects, are made in the following tables.

Table 3. Outcome of Screening (proposed development alone)			
	Dungeness, Romney Marsh and Rye Bay SPA	Pevensey Levels SAC and Ramsar	Hastings Cliffs SAC
Will there be any effect on a European site? *If no, proposed development is screened out*	**YES** Sewage from the proposed development will be processed by the Hastings and Bexhill WwTW, which discharges into the marine component of the SPA. New residents of the proposed development may visit the Dungeness Complex, including the terrestrial component of the SPA, increasing recreational pressure.	**YES** The Site is within the Pevensey Levels Hydrological Catchment Area. The proposed development therefore has the potential to result in water quality impacts associated with surface run off during construction and operation.	**NO**
Will there be likely significant effects on the European site, or does uncertainty remain over the potential for significant effects? (proposed development alone) *If yes, proposed development is screened in* *If no, assess in combination with other plans or projects below*	**NO** The minor addition of sewage effluent to the WwTW, and potential increase in recreational pressure at the terrestrial component of the SPA would be insignificant, in isolation.	**YES** In the absence of mitigation, water quality impacts have the potential to undermine the published conservation objectives for the SAC.	**N/A**

4.4 As likely significant effects of development on the Pevensey Levels SAC / Ramsar have been identified for the Site alone, in the absence of mitigation, these sites are screened in to Stage 2: Appropriate Assessment.

4.5 It has been determined that the proposed development has the potential to affect the Dungeness, Romney Marsh and Rye Bay SPA, but that when considered in isolation such effects would be unlikely to meet the threshold of significance, i.e. having the potential to undermine published conservation objectives. The potential for likely significant effects on the SPA, of development when considered in combination with other plans or projects, is therefore considered in Table 4 below.

Table 4. Outcome of Screening (proposed development <u>in combination</u> with other plans or projects)
Outline any other plans or projects with likely significant effects when considered in combination with the proposed development:
The Rother Local Plan Core Strategy includes a housing increase target of 5,300 households in the period 2011 – 2028 (312 per annum), with the number of households in Rother expected to rise to 46,215. Further new residential development will come forward within the adjacent District of Folkestone & Hythe.
Describe any potential impact pathways and characterise any likely significant effects on the European site:
<u>Water Quality</u> The minor contribution to an increase in the local population brought about by the proposed development may act in combination with provision of any new housing within Rother which will be connected to the Hastings and Bexhill WwTW. This could, theoretically, produce a significant increase in effluent beyond the capacity of the Hastings and Bexhill WwTW and beyond the headroom of the existing discharge consent, thus leading to a likely significant effect on the marine arm of the SPA. However, Southern Water have advised that this WwTW does have capacity to manage the expected rise in effluent from the currently planned growth across Hastings and Bexhill, and to maintain discharge quality to an environmentally acceptable standard (Aecom, 2018). Therefore, no likely significant effect is anticipated. <u>Recreational Pressures</u> The Dungeness Complex, including the terrestrial component of the Dungeness, Romney Marsh and Rye Bay SPA, has been identified as vulnerable to the effects of increasing visitor pressure. As described in Table D.1, the greatest proportion of regular visitors to the Dungeness Complex live within Greatstone, Lade and Lydd-On-Sea; all situated among the Complex itself. To address the anticipated increase in recreational pressures resulting from the planning policies of Rother and Folkestone & Hythe Councils, a Sustainable Access and Recreation Management Strategy (SARMS) has been prepared by The Places Team for Rother DC/Folkestone & Hythe

DC (2017). The SARMS sets out protective actions for the Complex in relation to additional usage resulting from development, and more generally to ensure sensitive management of the Natura 2000 sites. Policy DEN4(v) of the adopted Rother District Council Development and Site Allocations Local Plan (DaSA) states that, "*all developments within the strategy area of the Dungeness Complex Sustainable Access and Recreation Management Strategy should have regard to the measures identified in that Strategy*." However, the Site falls outwith the Strategy Area, as defined by Figure 10 of the DaSA. In light of the foregoing, it is determined that the proposed development will not contribute significantly to visitor pressures on the habitats and species of the Dungeness Complex, and will therefore have no likely significant effect on the terrestrial SPA in combination with other plans and projects. This conclusion is consistent with that of the DaSA HRA (Aecom, 2018) in respect of residential site allocations in Bexhill.	
Are significant effects likely when considered in combination with other plans or projects? *If yes, proposed development is screened in*	**NO**

4.6 Based on the information provided here-in, it is anticipated that Rother District Council, in their capacity as competent authority under Regulation 63 of the Conservation of Habitats and Species Regulations 2017, will conclude that, in the absence of mitigation, the proposed development:

- Has the potential to result in significant effects on the Pevensey Levels SAC / Ramsar site, in respect of water quality.
- Will have no likely significant effects, either alone or in combination with other plans or projects, on the Dungeness, Romney Marsh and Rye Bay SPA or the Hastings Cliffs SAC.

4.7 As such, further Appropriate Assessment is required, including consideration of any proposed measures intended to avoid or reduce effects, in order that Rother District Council may ascertain whether the proposed development will have any adverse effect on the integrity of the Pevensey Levels SAC / Ramsar site.

5.0 APPROPRIATE ASSESSMENT

Likely Significant Effects

5.1 The Pevensey Levels SAC and Ramsar site occupy the same area of land and are designated for similar interest features. As such, the Appropriate Assessment is made here with in respect of both designations.

5.2 Screening set out in Appendix D has identified that, in the absence of mitigation, the proposed development will have a likely (meaning, in this context, 'potential') significant effect on the Pevensey Levels through pollution of surface water run-off. The Site is located c. 2.1km north-east of the designations, within the Pevensey Levels Hydrological Catchment, as identified by Figure 12 of the adopted DaSA Local Plan.

