CD6.10

Habitat Regulation Assessment (HRA)
Screening Matrix and Appropriate Assessment Statement

PLEASE NOTE: Undertaking the HRA process is the responsibility of the decision maker as the Competent Authority for the purpose of the Habitats Regulations, however, it is the responsibility of the applicant to provide the Competent Authority with the information that they require for this purpose.

Application reference:	RR/2021/1656/P
Application address:	Fryatts Way – land at Bexhill
Application description:	Outline: Erection of up to 210 residential dwellings (including up to 30% affordable housing), introduction of structural planting and landscaping, informal public open space and children's play area, surface water flood mitigation, vehicular access point and associated ancillary works. All matters to be reserved with the exception of the main site access.
Status of Application:	Pending decision
Proximity to SPA/SAC/Ramsar:	Pevensey Levels Site of Special Scientific Interest (SSSI), Special Area of Conservation and Ramsar site (approximately 2.1km to the south west).
Lead Planning Officer: Clare Gibbons	
Stage 1 - details of the plan or project	
European site potentially impacted by planning application, plan or project:	YES (impact on water quality and water levels) Pevensey Levels SAC and Ramsar Site
Is the planning application, project or plan directly connected with or necessary to the management of the site?	No
Are there any other projects or plans that	Yes. There are other planning allocations or planning permissions in both Rother and Wealden

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together with the planning application being assessed could affect the site?	districts that could have water quality or water resources impacts on the Pevensey Levels that could act in combination.
Stage 2 - HRA screening assessment	
Test 1: the significance test – The Applicant to provide evidence so that a judgement can be made as to whether there could be any potential significant impacts of the development on the integrity of the SPA/SAC/Ramsar.	
Following the recent CJEU ruling, 'People Over Wind, Peter Sweetman v Coillte Teoranta', we can no longer take into account any avoidance and mitigation measures as part of the application at this stage of HRA. For applications in the hydrological catchment area of the Pevensey Levels the Council's "*Habitat Regulations Assessment Likely Significant Effects and Appropriate Assessment*" September 2018 concludes that without mitigation it is not possible to assume that development would not have likely significant effects on the SAC/Ramsar Site in terms of water quality and water levels. Therefore when considering such applications, even where a scheme of mitigation is proposed assessment would progress to Stage 3.	
Stage 3 - HRA – Appropriate Assessment	
Test 2: the integrity test – If there are any potential significant impacts, the applicant must provide evidence showing avoidance and/or mitigation measures to allow an Assessment to be made.	
Section 1: Conservation objectives for the site (SAC) 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 habitats of qualifying species □□The structure and function of the habitats of qualifying species □□The supporting processes on which the habitats of qualifying species rely □□The populations of qualifying species, and, □□The distribution of qualifying species within the site. Qualifying Features: S4056. *Anisus vorticulus*; Little whorlpool ram's-horn snail (Ramsar) From EA's "Pevensey Levels SSSI Water Level Management Plan" December 2006	

Maintain water levels in Main River and IDB watercourse at 0.3m below mean field level throughout the year;
• For the rest of the site, maintain water levels 0.3m below mean field level throughout the year as a minimum;
• Restore winter flooding to the site; and
• Restore the functioning of the ditch system

Qualifying Features:
Ramsar criterion 2
The site supports an outstanding assemblage of wetland plants and invertebrates including many British Red Data Book species.
Ramsar criterion 3
The site supports 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 *Coleoptera* and supports an outstanding assemblage of dragonflies *Odonata.*

Section 2: Assessment Matrix

Identification of the potential effects and their impacts on the Conservation Objectives

Potential Effect	Site Conservation Objectives	Qualifying Features	Potential for Impact?	Relevant Mitigation Measures
CONSTRUCTION PHASE				
Increase in pollutant loads (including sediment, nutrients, oxygen demanding substances, road salts, heavy metals, bacteria and viruses entering the water	- Maintaining or restoring the extent and distribution of the habitats of qualify species; - The structure and function of habitats;	All qualifying features including: Lesser Whirlpool Ram's Horn Snail (SAC) Outstanding assemblage of wetland plants and invertebrates,	Yes. Direct impact. without mitigation, flora and fauna and their habitat dependent on maintenance of water quality and levels would be at risk from: - High sediment loads from construction that could smother habitats and species; and - Excessive input of nutrients that could lead to eutrophication (depletion of oxygen in water). Without appropriate mitigation there is a particular risk to the water environment from the importation of fill	The Applicant has identified that during construction the soil in 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. The following standard construction management procedures are proposed to avoid the above risk and other risks during construction: • Prior to any works commencing, a full site investigation to be undertaken to identify potential sources of contamination and identify appropriate safeguards to be implemented; • All site staff to understand the sensitivity of hydrology on the site, particularly with respect to the watercourses present at the site boundaries, and the need to avoid activities which

