

From: SM-NE-Consultations (NE) <consultations@naturalengland.org.uk>
Sent: 04 July 2019 12:05
To: Jackson, Ruth <rjackson@herefordshire.gov.uk>
Subject: Consultation response - 191921 HRA & Appropriate Assessment - The Stables, Bullinghope

Dear Sir/Madam,

Please find attached Natural England's response to the above mentioned consultation.

Kind regards,

Ana-Maria Iscru

Support Advisor - Consultations Team
Technical Services
Natural England
County Hall
Spetchley Road
Worcester
WR5 2NP

Tel 0300 060 3900

mail to: consultations@naturalengland.org.uk

www.gov.uk/natural-england

We are here to secure a healthy natural environment for people to enjoy, where wildlife is protected and England's traditional landscapes are safeguarded for future generations.

In an effort to reduce Natural England's carbon footprint I will, wherever possible, avoid travelling to meetings and attend via audio, video or web conferencing.

Natural England offers two chargeable services - the Discretionary Advice Service, which provides pre-application and post-consent advice on planning/licensing proposals to developers and consultants, and the Pre-submission Screening Service for European Protected Species mitigation licence applications. These services help applicants take appropriate account of environmental considerations at an early stage of project development, reduce uncertainty, the risk of delay and added cost at a later stage, whilst securing good results for the natural environment.

For further information on the Discretionary Advice Service see [here](#)
For further information on the Pre-submission Screening Service see [here](#)

Date: 04 July 2019
Our ref: 191921
Your ref: 285676



Ms R Jackson
Planning
Herefordshire Council
Plough Lane
Hereford
HR4 0LE

Hornbeam House
Crewe Business Park
Electra Way
Crewe
Cheshire
CW1 6GJ

T 0300 060 3900

BY EMAIL ONLY

rjackson@herefordshire.gov.uk

Dear Ms Jackson

Planning consultation: HRA & Appropriate Assessment - Proposed alterations and two storey and first floor extensions

Location: The Stables Bullinghope Hereford Herefordshire HR2 8EB

Thank you for your consultation on the above dated and received by Natural England on 21 June 2019.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

SUMMARY OF NATURAL ENGLAND'S ADVICE

NO OBJECTION

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection.

Notwithstanding the above, your authority should be aware of a recent Ruling made by the Court of Justice of the European Union (the CJEU) on the interpretation of the Habitats Directive in the case of Coöperatie Mobilisation (AKA the Dutch Case) (Joined Cases C-293/17 and C-294/17).

The Coöperatie Mobilisation case relates to strategic approaches to dealing with nitrogen. It considers the approach to take when new plans/projects may adversely affect the ecological situation where a European site is already in 'unfavourable' conservation status, and it considers the acceptability of mitigating measures whose benefits are not certain at the time of that assessment.

Competent authorities undertaking HRA should be mindful of this case and should seek their own legal advice on the implications of these recent ruling for their decisions.

Natural England's advice on other natural environment issues is set out below.

Internationally and nationally designated sites

The application site is within the catchment of the River Wye which is part of the [River Wye Special Area of Conservation \(SAC\)](#) which is a European designated site, and therefore has the potential to affect its interest features.

European sites are afforded protection under the Conservation of Habitats and Species Regulations 2017 (as amended), the 'Habitats Regulations'. The SAC is notified at a national level as the [River Wye Site of Scientific Interest \(SSSI\)](#). Please see the subsequent sections of this letter for our advice relating to SSSI features.

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have¹. The [Conservation objectives](#) for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

European site - River Wye SAC - No objection

Natural England notes that your authority, as competent authority under the provisions of the Habitats Regulations, has undertaken an Appropriate Assessment of the proposal, in accordance with Regulation 63 of the Regulations. Natural England is a statutory consultee on the Appropriate Assessment stage of the Habitats Regulations Assessment process.

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any permission given.

River Wye SSSI – No objection

Based on the plans submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection.

Other advice

Further general advice on the consideration of protected species and other natural environment issues is provided at Annex A.

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

For any queries regarding this letter, for new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

Yours sincerely

Sally Wintle
Consultations Team

¹ Requirements are set out within Regulations 63 and 64 of the Habitats Regulations, where a series of steps and tests are followed for plans or projects that could potentially affect a European site. The steps and tests set out within Regulations 63 and 64 are commonly referred to as the 'Habitats Regulations Assessment' process.

