Matters Concerning Consistency with the Conservation Objectives

1. The HRA undertaken by WDC correctly identifies the relevant conservation objectives and qualifying interest features of the SAC. However, with reference to paragraphs 4.41 and 4.45 of the HRA, WDC have approached the HRA with the view that all features within the SAC boundary should be the subject of assessment. It is stated at paragraph 4.41 that:

“As a general principle, international site boundaries are drawn around the qualifying habitat types or habitats of species for which a site has been selected. However, in some cases, the boundary includes a larger area of land including habitat types, which are not designated features. In these cases, a larger area has been identified to take account of and to ensure that the site operates as a functional whole for the purposes of conserving the habitat types or species.”

2. Paragraph 4.45 states:

“It is clear from the above definition that the focus of site integrity relates to the European site as a whole and not just the parts of the site where the qualifying habitats or species exist. It relates to a multitude of ecological factors that contributes to the sites ability to be maintained in favourable conservation status and to have the potential to meet its conservation objectives with minimal management support. When this is achieved a site can be said to have a high degree of site integrity.”

3. As confirmed by Natural England (as the relevant statutory authority in such matters), within its Regulation 19 Response (Dated 5th October 2018), protected site boundaries can be drawn to take account of a recognisable feature on the ground, such as a road or field boundary. In Ecology Solutions experience this is a very common occurrence. It is Ecology Solutions understanding that key reasons for this practice are, to avoid ambiguity over the site’s boundary and to assist in management and monitoring, through management units being clearly defined and identifiable on the ground. That is not to say that all features within the sites boundary are special (qualifying) features or, importantly, are necessary components of the functionality of the site.

4. Ecology Solutions concur with Natural England that it is appropriate at the initial (likely significant effect) screening stage, to have full regard to the European site’s boundary and all features contained within it. At the more detailed (Appropriate Assessment) stage however, especially where more detailed information is available (as in the case here), a more focussed assessment should be undertaken when considering the integrity test. This level of assessment should be targeted at the qualifying interest features for the European designated site and those effects which could arise in relation to them either directly or indirectly and including considerations relating to site functionality. As discussed in further detail in relation to Question 27, that is not to depart from relevant case law (with reference to the Holohan Judgment).

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1 Paragraph 2, Annex 1 of Natural England’s Regulation 19 Response to the Wealden Local Plan
2 Case C-461/17 Holohan v. An Bord Pleanála ECLI:EU:C:2018:649
5. It is Ecology Solutions view that, in assessing implications for non-qualifying features at the SAC, barring any finding that these are necessary components of the functionality of the site, one should conclude that such implications would not adversely affect the integrity of the site in view of the site’s Conservation Objectives. That situation applies in this instance to woodland habitat, which is a feature of the Ashdown Forest Site of Special Scientific Interest (SSSI) but not the SAC and for the purpose of addressing the relevant legal tests, affects upon it cannot be considered to affect the functionality of the SAC, or contravene the site’s Conservation Objectives. Overall, effects upon the quality of woodland habitat are of greater relevance to the Sustainability Appraisal submitted as part of the evidence base for the Wealden Local Plan.