

**Ashdown Forest Special Protection Area (SPA)**

**Strategic Access Management and Monitoring Strategy**

**Tariff Guidance - December 2015**

**For**

**Wealden District Council**

**Lewes District Council**

**Tandridge District Council**

## **1. Purpose of document**

- 1.1. Wealden, Mid Sussex and Lewes District Councils and Tunbridge Wells Borough Council have been working in partnership with the Conservators of Ashdown Forest and Natural England since 2012 to develop a Joint Strategic Access Management and Monitoring (SAMM) Strategy. More recently Tandridge District Council has also been involved in the development of the SAMM Strategy.
- 1.2. To secure the delivery of the SAMM Strategy, partner local authorities and the Conservators of Ashdown Forest are required to enter into Legal Agreements. Mid Sussex District and Tunbridge Wells Borough Councils are unable to achieve democratic authority to enter into Legal Agreements until early in 2016. Confirmation has been received from Mid Sussex and Tunbridge Wells Councils of their intention to sign Legal Agreements as soon as practically possible.
- 1.3. In this interim period Wealden, Lewes and Tandridge District Councils wish to facilitate an earlier date for the implementation of the SAMM Strategy in order to release development where this has previously been restricted due to Ashdown Forest Special Protection Area (SPA) mitigation requirements. In order to enable them to do so, Wealden, Lewes and Tandridge District Councils have put in place an Interim Legal Agreement, in conjunction with the Conservators of Ashdown Forest as the delivery body for access management and on the ground bird monitoring.
- 1.4. The Interim Legal Agreement was signed by the Conservators of Ashdown Forest and Wealden, Lewes and Tandridge District Councils on 9<sup>th</sup> December 2015. This document therefore provides SAMM tariff guidance for Wealden, Lewes and Tandridge District Councils which outlines the level of financial contribution required from new residential development to contribute to the SAMM mitigation strategy.

## **2. Background**

### Ashdown Forest Special Protection Area

- 2.1. The Ashdown Forest Special Protection Area (SPA) is located in the High Weald of East Sussex, within Wealden District. The Ashdown Forest SPA covers an area of 3,207 hectares. Together with the nearby Wealden Heaths SPA and Thames Basin Heath SPA, the Ashdown Forest SPA forms part of a complex of heathlands that support breeding bird populations of European importance, in particular the nightjar and

Dartford warbler. The Ashdown Forest SPA is also a designated Special Area of Conservation (SAC) because it contains one of the largest single continuous blocks of lowland heath in South-East England with both European dry and North Atlantic wet heath. The SAC designation covers an overall area of 2,729 hectares. The Ashdown Forest SPA is also designated a Site of Special Scientific Interest (SSSI).

2.2. The Ashdown Forest SPA is protected in UK law by The Conservation of Habitats and Species Regulations 2010 (as amended) (Habitats Regulations). The Habitats Regulations transpose the requirements of EC Directive 79/409/EEC on the Conservation of Wild Birds (the Birds Directive) and EC Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora (the Habitats Directive). Under the Habitats Regulations, development proposals must not give rise to adverse effects on the integrity of the Ashdown Forest SPA either alone or in combination with other plans or development proposals. If it is likely that a (significant) adverse effect will occur or where it is uncertain that an adverse effect may occur, then measures must be secured to either avoid or mitigate the impact. If it is not possible to avoid or mitigate an adverse impact then planning permission will be refused<sup>1</sup>.

### Impact of Development at Ashdown Forest SPA

2.3. The delivery of new housing will lead to an increase in population within the Districts and Boroughs around the Ashdown Forest SPA. The Ashdown Forest visitor survey<sup>2</sup> identified a significant use of Ashdown Forest by the existing local population, particularly for the purpose of dog walking. Subsequent data analysis<sup>3</sup> identified that it is likely that any new population arising from new development in the local area will also use Ashdown Forest as a recreational resource.