The Government has produced core guidance for competent authorities and developers to assist with the Habitats Regulations Assessment process. This can be found on the Defra website. <http://www.defra.gov.uk/habitats-review/implementation/process-guidance/guidance/sites/>

ANNEX A

Natural England offers the following additional advice:

Landscape

Paragraph 170 of the National Planning Policy Framework (NPPF) highlights the need to protect and enhance valued landscapes through the planning system. This application may present opportunities to protect and enhance locally valued landscapes, including any local landscape designations. You may want to consider whether any local landscape features or characteristics (such as ponds, woodland or dry stone walls) could be incorporated into the development in order to respect and enhance local landscape character and distinctiveness, in line with any local landscape character assessments. Where the impacts of development are likely to be significant, a Landscape & Visual Impact Assessment should be provided with the proposal to inform decision making. We refer you to the [Landscape Institute](#) Guidelines for Landscape and Visual Impact Assessment for further guidance.

Best and most versatile agricultural land and soils

Local planning authorities are responsible for ensuring that they have sufficient detailed agricultural land classification (ALC) information to apply NPPF policies (Paragraphs 170 and 171). This is the case regardless of whether the proposed development is sufficiently large to consult Natural England. Further information is contained in [GOV.UK guidance](#)

Agricultural Land Classification information is available on the [Magic](#) website on the [Data.Gov.uk](#) website. If you consider the proposal has significant implications for further loss of 'best and most versatile' agricultural land, we would be pleased to discuss the matter further.

Guidance on soil protection is available in the Defra *Construction Code of Practice for the Sustainable Use of Soils on Construction Sites*, and we recommend its use in the design and construction of development, including any planning conditions. Should the development proceed, we advise that the developer uses an appropriately experienced soil specialist to advise on, and supervise soil handling, including identifying when soils are dry enough to be handled and how to make the best use of soils on site.

Protected Species

Natural England has produced [standing advice](#)² to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice. Natural England will only provide bespoke advice on protected species where they form part of a SSSI or in exceptional circumstances.

Local sites and priority habitats and species

You should consider the impacts of the proposed development on any local wildlife or geodiversity sites, in line with paragraphs 171 and 174 of the NPPF and any relevant development plan policy. There may also be opportunities to enhance local sites and improve their connectivity. Natural England does not hold locally specific information on local sites and recommends further information is obtained from appropriate bodies such as the local records centre, wildlife trust, geoconservation groups or recording societies.

Priority habitats and Species are of particular importance for nature conservation and included in the England Biodiversity List published under section 41 of the Natural Environment and Rural Communities Act 2006. Most priority habitats will be mapped either as Sites of Special Scientific Interest, on the Magic website or as Local Wildlife Sites. List of priority habitats and species can be found [here](#)³. Natural England does not routinely hold species data, such data should be collected when impacts on priority habitats or species are considered likely. Consideration should also be given to the potential environmental value of brownfield sites, often found in urban areas and former industrial land, further information including links to the open mosaic habitats inventory can be found [here](#).

² <https://www.gov.uk/protected-species-and-sites-how-to-review-planning-proposals>

³ <http://webarchive.nationalarchives.gov.uk/20140711133551/http://www.naturalengland.org.uk/ourwork/conservation/biodiversity/protectandmanage/habsandspeciesimportance.aspx>

Ancient woodland, ancient and veteran trees

You should consider any impacts on ancient woodland and ancient and veteran trees in line with paragraph 175 of the NPPF. Natural England maintains the Ancient Woodland [Inventory](#) which can help identify ancient woodland. Natural England and the Forestry Commission have produced [standing advice](#) for planning authorities in relation to ancient woodland and ancient and veteran trees. It should be taken into account by planning authorities when determining relevant planning applications. Natural England will only provide bespoke advice on ancient woodland, ancient and veteran trees where they form part of a SSSI or in exceptional circumstances.

Environmental enhancement

Development provides opportunities to secure net gains for biodiversity and wider environmental gains, as outlined in the NPPF (paragraphs 8, 72, 102, 118, 170, 171, 174 and 175). We advise you to follow the mitigation hierarchy as set out in paragraph 175 of the NPPF and firstly consider what existing environmental features on and around the site can be retained or enhanced or what new features could be incorporated into the development proposal. Where onsite measures are not possible, you should consider off site measures. Opportunities for enhancement might include:

- Providing a new footpath through the new development to link into existing rights of way.
- Restoring a neglected hedgerow.
- Creating a new pond as an attractive feature on the site.
- Planting trees characteristic to the local area to make a positive contribution to the local landscape.
- Using native plants in landscaping schemes for better nectar and seed sources for bees and birds.
- Incorporating swift boxes or bat boxes into the design of new buildings.
- Designing lighting to encourage wildlife.
- Adding a green roof to new buildings.

