

**Wealden Heaths Phase II
Special Protection Area**

Hindhead Avoidance Strategy 2011

JULY 2011

WEALDEN HEATHS PHASE II SPECIAL PROTECTION AREA - HINDHEAD AVOIDANCE STRATEGY 2011

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1. Introduction

- 1.1 The justification for this Avoidance Strategy is that as a result of the opening of the new A3 tunnel scheme, sites within central Hindhead are likely to come forward for redevelopment, including new housing. These new homes would be in close proximity to the Wealden Heaths Phase II Special Protection Area (SPA) and, without appropriate avoidance measures, could have a significant effect on the SPA.
- 1.2 In anticipation of redevelopment opportunities arising in Hindhead, Waverley Borough Council has adopted the Hindhead Concept Statement (see **Appendix 1**) as a material consideration, in order to help in the assessment of emerging development proposals. The Concept Statement has been subject to an Appropriate Assessment, which concluded that there could be an adverse effect on the SPA arising from additional recreational pressure in the form of visits by residents of new houses provided within the area covered by the Concept Statement. The conclusion was, therefore, that there should be measures put in place to promote the use of other areas for these recreational activities in order to avoid adverse impact on the SPA.
- 1.3 The Wealden Heaths SPA was designated in March 1998 and is protected from adverse impact under European and UK law. The SPA is a network of heathland sites which are designated for their ability to provide a habitat for the internationally important bird species of woodlark (*Lullula arborea*), nightjar (*Caprimulgus europaeus*) and Dartford warbler (*Sylvia undata*).
- 1.4 The important tract of heathland which affects Waverley is the Devil's Punchbowl SSSI. This site comprises Hindhead Common, the Devil's Punchbowl and the Highcomb Valley and supports broadleaved and coniferous woodland, heathland, scrub and small meadows.
- 1.5 The purpose of this strategy is to set out the approach that the Council will follow to avoid harm to the heathlands arising from additional residential development within the Hindhead Concept Statement area.
- 1.6 This strategy identifies avoidance measures in the Hindhead area. The following table summarises the contribution that will be expected from new residential development in order to ensure that it will have no likely significant effect on the SPA.

Dwelling Size	Avoidance Contribution per Dwelling
1 bedroom	£628
2 bedroom	£843
3 bedroom	£1202
4 bedroom	£1370
5+ bedroom	£1787

