

Date: 20 April 2023  
Our ref: 426622  
Your ref: 190111



Herefordshire Council

**BY EMAIL ONLY**

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Dear Ollie,

**Planning consultation:** Outline with reserved matters for the erection of up to 120 dwellings with public open space, landscaping & SuDS drainage system etc

**Location:** Land at Flaggoners Green South of the A44, West of Panniers Lane, East of Chanctonbury & North of Pencombe Lane, Bromyard, Herefordshire

Thank you for your consultation on the above which was received by Natural England on 20 April 2023.

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. This is on the basis of nutrient neutrality being secured.

**Further advice on mitigation**

This proposal drains to the River Lugg Site of Special Scientific Interest (SSSI), which is a part of the River Wye Special Area of Conservation (SAC). The River Lugg part of the SAC is exceeding the phosphate limits set for its favourable condition.

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.

The application states that the proposed development will be made nutrient neutral by purchasing credits to a constructed wetland installed at the Luston Wastewater Treatment Works. This constructed wetland has all the necessary permissions in place and has been agreed with Natural England.

Your Authority has undertaken an Appropriate Assessment, informed by a nutrient budget which

concludes that the proposal will not result in adverse effects on the integrity of the River Wye SAC. As Competent Authority it is your responsibility to ensure that you are confident that there is sufficient information to support the values used in the calculation, and that the nutrient budget calculation is correct.

Natural England agrees that with the appropriate nutrient neutrality in place, there are no adverse effects on the integrity of the River Wye SAC. The proposed nutrient neutrality mitigation measures must be secured as a part of the planning permission.

### **Other matters**

Natural England's advice on this planning application is limited to the Habitats Regulations Assessment and the proposed nutrient neutrality. The Local Authority should satisfy itself that there are no other impacts on the natural environment, and reconsult Natural England if necessary.

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

Should the proposal change, please consult us again.

Yours sincerely

*H. Thompson*

Holly Thompson  
Planning for a Better Environment  
West Midlands area team

## ANNEX A

Natural England offers the following additional advice:

### **Landscape**

Paragraph 174 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 to respond to 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 174 and 175). 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. For mineral working and landfilling separate guidance on soil protection for site restoration and aftercare is available on [Gov.uk](#) website. Detailed guidance on soil handling for mineral sites is contained in the Institute of Quarrying [Good Practice Guide for Handling Soils in Mineral Workings](#).

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](#)<sup>1</sup> 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 Site of Special Scientific Interest 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 175 and 179 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 are 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 on [Gov.uk](#). 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

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

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 180 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 Site of Special Scientific Interest or in exceptional circumstances.

### **Environmental gains**

Development should provide net gains for biodiversity in line with the NPPF paragraphs 174(d), 179 and 180. Development also provides opportunities to secure wider environmental gains, as outlined in the NPPF (paragraphs 8, 73, 104, 120, 174, 175 and 180). We advise you to follow the mitigation hierarchy as set out in paragraph 180 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:

- 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.

Natural England's [Biodiversity Metric 3.1](#) may be used to calculate biodiversity losses and gains for terrestrial and intertidal habitats and can be used to inform any development project. For small development sites the [Small Sites Metric](#) may be used. This is a simplified version of [Biodiversity Metric 3.1](#) and is designed for use where certain criteria are met. It is available as a beta test version.

Natural England's [Environmental Benefits from Nature tool](#) may be used to identify opportunities to enhance wider benefits from nature and to avoid and minimise any negative impacts. It is designed to work alongside [Biodiversity Metric 3.1](#) and is available as a beta test version.

### **[Green Infrastructure](#)**

Natural England's [Green Infrastructure Framework](#) provides evidence-based advice and tools on how to design, deliver and manage green infrastructure (GI). GI should create and maintain green liveable places that enable people to experience and connect with nature, and that offer everyone, wherever they live, access to good quality parks, greenspaces, recreational, walking and cycling routes that are inclusive, safe, welcoming, well-managed and accessible for all. GI provision should enhance ecological networks, support ecosystems services and connect as a living network at local, regional and national scales.

Development should be designed to meet the [15 Green Infrastructure Principles](#). The Green Infrastructure Standards can be used to inform the quality, quantity and type of green infrastructure to be provided. Major development should have a GI plan including a long-term delivery and management plan. Relevant aspects of local authority green infrastructure strategies should be delivered where appropriate.

