

Date: 11 November 2021  
Our ref: 361534  
Your ref: WSCC/030/21



West Sussex County Council  
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Chichester  
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Customer Services  
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CW1 6GJ

**BY EMAIL ONLY**

T 0300 060 3900

Dear Sir or Madam,

**Planning consultation:** Clay quarry and Construction Materials Recycling Facility with restoration to nature conservation interest (inc. woodland, waterbodies and wetland habitats)

**Location:** Pallinghurst Woods, Loxwood Road, Loxwood, West Sussex RH14 0RW.

Thank you for your consultation on the above dated 22 July 2021 which was received by Natural England on the same date.

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**

### **FURTHER INFORMATION REQUIRED TO DETERMINE IMPACTS ON DESIGNATED SITES**

As submitted, the application could have potential significant effects on:

- Ebernoe Common Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC)
- The Mens SSSI and SAC
- Arun Valley Special Protection Area (SPA), SAC and Ramsar

Natural England requires further information in order to determine the significance of these impacts and the scope for mitigation. The following information is required:

- Demonstration that the requirements of regulation 63 of the Conservation of Habitats and Species Regulations 2017 have been considered by your authority.

Without this information, Natural England may need to object to the proposal.

Natural England's further advice on designated sites/landscapes and advice on other issues is set out below.

Please note that the following advice should be taken as Natural England's formal response to this application. We note that a previous no comment letter was issued and apologise for this error.

### **Additional Information required**

#### WSCC Minerals and Waste Plan

Natural England have reviewed the Joint Minerals Local Plan and it does not appear that this application site is supported by an allocation within the Minerals Plan. It is not clear therefore how the need for the proposal has been demonstrated within the evidence provided..

#### Ebernoe Common SAC, The Mens SAC Impacts to Bats

Natural England note that the bat survey of the site found multiple trees which could provide suitable habitat and that the area's mosaic of habitats provide extensive foraging habitat. The bat surveys also recorded Barbastelle bat, *Barbastella barbastellus*, which are a notified feature of the Mens and Ebernoe Common SAC.

We advise your authority uses the [Sussex Bat Special Area of Conservation Planning and Landscape Scale Enhancement Protocol](#), to inform your assessments on whether impacts to bats associated with the SACs will be avoided.

#### Habitat Regulations Assessment

We advise that your Authority conducts a Habitats Regulations Assessment due to the proximity of the application to European Sites, the consultation documents need to include information to demonstrate that the requirements of regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) have been considered by your authority, i.e. the consultation does not include a Habitats Regulations Assessment.

To assist you in screening for the likelihood of significant effects on European sites, Natural England offers the following advice, based on the information provided:

- the proposal is not directly connected with or necessary for the management of the European site
- the proposal is unlikely to have a significant effect on any European site, either alone or in combination with other plans and projects, and can therefore be screened out from any requirement for further appropriate assessment

#### Arun Valley SPA, SAC and Ramsar Site- Sussex North Water Supply Zone

We note that the application falls within the Sussex North Water Supply Zone we therefore advise your authority confirms the source of the water to be used for this development. We refer you to our Position Statement for further information on this matter.

#### Ancient Woodland

Natural England note with concern that this proposal has not quantified its direct and indirect impacts to Ancient Woodland and therefore the scale of impact is not clear. Due to the nature of this proposal these impacts may be considerable. Further information is required to demonstrate how the requirements of the mitigation hierarchy of avoiding and mitigating impacts to biodiversity has been followed.

We refer you to the NPPF which includes robust policy protection for this irreplaceable habitat as follows:

*'Development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional*

reasons <sup>63</sup> and a suitable compensation strategy exists'

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. We refer you to our standing advice regarding this matter..'

Natural England advises your authority that further information is required to fully assess impacts to Ancient Woodland.

### Priority Habitats

We note with concern that the application appears to propose significant loss of priority habitats. We advise that additional information is required to quantify this impact.

Priority habitats are of national significance. Section 40 of the NERC Act 2006 places a general duty on all public authorities, including local planning authorities, to conserve and enhance biodiversity. Further information on this duty is available here <https://www.gov.uk/guidance/biodiversity-duty-public-authority-duty-to-have-regard-to-conserving-biodiversity>

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](#)<sup>1</sup>. 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](#).'

The NPPF includes the following wording regarding Priority Habitats:

*'To protect and enhance biodiversity and geodiversity, plans should... promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.'*

We advise your authority to consider Natural England's Standing Advice and National Policy in your decision.

### Final Comments

Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 28I (6) of the Wildlife and Countryside Act 1981 (as amended) to notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, your authority has taken account of Natural England's advice. You must also allow a further period of 21 days before the operation can commence.

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

If you have any queries relating to the advice in this letter please contact me on [Perdeep.maan@naturalengland.org.uk](mailto:Perdeep.maan@naturalengland.org.uk).

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<sup>1</sup><http://webarchive.nationalarchives.gov.uk/20140711133551/http://www.naturalengland.org.uk/ourwork/conservation/biodiversity/protectandmanage/habsandspeciesimportance.aspx>

Please consult us again once the information requested above, has been provided.

Yours sincerely

Perdeep Maan  
Sustainable Development, Sussex and Kent

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](#)<sup>2</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 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](#)<sup>3</sup>. 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](#).

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

<sup>3</sup> <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, 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](http://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](#).