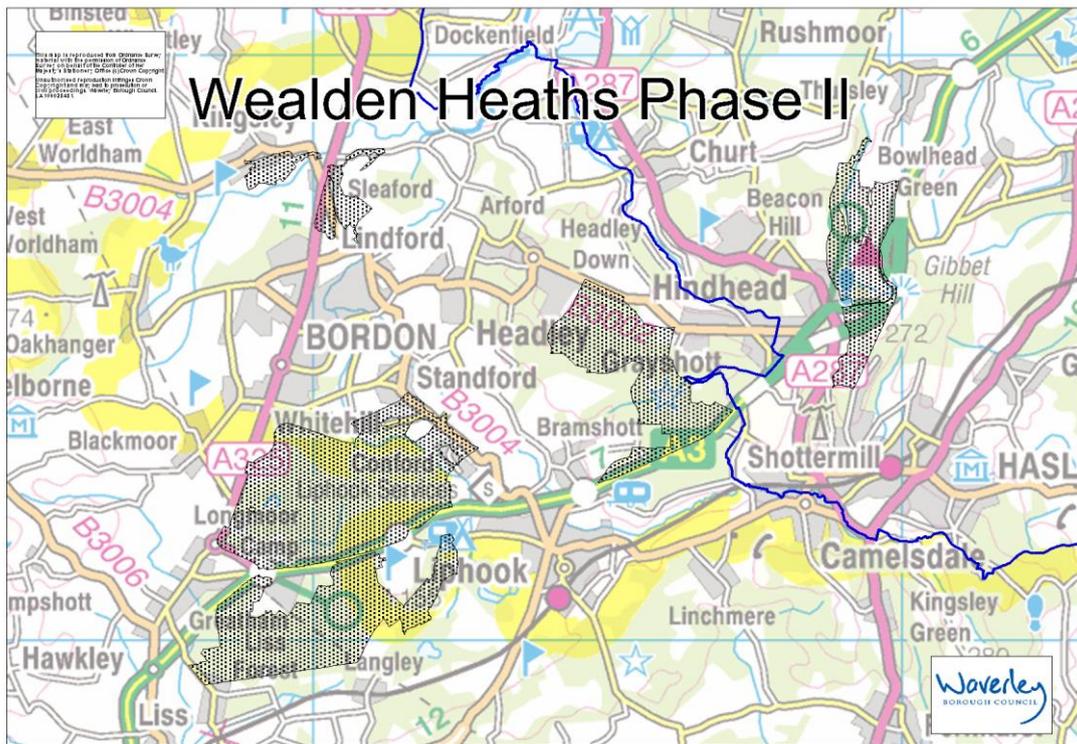


Figure 1: Location of the Wealden Heaths Phase II Special Protection Area

1.7 The area that the strategy will apply to is shown in **Figure 2** below.

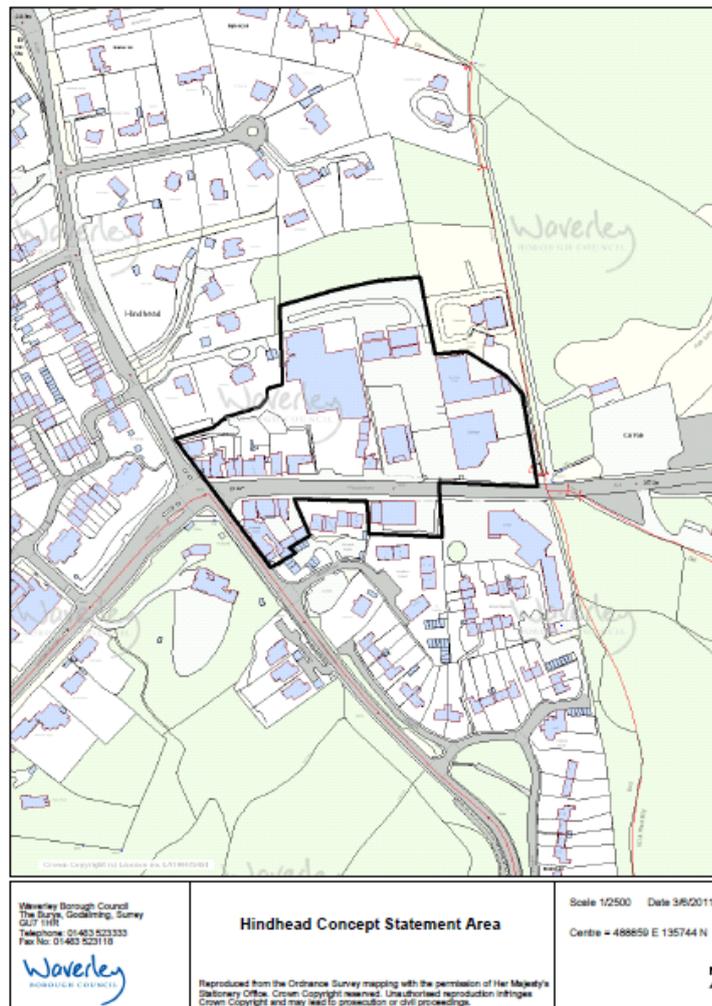


Figure 2 – Hindhead Concept Statement Area

1.8 There may be other sites that come forward outside the area shown in Figure 2. These would have to be assessed on a case-by-case basis and may be required to undergo Habitat Regulations Assessment to identify whether avoidance measures are required.

1.9 The National Trust have indicated that they are considering a replacement visitor centre at the Devil's Punchbowl. This is outside the Hindhead Concept Statement area and the HRA did not consider the potential impact of such a development. Therefore, the Avoidance Strategy does not apply to the potential visitor centre scheme.

2. Why do we need to prepare an Avoidance Strategy?

2.1 The European Union has introduced two pieces of legislation that deal with the protection of rare species and habitats. These are generally referred to as the Birds Directive and the Habitats Directive. The Birds Directive identifies rare species of European wild birds that need protection. It is difficult to protect wild

birds so the Habitats Directive also protects suitable habitats. These places are called Special Protection Areas (SPA).