GI mapping resources are available [here](#) and [here](#). These can be used to help assess deficiencies in greenspace provision and identify priority locations for new GI provision.

### **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 urban fringe areas should also be explored

to strengthen access networks, reduce fragmentation, and promote wider green infrastructure.

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

Paragraphs 100 and 174 of the NPPF highlight 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](http://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 (2017)  
Part 6, section 63**

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

**APPLICATION NO:** 190111  
**SITE:** Land at Flaggoners Green, South of the A44, West of Panniers Lane, East of Chanctonbury and North of Pencombe Lane, Bromyard, Herefordshire  
**DESCRIPTION:** Outline planning application for the erection of up to 120 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from the A44. All matters reserved except for means of access.  
**GRID REFERENCE:** OS 364400, 254271

This is a record of the Habitat Regulations Assessment (HRA) (including Screening for Likely Significant Effects and Appropriate Assessment where required) carried out by Herefordshire Council (the competent authority) as required by Regulation 63 of the Conservation of Habitats & Species Regulations 2017 (the ‘Habitats Regulations’) relating to the following **planning application**.

This HRA is carried out in accordance with the relevant guidance documents including those by Natural England at <https://www.gov.uk/guidance/appropriate-assessment>, and David Tyldesley Associates <https://www.dtapublications.co.uk/>

The HRA is carried out by Herefordshire Council. Detailed information will need to be provided by the applicant to enable the authority to make the assessment.

### **The Project / Plan**

#### **1.1 Planning Application Reference Number, Description and Address**

Application reference number: 190111 Address: <a href="#">Land at Flaggoners Green South of the A44, West of Panniers Lane, East of Chanctonbury and North of Pencombe Lane Bromyard Herefordshire</a> Description: Outline planning application for the erection of up to 120 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from the A44. All matters reserved except for means of access. Applicant: Gladman Developments Ltd Case officer: Ollie Jones  Location OSGR: 364400 – 254271 Link to Planning Application on Herefordshire Council Website: <a href="#">Planning Search – Herefordshire Council</a>
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#### **1.2 Description of the plan or project (details)**

Outline planning application for the erection of up to 120 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from the A44. All matters reserved except for means of access
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1.4 Planning *Policy context:*

Previous refused applications, not an allocated site.

1.5 Size (ha) and description (habitats etc.) of existing site

4.73ha agricultural field, aerial photographs suggest part arable part pasture.

1.6 Surrounding land use and context in relation to designated sites

Site is 11km east of River Lugg SSSI/River Wye SAC and intervening land use is a mix of agricultural land uses, small areas of woodland, water courses and small areas of rural development.

**Relevant Habitats (Natura 2000) site(s)**

*Please select all that apply from:*

- ☒ River Wye Catchment SAC (including schemes impacting on the linked River Lugg SSSI)
- ☐ River Clun SAC
- ☐ Wye Valley Woodlands SAC
- ☐ Downton Gorge SAC
- ☐ Wye Valley & Forest of Dean Bat Sites SAC (Wigpool Iron Mines SSSI)
- ☐ Other site (SAC, Ramsar)

**Details of the Site:**

**1.River Wye SAC**

The River Wye SAC covers an area of 2234.89 ha in Gloucestershire, Herefordshire, Monmouthshire and Powys.

**Designated features**

Qualifying habitats

The site is designated under article 4(4) of the Directive (92/43/EEC) as it hosts the following habitats listed in Annex I:

- Transition mires and quaking bogs. (Very wet mires often identified by an unstable 'quaking' surface).
- Water courses of plain to montane levels with the *Ranunculus fluitans* and *Callitriche Batrachion* vegetation. (Rivers with floating vegetation often dominated by water crowfoot)

Qualifying species

The site is designated under article 4(4) of the Directive (92/43/EEC) as it hosts the following species listed in Annex II:

- Allis shad *Alosa alosa*
- Atlantic salmon *Salmo salar*
- Brook lamprey *Lampetra planeri*
- Bullhead *Cottus gobio*
- Otter *Lutra lutra*
- River lamprey *Lampetra fluviatilis*
- Sea lamprey *Petromyzon marinus*
- Twaite shad *Alosa fallax*
- White-clawed (or Atlantic stream) crayfish *Austropotamobius pallipes*

## Conservation Objectives of the Designated features:

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;

- The extent and distribution of qualifying natural habitats and habitats of qualifying species
- The structure and function (including typical species) of qualifying natural habitats
- The structure and function of the habitats of qualifying species
- The supporting processes on which qualifying natural habitats and habitats of qualifying species rely
- The populations of qualifying species, and,
- The distribution of qualifying species within the site.