5.3 During construction, the soil at the Site may become compacted, leading to increased surface run-off and a higher than normal input of waterborne pollution and loose sediment, which could reach the SAC via the interconnected ditch network. A similar potential impact pathway would exist following completion of construction, owing to an increase in area of impermeable land cover.

Mitigation Measures

5.4 The vulnerability of the Pevensey Levels to new development within its hydrological catchment area, and the requirement to mitigate surface water quality issues, are recognised within the adopted Rother Local Plan Core Strategy and DaSA. Core Strategy Policy SRM2 requires SuDS for all development that creates impermeable surfaces in the catchment area[1]. Policy DEN5 (Sustainable Drainage) of the adopted DaSA (see Appendix B) states that, "*Drainage should be considered as an integral part of the development design process, with Sustainable Drainage Systems (SuDS) utilised unless demonstrated to be inappropriate. In particular (vi) within the Pevensey Levels Hydrological Catchment Area, SuDS designs should incorporate at least two stages of suitable treatment, unless demonstrably inappropriate*."

5.5 In the HRA of the DaSA (Aecom, 2018) it was determined that the presence of this policy framework provided sufficient protection to ascertain that residential site allocations in Bexhill (notably BX116 Land off Spindlewood Drive, and BX101 Northeye, both of which are in significantly closer proximity to the Pevensey Levels than the Site is) would have no adverse effect on the integrity of the SAC/Ramsar site.

[1] Core Strategy Policy SRM2(iii): "*Effective management of water resources will be supported by the promotion of sustainable drainage systems to control the quantity and rate of run-off as well as to improve water quality wherever practicable, and specifically for all development that creates impermeable surfaces within the hydrological catchment of the Pevensey Levels*."

5.6 Planning permission is in this instance sought in outline only, with all matters except access reserved. As such, detailed arrangements for the management of surface water run-off are not available for assessment. However, the accompanying Outline Surface Water Drainage Strategy (RSK Land & Development Engineering Ltd, 2019) demonstrates that surface water management can be delivered at the Site so as to be policy compliant with DEN5, i.e. such that all surface water discharges will be subject to two stages of treatment. Boundary swales and attenuation basins will be used to intercept surface water run-off, allowing sediments held in suspension to settle on-site. As an additional/third treatment stage, permeable paving will be used on private roads, shared surfaces and driveways. A copy of the Indicative Surface Water Drainage Strategy is provided at Appendix E, which shows how swales will be used to envelope residential parcels and channel flows toward basins, thereby ensuring two stages of treatment. Appendix F provides supplementary details and clarification from the drainage strategy designers in response to queries raised by Natural England.

5.7 A detailed surface water drainage strategy will be developed at the detailed design stage, having been secured by appropriately worded planning condition, with the full details to be submitted to and approved by the LLFA prior to commencement.

5.8 Prior to the SuDS features being installed and operational, temporary bunding and settlement ponds will be installed as necessary during construction. A cut-off valve will be placed on the outfall of pond(s) to capture run-off and assess it. Water can be released at greenfield runoff rates once sediment settlement / treatment has taken place, or has been decanted off the surface.

5.9 In order to avoid individual pollution events during construction, all relevant activities will adhere to the Pollution Prevention Guidance for Businesses provided by the Department for Environment, Food and Rural Affairs and Environment Agency, in particular the section 'Construction, inspection and maintenance' which includes 'Work in, over or near a river, stream, lake or pond'. Details of specific pollution prevention and control measures will be set out in a Construction Environment Management Plan (CEMP) at the Reserved Matters stage of planning. These control measures will include, but not be limited to:

- Safe storage/use of fuel and careful refuelling procedures.
- Safe storage/use of solvents, cements, adhesives, grout and concrete.
- Sufficient spill kits available on Site.
- Strict adherence to COSHH procedure.

- Minimising the escape of dust and mud.
- Prevention of water pollution through run off via the use of gully guards, straw bales, gravel traps, silt fencing, etc.
- Emergency protocol should a major pollution incident occur.

Effects on Integrity

5.10 In light of the foregoing, and subject to the identified pollution prevention and control measures, it can be ascertained that the proposed development will have no adverse effect on the integrity of the Pevensey Levels SAC / Ramsar site, either alone or in combination with other plans or projects.

6.0 SUMMARY AND CONCLUSION

6.1 Based on the information provided here-in, it is anticipated that the Rother District Council, in their capacity as competent authority under Regulation 63 of the Conservation of Habitats and Species Regulations 2017, will conclude that the proposed development has the potential to result in likely significant effects on the Pevensey Levels SAC / Ramsar site, when considered alone (in light of the definition of these terms in the 'Waddenzee' ruling of the European Court of Justice Case C-127/02).

6.2 The Council must therefore undertake an Appropriate Assessment of the implications of the proposed development on the qualifying features of the Pevensey Levels SAC / Ramsar site in light of their published conservation objectives.

6.3 With consideration of the proposed measures intended to avoid or reduce effects (i.e. policy compliant pollution prevention controls during construction and operation of the proposed development) it is anticipated that the Council's Appropriate Assessment will conclude that the proposed development will not have any adverse effect on the integrity of the Pevensey Levels SAC / Ramsar site, either alone or in combination with other plans or projects.

6.4 Through submission of this shadow Habitats Regulations Assessment, it is considered that Gladman Developments Ltd has discharged their duty under Regulation 63(2) to, "*provide such information as the competent authority may reasonably require for the purposes of the assessment*."

7.0 REFERENCES

Aecom (2018). *Habitat Regulations Assessment: Rother District Council*.

