



# **Development Management Plan: Main Modifications**

## **Habitats Regulation Assessment & Appropriate Assessment Addendum**

**March 2019**

## Introduction and purpose

1. This technical note forms an Addendum to the Habitat Regulation Assessment (HRA) & Appropriate Assessment (AA) for the Reigate & Banstead Development Management Plan (DMP) (Examination document CD4a). **It should therefore be read in conjunction with CD4a and should not be read in isolation or considered as a standalone document.**
2. The Development Management Plan (DMP) was submitted to the Secretary of State on 19<sup>th</sup> May 2018 for independent examination. Following the public examination hearing sessions held between 30<sup>th</sup> October and 9<sup>th</sup> November 2018, a number of main modifications to the DMP have been proposed, primarily through the Council's responses to Post Hearing Actions or the Inspector's Post Hearing Advice Note (ID/6). These main modifications have been identified as being likely to be necessary to make the plan "sound".
3. A full schedule of the proposed Main Modifications is available at: [http://www.reigate-banstead.gov.uk/info/20381/emerging\\_planning\\_policy/888/development\\_management\\_plan](http://www.reigate-banstead.gov.uk/info/20381/emerging_planning_policy/888/development_management_plan). Hard copies will also be available at the Town Hall and at libraries within the borough during the forthcoming period of public consultation.
4. This addendum is the Habitats Regulations Assessment and Appropriate Assessment of those Main Modifications. This document is an addendum to the October 2018 HRA & AA that was subject to examination.
5. Any proposed Main Modifications which might give rise to significant sustainability effects need to be subject to the HRA process. The purpose of this Addendum is therefore to appraise the potential harm to Natura 2000 sites of proposed Main Modifications (MM) to the Development Management Plan (DMP). Specifically, the report:
  - a. Identifies each of the proposed Main Modifications
  - b. Screens them based on whether the modifications materially affect the findings of the previous HRA (CD4a) and/or whether there are impact pathways identified that have the potential to cause harm to the integrity of Natura 2000 sites within 15km radius of Reigate & Banstead Borough Council
  - c. Where impact pathways are identified as arising from a MM, reports the policy is appraised as to whether further Appropriate Assessment is required.
6. Various Additional Modifications (AMs) to the DMP have also been identified by the Council. However, these changes are very minor, concerned with corrected errors (typographical or grammatical), addressing omissions, improving readability/legibility and/or providing greater clarity. AMs do not go to the "heart" of the plan, nor do they materially alter the thrust or intention of a particular policy. For this reason, these modifications are not considered to alter the findings of the previous SA (CD4a). They are not therefore discussed in detail in this report.
7. The principle of taking into account the precautionary approach to the HRA process in plan making is established through both European and UK case law for, Case C-404/09 European Commission v Spain ('Alto Sil') [24 November 2011] and Akester v. Wightlink and Defra [2010] EWHC 232 (Admin).

## HRA & AA process to date

8. A Habitats Regulations Assessment (HRA) and if necessary an Appropriate Assessment (AA) is required of land use plans under the European Directive (92/43/EEC) on the Conservation of Natural Habitats and Wild Flora and Fauna (the 'Habitats Directive'), as transposed into UK law by the Conservation of Habitats and Species Regulations 2017 (Habitats Regulations 2017).

9. An Interim Report was submitted May 2018; however a post-submission HRA & AA (dated October 2028) updated the interim report to comply with emerging case law<sup>1</sup>. This is an Addendum to HRA & AA dated October 2018.
10. A Statement of Common Ground between Reigate and Banstead Borough Council and Natural England accompanied the October 2018 report agreeing that there were no outstanding issues or areas of disagreement relating to the HRA & AA prior to examination. Natural England is the 'competent authority' relating to European Sites under Habitat Regulations. The Statement of Common Ground is available here; [RBBC-DMP-SoCG01 RBBC and Natural England](#).
11. Below lists the Habitat Regulations Assessments to date:
  - Submission Habitat Regulation Assessment Interim Report (May 2018)
  - Regulation 19 Habitat Regulations Assessment Interim Report (November 2017) ( ):
  - Development Management Plan (Regulation 18 Stage) Habitat Regulation

