

Coldwaltham Meadow Conservation Group

MATTER 2: Position Statement concerning soundness & strategy

- Habitat Regulations Assessment
- Sustainability Appraisal
- Policy SD25

This position statement reflects our original representations 2438, 2439, 2447 and 2452.

Habitat Regulations Assessment

1. We challenge the legal compliance of the SDNPA HRA in its assessment of the impact pathways for Policy SD64 upon two designated International Sites: the Arun Valley SAC/SPA/Ramsar and The Mens SAC.

Recreational pressure

2. The HRA selectively quotes from an outdated, unrepresentative and inadequate visitor survey as a basis for impact assessment. Although SDNPA now claims that *“The HRA report has been updated to clarify the extent to which the 2012 visitor survey has been relied upon; this was very little, and it was provided for context”*, (SDNPA Summary of Issues, p.378), we can find no evidence that any other more recent visitor survey was used to evaluate impact pathways of recreational pressure on designated sites.

2.1 The HRA has been updated with pet ownership statistics (that we provided) but they have been “smoothed”; The number of dogs per household has been rounded down from 1.3 to 1 and the number of households quoted is 28, not 30. This is an attempt to downplay the potential impact of dogs visiting the designated site. In accordance with the Precautionary Principle, an accurate HRA of the potential risk of adverse effects should take the upper limit of numerical ranges into account.

2.2 Although the HRA states *“not all dog owning residents will necessarily walk their dogs in the SSSI”*, Policy SD64 will encourage new and existing dog walkers to frequent the SSSI. The footpath specified by Policy SD64 will provide local dog walkers from Watersfield with a new circular walk passing through Waltham Brooks SSSI, and the proposed shop will also attract those who may choose to combine shopping with dog walking through the SSSI.

2.3 In this context, the *“possible solutions”* listed in 4.11.2 of the HRA are ineffective and lacking in credibility. Dogs already cause disturbance to wildlife and livestock on Waltham Brooks SSSI and dog fouling is already an issue; Take the Lead leaflets and Signs are already deployed, with no discernible effect. To suggest that issuing yet more leaflets and signage would avoid any future negative effects is illogical and unjustified. The proposed “Dog Ambassadors” cannot prevent dog walkers from using public rights of way and cannot enforce that dogs should be on leads. They will not be able to influence the behaviour of unaccompanied dogs.

2.4 The proposed *“management burden”* survey suggested in 4.11.2 is not mitigation; by the time monitoring has finished, 10 year’s disturbance and damage will have been done. No amount of payment would compensate or in any way mitigate for this, or for the damage

that would continue to occur, for there is no effective management solution that will screen out the likely adverse effects of damage and disturbance on the integrity of the designated sites or the meadow in which Policy SD64 is sited.

2.5 The HRA ignores the fact that winter assemblages of waterfowl, for which the SPA is designated, commute between all units of the designated site; it fails to recognise that disturbance to wintering wildfowl on Waltham Brooks SSSI will impact on birds that also use other parts of the SPA. In this context, it is misleading to refer (in 4.11.7 of the HRA) to Amberley Wildbrooks as a “*key part*” of the SPA, for Waltham Brooks is a key part too. A 10-year monitoring programme would have to monitor effects across the whole SPA/SAC/Ramsar site.

2.6 The HRA fails to address the adverse impacts of wildlife predation by cats; a standard 400m building exclusion zone is imposed around other SPAs in the region, primarily for the purpose of reducing the impact of cats preying on nesting birds and small mammals.

2.7 From the above, it can be seen that the statement in 4.11.10 of the HRA that disturbance to wildlife of the SAC/SPA/Ramsar site “*can remain screened out*” is unjustified. The HRA is not coherent with the Precautionary Principle quoted in 2.2.6, and, in failing to provide effective avoidance measures for the negative impacts associated with increased recreational pressure, lacks coherence with the Sandford Principle.