FPCR (2019). *Land off Fryatts Way, Bexhill-on-Sea: Preliminary Ecological Appraisal.*

Joint Nature Conservation Committee (2007). *Second Report by the UK under Article 17 on the implementation of the Habitats Directive from January 2001 to December 2006*. Peterborough: JNCC. Available from: http://archive.jncc.gov.uk/pdf/Article17/fcs2007-S4056-final.pdf (Accessed 20/01/2020)

Natural England (2014). *Site Improvement Plan: Dungeness*. Available at: http://publications.naturalengland.org.uk/publication/6291480347934720 (accessed 22/01/2020).

Natural England (2014). *Site Improvement Plan: Hastings Cliffs*. Available at: http://publications.naturalengland.org.uk/publication/5611006969511936 (accessed 08/01/2020)

Natural England (2014). *Site Improvement Plan: Pevensey Levels*. Available at: http://publications.naturalengland.org.uk/publication/6057793526169600 (accessed 08/01/2020)

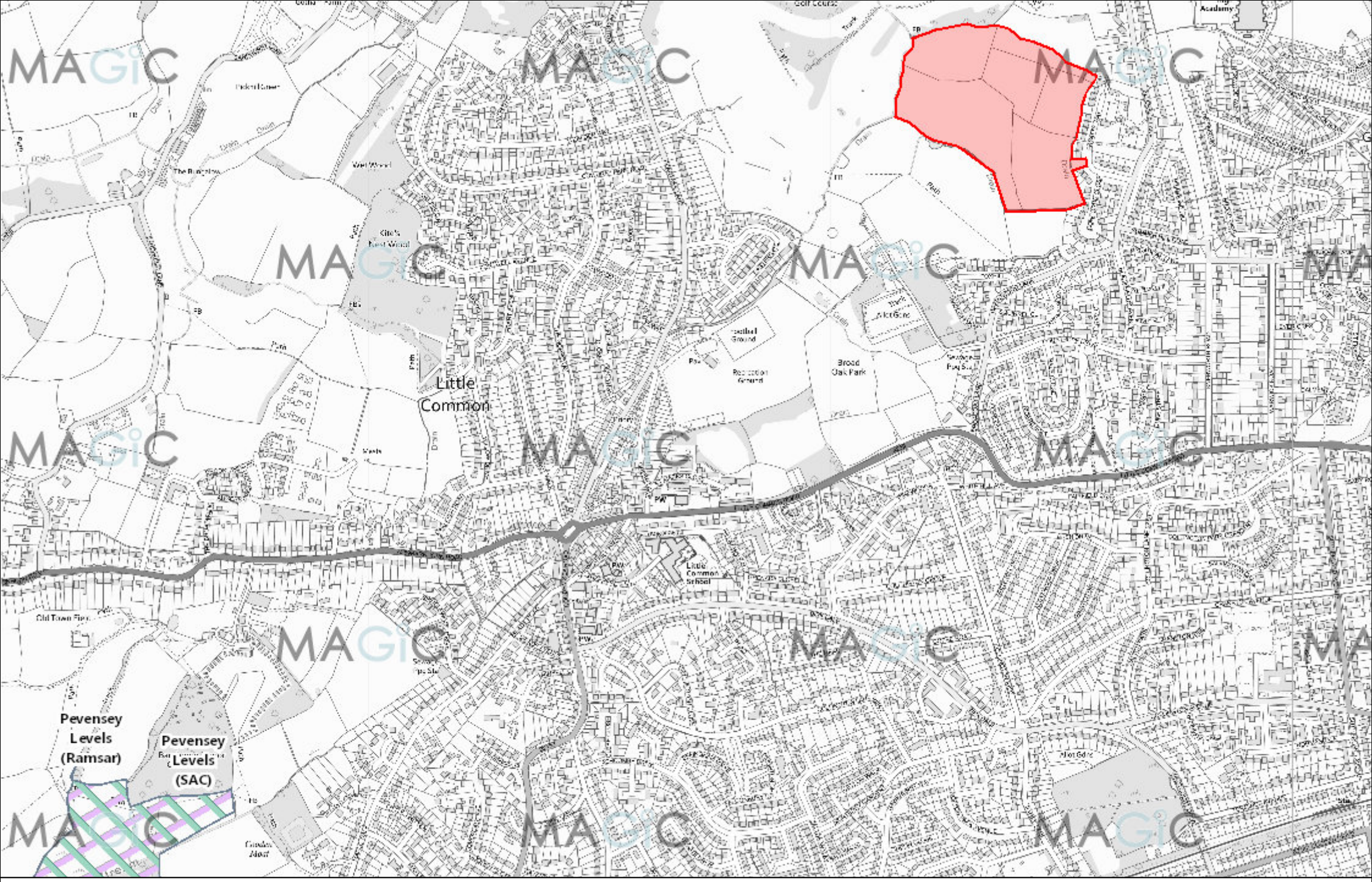
Rother District Council (2019). *Development and Site Allocations Local Plan*.

The Places Team for Rother DC/Shepway DC (2017). *Dungeness Complex: Sustainable Access and Recreation Management Strategy (SARMS)*

V. Hyland Associates Ltd. and Blackwood Bayne Ltd. (2015). *Rye Harbour, Camber, Dungeness and Shepway Visitor Surveys*.

Appendix A

Site Location Plans



0 0.15 0.3
km

0 1 2
km

Appendix B

Legislation and Policy Context

European Sites

Special Areas of Conservation (SACs) and Special Protection Areas (SPAs), termed 'European sites', collectively form part of a suite of sites known in the UK as the national site network, and are afforded strict protection from the potentially damaging effects of human activities. For ease of reference here, and consistent with their treatment under UK government policy, sites designated by the Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar Convention, 1971), or 'Ramsar sites', are also referred to here as European sites.

All European sites in England and Wales are afforded protection through the Conservation of Habitats and Species Regulations 2017 (as amended). These Regulations are widely referred to as the 'Habitat Regulations'. Regulation 63 of these Regulations states that, "A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which (a) is likely to have a significant effect on a European site…(either alone or in combination with other plans or projects), and (b) is not directly connected with or necessary to the management of that site, must make an appropriate assessment of the implications of the plan or project for that site in view of that site's conservation objectives." This assessment process is commonly referred to as 'Habitats Regulations Assessment' (HRA).