2.4. Studies and evidence resulting from research undertaken at the Ashdown Forest SPA and other SPAs in the country has identified that one of the principal threats to the European protected Dartford warbler and nightjar is the damaging effects of disturbance caused by recreation during their breeding period. It is acknowledged that freely roaming dogs hugely exacerbate the disturbance caused by people visiting the site where they can inadvertently trample on or flush birds from their nest leaving chicks or eggs to die. It is likely therefore that without appropriate and proportionate avoidance and mitigation measures, new development could impact on the populations of nightjar and Dartford warbler within the

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<sup>1</sup> In the absence of imperative reasons of overriding public interest and appropriate compensatory measures

<sup>2</sup> Visitor Access Patterns on Ashdown Forest for Mid Sussex and Wealden District Councils (UE Associates and University of Brighton, 2009).

<sup>3</sup> Clarke, R.T., Sharp, J & Liley, D. 2010. Ashdown Forest visitor survey data analysis. Natural England Commissioned Reports Number 048.

Ashdown Forest SPA, and would be contrary to the requirements of the Habitats Regulations.

### **3. Ashdown Forest SPA mitigation and avoidance measures**

- 3.1. The focus of mitigation measures is on the impact of new residential development. This is in consideration that new development in the vicinity of the Ashdown Forest SPA is likely to result in an increase in overall visitor numbers and could therefore result in an increase in recreational pressure / disturbance on the protected bird species without mitigation in place.
- 3.2. The complementary use of Suitable Alternative Natural Greenspace (SANG) and a Strategic Access Management and Monitoring (SAMM) Strategy as a mitigation measure has been recommended by Natural England. The aim of SANGs is to ensure that visit rates do not increase as a result of new development. Together with the provision of strategic access management this is considered to be an essential and effective mitigation measure whereby new or enhanced green space is provided to draw potential users away from the Ashdown Forest SPA. SANGs are being dealt with individually by each Local Authority and do not form part of this document.
- 3.3. The Ashdown Forest visitor survey (2009) has identified that the Ashdown Forest SPA is an attractive and compelling recreational resource attracting visitors from a wide area. Whilst SANGs are considered to be an essential and effective mitigation measure to help ensure that visit rates do not increase it has been identified that local residents enjoy using a variety of green spaces for their recreational activity including the Ashdown Forest SPA. It is likely therefore that residents living in new development will still visit and use the Ashdown Forest SPA from time to time even with SANGs in place. In considering the conservation objectives of the Ashdown Forest SPA, mitigation is therefore required to take place at Ashdown Forest itself.
- 3.4. A number of different measures have been identified to form part of a mitigation package to avoid or reduce disturbance from an increase in recreational pressure at the Ashdown Forest SPA. These measures will need to be combined in order to ensure that they are effective.

### **4. Delivery of Strategic Access Management measures**

- 4.1. The Local Authorities who are likely to deliver residential development near to the Ashdown Forest SPA have agreed to coordinate an approach

to collect developer contributions to deliver visitor access management and monitoring measures at the Ashdown Forest SPA. This coordinated approach is supported by Natural England.

- 4.2. A number of access management initiatives have been identified to reduce the impact of people and their dogs who visit the Ashdown Forest SPA on the protected bird species, the Dartford warbler and nightjar during their breeding season. The SAMM Strategy also provides funding for bird and visitor monitoring to help assess the effectiveness of the mitigation measures and inform their ongoing delivery.
- 4.3. The responsibility for managing the Ashdown Forest SPA lies with an independent body, the Board of Conservators of Ashdown Forest. Originally set up in 1885, the Board has been regulated under a series of Acts of Parliament, the most recent being the Ashdown Forest Act 1974. The access management measures and on the ground bird monitoring will be delivered by the Conservators of Ashdown Forest.
- 4.4. During this interim period regular meetings will take place between Wealden, Lewes and Tandridge District Councils and the Conservators of Ashdown Forest to agree project expenditure and review the status and progress of projects and resolve any issues that may arise.

## **5. Aim of SAMM Strategy**

5.1. In summary, the aim of the SAMM Strategy projects will be to:

- Raise awareness and build visitor understanding of the importance and sensitivity of ground nesting birds and their habitats within the Ashdown Forest SPA as part of the wider education and heathland management programme;
- Promote alternative recreational spaces (SANGs) for local people especially in the breeding bird season;
- Promote and enforce where necessary the Code of Conduct for dog walkers;
- Encourage responsible dog walking and behavioural change as set out in the Code of Conduct;
- Provide new and additional volunteering opportunities such as Volunteer Dog Rangers in the delivery of advice and on-site support to ensure and promote responsible behaviour and use of the Ashdown Forest SPA;

- Contribute to the existing Ashdown Forest education programme to deliver outcomes that relate to the required mitigation measures in relation to Ashdown Forest SPA; and
- Help coordinate and support bird monitoring on the Ashdown Forest SPA and undertake visitor monitoring on the Ashdown Forest SPA and at SANG sites. This will be used to:
  - Ensure that projects are effective;
  - Inform the direction of strategic access management; and
  - Measure the effectiveness of avoidance and mitigation measures.

## **6. SAMM Strategy projects**

6.1. A number of projects have been identified through consultation with the Conservators of Ashdown Forest and Natural England as being necessary to deliver the above objectives. These include:

- Development of a Code of Conduct, with input from affected Local Authorities to ensure that the Code meets the requirements of the Habitats Regulations;
- Promotion of Code of Conduct using a variety of media resources;
- Producing leaflets regarding the Code of Conduct and distribution of leaflets;
- Development and procurement of appropriate signage and interpretation boards;
- Organising responsible dog ownership training events and managing the delivery of the events;
- Recruiting and managing Volunteer Dog Rangers;
- Recruiting an Access Management Lead Officer;
- Recruiting an Assistant Access Management Officer;
- Organisation and delivery of on site and off site (in relation to access management and monitoring at the Ashdown Forest SPA) education events; and
- Contributing to the wider Ashdown Forest education, information and volunteer programme.

6.2. Other projects have been developed and will be delivered in partnership with the Conservators of Ashdown Forest, with the affected Local Authorities responsible for the delivery of the projects. These include:

- The promotion of SANGs and the Code of Conduct for Dog Walkers on local authority websites;
- Development, production and distribution of leaflets to new households regarding the Code of Conduct and Suitable Alternative Natural Greenspaces (SANGs);
- The production of a bird monitoring methodology, coordination of bird surveys and subsequent analysis (involving Ashdown Forest bird monitoring volunteers and other relevant organisations as appropriate); and
- Visitor monitoring on the Ashdown Forest SPA and at SANGs sites.

6.3. An Access Management Strategy and Monitoring Strategy will be finalised early in 2016. These documents will provide a full breakdown of each of the projects and responsibilities for delivery and will set out the bird and visitor monitoring strategy, respectively.

## **7. Application of SAMM Strategy Tariff**

7.1. Where it is concluded by a competent local authority that development is 'likely to have a significant effect' on the Ashdown Forest SPA, that development will be required to make a contribution to the SAMM Strategy to mitigate its impact. The SAMM Strategy will be applied to a zone of influence around the Ashdown Forest SPA. The extent of the zone is determined by each local authority<sup>4</sup>. Please see the relevant local authority website for further information.

7.2. Within 400m of the Ashdown Forest SPA it is unlikely that any net new dwellings will be permitted because it will not be possible to fully mitigate impacts. This includes the impact of cat predation. Residential development leading to a net increase in dwellings, that falls within the zone of influence (7km for all local authority areas within exception of Wealden District which is 15km), will be required to contribute towards the SAMM Strategy.

### Permitted Development

7.3. On 6th April 2014 the Government extended the General Permitted Development Order to allow planning permission for certain classes of development without the requirement for a planning application, although

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<sup>4</sup> Currently Mid Sussex, Lewes, Tunbridge Wells and Tandridge Council's apply a 400m – 7km zone of influence approach. However, due to a successful High Court challenge which resulted in the removal of policy wording from Wealden District Council's Core Strategy Policy WCS 12 Wealden District Council, on a precautionary basis has identified a 400m – 15km zone of influence in the absence of policy. The relevance of the zone of influence will be assessed further following the completion of visitor surveys at Ashdown Forest SPA in 2016.

prior approval may be required. This includes the change of use from farm buildings, shops (A1), Financial / Professional services (A2 uses) and office use (B1a) to dwellings<sup>5</sup>.

7.4. Notwithstanding the extension of permitted development rights, Sections 73 and 74 of the Habitats Regulations (2010) apply. This means that permitted development must still meet the requirements of the Habitats Regulations. Where it is considered that a 'significant effect' on the Ashdown Forest SPA may arise, the development must not commence until written approval has been received by the developer from the Local Planning Authority (or Natural England). In these circumstances, a developer will still be required to contribute to the SAMM Strategy in order to mitigate the impact of the development.

#### Affordable housing

7.5. Affordable housing developments will be required to make the full contribution to the SAMM Strategy.

#### Type of development and the application of the SAMM Tariff

7.6. The Habitats Regulations place a duty for all types of development to be considered in relation to their potential to have a significant effect on a European Site. Whilst residential (Use class C) development is the main focus of the SAMM Strategy, in considering the potential impact on the Conservation Objectives of Ashdown Forest SPA, it may also be determined as part of a Habitats Regulations Assessment that other types of development such as that categorised within the Sui Generis Use Class (i.e. camp sites and caravan pitches) may be regarded to result in a significant impact also. Types of development and their location will therefore need to be considered on a case by case basis. Further detail in relation to this is provided in Appendix 1.

#### CIL, S106 Planning Obligations and Unilateral undertakings

7.7. The projects identified as part of the SAMM Strategy constitute 'maintenance' rather than the provision of infrastructure<sup>6</sup>. On this basis, local authorities may fund the SAMM Strategy either through CIL or through the collection of planning obligations.

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<sup>5</sup> Further information relating to permitted development including temporary permitted development can be found at:

<http://www.planningportal.gov.uk/permission/commonprojects/changeofuse>

<sup>6</sup> Add in CIL Regulations



7.8. Each Local Planning Authority will be responsible for collecting its contributions for the SAMM Strategy. The mechanism used to collect contributions is a matter for individual local authorities and will be determined on a case by case basis.

#### Timing of contribution

7.9. Financial contributions for the SAMM Strategy will be agreed and, where applicable, entered into prior to the determination of a planning application. Payments to be made to each local authority are to be secured and paid no later than the commencement of development. For large development sites, payment by instalment could be considered subject to the agreement of the relevant local authority.

### **8. SAMM tariff**

8.1. To fund the SAMM Strategy a tariff has been calculated on a per unit basis. This means that a set contribution will be required for each net unit whether a residential dwelling house or a flat, studio flat or other residential development use type.

8.2. It is noted that other avoidance and mitigation strategies elsewhere (Dorset and Thames Basin Heath) charge on a per bedroom basis. The per-bedroom tariff applied elsewhere has been considered as part of the SAMM Strategy work. Based on evidence, it is concluded that there is no justification at this time to charge on a per bedroom basis as relevant to mitigating the impact of new development on the Ashdown Forest SPA. Reasons for this include:

- Occupancy rates: The number of bedrooms in a dwelling does not necessarily reflect the number of persons living within a household<sup>7</sup>;
- There is no evidence to suggest that the more bedrooms in a dwelling would result in a higher number of visitors to the Ashdown Forest SPA or the potential for a greater recreational impact;
- There is no known relationship between the number of bedrooms, dog ownership and recreational use of the Ashdown Forest SPA;
- It is not possible to predict the number of bedrooms likely to come forward in the plan period which impacts on the cost analysis and securing appropriate funding to deliver the SAMM Strategy; and

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<sup>7</sup> <http://www.ons.gov.uk/ons/rel/census/2011-census-analysis/overcrowding-and-under-occupation-in-england-and-wales/rpt-overcrowding-and-under-occupation-in-england-and-wales.html>

8.3. In considering the above, a flat rate tariff has been identified to meet the Planning Obligation tests as set out in the CIL Regulations. Notwithstanding the above, should acceptable evidence be presented which would justify a per bedroom tariff then the per-dwelling SAMM tariff will be reviewed.

## **9. Calculation of contribution**

9.1. The SAMM tariff has been established with reference to the cost of avoidance and mitigation considered necessary to address the impact from an increase in visitors to the Ashdown Forest SPA from new dwellings and the anticipated increase in residential dwellings in each local authority's zone of influence.