## Assessment considerations of the proposed Main Modifications

12. The purpose of the HRA is to identify any aspects of the emerging Local Plan that would have the potential to effect the integrity of any Natura 2000 or European sites (Special Areas of Conservation (SACs), Special Protection Areas (SPAs) and Ramsar sites), (either in isolation or in combination). All Natura 2000<sup>2</sup> sites within 15km to the periphery of the Borough were considered as potentially being of a distance to be impacted<sup>3</sup>.
13. Stage 1 of the Assessment is the Screening Assessment so to identify whether the plan or project (plan, in this case) is likely to have a significant effect on any Natura 2000 sites, either alone or in combination with other plans or projects. The methodology applied was to first identify any pressures and threats to the Natura 2000 sites through analysis of Natural England's Site Improvement Plans (SIP). The 16<sup>th</sup> October 2018 HRA document (CD4a page 22) should be referred to for more detail on the methodologies and background on the potential linking impact pathways. Four pressures and threats were identified as requiring more assessment. Public Access/Disturbance and Hydrology/Water quality impacts. Only Mole Gap to Reigate Escarpment SAC was screened as having an 'impact pathway' for potential likely significant effect from public access/disturbance, however due to the level of development proposed this was 'screened out' as not having the potential to have a significant effect of the Natura 2000 site.
14. All Natura 2000 sites were 'screened out' from having any potential likely significant effect from hydrology/water quality due to there being no direct impact pathways to any of the Natura 2000 site vulnerable to this threat/pressure. The MM does not change this not considered in this HRA & AA Addendum.
15. The likely significant effects identified in Stage 1 were then evaluated further in Appropriate Assessment (Stage 2) which considers the implications of the plan or project in view of the relevant Natura 2000 site's conservation objectives. Appropriate Assessment (AA) (Stage 2) is essentially an 'integrity' test. It is the Council's responsibility as the 'competent authority' it is necessary to guarantee 'beyond all reasonable doubt' that the DMP will not 'adversely affect the integrity of the Natura 2000 site.

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<sup>1</sup> People over Wind & Sweetman v Coillte Teoranta Case C-323/17; Wealden District Council v Secretary of State for Communities and Local Government, Lewes District Council and South Downs National Park Authority [2017] EWHC351 (Admin); Case C-164/17 Grace & Sweetman v An Bord Pleanála

<sup>2</sup> For the purposes of the HRA Ramsar sites are incorporated into the Natura 2000 definition

<sup>3</sup> Thames Basin Heath SPA, Wimbledon Common SAC, Richmond Common SAC, South West London Waterbodies SPA/Ramsar, Ashdown Forest SAC/SPA, Mole Gap to Reigate Escarpment.

16. The conclusions of CD4a were that only two 'impact pathways' required AA. Firstly, Air Quality from three sites; Thames Heath Basin SPA, Wimbledon Common SAC and Mole Gap to Reigate Escarpment SAC. Two air quality modelling reports (SD47 & SD48) concluded that no adverse effects on the integrity to any of the Natura 2000 sites within the scope of this Appropriate Assessment.
17. The second impact pathway requiring AA were proposed development sites that were within 3.5km of the Mole Gap to Reigate Escarpment SAC as they were within the functional linkage for the protected species Bechstein's Bat (*Myotis bechsteinii*) and therefore formed part of the core sustenance zone (CSZ).
18. Therefore the overall conclusions were that even policies that have impact pathways to Natura 2000 with monitoring and modification to policy NEH2 the DMP will not result in any significant or adverse effects on Natura 2000 sites within the scope of this HRA/AA.
19. With regard to compliance with legislative and policy requirements, this HRA & AA Addendum Report comprises a further part of the submission HRA & AA Report (CD4a) - and has been prepared in accordance with relevant guidance and legislative requirements. It has also followed the same assessment and appraisal methodology which is described in CD4a to ensure consistency between the two.
20. The Addendum follows a two-stage process:
  - In the first instance, each of the Main Modifications is subject to a "screening" to determine whether there are any 'impact pathways' which are likely to materially affect the conclusions previously reached in CD4a and/or otherwise give rise to potential significant environmental effects.
  - Where impact pathways have been identified in CD4a is identified and/or some other potential significant impact is identified, a full re-appraisal of the policy or allocation in question is undertaken in accordance with the objectives, detailed methodology and approach set out in CD4a.