The above Regulations formerly transposed Article 6(3) of Council Directive 92/43/EEC on the 'Conservation of Natural Habitats and of Wild Fauna and Flora', commonly referred to as the 'Habitats Directive'. This Directive is the means by which the European Union meets its obligations under the Bern Convention (1992) on the Conservation of European Wildlife and Natural Habitats. Following the UK's departure from the European Union, the provisions of the Regulations have been retained through enactment of the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019, which came into force on 31 December 2020.

Notable case law

Many procedural facets of HRA have been established through case law. In light of Section 6(3) EU (Withdrawal) Act 2018 (as amended), UK courts will continue to be bound by HRA judgments handed down by the Court of Justice for the European Union CJEU prior to 31 December 2020 when interpreting the Conservation of Habitats and Species Regulations 2017 (as amended). A non-exhaustive summary of some of some key judgements is provided below:

<u>In Relation to HRA Screening</u>

Waddenzee (ECJ Case C-127/02; 07.09.04.)

This case considered when Appropriate Assessment might be triggered and concluded that it is required where there is a, "*probability or risk*," of

significant effects, and that, "*such a risk exists if it cannot be excluded on the basis of objective information that the plan or project will not have significant effects on the site concerned*." The ruling clarifies that, "*in case of doubt as to the absence of significant effects such an assessment must be carried out*."

The ruling further states that, "*in assessing the potential effects of a plan or project, their significance must be established in the light, inter alia, of the characteristics and species environmental conditions of the site concerned by that plan or project*." As such, when assessing potential effects the current condition of the features for designation of a European site must be considered. Such information may be provided within, amongst other sources, published Condition Assessments of component Sites of Special Scientific Interest (SSSI's) and Site Improvement Plans (SIPs).

Boggis v Natural England (EWCA Civ 1061; 20.10.09.)

This case built upon guidance for the correct interpretation of what constitutes a 'likely' significant effect from that provided in Waddenzee. It was ruled that, "*Notwithstanding the word 'likely'...the precondition before there can be a requirement to carry out an appropriate assessment is not that significant effects are probable, a risk is sufficient...*" however this must be, "*real, rather than a hypothetical, risk…*"

People over Wind (CJEU Case C-323/17, 12.04.2018)

The 'People Over Wind' ruling determined whether mitigation measures may be considered when determining if a an effect is 'likely' and therefore whether it should be 'screened-in' for further assessment within the HRA process (i.e. be subject to Appropriate Assessment). Previously it has been established (R (Hart DC) v SSCLG; known as the 'Dilly Lane' decision) that any measures introduced to avoid or mitigate effects on a European sites could be considered in the initial screening stage. However, in the People Over Wind case the CJEU ruled that that such measures not be considered during HRA screening.

Paragraph 40: "*…in order to determine whether it is necessary to carry out, subsequently, an appropriate assessment of the implications, for a site concerned, of a plan or project, it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site*."

<u>In Relation to Appropriate Assessment</u>

Waddenzee (ECJ Case C-127/02; 07.09.04)

Paragraph 59 of the ruling provides guidance on confidence thresholds in Appropriate Assessment, stating that, "*An appropriate assessment of the implications for the site concerned of the plan or project implies that prior to its approval, all the aspects of the plan or project which can…affect the site's conservation objectives must be identified in the light of the best scientific knowledge in the field. The competent national authorities, taking account of*

the conclusions of the appropriate assessment of the implications of [a project] for the site concerned, in light of the site's conservation objectives, are to authorise such activity only if they have made certain that it will not adversely affect the integrity of that site. That is the case where no reasonable scientific doubt remains as to the absence of such effects."

National Policy

The term 'European site' used in reference to SACs and SPAs is derived from the above Regulations. The National Planning Policy Framework (NPPF) (Ministry of Housing, Communities and Local Government, 2021) establishes that sites designated by the Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar Convention, 1971), or 'Ramsar sites', as well as 'potential SPAs' and 'possible SACs', should be given the same protection as European sites.

At paragraph 182, the Framework establishes that the presumption in favour of sustainable development (also known as the 'tilted balance' in planning) does not apply where the plan or project is likely to have a significant effect on a European site, unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the European site.

Local Policy

The Development and Site Allocations Local Plan (2019) sets out development management policies relevant to HRA in the Rother District. Policy DEN4 on Biodiversity and Green Space states as follows:

"*Development proposals should support the conservation of biodiversity and multi-functional green spaces in accordance with Core Strategy Policy EN5 and the following criteria, as applicable:*

(i) proposals where the principal objective is to conserve or enhance biodiversity or geodiversity will be supported in principle;

(ii) development proposals should seek to conserve and enhance:

(a) The biodiversity value of international, national, regional and local designated sites of biodiversity and geological value, and irreplaceable habitats (including ancient woodland and ancient or veteran trees);

(b) Priority Habitats and Species; and Protected Species, both within and outside designated sites.

Depending on the status of habitats and species concerned, this may require locating development on alternative sites that would cause less or no harm, incorporating measures for prevention, mitigation and (in the last resort) compensation.

(iii) in addition to (ii) above, all developments should retain and enhance biodiversity in a manner appropriate to the local context, having particular

regard to locally present Priority Habitats and Species, defined 'Biodiversity Opportunity Areas', ecological networks, and further opportunities identified in the Council's Green Infrastructure Study Addendum.

(iv) larger developments of more than 2 hectares or 50 dwellings (whichever is the smaller) should produce a Green Infrastructure masterplan as part of their proposals.

