

From: SM-NE-Consultations (NE) <consultations@naturalengland.org.uk>

Sent: 27 March 2020 10:49

To: Carlisle, Heather <Heather.Carlisle@herefordshire.gov.uk>

Subject: Construction of a flood alleviation scheme - Brook House, Lea Crossroads, Lea (Herefordshire) 200197 (312713)

Dear Ms Carlisle

Thank you for your consultation on the above dated and received by Natural England on 16th March.

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.

Internationally and nationally designated sites

The application site is within the catchment of the [River Wye Special Area of Conservation \(SAC\)](#), which is a European designated site (also commonly referred to as Natura 2000 sites), 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 \(SSSI\)](#).

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 have^[1]. 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

Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal, in accordance with Regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process, and a competent authority should have regard to Natural England's advice.

Your appropriate assessment concludes that the proposal **will not result in adverse effects on the integrity** of the sites in question. Natural England **agrees** with the assessment conclusions.

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

Should the proposal change, please consult us again.

Please send further correspondence, marked for my attention, to consultations@naturalengland.org.uk

Rob Sargent

Team Leader – West Mids

Natural England

www.gov.uk/natural-england

^[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/>

[<mailto:consultations@naturalengland.org.uk>](mailto:consultations@naturalengland.org.uk)

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.

From: Carlisle, Heather [<mailto:Heather.Carlisle@herefordshire.gov.uk>]

Sent: 16 March 2020 13:48

To: SM-NE-Consultations (NE) <consultations@naturalengland.org.uk>

Subject: 200197 - Completed HRA -

Good afternoon Natural England,

Application REF: 200197

Please find attached the completed HRA for your consideration for the above planning application.

Please respond directly to myself as the case officer Heather.Carlisle@herefordshire.gov.uk

Kind regards,

Heather Carlisle

Heather Carlisle

Principal Planner – Major Applications Team
Development Management

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@ heather.carlisle@herefordshire.gov.uk

General Planning Enquiries:

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**The Conservation of Habitats and Species Regulations (2017)
Part 6, section 63**

‘Assessment of implications for European sites and European offshore marine sites’

HRA Screening - Appropriate Assessment

APPLICATION NO: 200197
SITE: Brook House, Lea Crossroads, Lea, Herefordshire
DESCRIPTION: Construction of a Flood Alleviation Scheme (FAS) to collect surface water run off to reduce flood risk to properties and the highway. Works include footpath widening and paving in front of the Crown Inn, flood walls to be constructed adjacent to Brook House and The Old Granary. Pipework and associated gullies and chambers along the length of Old Mill Lane crossing the A40 through Crown Barns through Millbrook Gardens and discharging to Rudhall Brook to the Northeast and temporary site compound.

GRID REFERENCE: OS 366245, 221768

Link to planning application on Herefordshire Council website:

https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=200197&search=200197

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: Impacts on associated features (Species)

Appropriate Assessment information, discussion and proposed mitigation measures:

The proposed works are to provide a flood alleviation scheme for areas of the village of Lea near Ross-on-Wye. The works are related to managing existing surface water in a way as to reduce potential future flooding of properties and highways. Based on supplied information this identified potential likely significant effect is not identified as having any adverse effect on the integrity of the SAC and is considered 'screened out' of any further assessment.

The Rudhall brook and associated hydrological and ecological network is a tributary of the River Wye SAC and is known to support populations of 'feature' species noted within the designation of the River Wye SAC including Otters, Crayfish and species of Fish. (Other protected species are also associated with the locality). The wider water quality of the hydrological network could also be impacted through the extensive construction works required as part of this project.

The wider environmental effects can be mitigated through implementation of a detailed Construction Environmental Management Plan. An outline and proposal for the full CEMP and associated information and recording has been supplied and the CEMP can be secured through a condition based on this proposed full CEMP process being implemented.

It is noted that the supplied CEMP does not include any detailed ecological (biodiversity) risk avoid measures or working method schemes related to any species. The supplied 'Phase 2' Ecological Assessment prepared by the Wye & Usk Foundation dated November 2019 recognises the potential effects of the proposed works on protected species including Otters and Great Crested Newts – but is unable to provide the required detailed risk avoidance measures, mitigation and compensation as the full details of the proposed scheme were not available to the authors at the time of the report.

The report has included a detailed mitigation scheme for Hedgehogs – an important species in the locality of the development. A detailed ecological corridor protection plan for the proposed Site Compound has also been supplied.

To ensure the known presence of protected species in the area and utilising features associated with this development is fully considered and all relevant risk avoidance measures, mitigation actions and suitable compensation measures secured a pre-commencement suite of detailed species specific Ecological Working Method Statements (that include proposed mitigation and compensation features and actions) should be secured through Condition. The LPA can be satisfied that all such measures can be achieved within the proposed project such that there is no threat to the conservation status of any species – and as such the appropriate information can be secured by a pre-commencement condition rather than being required in advance of any planning consent being granted.