9.2. For the purpose of calculating the tariff each local authority provided their estimated housing projections which have been applied to a cash flow model. At this current time 3770 houses are projected to be delivered as relevant to the SAMM Strategy over a 13 year period<sup>8</sup>. Mitigation is required for the lifetime of the development (in perpetuity). For the purpose of the SAMM Strategy cash flow model perpetuity has been taken to mean 100 years<sup>9</sup>.

9.3. The estimated housing projections are based on development being completed in the same year that it commences. The Strategy includes projections from all local planning authorities (Wealden, Mid Sussex, Lewes, Tandridge and Tunbridge Wells) on the basis that the Interim SAMM Strategy will be superseded by the SAMM Strategy (to include Mid Sussex and Tunbridge Wells Councils) shortly. The SAMM Strategy will also supersede Mid Sussex District Council's Interim Mitigation Strategy<sup>10</sup>.

9.4. SAMM Strategy costs (out flow) have been identified in consultation with Natural England and the Conservators of Ashdown Forest. A summary of project costs in perpetuity is provided in Appendix 2. These costs have been modelled against housing projections (in flow) and a discount cash

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<sup>8</sup> The proposed plan periods for Mid Sussex and Lewes District extend to 2031 and 2030 respectively and therefore extend beyond that of Wealden District Councils current plan period (2027). It is not possible at this time to predict housing numbers beyond Wealden District Council's current plan period. However, housing number estimates alongside project costs will be regularly reviewed to ensure that housing and cost assumptions are as accurate as possible.

<sup>9</sup> Perpetuity meaning 100 years is based on the lifetime of a residential development being 100 years as set out in National Planning Policy Guidance (NPPG).

<sup>10</sup> Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation: Strategic Access Management and Monitoring (SAMM) – Interim Mitigation Strategy (Mid Sussex District Council – 22<sup>nd</sup> August 2013).

flow model has been applied with an interest rate of 3.5%<sup>11</sup>. A summary of the cash flow model is provided in appendix 3.

- 9.5. Based on the project costs and projected housing numbers and delivery the SAMM tariff has been set at £1,170 per dwelling.
- 9.6. The funds derived from each local authority will be combined. Therefore, the cumulative cash flow is linked between local authorities. A change in housing numbers or the timing of housing delivery from one local authority will ultimately impact on the total funding and interest accumulated. It will therefore be necessary to review the contribution amount on an annual basis and taking into account housing monitoring and the collection of funding.
- 9.7. The cash flow model and budget will be reviewed annually at a minimum. The SAMM tariff may be updated to reflect any increase or decrease in costs and / or the level of mitigation required in accordance with visitor survey results and to account for any updates to the Access Management Strategy.

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<sup>11</sup> This is in accordance with the current Treasuries Interest Rate.

## Appendix 1- Type of development and the application of the SAMM Tariff

Type	Explanation for contribution	Contribution calculation
C3: Dwelling houses		
Dwelling Houses	Proposals for one or more net units including affordable housing will be required to contribute to the SAMM Strategy.	Charge per additional net new unit.
Studio flats	Proposals for Studio Flats will be considered the same as a dwelling.	Charge per additional net new unit.
Retirement and age restricted properties	Proposals for one or more net units will be required to contribute to the SAMM Strategy.	Charge per unit.
C1: Hotels		
Staff residential accommodation	Proposals for a net increase in staff accommodation will be required to contribute to the SAMM Strategy.	Charge per additional net new unit or bedroom.
Holiday accommodation	Proposals for holiday accommodation will be required to contribute to the SAMM Strategy. This will include both new build and change of use applications.	Charge per net increase in holiday units.
Hotels / guesthouses	Proposals for hotels or guesthouses will be required to contribute to the SAMM Strategy where each bedroom will be considered as one unit. Where extensions to existing accommodation are proposed a contribution will be required for each net additional bedroom.	Charge per net increase in bedrooms.
C2: Residential Institutions		
Staff residential accommodation	Proposals for a net increase in staff accommodation will be required to contribute to the SAMM Strategy.	Charge per additional net new unit.
Residential care home / nursing home	Residential care homes and nursing homes will be considered on a case by case basis. This may include assessing the likely mobility of residents and the potential for pet ownership. Where no contribution is required then	Considered on a case by case basis.  Where applicable, charge per bedroom / unit.