## Conclusions of HRA & AA assessment of the Main Modifications

21. In terms of headlines, as the table below identifies, it is judged that the majority of the 35 'Main Modifications' can be 'screened-out' from the HRA & AA Addendum (i.e. they would not have a material effect on previous conclusions and thus do not need to be subject to re-assessment). This is primarily because, whilst they represent changes to policy text, they do not constitute a fundamental change in 'policy direction' or approach. In addition, as explained above, all additional (minor) modifications have been screened out.
22. Where the modification is considered to give rise to a potentially different conclusion or significant effect (as compared to the previous HRA & AA), revised assessments have been carried out where relevant in relation to the three 'impact pathways'; Recreational Pressure to Mole Gap to Reigate Escarpment SAC; Air Quality in Natura 2000 sites; and functional linkage to Mole Gap to Reigate Escarpment to provide the 3.5km core sustenance zone Bechstein's Bats. See Appendix 1 for further detail.
23. The overall increase in capacity in line with October 2018 HRA & AA will not have an impact on recreational pressure to the Mole Gap to Reigate SAC and therefore does not require any further consideration.
24. The increase in capacity on individual site allocations, both individually and cumulatively, is very modest when taken in the context of the plan as a whole and will not have an overall significant increase in traffic movements and therefore will not impact the conclusions of the SD47 & SD48 in respect of pollution concentrations.

25. Site allocations that are within 3.5km of Mole Gap to Reigate Escarpment will be subject to monitoring and will be assessed against policies NHE2 & NHE3, including the proposed main modification in relation to Bechstein's Bat habitat.
26. Therefore the overall conclusions were that even policies that have impact pathways to Natura 2000 with monitoring and modification to policy NEH2 the DMP will not result in any significant or adverse effects on Natura 2000 sites within the scope of this HRA/AA.

**Table 1: Screening and Assessment of the 'Main Modifications'**

Mod No.	Policy/ Explanation/ Paragraph/ Annex	Conclusions/Explanation
MM1	Paragraph 2.2.5 (p.12)	Screened out – no material effect on previous HRA/AA conclusions
MM2	Policy EMP5 (p.17)	
MM3	Policy DES2 (p.31)	
MM4	Policy DES4 explanation (p.34)	
MM5	Policy DES6 (p.35) and explanation (p.36)	
MM6	Policy DES7 (p.37-37)	
MM7	Policy DES10 (p.42)	
MM8	Policy OSR2 (p.46)	
MM9	Policy OSR3 (3)	
MM10	Policy TAP1 (1) c) and (2) (p.49)	
MM11	Policy CCF1 (3) (p.52)	
MM12	Policy CCF2 (1) and (3) (p.53)	
MM13	Policy NHE1 (p.57)	
MM14	Policy NHE2(1) (p.58) and explanation (p.59)	
MM15	Policy NHE3 (p.60) and explanation (p.61)	Screened out – no material effect on previous HRA/AA conclusions
MM16	Policy NHE4 (3) (p.62)	
MM17	Policy NHE5 (1) and (4)	
MM18	Policy NHE6 (p.66)	
MM19	Policy NHE7 (p.66)	
MM20	Policy NHE8 (p.67)	
MM21	Policy NHE9 (p 68 – 69)	
MM22	Policy GTT1 (p.74-77)	The changes reflect modest increases in the proposed capacity of a number of the gypsy and traveller allocations, totalling 6 additional pitches, together with an additional site (G11- Highlands) for 5 pitches. The increase in residents will not be sufficient to impact either alone or in combination Mole Gap to Reigate Escarpment SAC. The additional site (G11) is within 0.8km of the Mole Gap to Reigate Escarpment SAC and therefore within the Core Sustainance Zones for Bechstein Bats. However the increase is modest and the proposed modification of Policy NHE2 and NHE3 ensures any planning applications for development for this site incorporate relevant surveys and ensure that key features (foraging habitat and commuting routes) are retained or appropriately mitigated.