The site is within the 4KM (Core Sustenance Zone) of the Wye Woodlands and Forest of Dean Bat SAC. The proposed flood alleviation works will in themselves not create any significant or lasting changes that will impact any part of the Bat's core sustenance zone or local bat roosting associated with Horseshoe Bat species (which the Bat SAC relates to). However any works taking place during the 'Optimal' activity season (April to October inclusive) during the hours of darkness using additional artificial lighting could have a detrimental impact on foraging and commuting of any bat species present in the locality, including Horseshoe species associated with the Bat SAC. A condition to ensure no nocturnal/floodlit working is undertaken is requested to ensure this identified effect can be considered as mitigated.

Details of all proposed environmental and ecological conditions are included below to provide a comprehensive summary relevant to all aspects of the Conservation of Habitats and Species Regulations.

Recommended Planning Conditions to secure appropriate mitigation:

Nature Conservation/ Habitat Regulations Wye SAC) – Construction Environmental Management Plan.

The Construction Environmental Management Plan (CEMP), as specified and detailed in the outline CEMP by Balfour Beatty Living Places dated February 2020 shall be implemented in full and hereafter maintained and updated until such time as all works have been completed and all equipment, materials and operatives have permanently vacated the site. Unless otherwise approved in writing by the local planning authority.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Habitats & Species Regulations 2017 (as amended), Policy SS6, SD3, SD4, LD1-3 of the Herefordshire Core Strategy, National Planning Policy Framework (2019) and NERC Act 2006

Nature Conservation/ Habitat Regulations (Bat SAC) – Working times and Lighting.

At no time, except in an emergency, shall any works associated with the approved project be undertaken between Dusk and Dawn that require the use of artificial illumination or floodlighting; unless otherwise approved in writing by the local planning authority.

Reason: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Habitats & Species Regulations 2017 (as amended), Policy SS6, LD2 of the Herefordshire Core Strategy, National Planning Policy Framework (2019) and NERC Act 2006

Nature Conservation – Ecology Protection - Hedgehogs

The Hedgehog Mitigation and Conservation Measures scheme, as detailed in the Ecology Assessment prepared by the Wye and Usk Foundation dated November 2019 shall be implemented in full and hereafter maintained as stated unless otherwise approved in writing by the local planning authority.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Habitats & Species Regulations 2017 (as amended), Policy LD2 of the Herefordshire Core Strategy, National Planning Policy Framework (2019) and NERC Act 2006

Nature Conservation/Habitat Regulations Wye SAC) Ecological corridors - Site Compound

The Ecological Corridors and Protection Areas as specified in Annex III – Site Compound prepared by the Wye and Usk Foundation dated November 2019 shall be implemented in full and hereafter maintained until such time as all works have been completed and all equipment, materials and operatives have permanently vacated the site. Unless otherwise approved in writing by the local planning authority.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Habitats & Species Regulations 2017 (as

amended), Policy SS6, SD3, SD4, LD1-3 of the Herefordshire Core Strategy, National Planning Policy Framework (2019) and NERC Act 2006

Nature Conservation/Habitat Regulations (Wye SAC) – Protected Species

Prior to commencement of any site clearance, preparation or development, a fully detailed and specified Ecological Working Method Statement (EWMS) for all relevant species, including but not limited to Otters, Great Crested Newts and Crayfish, and including details of appointed Ecological Clerk of Works, shall be provided to the local planning authority. The EWMS should also clearly detail all relevant mitigation and compensation-restoration measures. The approved EWMS shall be implemented in full, and all mitigation and compensation features hereafter maintained, unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that all species and habitats are protected and conserved having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006), Herefordshire Local Plan - Core Strategy policies SS6, LD2.

CONCLUSION:

NO *adverse effects on the integrity* of the Special Area of Conservation; subject to appropriate mitigation being secured. Habitat Regulations 2017, Part 6, section 63(5)

Appropriate Assessment completed by: Ecology (J Bisset) 10/03/2020

Submitted to Natural England: H Carlisle 16/3/2020

Annex A – Additional advice

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.

Protected Species

Natural England has produced [standing advice](#)¹ 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](#)². 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](#).

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:

¹ <https://www.gov.uk/protected-species-and-sites-how-to-review-planning-proposals>

² <http://webarchive.nationalarchives.gov.uk/20140711133551/http://www.naturalengland.org.uk/ourwork/conservation/biodiversity/protectandmanage/habsandspeciesimportance.aspx>

Annex A – Additional advice

- 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, coastal access routes and coastal margin in the vicinity of the development and the scope to mitigate any adverse impacts. Consideration should also be given to the potential impacts on any nearby National Trails, including the England Coast Path. The National Trails website www.nationaltrail.co.uk provides information including contact details for the National Trail Officer.

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](#).