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environment	- The populations of qualifying species; - Distribution of qualifying species. - Maintaining watercourse water levels - Restore the functioning of the ditch system.	including many British Red Data Book species (Ramsar) Supports 68% of Aquatic vascular plant species in Great Britain, invertebrates including fresh water molluscs, aquatic beetles and dragon flies (Ramsar)	material to raise land levels in parts of the site.	could lead to detrimental effects; • Fuel, oil and chemicals to be stored to HSE recommendations and away from the Cole Stream and other any natural water drains; • Any fuel spills to be reported to the site manager and acted on immediately to ensure these do not reach the watercourse; • Loose construction material (e.g. sediments, cements and other potential pollutants) not be stored adjacent to the watercourse; • A procedure for checking and corrective action, including regular inspections and monitoring would be put in place; and • Engineering safeguards such as the use of a temporary silt trap to be utilised across the site during construction works in order to form a site wide intercept for silt and other potential pollutants. These measures would be secured by a pre-commencement planning condition requiring a Construction Environmental Management Plan (CEMP) that would set out in more detail the measures, monitoring and checking procedures. Such a condition would also require that the source of any fill material brought onto the site is declared and evidence provided to ensure that it is free of contaminants. The applicant has also indicated that 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. This temporary arrangement during construction would be secured as part of the drainage strategy required by condition.
OPERATIONAL PHASE (ON COMPLETION)				
Potential	Site	Qualifying	Potential for Impact?	Relevant Mitigation Measures

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Effect	Conservation Objectives	Features		
Deterioration in water quality from increase in pollutant loads from surface water run-off (including sediment, nutrients, oxygen demanding substances, road salts, heavy metals, bacteria and viruses)	- Maintaining or restoring the extent and distribution of the habitats of qualify species; - The structure and function of habitats; The populations of qualifying species; - Distribution of qualifying species. - Maintaining watercourse water levels - Restore the functioning of the ditch system	All SAC and Ramsar qualifying features	Yes. Direct impact. Without mitigation, flora and fauna and their habitat dependent on maintenance of water quality and levels would be at risk from: - High sediment loads that could smother habitats and species; and - Excessive input of nutrients leading to eutrophication	The Applicant's updated 'Shadow Habitats Regulations Assessment' refers to the Outline Surface Water Drainage Strategy (RSK Land & Development Engineering Ltd. 2019) and advises that the SuDS elements being proposed incorporate permeable paving, swales and two attenuation basins. These features will be used to intercept surface water run-off and then pass through levels of treatment prior to discharge off site. A detailed surface water drainage strategy would be required as part of the reserved matters application. The LLFA/PCWLMB is comfortable with this approach and a detailed condition would be imposed in line with their recommendation. This approach would avoid impacts on the SAC/Ramsar.
Deterioration in water quality from increase in surface	- Maintaining or restoring the extent and	All SAC and Ramsar qualifying features	Yes, direct impact. A rise in surface water temperature could cause stress or mortality to aquatic organisms; eutrophication and the extent and distribution of species and their	The application site is over 2km from the protected site so that raised surface water temperatures would drop to ambient level by the time it reaches the Levels. No further measures to avoid impact are necessary.

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water temperature	distribution of the habitats of qualify species; - The structure and function of habitats; - The supporting processes on which the habitats of qualifying species rely; - The populations of qualifying species;		habitat.	
Change in water flow into wetlands and altered water levels within it (increase or decrease)	- Maintaining or restoring the extent and distribution of the habitats of qualify species; - The structure and	All SAC and Ramsar qualifying features	Yes, direct impact without appropriate mitigation to ensure that the Levels do not become inundated through flash flooding due to run off from hard surfaces or conversely, a reduction in the volume of surface water draining from the site into the Levels.	Surface water would be managed through the use of permeable paving, swales and two attenuation basins. The proposed offsite discharge rates will not exceed the predevelopment rates for the corresponding rainfall event as indicated in the table below taken from the Flood Risk Assessment & Outline Surface Water Drainage Strategy (Ref: 881964-R2(02)-FRA):