(v) all developments within the strategy area of the Dungeness Complex Sustainable Access and Recreation Management Strategy should have regard to the measures identified in that Strategy"

The Sustainable Access and Recreation Management Strategy (SARMS) document (2017) was produced jointly for Rother and Folkestone & Hythe District Councils. The SARMS addresses recreational pressure and provides a strategic, crossboundary approach to issues relating to disturbance, to ensure that any increases in access and recreational usage resulting from the planning policies of either Council do not adversely impact on the integrity of European sites, and proposes supporting actions to ensure sensitive management of recreation and access for the Dungeness complex.

In addition, Policy DEN5: Sustainable Drainage states that, "*Drainage should be considered as an integral part of the development design process, with Sustainable Drainage Systems (SuDS) utilised unless demonstrated to be inappropriate. In particular…within the Pevensey Levels Hydrological Catchment Area, SuDS designs should incorporate at least two stages of suitable treatment, unless demonstrably inappropriate.*"

Appendix C

European Site Characteristics

Table C.1. Site Characteristics of: **Dungeness, Romney Marsh and Rye Bay SPA**	
Distance and direction from Site	c. 1.8km south (marine), c. 16.4km east (terrestrial)
Size	42,417.53ha
Grid reference	TQ 994 139
Component SSSIs	Dungeness, Romney Marsh and Rye Bay SSSI Hastings Cliffs to Pett Beach SSSI
Qualifying features (Directive 79/409/EEC Annex I species)	Aquatic warbler *Acrocephalus paludicola* (autumn passage – at least 6.1% of the GB population, 5 year peak mean as of 2004 – 2008). Avocet *Recurvirostra avosetta* (in the breeding season - at least 3.5% of the GB population, 5 year mean count as of 2004 – 2008) Bewick's swan *Cygnus columbianus bewickii* (over wintering – at least 1.9% of the GB population 5 year peak mean as of 2002/03 – 2006/07) Bittern *Botaurus stellaris* (over wintering – at least 5% of the GB population, 5 year peak mean as of 2002/03 – 2006/07) Common tern *Sterna hirundo* (in the breeding season - at least 1.9% of the GB breeding population, 5 year mean count as of 2011 - 2015) Golden plover *Pluvialis apricaria* (over wintering – at least 1.6% of the GB population, 5 year peak mean 2002/03 – 2006/07) Hen harrier *Circus cyaneus* (over wintering – at least 1.5% of the GB population, 5 year peak mean as of 2002/03 – 2006/07) Little tern *Sterna albifrons* (in the breeding season - at least 1.5% of the GB breeding population, 5 years mean count as of 1992-1996) Marsh harrier *Circus aeruginosus* (in the breeding season - at least 2% of the GB population, 5 year mean count as of 2004-2008) Mediterranean gull *Larus melanocephalus* (in the breeding season - at least 52.2% of the GB population, 5

	year mean count as of 2004-2008) Ruff *Philomachus pugnax* (over wintering – at least 7.3% of the GB population, 5 year peak mean as of 2002/03 – 2006/07) Sandwich tern *Sterna sandvicensis* (in the breeding season - at least 3.8% of the GB breeding population 5 year mean, count as of 2011-2015) Shoveler *Anas clypeata* (485 individuals, no national population estimate) Waterbird assemblage (in the non-breeding season the area is regularly used by c. 34,625 individual waterbiords, 5 year peak mean as of 2002/03 – 2006/07)
Published Conservation Objectives	Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring; • The extent and distribution of the habitats of the qualifying features • The structure and function of the habitats of the qualifying features • The supporting processes on which the habitats of the qualifying features rely • The population of each of the qualifying features, and, • The distribution of the qualifying features within the site
Known vulnerabilities	The Site Improvement Plan (SIP) for the Dungeness SAC and Dungeness, Romney Marsh and Rye Bay SPA (previously known as Dungeness to Pett Level SPA) outlines known threats to Dungeness and its qualifying features. Those listed are as follows: • Military use • Vehicles: illicit • Predation • Changes in species distributions • Invasive species • Inappropriate scrub control • Overgrazing • Public access / disturbance • Direct impact from 3rd party • Air pollution: impact of atmospheric nitrogen

	deposition • Inappropriate water levels • Inappropriate ditch management • Coastal squeeze • Water pollution • Fisheries: Commercial marine and estuarine The following vulnerabilities have all been ranked as 'high' threats on the Natura 2000 standard data form: • Other human intrusions and disturbances • Military use and civil unrest • Interspecific faunal relations • Invasive non-native species • Changes in biotic conditions

Table C.2. Site Characteristics of: **Pevensey Levels SAC**	
Distance and direction from Site	c. 2.1km south-west
Size	3585.38ha
Grid reference	TQ 649 074
Component SSSIs	Pevensey Levels SSSI
Qualifying features (Directive 92/43/EEC Annex II species)	Ramshorn snail *Anisus vorticulus*. The Pevensey Levels SAC is considered to be one of the best areas for this species in the UK. The population here has both a wide spatial distribution and is found in good population density classes.
Published Conservation Objectives	Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring; • The extent and distribution of the habitats of the qualifying species • The structure and function of the habitats of the qualifying species • The supporting processes on which the habitats of the qualifying species rely • The populations of qualifying species, and, • The distribution of the qualifying species within the site.
Known vulnerabilities	The Site Improvement Plan (SIP) for the Pevensey Levels SAC outlines known threats to the Pevensey Levels and its qualifying features. Those listed are as follows: • Inappropriate water levels • Invasive species

	• Water pollution Furthermore, the following vulnerabilities have all been ranked as 'high' threats on the Natura 2000 standard data form: • Pollution to groundwater (point sources and diffuse sources) • Problematic native species • Human induced changes in hydraulic conditions.

