

COMMITTEE:	PLANNING AND LICENSING
DATE:	12 MARCH 2002
SUBJECT:	SITES OF NATURE CONSERVATION IMPORTANCE
REPORT OF:	DIRECTOR OF PLANNING, REGENERATION AND AMENITIES
Ward(s):	Langney
Purpose:	To consider the boundary of the Site of Nature Conservation Interest at Langney Levels (Site E1)
Contact:	Jefferson Collard, Development Planning Manager, Telephone 01323 415252 or internally on extension 5252.
Recommendations:	<p>a) That the boundary of the Site of Nature Conservation Interest E1, Langney Levels, be approved as shown in Appendix 3.</p> <p>b) That "Area A" shown in Appendix 3 is included in the area, subject to there being no objection from the owners of this area.</p>
1.0	<u>Background</u>
1.1	The Revised Report Draft of the Eastbourne Borough Plan 2001-2011 contains the principle policy for protecting Sites of Nature Conservation Interest (SNCI). Policy NE19 states:-

	<p>“Development which has an unacceptable adverse effect, directly or indirectly, on the nature conservation interest of a site identified as a Site of Nature Conservation Importance will not be permitted. Where proposals are permitted the Planning Authority will require the proper conservation management of Sites of Nature Conservation Importance. (See Policy NE21).”</p> <p>The principle of this policy has not been challenged in the recent consultation on the draft Borough Plan, although the detail wording may be amended following the Inspector’s report on the public inquiry into the draft plan.</p>	
1.2	<p>The Proposals Map of the draft Plan uses a symbol to annotate the approximate vicinity of the SNCI. The Plan pledges to publish Supplementary Planning Guidance on the detailed site boundaries. The Plan identifies several instances when more detailed guidance is needed and therefore in this instance, publication of detail boundaries is not extraordinary. In fact, the publication is seen as being helpful to both people with an interest in the site, and the Council’s own officers dealing with enquiries and applications on these sites.</p>	
1.3	<p>The 19 sites identified as being Sites of Nature Conservation Interest (SNCI) were distilled from a survey, by specialist consultants, carried out in Summer 2000. The report was mentioned in the very First Deposit Draft of the Plan, and available for purchase and scrutiny. However, this is a detailed technical document containing much information across the whole Borough. Therefore, it was sensible to publish a much more accessible document on the key information. This was the document, following public consultation, that was brought to the meeting of this Committee on 11 December 2001. The meeting approved 17 of the 19 sites suggested for SNCI status.</p>	
1.4	<p>The meeting deferred their decision on 2 sites – E118: Sovereign Harbour and E1: Langney Levels. The site of Sovereign Harbour will be completely resurveyed, which cannot be undertaken until May 2002. A report will, therefore, be brought to this Committee later in the year.</p>	
1.5	<p>However, Site E1 does not require a new survey and can therefore be dealt with now. The report will also cover a number of related issues brought up at the 11 December Meeting by the part owner of the land.</p>	
2.0	<p><u>Particular Issues on Process</u></p>	