[European Site Conservation Objectives for River Wye SAC - UK0012642](https://naturalengland.org.uk/european-site-conservation-objectives-for-river-wye-sac-uk0012642)  
([naturalengland.org.uk](https://naturalengland.org.uk))

## Site Condition

Site condition, for the area of the site in England, is taken from the constituent SSSI units for the River Wye SSSI and the River Lugg SSSI.

### River Wye SSSI

Unit	Unit name	Condition	Condition Threat Risk	Habitat	Area (ha)	GridRef
001	TIDAL RIVER - ESTUARY TO BROCKWEIR BRIDGE	Favourable	High	RIVERS AND STREAMS	114.9234 ha	ST 537 956
002	BROCKWEIR BRIDGE TO MONMOUTH	Unfavourable - Recovering	High	RIVERS AND STREAMS	36.3835 ha	SO 534 055
003	MONMOUTH TO ROSS	Unfavourable - Recovering	High	RIVERS AND STREAMS	157.0946 ha	SO 573 185
004	ROSS TO HEREFORD	Unfavourable - Recovering	High	RIVERS AND STREAMS	293.5648 ha	SO 568 320
005	HEREFORD TO BREDWARDINE BRIDGE	Unfavourable - Recovering	High	RIVERS AND STREAMS	150.1955 ha	SO 418 415
006	BREDWARDINE BRIDGE TO WHITNEY TOLL	Unfavourable - Recovering	High	RIVERS AND STREAMS	122.4429 ha	SO 300 461
007	WHITNEY TOLL TO HAY	Unfavourable - Recovering	High	RIVERS AND STREAMS	30.8778 ha	SO 242 458

### River Lugg SSSI

Unit	Unit name	Condition	Condition Threat Risk	Habitat	Area (ha)	GridRef
001	RIVER LUGG (WYE SAC)	Unfavourable - Recovering	High	RIVERS AND STREAMS	58.8726 ha	SO 530 455
002	BODENHAM WEIR TO LEOMINSTER	Unfavourable - Recovering	High	RIVERS AND STREAMS	20.4404 ha	SO 503 573
003	LEOMINSTER TO MORTIMERS CROSS	Unfavourable - Declining	High	RIVERS AND STREAMS	36.2719 ha	SO 448 623
004	MORTIMERS CROSS TO PRESTEIGNE	Unfavourable - Recovering	High	RIVERS AND STREAMS	26.8469 ha	SO 366 648

## Other Relevant Documents

There is a Site Improvement Plan for the River Wye which can be found at [Site Improvement Plan: River Wye - SIP199 \(naturalengland.org.uk\)](#)

## Stage1: Preliminary Screening including Likely Significant Effects (LSE)

Completed by:

Fran Lancaster

Date: 6<sup>th</sup> March 2023

## Table 1: Initial Screening



Does the project or plan qualify for exemption from the HRA process?

Is the project or plan directly connected with or necessary for the conservation management of the habitat site (provide details)? If so the project may be considered exempt from the HRA process.	No
If the proposal is considered exempt from the HRA process? Has this been consulted upon and agreed with Natural England?	N/A – not exempt

**Table 2: Screening for Likely Significant Effects (LSE)**

**Key issues considered:**

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> Foul water                                      | <input type="checkbox"/> Water pollution                      |
| <input type="checkbox"/> Surface water  | <input type="checkbox"/> Water abstraction                    |
| <input type="checkbox"/> Aerial Emissions (ammonia, N deposition & acid deposition) | <input type="checkbox"/> Recreational impacts                 |
| <input type="checkbox"/> Construction or Demolition processes                       | <input type="checkbox"/> Protected species impacts (direct)   |
| <input type="checkbox"/> Direct impacts inside SAC boundary (habitats)              | <input type="checkbox"/> Protected species impacts (indirect) |
| <input type="checkbox"/> Impacts upon supporting habitats                           | <input type="checkbox"/> Other                                |

**Details of key issues & identification of potential effect pathways**

The proposed development includes a mains foul sewerage connection for 120 new dwellings which will be treated at the Bromyard Waste Water Treatment Works which sits within the River Lugg SSSI/River Wye SAC catchment in which Natural England's Nutrient Neutrality applies.

The additional phosphate load generated by the proposed development has the potential to result in a likely significant effect on the River Wye SAC. A potential effect pathway has been identified and an Appropriate Assessment is therefore required.