Table C.3. Site Characteristics of: **Pevensey Levels Ramsar**	
Distance and direction from Site	c. 2.1km south-west
Size	3577.71ha
Grid reference	TQ 649 074
Component SSSIs	Pevensey Levels SSSI
Qualifying features	The Pevensey Levels is designated as a Ramsar under Criterion 2 for supporting an outstanding assemblage of wetland plants and invertebrates including many British Red Data Book species. The Ramsar is also designated under Criterion 3 for supporting 68% of vascular plant species in Great Britain that can be described as aquatic. It is probably the best site in Britain for freshwater molluscs, one of the five best sites for aquatic beetles and supports an outstanding assemblage of dragonflies.
Published Conservation Objectives	For Ramsar sites, a decision has been made by Defra and Natural England not to produce Conservation Advice packages, instead focussing on the production of High Level Conservation Objectives. As such it is considered that the Published Conservation Objectives for the Pevensey Levels SAC are relevant to this Ramsar designation.
Known vulnerabilities	The RIS (Information Sheet on Ramsar Wetlands) for this site lists the following factors (past, present or potential) adversely affecting the site's ecological character, including changes in land use (including water) and development projects: • Introduction / invasion of non-native plant species • Pollution – domestic sewage

Table C.4. Site Characteristics of: **Hastings Cliffs SAC**	
Distance and direction from Site	c. 10.5km east
Size	182.47ha
Grid reference	TQ 866 111
Component SSSIs	Hastings Cliffs to Pett Beach SSSI
Qualifying features (Directive 92/43/EEC Annex I habitats)	This presence of vegetated sea cliffs of the Atlantic and Baltic Coasts is the primary reason for the designation of this site. The site contains three valleys cut into the strata, which support woodland and scrub habitats with an unusual 'Atlantic' bryophyte flora. Closer to the sea the maritime influence stunts the trees, but other bryophytes become important here. Maritime scrub and coastal heathland are found closer to the cliff edge with grassland supporting maritime species.
Published Conservation Objectives	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 the qualifying natural habitat • The structure and function (including typical species) of the qualifying natural habitat, and • The supporting processes on which the qualifying natural habitat rely
Known vulnerabilities	The Site Improvement Plan (SIP) for the Hastings Cliffs SAC outlines known threats to the SAC and its qualifying features. Those listed are as follows: • Inappropriate coastal management • Water pollution • Air pollution: risk of atmospheric nitrogen deposition Furthermore, the following vulnerabilities have all been ranked as 'high' threats on the Natura 2000 standard data form: • Air pollution, air-borne pollutants • Pollution to groundwater (point sources & diffuse sources) • Human induced changes in hydraulic conditions.

Appendix D

Screening for Likely Significant Effects

Table D.1: Screening for Likely Significant Effects: **Dungeness, Romney Marsh and Rye Harbour SPA**	
Describe any likely changes to the site or its qualifying features arising as a result of the following impact pathways:	
Land take by development within European site	None: Site not within or immediately adjacent to SPA.
Fragmentation of European site habitats	None: Site not within or immediately adjacent to SPA.
Increased mortality of key species	None: No pathways identified.
Disturbance to key species / deterioration of habitats	Although the marine component of the SPA lies within c. 1.8km of the Site, the terrestrial component is c. 16.4km away. The marine SPA extension covers the open waters around the coast and is intended to ensure that fish stocks do not become depleted, and can continue to support the terrestrial SPA tern breeding colonies. The proposed development will accommodate an increase of up to c. 504 people (based on 2.4 per dwelling). A visitor survey revealed that the Dungeness Complex, which includes the terrestrial SPA, attracts many visitors all year round from distances in excess of 55km. This includes holiday-makers and those in pursuit of water sports. The same survey found that regular visitors (i.e. those who visited at least once a week) were prepared to travel from as far as 20km away, and that 90% of those regular visitors came from within the Shepway or Rother Districts. Of that 90% it is stated that 'very few' came from Hastings (east of Bexhill), and no figure was given for Bexhill. The largest percentage of regular visitors lived in Greatstone, Lade and Lydd-On-Sea; all situated among the Complex itself. It is possible that new residents at the development would visit the terrestrial component of the SPA. However, given the distance, the resulting increase in recreational pressure is unlikely to be significant.
Damage or deterioration of supporting habitats, outside European site	None: Based on the intervening distance, the Site is unlikely to represent supporting habitat, or 'functionally linked land', for the bird assemblages associated with the terrestrial component of the SPA, whereas the marine component was specifically designated to protect off-shore tern foraging areas.
Atmospheric	None: No pathways identified.

pollution/air quality	
Changes to soil chemistry	None: No pathways identified.
Hydrological regime change	None: No pathways identified.
Pollution of surface / ground / marine water	Foul drainage from the Site will be directed through the sewage system to Hastings and Bexhill Wastewater Treatment Works (WwTW), managed by Southern Water. Here, the foul water from the Hastings and Bexhill catchment area is treated through a four stage cleaning process before it is released 3km out to sea directly into the marine arm of the Dungeness, Romney Marsh and Rye Bay SPA. The quality of the discharge is managed through an Environment Agency consent, and that consent has been deemed to be environmentally acceptable. Furthermore, Southern Water advised that this WwTW has capacity for the planned growth across Hastings and Bexhill. It is considered unlikely that the wastewater from the proposed development alone would have a significant effect on the marine arm of the SPA due to the wastewater from the Hastings and Bexhill area having already been subject to rigorous cleansing before the further dilution of this cleansed wastewater in the sea.