- 2.2 The EU legislation has been transposed into UK legislation as the Habitats Regulations, most recently updated in 2010. The Regulations deal with both the impact of Development and of Development Plans (such as the emerging Waverley Core Strategy) upon European Sites which includes SPAs.
- 2.3 Local Planning Authorities are identified as a “competent authority” for the purposes of determining whether or not a proposed development scheme or development plan document (such as the Core Strategy) is likely to have a significant effect upon the SPA. The effect of the Regulations is to require Local Planning Authorities to ensure that no adverse effect arises from any proposed development scheme or development plan document.
- 2.4 The effect of this legislation together with the Natural Environment and Rural Communities Act 2006 is to impose on local authorities a legal duty of care to protect biodiversity. Where the European Sites could be affected by a plan or project then Habitat Regulations Assessment (HRA) must be undertaken. This examines whether a plan or project could, alone or in combination, have a significant impact on the interest features of the European site.
- 2.5 If local authorities think harm or “likely significant effect” could occur they are legally obliged to conduct an Appropriate Assessment and must not approve the proposed plan or project unless appropriate avoidance and mitigation measures can be put in place to ensure the harm is avoided.
- 2.6 Waverley Borough Council adopted the Hindhead Concept Statement as a material planning consideration in July 2008. This project was initiated through the Hindhead Together Partnership. The Concept Statement identifies principles for the regeneration of the London Road area of Hindhead.
- 2.7 As the Concept Statement was considered to be a “plan”, an HRA, including an Appropriate Assessment, was carried out and completed in December 2010.
- 2.8 An assumption of 100 dwellings providing 150 to 300 bedrooms was used in the assessment. This was based on an estimate of development that might come forward within the Concept Statement area in order to make the assessment. (para. 6.7 of HRA).
- 2.9 The HRA concluded that without avoidance or mitigation measures, development in the Hindhead Concept Statement area has the potential to lead to the following adverse impacts on the SPA (para. 7.5 – 7.6):
 - An increase in recreational access by people (including those with dogs) on to the SPA on a daily basis by residents of the new dwellings and any employees of the businesses that visit the site with or without their dog(s)
 - An increase in the incidence of uncontrolled fires affecting the habitat on which the Annex 1 birds depend.

- Garden waste tipping if residential development were to take place immediately adjacent to the SPA
- 2.10 The HRA states that the national proportion of residents owning dogs is 23% (para. 6.50). However, the latest Pet Food Manufacturers' Association website information (June 2011) indicates that 22% of households owned a dogs in 2010-2011 and only 20% in the South East. Based on these statistics and using a precautionary approach, it is likely that out of 100 dwellings within the Concept Statement area, 23 households would own a dog. However, the HRA recognises that disturbance can also be caused by visitors without dogs.
- 2.11 The Council's duty to consider the impact of development on the SPA applies also to non-residential development applications, which will need to be considered on their individual merits. This Avoidance Strategy is, however, directed specifically towards residential proposals and the measures, which can be taken to enable them to proceed without harm to the integrity of the SPA.

3. Current Policy and Guidance

The South East Plan

- 3.1 The South East Plan was published by the Government on 6th May 2009. While the Government has proposed that regional strategies will be abolished through the Localism Bill, it has been established that the Plan will remain part of the Development Plan until the relevant part of the Localism Bill is enacted.
- 3.2 Policy NRM5 of the South East Plan states that Local Planning Authorities must give the highest level of protection of European sites such as Special Protection Areas, Special Areas of Conservation and Ramsar sites. Where an appropriate assessment of a plan or project on European sites concludes that there will be an adverse effect on the integrity of a European site, the plan or project shall not be approved unless otherwise in compliance with 6(4) of the Habitats Directive.
- 3.3 The avoidance measures set out in this Avoidance Strategy are consistent with Policy NRM5. Although the Government intends to abolish regional plans through the Localism Bill, the legal duty to protect these designated areas will remain and it is expected that appropriate local policies to replace those in the South East Plan will be incorporated into the emerging Local Development Framework.

Waverley Borough Local Plan 2002

- 3.4 The Hindhead Concept Statement area lies within the developed area of Hindhead and there are no site-specific policy designations within the Waverley Local Plan 2002.

4. Context

- 4.1 There is no guidance available for producing an Avoidance Strategy. While the Council has the experience of producing an Avoidance Strategy to help protect the Thames Basin Heaths SPA from the impacts of new residential development there are a number of differences between the two sites which mean that this methodology is not wholly transferable.
- 4.2 The process has involved consultation with key stakeholders including the National Trust, Natural England and local landowners including a presentation to the Hindhead Together Landowners Meeting.
- 4.3 The avoidance measures proposed seek to follow the recommendations set out in the HRA. The HRA of the Concept Statement has recommended a three pronged approach to overcome the adverse effects on the SPA which arise mainly from the recreational use of the SPA by new residents. The three “prongs” identified are:
1. A combination of measures to encourage walking (including dog walking) by future local residents and employees from the proposed HCS regeneration area to take place away from the heathland areas of the SPA.
 2. A programme of education targeted at the new residents (adults and children) of the HCS regeneration area, visitors to the heathland (particularly at times of high fire risk) and children attending local schools about the risk of heathland fires and their effects.
 3. Commercial use of the land that has the common boundary with the SPA or, if it is residential development, conditions requiring green waste collection and/or composting facilities and a property boundary to the SPA that precludes garden waste tipping.
- 4.4 This document outlines how these will be achieved and administered.