No other potential effect pathways have been identified.

**NB:** Where avoidance and mitigation measures do not form an integral part of the project/ plan and are to be put in place to reduce the impacts, these must not be considered in order to avoid impacts at the Screening stage and will require consideration at the Appropriate Assessment stage (in line with the People Over Wind judgement).

Are there any potential effects of the project or plan when considered alone?	Yes An Appropriate Assessment is required.
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Are there any potential effects of the project or plan in <u>combination</u> with other projects or plans?	<p>Potentially yes.</p> <p>A range of other developments resulting in additional foul flows within the catchment could potentially act in combination with this proposal.</p> <p><i>If 'yes' then proposal must be carried forward to the Appropriate Assessment Stage.</i></p>
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Natural England consultation reference and summary (if available):

Natural England responded to this application in February 2019 stating no objection. Since that time Nutrient Neutrality has become a requirement in the catchment and this new HRA and NE's response to it in due course will supersede their previous responses.

## Summary of LSE test conclusions

☐ **No likely significant effects – no Appropriate Assessment required and planning permission can be legally granted. A consultation with NE is not required where a proposal is 'screened out'.**

☒ **Likely significant effects – Appropriate Assessment required.**

*And, where relevant:*

☐ **Further information to inform the Appropriate Assessment required** – the applicant is advised to provide the relevant information as detailed below.

Further information required to inform the Appropriate Assessment	N/A
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## Stage 2: Appropriate Assessment

Completed by:

Fran Lancaster

Date: 6<sup>th</sup> March 2023

## **Appropriate Assessment statement including alone, impacts in-combination and discussion of proposed mitigation measures**

Complete the tables and boxes below, deleting as necessary. Where information is taken from supporting documents this should be quoted and fully referenced. Any documents not available on the Council's website should be provided to Natural England when they are consulted.

### **Table 3: Impacts of the plan/ project alone**

Complete boxes as appropriate below and delete boxes for potential effect pathways which are not relevant:

#### **Foul Water Mains Connection – Phosphate Credit Purchase**

The proposal is for 120 new dwellings under this outline application. The proposal has been assessed using the standard Natural England methodology and budget calculator.

Welsh Water have confirmed that the WwTW has sufficient capacity to accept the flows but that the

sewers around the site may lack sufficient hydraulic capacity to make the connection (9<sup>th</sup> February 2023). Welsh Water have requested that detailed hydraulic testing and appropriate works to increase capacity are made a pre-commencement condition should planning permission be granted. The LPA intends to include their recommended condition on the decision notice.

Assumed occupancy is 2.3 person per dwelling (agreed as locally acceptable).  
Water usage is 110L per person per day.  
The site is 4.73ha.

Waste Water will be discharged from the site via a connection to mains sewer and will be treated at the Bromyard WwTW. Bromyard WwTW has a phosphate limit of 1mg/l which has been used in the calculations in line with the NE methodology.

The **Waste Water P load** of the development is calculated to be:

Development	120 dwellings
Occupancy	2.3 per dwelling
Additional population	276 people
Water usage	110l per person per day
Waste water volume	30,360 l per day
Receiving WwTW environmental permit	1mg/l (next step uses permit level * 0.9)
Total phosphate after treatment	27,324 mg/TP/day
Convert mg/TP/day to kg/TP/day	0.037324kg/TP/day
Per year	9.98 kg/TP/year

**Waste Water Total Phosphate Load** is 9.98kg/TP/year.

The **Current Land Use** is 3.92ha cereals and 0.18ha lowland resulting in the **Current P Leaching Load** is 2.7kg TP.

The **Post Development Land Use** is 3.48ha of Residential Urban Land, 1.13ha of greenspace and 0.13ha of water which equates to an **Annual Phosphorus Nutrient Export** of 5.07kg TP.

The **Phosphate Balance for the Site** is:

TP Waste Water post treatment	9.98kg/TP/year
Historic landuse P export	2.7kg TP
Post development P export	5.07 kg TP
Landuse net change	2.37kg TP
Phosphate budget	12.35kg TP/year
Phosphate budget including 20% buffer	14.82kg TP/year

The Natural England Nutrient Neutrality Budget Calculator – River Lugg Catchment has been used correctly for this proposed development and the outcome of the nutrient budget is that there is an annual phosphorous load to mitigate = 14.82 kg TP/year.