Table D.2. Screening for Likely Significant Effects: **Pevensey Levels SAC**	
Describe any likely changes to the site or its qualifying features arising as a result of the following impact pathways:	
Land take by development within European site	None: Site not within or directly adjacent to SAC
Fragmentation of European site habitats	None: Site not within or directly adjacent to SAC
Increased mortality of key species	None: No pathways identified.
Disturbance to key species / deterioration of habitats	The proposed development will accommodate an increase of c. 504 people (based on 2.4 per dwelling) at a minimum distance of 2.1km of the SAC. However, recreational disturbance is not cited as a known vulnerability, likely because there are minimal Public Rights of Way (PRoW) within the Pevensey Levels SAC, and the large extent of the ditch system which supports the lesser ramshorn snail populations remain

	undisturbed. Furthermore, it is considered likely that most visitors will opt to walk along the adjacent coastline between Cooden Beach and Normans' Bay where there is public parking and facilities. The potential for habitat deterioration is respect of water quality is addressed below.
Damage or deterioration of supporting habitats, outside European site	None: No supporting habitats are present on Site. The on-site ditches are not of a suitable structure and do not contain the diverse flora and moderate emergent vegetation cover that is required to support lesser ramshorn snail. Therefore, it is considered highly unlikely this species would occur within habitats that will be impacted by the proposed development.
Atmospheric pollution/air quality	None: Although there are roads within 200m of the Pevensey Levels SAC, as remarked in the DaSA HRA (Aecom, 2018) neither the interest features of this or the associated Ramsar designation have been identified as being sensitive to atmospheric nitrogen deposition. During preparation of the DaSA HRA, Natural England were consulted as reportedly do not currently see atmospheric nitrogen deposition as a risk to the integrity of this site.
Changes to soil chemistry	None: No pathways identified.
Hydrological regime change	None: Based on the intervening distance, development at the Site would be unlikely to significantly affect the hydrological regime at the SAC.
Pollution of surface/ground water	The Site is located c. 2.1km north-east of the SAC, within the Pevensey Levels Hydrological Catchment, as identified by Figure 12 of the adopted DaSA. Both the SAC and associated Ramsar site are noted to be vulnerable to water pollution impacts. During construction the soil on Site may become compacted, leading to increased surface run-off and a higher than normal input of waterborne pollution and loose sediment, which could reach the SAC via the interconnected ditch network. During operation, surface run-off rates from the Site may be increased due to increased areas of impermeable land cover. Again, additional run-off could vector pollutants to the sensitive habitats of the SAC via the interconnected ditch network.

Table D.3. Screening for Likely Significant Effects: **Pevensey Levels Ramsar**	
Describe any likely changes to the site or its qualifying features arising as a result of the following impact pathways:	
Land take by development within European site	None: Please refer to Table D.2.
Fragmentation of European site habitats	None: Please refer to Table D.2.
Increased mortality of key species	None: Please refer to Table D.2.
Disturbance to key species / deterioration of habitats	None: Please refer to Table D.2.
Damage or deterioration of supporting habitats, outside European site	None: Baseline conditions at the Site do not reflect those of the Rasmar site, and are unsuitable to support key species.
Atmospheric pollution/air quality	None: Please refer to Table D.2.
Changes to soil chemistry	None: Please refer to Table D.2.
Hydrological regime change	None: Please refer to Table D.2.
Pollution of surface/ground water	As identified in Table D.2 above in respect of the SAC, development at the Site has the potential to affect the Pevensey Levels Ramsar site via pollution of surface run off.

Table D.4. Screening for Likely Significant Effects: **Hastings Cliffs SAC**	
Describe any likely changes to the site or its qualifying features arising as a result of the following impact pathways:	
Land take by development within European site	None: The Site is not within or immediately adjacent to the SAC.
Fragmentation of European site habitats	None: The Site is not within or immediately adjacent to the SAC.
Increased mortality of key species	None: No pathways identified.
Disturbance to key species / deterioration of habitats	The outline plan for development on the Site will accommodate an increase of c. 504 people (based on 2.4 per dwelling) at a minimum distance of 10.5km of the SAC. Recreational pressure is not cited as a vulnerability to this SAC. This is because much of the footpath network within the Country Park is outside of the SAC and the interest feature at this designated Site are situated in dangerous / hard to access locations where there is no public access. Any recreational effect of the proposed development on the Hastings Cliffs SAC

	will be negligible.
Damage or deterioration of supporting habitats, outside European site	None: No supporting habitats are present at the Site.
Atmospheric pollution/air quality	None: Although there are roads within 200m of this SAC, these are all minor and do not facilitate access to / from any significant destinations or onward routes, and provide local access to limited land uses only. Furthermore, these roads are located a significant distance from the Site and it is anticipated that traffic generated from the proposed development will have diffused across numerous other routes before reaching the roads in question.
Changes to soil chemistry	None: No pathways identified.
Hydrological regime change	None: No pathways identified.
Pollution of surface/ground water	None: The Site does not share direct hydrological connectivity with the Hastings Cliffs SAC, and as such direct run-off/discharges will not occur.

Appendix E

Indicative Surface Water Management Plan

Proposed Surface Water Swale

Hatching denotes Top of Bank

Northern Attenuation Basin
Discharge rate limited to max 91.5l/s for the 100 year event - Limited via complex control for lesser events
Q100+40% Volume 827.7m^3

Southern Attenuation Basin
Discharge rate limited to 11.2l/s
Q100+40% Volume 1195.8m^3

Proposed Surface Water Swale

Notes
Do not scale from this drawing
Layout provided by FPCR
Drawing is indicative and subject to change following layout revisions
Cover levels and invert levels are indicative and based on assumptions. these are subject to change at detailed design

Key
- Proposed Surface Water Pipes
- Proposed Surface Water Swale
- Attenuation Basin

Rev.	Date	Amendment	Drawn	Chkd.	Appd.
P4	Jun 21	Revised DFP	CW	RW	IC
P3	Feb 20	Revised DFP	CW	RW	IC
P2	Jan 20	Revised DFP	CW	RW	IC
P1	Jan 20	Draft for comment	CW	RW	IC

