

TONBRIDGE AND MALLING BOROUGH LOCAL DEVELOPMENT FRAMEWORK

Habits Regulations – Appropriate Assessment Screening

Introduction

On 20 October 2005, the European Court of Justice (ECJ) ruled that the United Kingdom had failed to transpose the provisions of Article 6 (3) and (4) of the Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora (Habitats Directive) into UK Law in case C-06-/04 (Commission v United Kingdom). The Court found that, as a result of the failure to make land-use plans subject to Appropriate Assessment (AA) of their implications for European Sites, Article 6(3) and (4) of the Habitats Directive has not been transposed completely.

Following the ruling, the Department for Environment, Food and Rural Affairs (DEFRA) published draft amendments to the Habitats Regulations on 8 May 2006 for consultation. The Habitats Regulations – formally known as the Conservation (Natural Habitats, & c.) Regulations 1994 – transposed the requirements of the Habitats Directive into domestic legislation. The amendments to the Regulations are intended to apply in England and Wales and were due to come into force on 1 September 2006.

Under the new Regulations Appropriate Assessment will be required for all land-use plans that Local Planning Authorities (LPAs) consider are likely to have a significant effect on a European Site. As the amending Regulations do not have a transitional provision to cover land-use plans in the course of preparation, LPAs have been advised to take appropriate action in advance of their coming into force.

European Sites include Special Protection Areas (SPAs), Special Areas of Conservation (SACs) and Ramsar sites. This network of protected European sites is also known as the 'Natura 2000' network.

The purpose of an Appropriate Assessment is to assess the impacts of a land-use plan against the conservation objectives of a European Site and to ascertain whether it would adversely affect the integrity of that site. Where significant effects are identified, alternative options should be examined.

Natura 2000 sites in Tonbridge and Malling

There are two SACs in Tonbridge and Malling Borough:

- **Peters Pit** which is described as an old chalk quarry with adjoining soil-stripped fields on the North Downs with scattered ponds situated amongst grassland, scrub and woodland. The ponds have widely fluctuating water levels and support large breeding populations of great crested newt *Triturus cristatus*.
- **North Downs Woodland** which comprises two separate areas of woodland on the scarp face of the North Downs to the east and west of the River Medway. They consist of mature beech *Fagus sylvatica* forests and yew *taxus*

baccata on steep slopes. The stands lie within a mosaic of scrub and other woodland types with areas of unimproved grassland on thin chalk soils.

Screening Assessment

The purpose of the screening is to assess in general terms whether there are likely to be any significant effects on these two sites arising from proposals of the LDF.

The North Downs Woodland is designated as Sites of Special Scientific Interest (SSSI) which is protected by Policy CP9 of the Core Strategy. They also lie at high level and on steep slopes within the designated Area of Outstanding Natural Beauty which is protected by Core Policy CP7. There is therefore no development proposed that would significantly impact upon the integrity of the site(s) and indeed the planning policies seek to protect them. English Nature has raised no concerns in relation to the potential impact of the LDF on these sites.

The Peters Pit SAC lies immediately adjacent to one of the strategic housing sites listed in Core Policy CP16. However, as is noted in the policy, this development now has planning permission and is not therefore a proposal of the Plan. The issue of impact upon the SAC was a material consideration taken into account in determining the planning application. English Nature was party to the consideration of the application and raised no objection in view of the nature conservation management regime for the site secured by condition and legal agreement.

In conclusion it is the Borough Council's view that none of the proposals of the LDF are likely to significantly impact upon a European Site and therefore there is no need for an Appropriate Assessment under the Regulations to be made.