Mitigation is proposed in this case including the purchase of Phosphate credits and is set out in table 4 below.

**Table 4: Mitigation Requirements and Outcomes**

#### **Mitigation via phosphate credit purchase**

The development has applied for, and received, an allocation of phosphate credits from Herefordshire Council at a cost of £14,000 per kg as follows:

Annual phosphorous load of 14.82kg TP/year \* £14,000 per kg

= 14.82 \* £14,000

= £207,480.

This proposal is a valid Planning Application awaiting a positive determination subject to receipt of Phosphate Credits and the developer is prepared to enter into legal agreement with the Council through either a S106 agreement or a S106 agreement including a S111 agreement for phased development to secure the financial payment for phosphate credits.

**Herefordshire Council's Phosphate Credit Allocation Process (taken from the Council's Phosphate Credit Pricing and Allocation Policy April 2022):**

'The Phosphate Credit Allocation Process is a staged process setting out how Phosphate credits that are generated by Herefordshire Council Integrated Wetlands can be secured by developers to offset the phosphate load of their development. The process necessitates a number of steps which can be run in tandem simultaneously. This process is monitored throughout and will span several services as well as requiring engagement with, statutory consultees, and developers themselves. Credits will only be released as they become available.

The process starts with developers working out the number of credits needed using the Council's Phosphate Calculator Budget Tool supplied by Natural England. The developers are then kept on a list according to 'first come first served' policy as stated above. As credits become available and when applications are ready for determination, case officers will contact developers and provide them with an invitation to apply for credits. The developer submits this alongside their phosphate calculations, a S106 legal document and an online payment for their allocated credits. Their application is reviewed internally by Legal and Ecology and in consultation with Natural England.

Permission can then be granted or refused. If refused, developers have a set amount of time to go through the appeals procedure, credits will be held as stated above. Where permission is granted, HRA conditions are applied and they have a set amount of time and requirements they must fulfil otherwise the credits are returned to Herefordshire Council and payment is reimbursed to developers as stated above.'

Phosphate Credits in Herefordshire are being generated through the delivery, by Herefordshire Council, of a program of integrated wetlands associated with existing Waste Water Treatment Works (Wwtw). The first integrated wetland was delivered in 2022 on land adjacent to the Luston Wwtw. As set out in the feasibility study for the wetland<sup>1</sup> 'The purpose of the wetland would be to provide enhanced treatment for removal of phosphorus from the final effluent of the Luston Waste Water Treatment Works (WWTW), to contribute to the resolution of the current embargo on housing development and to deliver nutrient neutrality for future housing.'

The aim, in creation of the Luston Integrated Wetland is reducing the Total Phosphorus (TP) in the effluent leaving the Luston WWTW from 4.24mg/L TP to less than 1mg/L TP.

The Council, working with partners, has assessed potential for integrated wetlands at 8 sites of which Luston is the first to be granted planning permission (under application 213571) and constructed. Natural England have been engaged with the development of the integrated wetland program and did not object to the planning application to create the Luston wetland for the purpose of selling Phosphate Credits.

The precautionary principal has been applied to the construction of the Luston wetland, and will be applied to any further integrated wetlands created under the project:

'To provide a robust wetland design and provide certainty, WUF applied a number of steps to ensure that the design can be considered to provide certainty under the Habitats Directive. These are outlined below and presented in the following sections:

- The primary objective of the wetland is to provide an effluent quality that leaves the wetland at less than 1mgTP/l. To achieve this, and provide certainty around the design, WUF have designed the wetland on the basis of a reduction to 0.8mg/l. This has effectively introduced a

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<sup>1</sup> Wetland Feasibility, Design and Offsetting. Wetland Development on the River Wye – Luston. Wye and Usk Foundation. (May 2022).

20% buffer and over-sized the wetland to provide greater certainty in its overall future performance, thus adopting a precautionary approach.

- A water balance has been developed and the design has been tested against UK Climate Projections (UKCP) estimates for rainfall and evapo-transpiration in 2070. Understanding the water balance is essential to ensure that the wetland design is robust under current and future climate change conditions and that the hydrology of the system will not be compromised.
- Due to uncertainties with wetland design models, WUF has adopted an approach outlined in the Treatment Wetlands publication (Drotto et al., V7 2017) which recommends application of multiple models to provide sensitivity in terms of calculation of overall design.
- Continued monitoring of phosphorus and flow data at the site to provide increasing and greater understanding of the current operation of the treatment works.'