RSK
LAND & DEVELOPMENT ENGINEERING LTD
Spring Lodge
172 Chester Road
Helsby
Cheshire, WA6 0AR
United Kingdom
Tel: +44 (0) 1928 726006
Fax: +44 (0) 1928 725633
Email: ide@rsk.co.uk
Web: www.rsk.co.uk

Client
Gladman Developments Ltd

Project Title
Land off Fryatt's Way
Bexhill

Status
For Issue

Drawing Title
Indicative Surface Water Drainage Strategy

Drawn	Date	Checked	Date	Approved	Date
CW	Dec 19	RW	Jan 20	IC	Jan 20

Scale	Orig Size	Dimensions
Not to Scale	A3	m

Project No.: 881964
Drawing File:
Drawing No.: 10-01
Rev.: P3

File Location: L:\004 JOBS COMPLETED\881964 - FRYATTS WAY, BEXHILL GLADMAN\GRAPHICS\FLOOD RISK\881964 (P4) INDICITIVE DRAINAGE STRATEGY.DWG

Appendix F

Surface Water Management Supplementary Information

14 Beecham Court
Pemberton Business Park
Wigan
WN3 6PR
UK

Telephone: +44 (0)1942 493255
Fax: +44 (0) 1942 493171
www.rsk.co.uk

Our Ref: 881964 L01 NE
Planning App: RR/2021/1656/P

10th January 2022

Ms C Gibbons

Via Email

RE: Fryatts Way - Land at Bexhill - Erection of up to 210 residential dwellings (including up to 30% affordable housing), introduction of structural planting & landscaping, informal public open space & children's play area, surface water flood mitigation, vehicular access point & assoc. ancillary works. AMR with the exception of the main site access.

I refer to the recent Natural England consultation response dated 9th November 2021 to the above application. This response requests further information on a number of points specifically relating to the SuDS strategy and flood risk, which this letter aims to address and clarify.

Natural England comment	RSK Response
Natural England acknowledge that the applicant has proposed the use of SuDS, in order to mitigate the increase in surface water run-off as a result of the development. We also acknowledge that, as noted within the applicant's Flood Risk Assessment & Outline Surface Water Drainage Strategy (June 2021), all surface water run-off is proposed to pass through a treatment train of at least two SuDS features, prior to discharge from the site, and that this preliminary strategy has been designed following the guidance in the CIRIA SuDS Manual (2015). Natural England advise that this appears to be a potentially suitable mitigation strategy.	A drainage strategy drawing has been produced as part of the submitted FRA. It can be confirmed that all surface water run-off will pass through at least two levels of treatment prior to discharge off the site. The SuDs elements being proposed incorporate; permeable paving, swales and an attenuation basin. It can be seen from the drainage strategy drawing that the development parcels are enclosed by swales which would receive the run-off prior to discharge to the basins. A further swale could be incorporated between the basin outlet and the receiving watercourse. The planting of these swales can be agreed with Natural England and the LLFA to ensure maximum pollution removal potential can be reached prior to discharge to the receiving watercourse.
However, it is currently unclear as to exactly which SuDS features are to be included. For example, the Flood Risk Assessment & Outline Surface Water Drainage Strategy suggests the use of permeable paving, swales and attenuation basins, while the Shadow HRA (April 2021) considers swales and attenuation basins only. While only two treatment stages are necessarily required, the current information leads to uncertainty as to which features will be used and how they will be implemented to form a treatment train.	As outlined above and on the drainage strategy drawing, the scheme will incorporate (as a minimum), permeable paving, swales and an attenuation basin. Full details of the drainage will follow at detailed design stage and this can be secured through an appropriately worded planning condition, with the full details being submitted to and approved by the LLFA prior to commencement.
In addition, there appears to be some uncertainty as to the groundwater levels on the site. According to the response from the Pevensey and Cuckmere Water Level Management Board (October 2021), the	The basins have been preliminarily designed based on a depth of 1.2m for the southern basin and 1.5m for the northern, above the estimated groundwater levels. It is proposed that groundwater monitoring be

proposed SuDS basins appear to be in areas that have groundwater levels at less than 2m below ground level. High groundwater levels could have implications for the efficacy and durability of the proposed SuDS. The SuDS design should be informed by accurate groundwater monitoring. Alternatively, in the absence of accurate groundwater data, your authority should determine if the SuDS design has been based on a worst-case scenario, where groundwater levels are at or near the surface. If this is determined to not be the case, Natural England advise that avoidance of Adverse Effect on Integrity will not be sufficiently certain. Natural England reiterate that the proposed mitigation measures must be sufficiently certain to be considered by the competent authority at Appropriate Assessment.	carried out in the location of the basins to allow the design to be confirmed. Should groundwater levels be elevated in this area, a technical solution will be proposed. This could require the basins to be lined to prevent groundwater ingress which could compromise the volume of the basins.

Based on the above comments and the data submitted as part of the Flood Risk Assessment, we do not believe there to be sufficient grounds for an objection. Further drainage strategy work is required to develop the scheme at detailed design stage. We would therefore be seeking a suitably worded planning condition to secure the detailed drainage design which would be required at full application stage.

We trust this information is sufficient for your immediate needs, however please do not hesitate to contact the undersigned if you require any further information.

Yours sincerely

RSK LDE LIMITED

Colin Whittingham
Associate Director BSc (Hons) MSc MCIWEM C.WEM PIEMA

Dixies Barns, High Street, Ashwell,
Hertfordshire SG7 5NT
t 01462 743647
e ashwell@csaenvironmental.co.uk
w csaenvironmental.co.uk

Suite 1, Deer Park Business Centre, Eckington,
Pershore, Worcestershire WR10 3DN
t 01386 751100
e pershore@csaenvironmental.co.uk
w csaenvironmental.co.uk

Office 20, Citibase, 95 Ditchling Road,
Brighton BN1 4ST
t 01273 573871
e brighton@csaenvironmental.co.uk
w csaenvironmental.co.uk