2.1	<p>The Borough contains a wide range of green and open spaces, all which to a more and lesser extent, are the home to a wide variety of nature conservation interest. A total of 145 sites were surveyed by the Biodiversity Consultants who made recommendations to a technical panel of experts. The resulting sites were put before the meeting of this Committee on 23 January 2001 for authorisation to consult. This was approved.</p>	
2.2	<p>At the subsequent December meeting of this Committee, it was inferred that insufficient consultation was carried out and sites were being designated without the owners' knowledge. This was misleading. The officers undertook extensive research including searches with the Land Registry to identify the owners of sites proposed for designation. The owners were then individually consulted on the proposals for SNCI designation. The responses were reported to you at the December meeting. This consultation was in addition to the extensive consultation as part of the Draft Borough Plan process. It would be useful to give the Members some idea of the magnitude of the research. Of the original 23 sites suggested for SNCI status, officers first identified known owners from our own records. This left only 8 sites as unknown. Searches at the Land Registry revealed a total of 54 registered records of ownership of these 8 sites. These were added to the consultation process. (The Land Registry charged £432 for this information). The officers made a prudent decision not to consult all 145 sites surveyed in the Boroughwide survey, as this would have been inordinately expensive (estimated at about £8,000) and pointless as the majority of sites were not of nature conservation importance, and, therefore, were not affected by the SNCI policy.</p>	
3.0	<p><u>Issues on the Particular Site E1</u></p>	
3.1	<p>There are two main issues arising from the presentation given by the part owner of the site at the 11 December 2001 meeting of this Committee. These are: the expense of the survey and the recommended boundary.</p>	
3.2	<p>Expense of the Survey: It was inferred at the December meeting that the owners had incurred unnecessary expense in carrying out their own survey and that this should not have been necessary. It is quite understandable that owners of SNCI's would like to have full detailed surveys of their sites carried out at the Council's expense. However, this would be an inappropriate and unnecessary use of Council's finance. The Council's survey to identify SNCI's does just that – it identifies some interest on a site and logs this fact for future detail assessment <u>if necessary</u>. In most cases, it is not necessary to carry out a detailed survey, because the site often remains undeveloped. The Council would only require a detailed survey if a site was proposed for development. Then it is appropriate that the prospective developer should pay for that survey. This is no different to a number of surveys that a developer would expect to carry out in assessing the suitability of a site for a development scheme.</p>	

3.3	The Council survey does not infer that the whole of the site is of nature conservation importance, only that the conservation interest lies within its boundaries. The document showing the boundaries clearly makes this statement. This method of working and identifying SNCI's is consistent with other areas of the County and indeed with national arrangements for designating Sites of Special Scientific Interest (SSSI) that exist on Eastbourne Downland.	
3.4	It was therefore the land owners choice to carry out the detailed survey at this juncture. It has revealed precisely what the Council's survey already knew and stated, that not all of the site is of nature conservation importance. As has always been highlighted in this case, it is not the principle of its SNCI status that is under question, it is the precise boundary. It is usually not necessary to need to know the precise boundary of the SNCI unless a development is being proposed. Then it is very important to know so that it can be shown that the nature conservation interest has been protected. The cost of this detailed information is then borne as part of the development costs. This is considered a reasonable expense to be borne by the prospective developer.	
3.5	Option 1 Boundary : Both Consultants reports acknowledge that at least part of this site is of SNCI quality. The issue is over the precise line of the boundary. The approach adopted across the County of East Sussex recommended and administered by the County Ecologist is that previously recommended to you and shown in Appendix 1. This all embracing boundary follows natural site features that can be easily identified on the ground. It acknowledges that not all of the site is of SNCI quality. It <u>does not</u> preclude development per se, only that development within this site should ensure it does not harm the nature conservation interest (which can be looked at in detail once the precise use and design of any proposed building is known). This is the course of action normally recommended to the members to adopt. In the light of detailed survey information on this particular site, and the objection lodged by the part owner of the site, 2 other options are explored.	
3.6	Option 2 Boundary: The part owner of part of the site has agreed that there are areas of SNCI status within the boundary. His proposals are shown in Appendix 2. These are somewhat arbitrary as they are not as recommended in the detailed survey of his ecological consultant, Dr. Wolstenholme. Paragraph 8.7 of the Ecologist's report states:- "The ecological value of the SNCI lies in the network of ditches and sewers that run between fields.... The ditches surrounding Field 1, (part owned by the person commissioning the report) however are of high ecological value and warrant inclusion within the SNCI. It would be appropriate to include a buffer strip along the edge of the ditches within the SNCI" The sites shown in Appendix 2 are not consistent with the owners commissioned report and the sites that are shown do not contain a sufficient buffer to protect the SNCI. Therefore, this option is not recommended to the Committee.	