Text taken from the WUF feasibility study.

The full technical design and modelling work for the Luston wetland can be found at in the Wetland Feasibility, Design & Offsetting Report for the Luston Wetland by Wye & Usk Foundation (May 2022).

Additionally, the precautionary principle is applied to the allocation of Phosphate Credits with 80% of the capacity generated by the creation of each integrated wetland being allocated to development and 20% of the capacity generated being allocated to providing river betterment. [HC Global Template \(herefordshire.gov.uk\)](https://www.herefordshire.gov.uk)

The sale of phosphate credits to developers will allow the Council to recoup its expenditure in delivering the Strategic Wetlands (and credit costs will be regularly reviewed as new wetlands are brought forward) and will also provide ongoing income for the long term management and maintenance of the wetland features.

**On the basis of the program of integrated wetland delivery and the phosphate credit system developed by Herefordshire Council in partnership with a number of organisations including Natural England and given that the development can secure a mains drainage connection and has committed to purchasing the phosphate credits required to address the phosphate load generated by the development this proposal it is not considered to have a likely impact on the integrity of the SAC and planning permission can therefore be granted.**

**Table 5: Remaining Impacts**

None

**Table 6: Consequences for Conservation Objectives of the Designated Site**

Impacts on maintaining the favourable condition of the site	No – Not with mitigation in place
Disruptions or delays in progress towards achieving the conservation objectives of the site	No – Not with mitigation in place
Alterations to natural progression or other natural changes within the site	No – Not with mitigation in place
Loss of key habitat/ species features. Fragmentation or isolation of key species and habitats.	No – Not with mitigation in place

Impacts to diversity, distribution, density, balance, area or population(s) of key species or habitats that are indicators of the favourable condition of the site, including from disturbance	
Alterations to the ecological relationships and balance between species and habitats that are key to the structure/ function of the site	No – Not with mitigation in place
Alterations to nutrient balance or other processes vital to the functioning of the ecosystem	No – Not with mitigation in place

### Table 7: Integrity Test

Will there be an impact upon the Integrity of the Designated Site?

There will be no adverse impact upon the integrity of the River Wye SAC once the proposed mitigation taken into account and legally secured.

### Table 8: Are there Alternative Solutions to the proposal?

If adverse effects on the integrity of the site, either alone or in combination, cannot be ruled out through avoidance or mitigation then alternative solutions must be considered.

N/A

**Please Note:** Where there are no satisfactory alternatives then consideration may be given to whether the proposal could follow the Imperative Reasons of Overriding Public Interest (IROPI) route. Is this option is under consideration for a plan or project then specialist legal advice should be sought and followed.

### Table 9: Recommended planning conditions to secure mitigation which is required in order to achieve no effect on integrity of the Designated Site.

#### Occupation

None of the dwellings approved by this permission shall be occupied prior to the 1st August 2023.

To ensure that the Luston integrated wetland scheme can be relied upon with certainty to provide effective mitigation for the potential effects of the development upon the River Lugg / River Wye SAC as part of the Councils Phosphate Credits scheme, thereby safeguarding water quality and the integrity of the River Lugg (Wye) SAC in accordance with policies SS6, SD2, SD4 and LD2 of the Herefordshire Local Plan Core Strategy, the National Planning Policy Framework, the Conservation of Habitats and Species Regulations (2017) and NERC Act (2006)

#### Sewer capacity

No development shall take place until a point of connection on the public sewerage system has been identified by a hydraulic modelling assessment, which shall be first submitted to and approved by the local planning authority. Thereafter the connection shall be made in accordance with the recommended connection option following the implementation of any necessary reinforcement works to the sewerage system, as

may be identified by the hydraulic modelling assessment.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

#### **Surface water**

No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

#### **Conclusion of the Appropriate Assessment:**

☒ Herefordshire Council, as a Competent Authority under the Habitat Regulations 2017, Part 6, section 63(5) concludes that **there would be NO** adverse effects on the integrity of the Special Area of Conservation; subject to appropriate mitigation being secured via the planning conditions listed above. Planning Permission can legally be granted.

Or

☐ Herefordshire Council, as a Competent Authority under the Habitat Regulations 2017, Part 6, section 63(5) concludes that **there would be an** adverse effect on the integrity of the Special Area of Conservation. Planning permission **CANNOT** legally be granted.

**Please Note:** The authority must consult Natural England on the draft HRA and must have regard to the advice of Natural England before granting planning permission.