5. Applying the Avoidance Strategy

- 5.1 Reflecting the precautionary principle and the need to consider the in combination effects of development, this Avoidance Strategy applies to all proposals within the Concept Statement area for new net residential development in the following classes of development:
- Proposals for 1 or more net new dwelling units falling within Use Class C3: residential development
 - Proposals for 1 or more net new units of staff residential accommodation associated with Use Classes C1 and C2.
- 5.2 Replacement dwellings will not generally lead to increased recreational pressure, therefore, will have no likely significant effect on the SPA and will not

be required to make a contribution to the provision of avoidance measures. The HRA indicates that potential employees may bring dogs to work and walk them on the SPA. The level of such activity is not quantified within the HRA. However, the amount of people doing this and hence the level of impact is likely to be so small that it would not be proportionate for commercial uses to contribute towards the Avoidance Strategy. However, any employees with dogs would benefit from the avoidance measures that would be delivered.

- 5.3 All other applications for planning permission in the vicinity of the SPA will need to be screened to assess whether they will have a likely significant impact (individually or in combination with other plans or projects) and where necessary a full Appropriate Assessment should be undertaken.
- 5.4 This strategy applies to applications for full or outline planning permission. Reserve matters, discharge of conditions, or amendments to existing planning consents will be considered on an individual basis by the Council, in consultation with Natural England, and may be subject to the principles set out within this strategy or to a Habitats Regulations Assessment.
- 5.5 The Avoidance Strategy tariff will be payable to Waverley Borough Council upon commencement of development.
- 5.6 In terms of addressing the significant impact on the SPA, there are two options open to developers for meeting avoidance requirements:
 - Buy into provision of avoidance measures assembled by the local authority (the Avoidance Strategy)
 - Provide avoidance measures, including alternative sites and/or walking routes, themselves that the Local Authority, in consultation with Natural England, considers are sufficient to avoid development having a significant effect on the SPA.
- 5.7 Financial contributions will be secured by way of a Section 106 Agreement. Payment will normally be within 28 days of commencement.
- 5.8 If developers are unable, or unwilling to make such contributions towards avoidance measures, the expectation remains, that the proposed development will be likely to have a significant effect on the SPA and the requirement for an Appropriate Assessment will arise in accordance with Regulation 60 of the Habitats Regulations.

6. Avoidance Measures

Measures to encourage dog walking to take place away from the heathland areas of the SPA.

- 6.1 The HRA recommends promoting routes on areas that are away from the heathland areas of the SPA, are substantially covered by trees and not used

by nesting Annex 1 heathland birds (para. 6.57). The Council has worked with the National Trust to identify routes around Tyndalls Wood and Golden Valley which are within their ownership and control. The routes are 2.5-3-3.2km distance and approximately 30-60 minutes duration. Maps of the routes are set out in **Appendix 2**.

Tyndalls Wood

- 6.2 Tyndalls Wood is an area of approximately 45 hectares to the south-west of the Hindhead crossroads which is owned and managed by the National Trust. The area is outside the SPA and is not used by nesting Annex 1 heathland birds. This area was specifically recommended as a potential walking route in the HRA. The area is within a few minutes walk from the regeneration area.
- 6.3 The Tyndalls Wood and Miss James Walk area has limited infrastructure other than some limited signage. A new path would be required along the western end of the route to link two existing paths to enable a circular route of sufficient distance. Waymarkers would be required around the route.
- 6.4 As part of the tunnel project, a number of infrastructure projects have been carried out or proposed in the Hindhead area to replace and improve severed or lost rights of way and common land with rights of access. A car park is proposed along an existing access track just off the existing A3 Portsmouth Road close to the junction with Headley Road, 550m from the Hindhead crossroads. This will provide 6 parking spaces. As part of the Avoidance Strategy, it is proposed to install a dog bin and an Interpretation Board displaying the route of the walk and other information relating to the conservation objectives of the strategy. A contribution towards the upkeep of the car park is also proposed.
- 6.5 The car park links to a recently completed bridge across the A3, known as the Miss James Bridge, which is open to pedestrians, cyclists and equestrians.