<p>3.7</p>	<p>Option 3 Boundary: Mindful of the detailed survey, the County Ecologist, with other members of the specialist technical panel has considered the boundary of this SNCI. Appendix 3 details the actual nature conservation interest sites suggested in the Consultants reports and includes the buffer zones that would be expected if this site was proposed for a development. It should be stressed that the boundaries shown <u>do not</u> follow any identifiable feature on the ground. Therefore, to accurately locate this boundary on site would need at least some basic surveying equipment.</p> <p>The Option 3 boundary has been identified from 3 main sources; the Council's own Consultant survey; Dr. Wolstenholme's survey; and; the generally accepted distances of buffer zones in the stewardship of SNCI's recommended by the County Ecologist and the specialist technical panel.</p>	
<p>3.8</p>	<p>All the sites shown in Appendix 3 are agreed in both consultants' surveys. The only issue, therefore, is the buffer zone on the ditches. The distances shown in Appendix 3 are measured from the centre of the ditch. The distances are not arbitrary but based on the following information:-</p>	
	<p>(a) development cannot be allowed up to the ditch edge (as suggested by the part owner in Option 2) because it would not allow access for the SNCI to be managed and may cause damaging overshadowing which will change the nature of the SNCI.</p> <p>(b) The Environment Agency require an 8 metre wide "casting way" alongside ditches to allow maintenance.</p> <p>(c) In administering field margins in agricultural/environmental schemes, the Department of Environment Fisheries and Rural Affairs require a minimum buffer of 6 metres from the field boundary. This approximately translates to the distances recommended in option 3, if measured from the centre of a ditch and allows for the width of embankments.</p> <p>(d) In practical terms, it is difficult to delineate distance of less than 10 metres on the scale of plan used for showing boundaries.</p> <p>The County Ecologist with other members of the specialist technical panel has recommended that Option 3 be adopted as the SNCI boundary for E1.</p> <p>Note: The boundary shown in Appendix 3 shows a site marked Area A.</p> <p>Both Consultants agree that this site should be included in the SNCI. The owners will shortly be consulted on this proposal and on the basis that they raise no objections, it is suggested the area is included in the final boundary. If objections are raised, a report will be prepared for further consideration by this committee.</p>	

4.0	<u>Consultations.</u>	
4.1	This report has been informed by the submission by the joint owner and the specialist technical panel.	two consultants' surveys, a County Ecologist in consultation
5.0	<u>Implications.</u>	
5.1	There are no financial, staffing, anti-poverty or community safety implications as a direct result of this report.	
6.0	<u>Environmental Implications</u>	
6.1	The Planning Authority has a duty to identify features of acknowledged importance. The SNCI's protect the natural biodiversity of the area and therefore, the recommended actions above have taken the environmental issues into account.	
7.0	<u>Human Rights Implications</u>	
7.1	As explained in paragraph 2.2 above, owners of land proposed for SNCI were fully consulted on the proposals and their views taken into account in making the recommendations.	
8.0	<u>Conclusions</u>	
8.1	This report has explained in detail the issues on Site E1. The only area of disagreement between the parties is the actual boundary of the SNCI. The issues have been argued in this report and the recommendation is to amend the boundary in line with Appendix 3.	
8.2	A report on Sovereign Harbour (Site E118) will be prepared following a new survey to be carried out in May 2002.	
8.3	Regarding Fields A in Appendix 3, these are recommended for inclusion in the SNCI subject to no objection received from the owners of the land.	

<p>Jefferson F Collard</p> <p>DEVELOPMENT PLANNING MANAGER</p>	
<p>Background Papers:</p> <p>The Background Papers used in compiling this report were as follows:</p> <p>Eastbourne Borough Plan (1998)</p> <p>Eastbourne Borough Plan First and Revised Deposit Draft 2001-2011</p> <p>Eastbourne Biodiversity Survey, September 2000</p> <p>The Environmental Partnership Botanical Survey August 2001 (Dr Wolstenholme's Report) commissioned by Mr Barry</p> <p>Letter from Mr Barry dated 11 January 2002</p> <p>Report from Simon Davey, Ecological Consultant - dated January 2002</p> <p>Dr Tait's email dated 26 February 2002</p> <p>Minutes of Planning and Licensing Committee dated 11 December 2001</p> <p>To inspect or obtain copies of background papers please refer to the contact officer listed above.</p>	