	relevant conditions will need to be attached to any planning permission to ensure that no significant effect can arise for the lifetime of the development.	
C4: Houses in Multiple Occupation (HMOs)		
HMO	Proposals for HMOs will be required to contribute to the SAMM Strategy. Each bedroom will be classed as one unit of accommodation.	Charge per bedroom
Change of use from C3 to C4	Proposals to change use from C3 to C4 will be required to contribute to the SAMM Strategy. The original dwelling will be classed as one unit and each bedroom will also be classed as one unit. The charge will apply to the net increase in units.	Charge per additional net increase in units.
Other types of development		
Annexes	Proposals for annexes will be required to be assessed on a case by case basis.	Where applicable, charge per unit.
Redevelopment sites	Where there is a net increase in units a charge will apply.	Charge per additional net new unit.
Replacement dwellings	A contribution will generally not be required for replacement dwellings. However, where ancillary accommodation such as an annexe is proposed as part of the replacement then this will need to be assessed on a case by case basis.	Considered on a case by case basis.
Camp sites and caravan sites (Temporary and permanent)	Proposals for camp sites and / or extensions to camp sites where the number of pitches increase will be required to contribute to the SAMM Strategy. This includes applications to extend temporary planning consent or to apply for permanent planning consent. The charge is only applicable once per pitch.	Charge per pitch or additional pitch.  A reduction will apply where a camp or caravan site is seasonal. The charge will be proportionate to the number of months (or days) that the camp site is used. For

		example, if the site is open for six months then half the tariff will apply.
Mobile and temporary dwellings	Proposals for mobile or temporary dwellings will be required to contribute. If made permanent there will be no additional charge.	Charge per unit.
Temporary and permanent Gypsy and traveller pitches	Proposals for temporary or permanent Gypsy or Traveller pitches will be required to contribute. If made permanent no additional charge will apply.	Charge per pitch

## Appendix 2 – SAMM Strategy Project costs in perpetuity

Project	Total cost in perpetuity (£)
Project 1b - Code of Conduct review and reprint	26,350
Project 2a (i) (ii) (iii) (iv) - Code of Conduct Promotion	8,806
Project 2a / 2b (iv) - Code of Conduct promotion	14,225
Project 2b (i) Code of Conduct review and reprint	15,130
Project 2b (ii) - Code of Conduct review and reprint	2,550
Project 2b (iii) - Code of Conduct review and reprint	3,532
Project 2b (iv) - Code of Conduct review and reprint	128,180
Project 2b (Vi) - Code of Conduct review and reprint	8,415
Project 3 - Lead Access Management Officer	3,778,150
Project 3a - Volunteer Dog Rangers	56,100
Project 3b - Lead Access Management Officer	49,000
Project 4 - Assistant Access Management Officer	3,613,500
Project 5 - Dog training programme	49,500
Project M1 - Bird Monitoring	792,000
Project M2 - Visitor Monitoring	956,000
Contingency	1,791,900
Interest rate contingency	540,000
Management fee	2,970,000
<b>Total</b>	<b>14,803,338</b>

### Appendix 3 - SAMM Strategy Cash Flow Summary

Wealden District Council			
SAMMS project			
	Year 1	Years 2-100	Total
Maintenance	£	£	£
Total Expenditure	8,806	14,794,532	14,803,338
Total Income	0	(5,469,358)	(5,469,358)
Mid Sussex Interim Mitigation Strategy - contributions collected	0	(1,058,458)	(1,058,458)
Cash Outflow/(inflow) total	8,806	8,266,716	8,275,522
<b>PRESENT VALUE @ 3.5%</b>	8,806	(12,604)	(3,799)
<b>Houses</b>			
	Year 1	Years 2-100	Total
Wealden	0	2918	2918
Lewes	0	108	108
TWBC	0	0	0
Tandridge	0	0	0
Mid-Sussex	20	724	744
Mid-Sussex (already committed)			465
<b>Total Houses</b>	<b>20</b>	<b>3750</b>	<b>4235</b>
<i>Developer contribution per dwelling</i>		£	
All authorities		1170	