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<td>function of habitats;
- The supporting processes on which the habitats of qualifying species rely;
- The populations of qualifying species;</td>
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Table 9.2: Pre and post development discharge rates for each return period
<table>
<tr><th>Return period</th><th>Greenfield run off rate (l/s) Developable Area</th><th>Peak flow (l/s) Northern Catchment</th><th>Peak flow (l/s) Southern Catchment</th><th>Total Post development Peak flow (l/s)</th></tr>
<tr><td>QBar</td><td>35.21</td><td>22.7</td><td>9.9</td><td>32.6</td></tr>
<tr><td>1 in 30 year</td><td>80.99</td><td>36.2</td><td>9.9</td><td>49.1</td></tr>
<tr><td>1 in 100 year</td><td>112.33</td><td>59.6</td><td>9.9</td><td>69.5</td></tr>
<tr><td>1 in 100 year +40% Climate change</td><td>112.33 (Q100)</td><td>91.5</td><td>11.2</td><td>102.7</td></tr>
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The LLFA and Pevensey and Cuckmere Water Level Management Board has commented that the 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 basins have been designed based on a depth of 1.2m for the southern basin and 1.5m for the northern, above the estimated groundwater levels. Groundwater monitoring could be undertaken in the location to inform the detailed design and drainage strategy that would be required by planning condition.
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<td>Wetlands invaded by aggressive, highly tolerant, non-native vegetation</td>
<td>- Maintaining or restoring the extent and distribution of the</td>
<td>All SAC and Ramsar qualifying features</td>
<td>Yes, indirect and direct impact. Inappropriate planting within the scheme has the potential to find its way into the habitats of the Levels, invading and smothering the qualifying feature native flora and fauna and disrupting the structure and</td>
<td>All planting to the landscaped areas would be expected to be native. The details of the landscape scheme would be covered by a planning condition.</td>
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	habitats of qualify species; - The structure and function of habitats; - The supporting processes on which the habitats of qualifying species rely; -The populations of qualifying species.		function of those habitats.	
Failure for the proposed SUDs to be properly managed and maintained for the lifetime of the development	- Maintaining or restoring the extent and distribution of the habitats of qualify species; -The structure and function of habitats; -The populations	All SAC and Ramsar qualifying features	Yes, direct impact failure to properly maintain the SUDs system would lead to the infiltration of contaminants into water environment of the Levels and potentially, changes in water levels	The SuDS would be subject to a maintenance and management plan that would be secured by planning obligation.

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	of qualifying species; - Distribution of qualifying species. - Maintaining watercourse water levels			
Failure of the foul drainage system	Maintaining or restoring the extent and distribution of the habitats of qualify species; - The structure and function of habitats; - The populations of qualifying species; - Distribution of qualifying species. - Maintaining watercourse water levels - Restore the functioning	All SAC and Ramsar qualifying features	Yes, direct impact, Failure of an on-site foul treatment package or the pumps taking effluent to the mains sewer network could have an impact on the water quality of the Levels and the flora and fauna species that it supports	The application indicates that the proposed development would connect to the sewerage network. The flows would end up in a waste water treatment works that operates under an Environmental Permit. A condition would be imposed requiring full details to this effect.

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	of the ditch system.			

Stage 4 – Summary of the Appropriate Assessment. To be carried out by the Competent Authority (the local planning authority) in liaison with Natural England

Conclusion

Having considered the likely effects and the proposed mitigation and avoidance measures proposed that would be secured and thereafter maintained for the lifetime of the development by condition, Rother District Council conclude that with mitigation the project would not have an Adverse Effect on the integrity of the European protected site.

Specifically, conditions would require the submission of a Construction Environmental Management Plan to avoid impacts during construction and a detailed drainage design to ensure acceptable surface water flows during operation. A planning obligation would also secure the management of the SUDS to ensure that it continues to remain effective in line with the requirements set out in Policy DEN5. Foul water would be expected to discharge to the existing sewerage network and then on for treatment at a waste water treatment works operating in accordance with an environmental permit. A condition is recommended to require further details to that effect.

The LLFA confirms that the submitted information assures them that the proposed development layout can be drained without increasing flood risk on or off site, subject to further details being submitted and approved at the reserved matters stage.

The Council's HRAs that support the Core Strategy address the strategic effect of growth across Rother 'in-combination' with growth in other authority areas over the same time period. The Core Strategy HRAs were focused on the overall quantum and broad distribution of the growth. The DaSA HRAs identifies if any particular site allocations and policies have the potential to cause an adverse effect on the European designated sites, either in isolation of 'in combination' with other plans or projects and to determine whether site-specific mitigation measures are required. The DaSA 'in combination' assessment concluded that there would be no adverse effects due to the policy protection requiring appropriate SuDS for all relevant sites. Similarly, Wealden and Eastbourne have undertaken their own HRAs to support their respective Local Plans vis-à-vis development targets. Therefore, it can be concluded that an adverse effect on the integrity of the SAC and Ramsar site would be avoided 'in combination' with other development proposals in Rother, Wealden and Eastbourne districts.

Having made this appropriate assessment of the implications of this project for the European Sites in view of their conservation objectives, and having consulted Natural England* and fully considered any representation received (see below) and the representations of all other relevant consultees, the authority may now agree to the project under Regulation 63 of the Conservation of Habitats and Species Regulations 2017.

- Subject to Natural England's review and comments.

Natural England

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Summary of Natural England's comments:
Signed: Clare Gibbons On behalf of Rother District Council Date: xxxxx 2022

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