Spinning statistics

3. It is ironic that the only Planning Authority quoted in 4.11.7 of the HRA that specifies any development within 5km of the SAC/SPA/Ramsar site is a National Park, charged with protecting and enhancing wildlife and landscape. In an attempt to downplay the significance of allocating Policy SD64 so close to the most important designated site within the National Park, the HRA uses the phrases “*such a small number of dwellings*” and “*since the number of dwellings is so small*”, along with the outrageous statement that

“the small number of houses proposed (28 dwellings) inherently limits the potential scale of visitor increase considerably even from a site situated within 100m of Waltham Brooks” (HRA 4.11.8)

This is not a justification for Policy SD64. The potential scale of visitor increase would be limited still further if the houses weren’t built at all; building any houses so close to the designated sites is guaranteed to increase visitor pressure on them.

3.1 The statistics in footnotes 58 and 59 of the updated HRA have also been selectively quoted:

- Footnote 58 refers to “*an increase of 8 dwellings to be provided within 5 km of the SAC*”, but fails to point out that “*the 20 new dwellings within 5km of the SAC*” in the “*previous iteration of the Plan*” had been withdrawn precisely because they were too close; all 25-30 of the houses in Policy SD64 represent an increase within 5km of the designated site.
- Footnote 59 states that there were “*45-50 dwellings in the preferred options plan*”. This is another attempt to downplay the perception of potential effects, for 28

dwellings are fewer than 45-50. However, there were only ever 20 dwellings proposed in the Preferred Options Plan, with 35-40 dwellings proposed for Policy SD64. This was reduced to 25-30 following objections made by the Coldwaltham Meadow Conservation Group at Planning Committee meetings.

3.2 Further manipulation of numbers is demonstrated by the HRA's assertion that Policy SD64 represents a 12% increase in the number of dwellings within Coldwaltham parish; it is actually an increase of 12% in the number of houses within the village. This figure is then recast as being just 1% of all the houses within 5km of Waltham Brooks SSSI. Despite this, the fact remains that Policy SD64 is located not just within 5km of the designated site, it is located within c100m of it. If any dwellings within 5km are considered to have potential for adverse effects, then dwellings within 100m must be even more likely to generate them.

The Mens SAC

4. The Mens SAC is important for its Barbastelle bats. According to the Sussex Bat Protocol quoted in 7.2.14 of the updated HRA, Policy SD64 lies within the 6.5km Key Conservation Area of The Mens, in which *"all impacts must be considered, as habitats within this zone are considered critical for sustaining the population of bats within the SAC"* [emphasis given by Natural England].

5. We have commented in our representation to Strategic Policy SD10 (Comment ID 2447) that disturbance from the artificial lighting associated with Policy SD64 will prevent Barbastelles from foraging in the insect-rich meadow and commuting along the hedgerows that border it. Policy SD64 represents a land-take of 25% of foraging habitat, with a further c10% of foraging habitat lost to new hedgerow planting (*source: SDNPA Development Brief for Policy SD64*). It is therefore impossible that Policy SD64 will ensure that *"...key features (foraging habitats and commuting routes) are retained, in addition to a suitable buffer against disturbance."* (SDNPA Local Plan, SD10, paragraph 1.)

6. The HRA cites two documents in referring to the foraging and commuting behaviour of the Barbastelle bats of The Mens:

- 1) *Greenaway, F. (2008) Barbastelle Bats in the Sussex Weald 1997-2008* (cited as footnote 89 on p.58 of the updated HRA);
- 2) *bats.org.uk/data/files/speciesinfosheets/barbastelle 11.02.13.pdf* (cited as footnote 91 on p.58 of the updated HRA).

Misquoted References

6.1 Both these documents have been misquoted in an attempt to downplay the potential importance of the meadow as a foraging habitat for Barbastelles.

6.2 The updated HRA asserts:

"It is recognised that Barbastelle are unlikely to forage much out in the open meadow"

And that they are more likely to commute *"through the landscape via the linear vegetation at the margins of the site"*.

The bats.org.uk information sheet actually states that Barbastelles are *"specialist foragers in a range of habitats"* that *"emerge early from their daytime roosts to forage in the dark zone"*

amongst the trees until open area light levels have fallen to those existing under tree canopies; then they may forage in quite open areas”.