		Site allocations were assessed by means of air quality modelling study (SD47 & SD48). The increase in traffic from this modification (individually and cumulatively with other modifications) would be negligible in the context of the plan as a whole and within the remit of the conclusions and analysis of this study such that this would not have an adverse impact on air pollution concentrations. The modest increases in capacity on previously proposed allocations are not considered to give rise to new impact pathway an impact on integrity on the Thames Basin Heaths SPA alone or in combination. <b>It can therefore be determined this MM will not have an adverse effect on integrity on the Natura 2000 sites within the scope of the HRA &amp; AA either alone or in combination.</b>
MM23	Policy BAN2: Requirements (p.88)	Screened out – no material effect on previous HRA/AA conclusions
MM24	Policy RTC4: Requirements (p.96)	
MM25	Policy RED4: Requirements (p.100)	
MM26	Policy RED5: Requirements (p.101)	
MM27	Policy RED8: Requirements (p.103)	
MM28	Policy RED9: Allocation (p.105) and Requirements (p.105-106)	
MM29	Policy ERM1: Allocation (p.107) and Requirements: (p.108)	The modification increases the capacity of the site from 100 to 145 units. The site was identified in the October 2018 HRA as having potential Air Quality from Traffic impacts as well as public disturbance and Bechstein Bat pathways. The site is within 3.1 km of the Mole Gap to Reigate Escarpment SAC. However the increase capacity within the site can be achieved without adverse impacts on existing woodland features. The proposed modification of Policy NHE2 and NHE3 ensures any planning applications for development for this site incorporate relevant surveys and ensure that key features (foraging habitat and commuting routes) are retained or appropriately mitigated. The other modifications to the policy are not considered to introduce any additional pathways or lead to different implications. The increase in the number of homes is negligible in the context of the plan as a whole both individually (0.65%) and cumulatively (2.8%) with additional homes on other proposed allocations such that the impact on air pollution concentrations and recreational pressures would be negligible and unlikely to alter previous conclusions (which in relation to air pollution shows net roadside reductions of nitrogen deposition in receptor sites by 2033). <b>It can therefore be determined this MM will not have an adverse effect on integrity on the Natura 2000 sites within the remit of the HRA &amp; AA either alone or in combination.</b>
MM30	Policy ERM2/3 Allocation: (p.109)	The modification increases the capacity of the site from 210 to 230 units. The site was identified in the October 2018 HRA as having potential Air Quality from Traffic impacts as well as public disturbance and Bechstein Bat pathways. The increase in the number of homes is negligible in the context of the plan as a whole both individually (0.29%) and cumulatively (2.8%) with additional homes on other proposed allocations such that the impact on air pollution concentrations and recreational pressures would be negligible and unlikely to alter previous conclusions (which in relation to air pollution shows net roadside reductions of nitrogen deposition in receptor sites by 2033). The increase capacity can be achieved without adverse impacts on existing woodland features and modifications to other policies in the Plan would require specific consideration of impacts on Bechstein Bat CSZ at application stage. The other modifications to the policy in relation to mitigation of the