Golden Valley

- 6.6 The Golden Valley is an area of woodland approximately 67 hectares to the north-west of central Hindhead. It occupies a large part of the land between the Churt Road and Grayshott village. The nearest public access to the Golden Valley is on the western side of Tilford Road, north of properties in Tower Road, 400m north of the Hindhead crossroads.
- 6.7 Similar to the Tyndalls Wood area, the Golden Valley has limited infrastructure. Measures proposed include signage, an interpretation board, some path clearance and provision of a dog bin. The existing paths are unclear in sections and therefore would need to be clearly identified. Following recent forestry works, the path in the valley is rutted, but is due to be restored.

Promoting the alternative walking routes

- 6.8 The routes would be promoted through interpretation boards at each of the three sites by the National Trust. Leaflets would be produced by the National Trust and distributed to new residents and employees within the regeneration area to encourage use of these routes.

Education

- 6.9 Education about the risk of heathland fires and their effects would be incorporated into the leaflets on the walking routes which would be made available to new residents. This information would also be posted on noticeboards at the car parks.
- 6.10 Under the Countryside & Rights of Way Act 2000, the public has a right of access with their dogs on mapped areas of mountain, moor, heath, downland and registered common land without having to stick to paths. This level of access applies to the Devil's Punchbowl. However, there is a legal restriction under the Act that dogs must be kept on short leads (no more than two metres) between 1st March to 31st July to protect ground nesting birds. At all times of the year, dogs must be kept on a short lead in the vicinity of livestock. Information on such restrictions would be highlighted on noticeboards and leaflets to discourage dog walkers taking their animals onto open heath during bird-nesting season. Natural England have a standard sign requesting that dogs are kept on leads for use on access land. Other signs and interpretation boards can be used to divert people from sensitive parts of the SPA.
- 6.11 No specific programme of education is proposed for children attending local schools as this is considered to be excessive for the level of development that is proposed, ie. 100 dwellings. However, leaflets on the walking routes and risks of heathland fires would be circulated to all local schools. The Council will also distribute details of the Dorset Urban Heaths Partnership education packs which have been produced for a variety of school age groups to deal with the issue of heathland fires. This project benefited from European funding and was a partnership including districts, County Council, Dorset Fire and Rescue Service, Dorset Police, Dorset Wildlife Trust, Natural England and The Herpetological Conservation Trust.

Key Stage 1 – Sam's Story Pack

Key Stage 2 – Matches and Mayhem: Fire safety and heathlands education pack.

Key Stage 3 – Backfire Activity Pack

Addressing garden waste tipping on development adjoining the SPA boundary

- 6.12 Sufficient space for facilities for storing green waste and/or sufficient space for composting facilities should be provided on site where possible and could be dealt with by a planning condition. The appropriate solution would be considered on a site-by-site basis. Waverley Borough Council already

operates a Garden Waste Collection Service, which could be an option for individual sites.

Financial Contribution towards Avoidance Measures

- 6.13 The basis for the financial contribution being sought is set out in **Appendix 3**.
- 6.14 The tariff includes the capital cost of enhancements and the capital sum needed to generate the annual costs in perpetuity for site maintenance and capital replacement and equates to a rate of **£479** per person. This then results in a tariff per bedroom as set out in paragraph 1.6.
- 6.15 The tariff will be updated on an annual basis in line with an appropriate Index.
- 6.16 Contributions will be collected by Waverley Borough Council. A legal agreement will be entered into with the National Trust to agree terms for the implementation of the Avoidance Measures and the transfer of funds.

7. Monitoring and Review

- 7.1 The Avoidance Strategy will include a contribution towards monitoring to confirm the effectiveness of the Avoidance Strategy. This would include monitoring of recreational activity and bird populations on the SPA from residents and employees within the Hindhead Concept Statement area. A figure of 5% of the annual ongoing cost is considered to be proportionate towards the monitoring costs.
- 7.2 Monitoring of bird numbers has been ongoing annually since 2004 in connection with the Hindhead Tunnel works by the Highways Agency. This monitoring is now coming to an end, and will be continued through the monitoring of this strategy, as an integral part of understanding the Strategy's effectiveness.
- 7.3 There would be an increased need for wardening of the areas to ensure that the routes are free from impediments such as fallen trees and to enforce the use of short leads for dogs during the bird nesting season.
- 7.4 The implementation of the avoidance measures would be carried out by the National Trust as soon as reasonably practicable, and in any case in time to ensure that measures come on stream before residents move into the dwellings. Suggested priorities for the implementation of the avoidance measures are set out in **Appendix 4**.
- 7.5 The Council will report on the implementation of this Strategy including the take up of Avoidance Strategy capacity and the implementation of avoidance measures to the Council. The Council may also need to consider the need for additional measures if the level of development exceeds 100 dwellings.
- 7.6 The Council will also report on a quarterly basis to Natural England.