6.3 The updated HRA also claims:

“Barbastelle bats are thought to generally forage along linear features in pastoral landscapes including deciduous woodland, wet meadows and waterbodies”

The bats.org.uk information sheet actually states: *“It is thought that they [Barbastelles] prefer pastoral landscapes with deciduous woodland, wet meadows and water bodies”*. There is no mention of “linear features” here.

6.4 The information supplied by bats.org.uk has been distorted in the HRA in an attempt to downplay the significance of a c35% loss of foraging habitat for the Barbastelles of The Mens, and to suggest that potential commuting routes for Barbastelles will be unaffected, because hedgerows will be retained or planted. If this were true, then development could occur in the meadow without detriment to Barbastelle bats; however, as we have shown in our representation to Strategic Policy SD10, Barbastelle bats are known to be extremely sensitive to artificial light; Policy SD64 would deter the bats from using the hedgerows and the meadow.

Sensitivity to artificial light

6.5 The particular sensitivity of Barbastelle bats to artificial light is also referred to in the Greenaway paper cited above. Despite the assertion in Appendix 4, Agenda item 12 to the HRA, it is unrealistic to expect that the new housing and shop associated with Policy SD64 will not impact on the Dark Sky Zone E1, even if a *“preferred lights off curfew”* is specified for Policy SD64. Lighting curfews have to be policed to ensure adherence and will be ignored if they are not. Artificial lighting, in addition to loss of habitat, will impede connectivity for Barbastelle bats flying from the woodland on the north side of the A29 to forage over the meadow and other areas within the Arun Valley, and vice versa.

6.6 The report *“Barbastelle Bats in the Sussex Weald”* referred to in paragraph 6 above, is also of direct relevance to the relationship of Coldwaltham Meadow to the Sewage Treatment Works nearby:

“Two features of the floodplain are worth note. The sewage farm to the south east of Pulborough was intensively foraged around and a large floodlit pumping station to the southwest of Pulborough caused an apparent interruption to the pattern of forage areas.”

This indicates that the Sewage Treatment Works on the edge of Coldwaltham meadow are a potentially rich foraging area for Barbastelles and that here, as at Pulborough, they could also be deterred from utilising it by the artificial lighting associated with Policy SD64.

Further distortion

7. The HRA also asserts, quoting the Greenaway paper in the Update, p.58 paragraph 7.2.3: *“Barbastelles of The Mens SAC forage to the east of the SAC, principally on the floodplain of the river from close to Horsham in the north to Parham in the south.”*

This suggests that Barbastelle bats do not forage at Coldwaltham. However, a location has been omitted from the quote; what it actually says is: “...from Horsham in the north to Greatham and Parham in the south.”

Greatham is just across the floodplain from Coldwaltham and Policy SD64 is further north than Greatham; it is clearly within the foraging range determined by Greenaway and is within the Key conservation area specified in the updated HRA for Barbastelle bats from The Mens SAC.

7.1 These distorted references in the updated HRA are an attempt to downplay the importance of the flower-rich hay meadow as a Supporting Habitat for the Barbastelle Bats of The Mens SAC. They do not justify Policy SD64; they undermine the credibility of the National Park. Policy SD64 is not coherent with the Parks’ Main Purposes, or with the Precautionary Principle, or with Strategic Policy SD10 and the use of such manipulated texts is wholly inappropriate for a National Park.

7.2 We have detailed the negative impacts of urbanisation and habitat loss associated with Policy SD64 on the Arun Valley SAC/SPA/Ramsar site and The Mens SAC, and demonstrated that these adverse effects cannot be screened out. Factual documents, cited as justifications in the HRA, have been misquoted and incorrectly applied and statistics have been manipulated in an attempt to downplay the likelihood of potential impacts. With respect to these designated sites, the HRA is not coherent with the Birds and Habitats Directives or with NPPF 109.

Sustainability Appraisal (SA)

(This part of our position statement reflects our original representation 2438).

Inconsistent appraisals of likely effects

10. We challenge the legal compliance of the SA, on the basis that a comparison of various versions of the SA shows a marked inconsistency of appraisal. This assertion is supported by our representation, (Comment ID 2438), which provides details on a theme-by-theme basis for all themes considered in the SA.

11. We compared the appraisal of the original, SDNPA 2015 SHLAA-referenced HO015 Allocation Policy Land at Brookland Way, Coldwaltham, (subject to the Preferred Options Consultation in 2015 and subsequently withdrawn), with the various iterations (June 2017 and September 2017) of the SA of Policy SD64 Land South of London Road, Coldwaltham, on the basis that Policy HO015 was located in the same meadow as Policy SD64, albeit in a different part of it. The appraisal of likely effects for Policy HO015 could therefore be expected to be similar to the appraisal of likely effects for Policy SD64.

12. We also examined the SA of Policy SD64 featured within the September 2017 update of *Assessment of Site Allocations Against Major Development Considerations – Technical Report (Envision)*; this was contemporaneous with the September 2017 version of the SDNPA SA.

13. In comparing these SAs, we found a marked lack of consistency in the appraisal of likely effects on sustainability themes, which could not be explained or dismissed as an ‘evolving’ or ‘emerging’ approach, for the September 2017 contemporaneous appraisals also lacked coherence with each other.

14. Based upon a scrutiny of the likely effects of Policy SD64, we consider that the Sustainability Appraisal displays unwarranted optimism in SDNPA policies designed to avoid significant likely adverse effects on Biodiversity.

15. We also asserted, in our representation to the SA (Comment ID 2438), that due to the sloping nature of the site for Policy SD64, it will not be possible to effectively screen the development, even with substantial landscaping. The proposed 2 ha of landscaping has now been withdrawn; the development will be clearly visible from the South Downs Way and from Amberley village. Landscape is considered to be “*of Paramount Importance*” (April 2018 SA, 4.3.2); Policy SD64 is not coherent with “*a close focus on protecting and enhancing landscape character in the National Park*” in what is supposed to be a landscape-led Local Plan.

16. As detailed in our representation, the lack of consistency in the various versions of the SA demonstrate that assessments were manipulated in an attempt to support the inclusion of Policy SD64 within the Local Plan, regardless of the environmental and social costs associated with the Policy. In common terms, we consider that the varying Sustainability Appraisals of SD64 present an example of ‘cooking the books to achieve a desired result.’ This is fundamentally unsound.

Policy SD25

(This part of our position statement reflects our original representation 2452).

Inconsistent rationale for departure

17. Although the SDNPA insists that “*the allocation is in line with the spatial strategy for a medium level of development to be dispersed across the towns and villages of the National Park*” (source; *Summary of Issues and Responses*, p.258), Policy SD64 departs from this, which is why it features in “*Table 2.7: Settlements where housing numbers depart from the figure considered through the Dispersed Medium option*” in the SDNPA SA, p. 40.

18. The rationale for this departure in previous versions of the Local Plan has varied and we raised concerns about this in our representation to the SA (Comment ID 2438). The quantum of houses for the precursor of Policy SD64 was 20; Policy SD64 appeared nearly two years later, with a quantum of 35-40, later reduced to 25-30. The rationale for Policy SD64 appears more a matter of what the National Park feels it can get away with, than a matter of Dispersed Medium option; no justification for the change in quantum is given, apart from the assertion in Table 2.7 that the allocation is “*capacity-based*” and that “*the new higher figure is appropriate for the new site.*” The SDNPA are simply taking advantage of the fact that a member of their Board has offered them a whole field for potential development.

Lack of coherence with SD25

19. Policy SD64 is not coherent with the principles of development referred to in Strategic Policy SD25 because:

- it is sited outside the settlement boundary of a village that does not have enough facilities and services to sustain it;
- The disproportionate allocation of 30 houses and a shop is not justified in terms of supporting the local economy of the village;
- it is located in a biodiverse greenfield site identified by the SHLAA as being of High Landscape Sensitivity;
- It is an inappropriate use of biodiverse land that is adjacent to a SAC/SPA/Ramsar site.

Policy SD64 should therefore be deleted from the Local Plan because it cannot be modified to make it sound.

18.10.18