		relationship to the landfill are not considered to introduce any additional pathways or lead to different implications. <b>It can therefore be determined this MM will not have an adverse effect on integrity on the Natura 2000 sites within the remit of the HRA &amp; AA either alone or in combination.</b>
MM31	ERM4b Allocation: (p.113)	The modification increases the capacity of the site from 20 to 30 units. The site was identified in the October 2018 HRA as having potential Air Quality from Traffic impacts. The increase in the number of homes is negligible in the context of the plan as a whole both individually (0.14%) and cumulatively (2.8%) with additional homes on other proposed allocations such that the impact on air pollution concentrations and recreational pressures would be negligible and unlikely to alter previous conclusions (which in relation to air pollution shows net roadside reductions of nitrogen deposition in receptor sites by 2033). <b>It can be determined this MM will not have an adverse effect on integrity on the Natura 2000 sites within the remit of the HRA &amp; AA either alone or in combination.</b>
MM32	ERM5 Allocation: (p.115) and Requirements: (p.116)	The modification increases the capacity of the site from 95 to 130 units. The site was identified in the October 2018 HRA as having potential Air Quality from Traffic impacts as well as public disturbance pathways. The increase in the number of homes is negligible in the context of the plan as a whole both individually (0.5%) and cumulatively (2.8%) with additional homes on other proposed allocations such that the impact on air pollution concentrations and recreational pressures would be negligible and unlikely to alter previous conclusions (which in relation to air pollution shows net roadside reductions of nitrogen deposition in receptor sites by 2033). <b>It can be determined this MM will not have an adverse effect on integrity on the Natura 2000 sites within the remit of the HRA &amp; AA either alone or in combination.</b>
MM33	Policy RE11: Requirements (p.120)	Screened out – no material effect on previous HRA/AA conclusions
MM34	SSW2 Allocation: (p.122) and Requirements (p.123)	The modification increases the capacity of the site from 260 to 290 units. The site was identified in the October 2018 HRA as having potential Air Quality from Traffic impacts as well as public disturbance and Bechstein Bat pathways. The increase in the number of homes is negligible in the context of the plan as a whole both individually (0.43%) and cumulatively (2.8%) with additional homes on other proposed allocations such that the impact on air pollution concentrations and recreational pressures would be negligible and unlikely to alter previous conclusions (which in relation to air pollution shows net roadside reductions of nitrogen deposition in receptor sites by 2033). The increase capacity can be achieved without increasing land take and modifications to other policies in the Plan would require specific consideration of impacts on Bechstein Bat CSZ at application stage. The other modifications to the policy in relation to infrastructure and transport mitigation are not considered to introduce any additional pathways or lead to different implications. <b>It can be determined this MM will not have an adverse effect on integrity on the Natura 2000 sites within the scope of the HRA &amp; AA either alone or in combination.</b>
MM35	SSW6 Allocation: (p.124) and Requirements (p.124)	Screened out – no material effect on previous HRA/AA conclusions
MM36	SSW7 Requirements: (p.125)	
MM37	SSW9 Allocation: (p.128)	The modification increases the capacity of the site from 100 to 120 units. The site was identified in the October 2018 HRA as having potential Air Quality from Traffic impacts as well as public disturbance pathways. The increase in the number of homes is negligible in the context of the plan as a whole both individually (0.29%)



		and cumulatively (2.8%) with additional homes on other proposed allocations such that the impact on air pollution concentrations and recreational pressures would be negligible and unlikely to alter previous conclusions (which in relation to air pollution shows net roadside reductions of nitrogen deposition in receptor sites by 2033). <b>It can be determined this MM will not have an adverse effect on integrity on the Natura 2000 sites within the scope of the HRA &amp; AA either alone or in combination.</b>
MM38	HOR1 Requirements: (p.132)	Screened out – no material effect on previous HRA/AA conclusions
MM39	NWH1 Allocation: (p.139) and Requirements (p.139)	
MM40	NWH2 Allocation (p.141) and Requirements (p.141)	
MM41	SEH4 Allocation: (p.143)	The modification increases the capacity of the site from 40 to 75 units with a corresponding increase in site area. In relation to Air Quality from Traffic impacts, the increase in the number of homes is negligible in the context of the plan as a whole both individually (0.51%) and cumulatively (2.8%) with additional homes on other proposed allocations such that the impact on air pollution concentrations would be negligible and unlikely to alter previous conclusions which shows net roadside reductions of nitrogen deposition in receptor sites by 2033). <b>It can be determined this MM will not have an adverse effect on integrity on the Natura 2000 sites within the scope of the HRA &amp; AA either alone or in combination.</b>
MM42	Policy HOR9 Allocation (p.146), Requirements (p.146-147) and explanatory text (p.148)	The modifications do not change the overall capacity or level of growth planned on the site and seek to introduce greater controls on car use and promotion of sustainable travel. On this basis, it is not considered that the modifications would alter the conclusions of the October 2018 HRA in relation to Air Quality from Traffic impacts. The modifications include a specific requirement to undertake detailed Air Quality assessment at the application stage. <b>It can be determined this MM will not have an adverse effect on integrity on the Natura 2000 sites within the scope of the HRA &amp; AA either alone or in combination.</b>
MM43	Policy MLS1 (p.156-158)	Screened out – no material effect on previous HRA/AA conclusions
MM44	Policy MLS2 (p.158-159)	
MM45	Annexe 3: Marketing requirements (p.173-174)	
MM46	Annex 6: Infrastructure Delivery Schedule Entry PE3 (p.216)	
MM47	Annex 7 : Housing Trajectory	