You could also consider how the proposed development can contribute to the wider environment and help implement elements of any Landscape, Green Infrastructure or Biodiversity Strategy in place in your area. For example:

- Links to existing greenspace and/or opportunities to enhance and improve access.
- Identifying opportunities for new greenspace and managing existing (and new) public spaces to be more wildlife friendly (e.g. by sowing wild flower strips)
- Planting additional street trees.
- Identifying any improvements to the existing public right of way network or using the opportunity of new development to extend the network to create missing links.
- Restoring neglected environmental features (e.g. coppicing a prominent hedge that is in poor condition or clearing away an eyesore).

Access and Recreation

Natural England encourages any proposal to incorporate measures to help improve people's access to the natural environment. Measures such as reinstating existing footpaths together with the creation of new footpaths and bridleways should be considered. Links to other green networks and, where appropriate, urban fringe areas should also be explored to help promote the creation of wider green infrastructure. Relevant aspects of local authority green infrastructure strategies should be delivered where appropriate.

Rights of Way, Access land, Coastal access and National Trails

Paragraphs 98 and 170 of the NPPF highlights the important of public rights of way and access. Development should consider potential impacts on access land, common land, rights of way and coastal access routes in the vicinity of the development. Consideration should also be given to the potential impacts on the any nearby National Trails. The National Trails website www.nationaltrail.co.uk provides information including contact details for the National Trail Officer. Appropriate mitigation measures should be incorporated for any adverse impacts.

Biodiversity duty

Your authority has a [duty](#) to have regard to conserving biodiversity as part of your decision making. Conserving biodiversity can also include restoration or enhancement to a population or habitat. Further information is available [here](#).



The Conservation of Habitats and Species Regulations (2018)

Part 6, section 63

'Assessment of implications for European sites and European offshore marine sites'

HRA Screening - Appropriate Assessment

APPLICATION NO: 191921
SITE: The Stables, Bullinghope, Hereford, Herefordshire, HR2 8EB
DESCRIPTION: Proposed alterations and two storey and first floor extensions.
GRID REFERENCE: OS 351016, 237111

Link to planning application on Herefordshire Council website:

https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=191921&search=191921

Natural England consultation reference (if available): XXXXXX

Assessment of 'Likely Significant Effects' on:

- ☒ River Wye Catchment SAC
- ☐ Forest of Dean & Wye Valley Bat SAC (Wigpool Iron Mines SSSI)
- ☐ River Clun SAC
- ☐ Downton Gorge SAC (SSSI-NNR)
- ☐ Other site (SSSI-NNR):

Likely significant effects identified on initial Screening Assessment:

- ☒ Foul water
- ☒ Surface water
- ☐ Emissions
- ☐ Construction or Demolition processes
- ☐ Other:

Appropriate Assessment information, discussion and proposed mitigation measures:

The applicant has confirmed that any additional foul water can be managed through connection to the existing, suitably sized septic tank system. Any additional surface water can be managed through onsite soakaway features.

The mitigation can be secured through condition on any planning consent granted

☐ Supporting documents: (insert documents as objects here; or clearly refer to document available on HC website)

Recommended Planning Conditions to secure appropriate mitigation:

Habitat Regulations (River Wye SAC-SSSI) – Foul and Surface Water Management

All foul water shall discharge through connection to existing private foul water treatment system; and all surface water shall discharge to appropriate soakaway-infiltration features; unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to comply with Conservation of Habitats and Species Regulations (2018), National Planning Policy Framework, NERC Act (2006), NPPF (2019) and Herefordshire Council Core Strategy (2015) policies LD2, SD3 and SD4.

CONCLUSION:

☒ **NO** adverse effects on the integrity of the Special Area of Conservation; subject to appropriate mitigation being secured. Habitat Regulations 2018, Part 6, section 63(5)

Appropriate Assessment completed by:

Mr James Bisset

Dated: 21 June 2019

Notes for Herefordshire Council use only: