

West Sussex County Council
The Conservation of Habitats and Species Regulations 2017 (as amended)
Habitats Regulations Assessment (HRA) Screening and Appropriate
Assessment

PLEASE NOTE: This screening/appropriate assessment relates only to potential impacts on the Arun Valley SAC/SPA/Ramsar sites and is for use in assessing development that will potentially result in additional demand for mains water from the Sussex North Water Supply Zone. It does not consider impacts on any other designated habitat sites, for which separate HRA screening may be required.

The Conservation of Habitats and Species Regulations 2017 (as amended) requires that HRA screening is carried out in relation to any plan or project which is likely to have a significant effect on Habitats (European) sites, either alone or in combination with other plans or projects.

The purpose of HRA screening (Stage 1) is to assess the need for Appropriate Assessment. Where an Appropriate Assessment is required (Stage 2), save for limited exemptions, a project may only be authorised after having ascertained that it will not adversely affect the integrity of the site(s) concerned.

It is the responsibility of West Sussex County Council, as Competent Authority in this case, to prepare a HRA report. However, it is the responsibility of the applicant to provide information to support this process.

Stage 1 HRA screening	
1. Brief description of the development project	Application reference: WSCC/030/21
	Application address: Pallinghurst Woods, Loxwood Road, Ioxwood, West Sussex RH14 0RW
	Application description: An application for planning permission for a clay quarry and construction materials recycling facility (CMRF) for CD&E wastes including the use of an existing access from Loxwood Road, the extraction and exportation of clay and restoration using suitable recovered materials from the CMRF to nature conservation interest including woodland, waterbodies and wetland habitats.
	Type of application: County Matter - Minerals
2. Details of the development project	Planning officer: Chris Bartlett
	<p>Proximity to Arun Valley SAC / SPA / Ramsar: Is the application site:</p> <p>A) Within the Sussex North Water Supply Zone (WSZ) YES</p> <p>B) Within the 5km Zone of Influence for functionally linked habitats for Arun Valley SPA / Ramsar site NO</p>

	<p>C) If YES to question (A) or (B) is the planning application directly connected with or necessary to the management of the Arun Valley SAC/SPA/Ramsar site?</p> <p style="text-align: right;">NO</p>
<p>3. Would the proposed development result in any increase in mains water demand and what evidence has been provided to support this?</p>	<p>YES – The proposed development could result in the increased use of mains water through a use resulting in increased occupancy of the site and new water demand.</p> <p>EVIDENCE – The applicant has provided a ‘Report to inform a Habitats Regulation Assessment’ which sets out features of the proposed development which could result in water demand.</p> <p>This includes a dust suppression system, wheel wash, and staff welfare facilities (including toilets/sinks/and provision of drinking water).</p>
<p>4. Brief description of the Habitats sites within scope of this assessment</p>	<p>Arun Valley SAC, SPA and Ramsar site supports rare and diverse plant, invertebrate and bird assemblages as qualifying features. It consists of low-lying grazing marsh, largely on alluvial soils, but with an area of peat derived from a relict raised bog. Variation in soils and water supply lead to a wide range of ecological conditions and hence a rich flora and fauna.</p> <p>The area is one of only three main population centres for the rare Lesser whirlpool Ramshorn snail (<i>Asinus vorticulus</i>) in the UK, at risk of extinction.</p> <p>Further details are provided in Appendix 1.</p>
<p>5. Key vulnerabilities / factors affecting site integrity</p>	<p>For applications where increased demand for water resources is the only pathway for impacts, Natural England’s substantive advice (Position Statement Interim Approach, September 2021) is that such applications - without mitigation - will result in a likely significant effect on the Arun Valley SAC/SPA/Ramsar site or in combination with other developments in the Sussex North WSZ. As it cannot be concluded that the existing abstraction within Sussex North Water Supply Zone is not having an adverse impact on the Arun Valley sites, developments within this zone must not add to this impact. Therefore, such applications, even where mitigation is proposed, must progress to Appropriate Assessment (AA).</p> <p>Natural England’s substantive advice (September 2021) is that the Sussex North Water Supply Zone includes supplies from a groundwater abstraction which cannot, with certainty, conclude no adverse effect on the integrity of;</p> <ul style="list-style-type: none"> • Arun Valley Special Area Conservation (SAC) • Arun Valley Special Protection Area (SPA) • Arun Valley Ramsar Site
<p>HRA Screening Assessment Criteria</p>	

<p>6. Are the individual elements of the project (either alone or in combination with other plans or projects) likely to give rise to impacts on the Arun Valley SAC, SPA and Ramsar site?</p>	<p>Based on the threat from water demand identified by Natural England's Position Statement, the development proposals need assessment for hydrological changes to the Arun Valley SAC/ SPA/ Ramsar site.</p> <p>Does the evidence submitted show any likely significant effect on Arun Valley SAC/SPA/Ramsar site, without mitigation measures (either alone or in-combination with other plans or projects)?</p> <p><i>NB: It is not possible to consider any avoidance and mitigation measures as part of the application at the screening stage of HRA (Ref: Court judgement (CJEU People Over Wind v Coillte Teoranta C-323/17)).</i></p> <p>YES –Without avoidance/mitigation, the proposed development is likely to directly increase water consumption, either individually or cumulatively. It would, therefore, increase the impacts of the existing abstraction within the Sussex North Water Supply Zone, and the associated impacts upon the on the Arun Valley sites.</p>
<p>7. Test 1 the significance test: – The Applicant is to provide evidence so that a judgement can be made as to whether there could be any potential significant impacts of the development on the integrity of the Arun Valley SPA/ SAC/Ramsar.</p>	<p>For all applications with increased water demand from the Sussex North WSZ, Natural England's advice is that such applications - without mitigation - will have a likely significant effect on the Arun Valley SAC/SPA/Ramsar site either alone or in combination with other developments. Therefore, such applications, even where mitigation is proposed, will require an Appropriate Assessment.</p> <p>Applicable? YES</p> <p>Contrary to the submitted 'Report to Inform a Habitats Regulation Assessment (December 2021)' which 'screens out' potential for significant effects, without avoidance/mitigation (for which the measures detailed are considered to qualify*) the proposed development is likely to directly increase water consumption, either individually or cumulatively.</p> <p><i>*In this regard it is of note that the applicant has stated that "The precise sizing/depth of the lagoon is now influenced by the requirement to achieve water neutrality and to avoid the need for a mains water supply and use treated surface water for the Mist Air system, hand washing, toilets, wheel wash etc." i.e. a mitigation measure included by the proposer for the purpose of avoiding or minimising risk to a European site.</i></p> <p>Does the evidence submitted show any <u>other</u> likely significant effect on Arun Valley SAC/SPA/Ramsar site, without mitigation measures (either alone or in-combination with other plans or projects)?</p> <p>NO</p>
<p>8. Conclusion</p>	<p>HRA screening has concluded that, without mitigation in place, it is not possible to rule out likely significant effects. As the development will likely affect the sensitive features/threats to the Arun Valley SAC/SPA/Ramsar site, the LPA considers that, without mitigation, the development is likely to result in a 'likely significant effect' to Arun</p>

	<p>Valley SAC/SPA/Ramsar site. <u>Therefore, an Appropriate Assessment is required.</u></p> <p>West Sussex County Council concludes that, the project <u>will have a Likely Significant Effect</u> on the designated features of the Arun Valley SAC/ SPA /Ramsar site, either alone or in combination with other plan and projects.</p>
<p>9. Statutory Nature Conservation Body Representations</p>	<p>West Sussex County Council, as the Competent Authority, must 'have regard' to the Statutory Nature Conservation Body's (Natural England) representations for Appropriate Assessment under the provisions of the Conservation of Habitats and Species Regulations 2017 (as amended). Given the scope of this screening assessment, the views of Natural England have been sought.</p> <p>Date copy sent to Natural England: 27th April 2022</p> <p>Do Natural England concur with the findings of this screening assessment?</p> <p>YES</p> <p>Summary of Natural England's Representations: Based on the information provided, Natural England concurs with the above view (Letter dated 17th May 2022).</p>

Stage 2 - Appropriate Assessment (AA)

The above HRA screening has determined that a Likely Significant Effect is predicted at Arun Valley SAC/SPA/Ramsar site as a result of impacts on water quantity. This pathway has been screened in, and the potential for adverse effects on site integrity, either alone or in-combination will be assessed.

Therefore, this section of the report only discusses the potential for impacts on water quantity as a result of the proposed development.

Potential for Adverse Effects On the Integrity (AEOI) of a Habitats site from the development alone or in combination.

Supplementary advice on conserving and restoring site features for Arun Valley SAC/SPA sets a number of targets for the site under the supporting the Conservation Objectives in order that the integrity of the sites is maintained or restored as appropriate, and ensure that the sites contribute to achieving the Favourable Conservation Status of the Qualifying Features.

The targets cover hydrology and flow, water quantity, area depth and water quality. The hydrology of the river Arun is the major factor affecting these targets and this in turn is affected by the abstraction at Pulborough for the supply of drinking water. Continued or increased levels of groundwater abstraction at Pulborough reduces water quantity in the Arun Valley sites and adversely affects water levels and flow within the sites (in combination with other plans and projects in the Sussex North WRZ).

Without an alternative sustainable water supply or mitigation measures, the hydrology of the sites will be unable to maintain the types and extents of habitats required to maintain the Qualifying Features.

Proposed mitigation

Summary of mitigation package

The following measures to minimise or avoid water use are proposed within the development to be secured as part of any planning consent:

- Provision of an on-site surface water collection lagoon
- Use of an on-site surface water collection lagoon to supply the dust suppression system (where possible). Requires prior treatment.
- Use of an on-site surface water collection lagoon to supply staff facilities for hand washing and toilet flushing. Requires prior treatment.
- Staff drinking water to be imported in 50 litre containers sourced from outside the North Sussex Water Supply Zone.

These measures proposed within the development are **not considered sufficient** to ensure water neutrality and to avoid adverse effects on the integrity of the interest features of the Arun Valley SPA, SAC & Ramsar site alone or in combination with other plans and projects.

Conclusion:

Planning Practice Guidance states that '*an appropriate assessment must contain complete, precise and definitive findings and conclusions to ensure that there is no reasonable scientific doubt as to the effects of the proposed plan or project*' (PPG para 003).

Insufficient information/evidence has been provided to demonstrate the required degree of certainty that they would be effective and guaranteed.

In this regard, limited details of the required volumes of water usage have been provided for the wheel wash (e.g. based on plant speciation's/frequency of use), staff welfare facilities (e.g. based on staff numbers and typical usage), and staff drinking water consumption.

Further, it is of note that details provided in respect of water usage for the proposed dust suppression system are not evidenced or based on a system specified within the development proposals.

Insufficient detail has been provided of the proposed mitigation features necessary to achieve water neutrality, which to provide the required level of certainty and deliverability, must be supported by detailed technical specifications (including water consumption rates where applicable) of toilets, sinks, wheel wash, any required ancillary treatment facilities, connecting infrastructure, and full specifications of the proposed surface water lagoon (including capacity and evidence that rainfall would be sufficient to provide a year-round source of water). Any such features should be clearly set out within proposed plans and layouts.

Further, it is of note that calculations provided for the capacity of the surface water lagoon are based on surface water arising from the entire 6Ha extraction site, whereas supporting information indicates it would be worked in phases with progressive restoration following extraction (limiting areas draining to the surface water lagoon that would be dependent on the phase of working).

In addition, whilst the applicant proposes staff drinking water would be imported, this could not be secured by condition or S106 legal agreement (failing the relevant tests of enforceability), and therefore cannot be sufficiently guaranteed.

For clarity, it would not be an acceptable approach to seek to deal with such details by way of a pre-commencement condition, as that would not provide the necessary certainty that the impacts of the development on the Arun Valley sites can and will be mitigated as required by the Habitat Regulations.

Having considered the above proposed avoidance and mitigation measures, West Sussex County Council concludes that insufficient information/evidence has been provided to demonstrate with sufficient certainty that the proposed development would not have an Adverse Effect on the Integrity of the Arun Valley SAC/ SPA /Ramsar site, either alone or in combination with other plan and projects.

This development would therefore be in conflict with the conservation objectives for the Arun Valley SPA, SAC and Ramsar site which include 'maintaining or restoring the population of Qualifying Features'. See Appendix 1.

Having prepared this Appropriate Assessment of the implications of the project for the Arun Valley sites in view of their conservation objectives, subject to consultation with Natural England and fully considered any representation received where necessary, the authority must **refuse** the project under regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended).

Draft AA:

Reviewer:



Chris Bartlett
Principal Planner
Date: 27 April 2022



Andrew Sierakowski
Acting County Planning Team Manager
Date: 27 April 2022

Draft AA issued for Natural England comments:

Date: 27th April 2022

Comments Received from Natural England*:

Date: 17th May 2022

Summary: Natural England advises that the proposal does not provide enough information and/or certainty to enable adverse effects on site integrity to be ruled out

Natural England advise that the measures proposed are not considered sufficient to ensure water neutrality and to avoid adverse effects on the integrity of the interest features of the Arun Valley SPA, SAC and Ramsar site. They note and concur with the Council's decision that insufficient information/evidence has been provided to demonstrate the required degree of certainty that mitigation would be effective or guaranteed

Final AA Approved by:



Michael Elkington
Head of Planning Services
Date: 17th May 2022

***Attach any comments received by Natural England**

Appendix 1 – details of Arun Valley SAC/SPA/Ramsar site

<p>Qualifying Features for SPA/SAC</p>	<p>Arun Valley SPA</p> <p>A037 Bewick's swan, <i>Cygnus columbianus bewickii</i> (non-breeding). During the time of site notification, the SPA supported 115 individuals representing at least 1.6% of the wintering population in Great Britain (5 year peak mean 1992/93 - 1996/97).</p> <p>During the non-breeding season, the SPA regularly supports an assemblage of waterfowl with the area regularly supporting 27,241 individual waterfowl (5 year peak mean for 1992/93 to 1996/97) including: Shoveler <i>Anas clypeata</i>, Teal <i>Anas crecca</i>, Wigeon <i>Anas penelope</i>, Bewick's Swan <i>Cygnus columbianus bewickii</i>.</p> <p>Arun Valley SAC</p> <p>4056 Little Whirlpool Ramshorn snail <i>Anisus vorticulus</i> <i>Anisus vorticulus</i> occurs across a range of sites in southern and eastern England. The Arun valley is one of the three main population centres for this species in the UK. This proposed site includes two of its core sites in the wash lands of the Arun floodplain (Pulborough Brooks and Amberley Wild Brooks SSSIs).</p>
<p>Qualifying Features for Ramsar</p>	<p>Arun Valley Ramsar</p> <p>Ramsar criterion 2</p> <p>The site holds seven wetland invertebrate species listed in the British Red Data Book as threatened. One of these, <i>Pseudamnicola confusa</i>, is considered to be endangered. The site also supports four nationally rare and four nationally scarce plant species</p> <p>Ramsar criterion 3</p> <p>In addition to the Red Data Book invertebrate and plant species, the ditches intersecting the site have a particularly diverse and rich flora. All five British duckweed (<i>Lemna</i> species), all five water-cress (<i>Rorippa</i> species), and all three British water milfoils (<i>Myriophyllum</i> species), all but one of the seven British water dropworts (<i>Oenanthe</i> species), and two-thirds of the British pondweeds (<i>Potamogeton</i> species) can be found on site.</p> <p>Ramsar criterion 5</p> <p>Assemblages of international importance: Species with peak counts in winter: 13774 waterfowl (5 year peak mean 1998/99-2002/2003)</p>
<p>Conservation Status of the relevant Qualifying Features</p>	<p>Arun Valley SAC, SPA and Ramsar</p> <p>In line with the national trend, the number of Bewick's swans wintering in the Arun Valley has declined since the time of designation and is now typically fewer than 50 birds. This may reflect an overall decline in the population of the species and/or be due to the effects of a milder climate in which more are able to winter in continental Europe (The Birds of Sussex, 2014). The waterfowl assemblage numbers fluctuate depending upon conditions in the valley but over the past five years have averaged 40,311, an increase from the five year mean of 27,241 at the time of designation.</p> <p>The Arun Valley is one of the remaining strongholds for the Little Whirlpool Ramshorn Snail.</p>

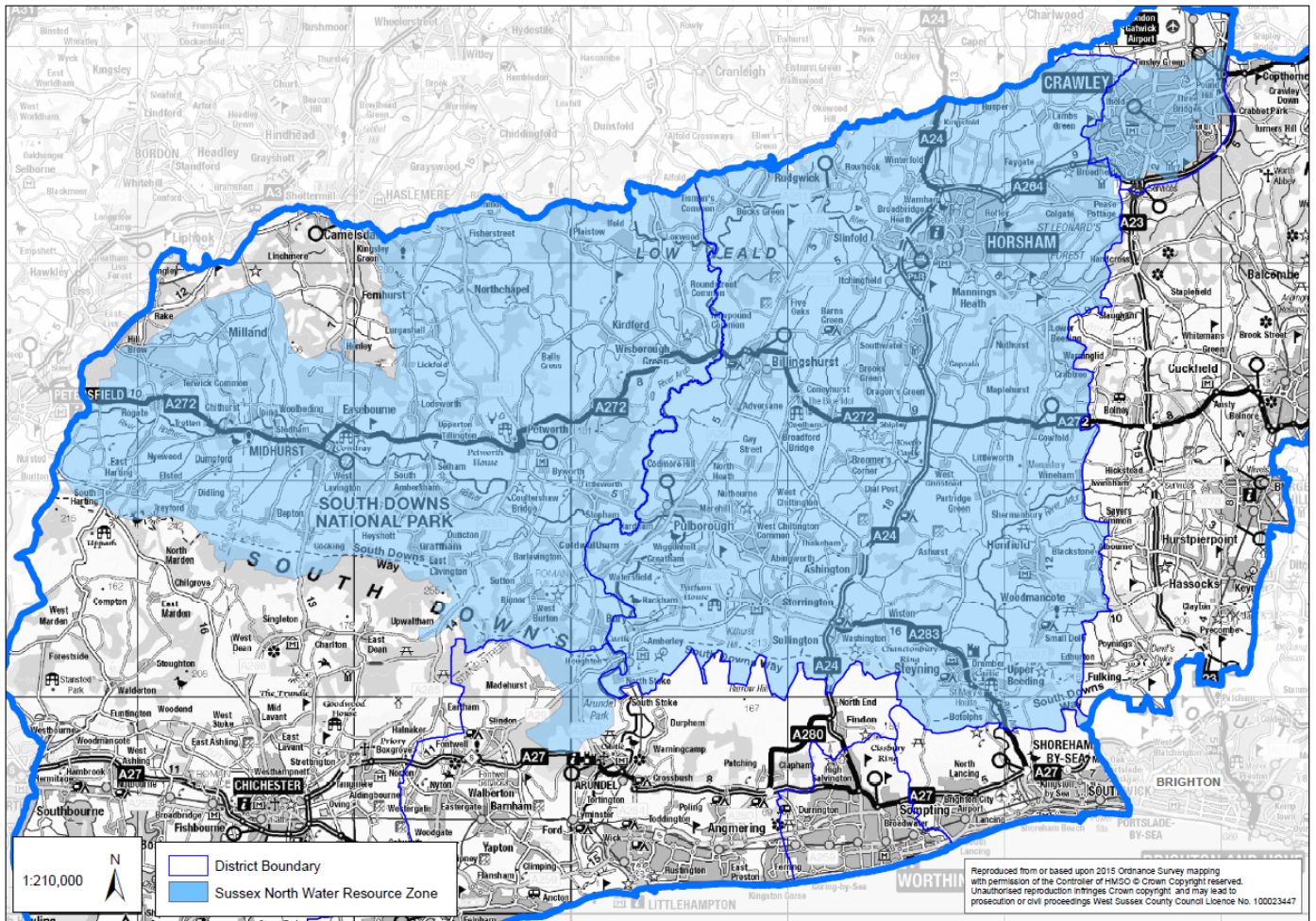
Conservation
Objectives (Only
Relevant for
SPA/SAC)

Arun Valley SAC & SPA

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;

- The extent and distribution of the habitats of the qualifying features
- The structure and function of the habitats of the qualifying features
- The supporting processes on which the habitats of the qualifying features rely
- The population of each of the qualifying features, and,
- The distribution of the qualifying features within the site.

Appendix 2 – Sussex North Water Supply Zone





Natural England's Position Statement for Applications within the Sussex North Water Supply Zone

September 2021 – Interim Approach

Please take the following as Natural England's substantive advice for all applications which fall within Sussex North's Water Supply Zone.

Sussex North Water Supply Zone

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

The Sussex North Water Supply Zone includes supplies from a groundwater abstraction which cannot, with certainty, conclude no adverse effect on the integrity of;

- Arun Valley Special Area Conservation (SAC)
- Arun Valley Special Protection Area (SPA)
- Arun Valley Ramsar Site.

As it cannot be concluded that the existing abstraction within Sussex North Water Supply Zone is not having an impact on the Arun Valley site, we advise that developments within this zone must not add to this impact. This is required by recent caselaw, [Case C-323/17 People over wind and Sweetman. Ruling of CJEU](#) (often referred to as sweetman II) and [Coöperatie Mobilisation for the Environment and Vereniging Leefmilieu Case C-293/17](#) (often referred to as the Dutch Nitrogen cases).

Between them these cases require Plans and Projects affecting sites where an existing adverse effect is known (i.e. the site is failing its conservation objectives), to demonstrate certainty that they will not contribute further to the existing adverse effect or go through to the latter stages of the Regulations (no alternatives IROPI etc).

Developments within Sussex North must therefore must not add to this impact and one way of achieving this is to demonstrate water neutrality.

In addition, the Gatwick Sub regional Water Cycle Study concluded that water neutrality is required for Sussex North to enable sufficient water to be available to the region.

The definition of water neutrality is the use of water in the supply area before the development is the same or lower after the development is in place.

Strategic approach

Natural England has advised that this matter should be resolved in partnership through Local Plans across the affected authorities, where policy and assessment can be agreed and secured to ensure water use is offset for all new developments within Sussex North. To achieve this Natural England is working in partnership with all the relevant authorities to secure water neutrality collectively through a water neutrality strategy.

Whilst the strategy is evolving, Natural England advises that decisions on planning applications should await its completion. However, if there are applications which a planning authority deems critical to proceed in the absence of the strategy, then Natural England advises that any application needs to demonstrate water neutrality. We have provided the following agreed interim approach for demonstrating water neutrality;

Minimising water use of new builds.

- Complete a water budget (based on occupancy)
- All new builds to demonstrate that they can achieve strict water targets (e.g., 85L/pp/day*)
This can be achieved by measures such as:
 - Grey water recycling (advantage of being reliable in hot dry weather);
 - Rainwater harvesting;
 - Water efficient fixings (such as shower aerators) to demonstrably reduce demand-this would need to be suitably certain.

In addition, water offsetting is required

- One way to achieve this is retrofitting of council owned properties/commercial buildings-located within Sussex North. Examples include:
 - Grey water recycling- (for example there are clear opportunities for commercial properties).
 - Rainwater harvesting of commercial settings;
 - Installation of water reduction fittings in Council-owned buildings.

These measures need to be implemented until such time as a more sustainable water supply has been secured.

It will also need to be ensured that measures are not already proposed (for example in Southern Water's Management Plan) to avoid double-counting.

Any mitigation must be suitably certain in order to comply with the Habitats Regulations and Caselaw.

If the application cannot demonstrate, through an appropriate assessment, the required water neutrality, we advise that it is either revised to achieve this in line with the above or awaits completion of the strategic approach.

The securing of water neutrality is a matter which needs to be resolved at a strategic level and Natural England is working with the relevant authorities and the water company to achieve this. In light of this, Natural England will not be engaging with individual planning applications whilst the strategy is evolving.

***This this is the reasonably achievable figure with the above measures based on the early data from the strategic solution and may be subject to change as the strategic solution evolves.**

Date: 16/05/22
Our ref: 389985
Your ref: WSCC/030/21



**West Sussex County Council
Planning and Rights of Way Committee**

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

BY EMAIL ONLY

T 0300 060 3900

Dear Sir or Madam,

WSCC/030/21 planning application for a clay quarry and construction materials recycling facility (CMRF) for CD&E wastes including the use of an existing access from Loxwood Road, the extraction and exportation of clay and restoration using suitable recovered materials from the CMRF to nature conservation interest including woodland, waterbodies and wetland habitats at Pallinghurst Woods, Loxwood Road, Loxwood, West Sussex RH14 0RW.

Thank you for your meeting invitation for the West Sussex County Council – Planning and Rights of Way Committee, which was received on the 9th May 2022. Natural England will not be attending the committee meeting on Wednesday 18th May 2022. We do however wish to submit the following statement for consideration at the committee.

Natural England's Statement

Ebernoe Common Special Area of Conservation (SAC) and The Mens SAC – Impacts to Qualifying Features

In our last consultation response (10 February 2022, Ref no 377723) we advised that likely significant effects upon the qualifying populations of bats within The Mens SAC and Ebernoe Common SAC cannot be screened out of the HRA. We further note that an HRA has not been completed by the LPA but by applicant. Our advice below is based on the Report to inform a Habitats Regulations Assessment:

- The proposed development is located on the boundary of the 6.5km key conservation area for The Mens SAC, and is also within the 12km wider conservation area for Ebernoe Common SAC. As outlined within the [Sussex Bat Protocol](#), plans or projects within the key conservation area must consider all impacts. Habitats within this zone which are required to sustain the bats associated with the SACs are considered functionally- linked habitat which is critical for sustaining the populations of bats within the SACs
- Furthermore, Barbastelle and Bechstein's bats have been recorded within this area, It is therefore not possible to screen out a likely significant effect.
- This proposal if approved would result in the loss of c3.03ha of deciduous woodland Priority Habitat,

located on the boundary of the 6.5km key conservation area for The Mens SAC (and 12km wider conservation area for Ebernoe Common SAC).

- We reiterate that it is the advice of Natural England that **it is not possible** to conclude that the proposal is unlikely to result in significant effects on the European site(s) in question. We further advise that your authority under the provisions of the Habitats Regulations should complete an appropriate assessment to assess the likely impacts from this proposal in view of the conservation objectives for the Mens SAC and Ebernoe Common SAC. We refer you to the [Sussex Bat Protocol](#) for further advice to assist you with that assessment. Natural England must be consulted on any appropriate assessment your Authority may decide to make.

Arun Valley Special Protection Area (SPA), SAC and Ramsar Site – Sussex North Water Supply Zone

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 your authority is not able to ascertain that the proposal will not result in adverse effects on the integrity of any of the European sites in question. Having considered the assessment, and the measures proposed to mitigate for any adverse effects, Natural England concurs with the conclusion you have drawn that it is not possible to ascertain that the proposal will not result in adverse effects on site integrity. **Natural England advises that the proposal does not provide enough information and/or certainty to enable adverse effects on site integrity to be ruled out.**

Regulation 63 states that a competent authority may agree to a plan or project only after having ascertained that it will not adversely affect the integrity of the European site, subject to the exceptional tests set out in regulation 64 of the Conservation of Habitats and Species Regulations 2017 (as amended). As the conclusion of your Habitats Regulations Assessment states that it cannot be ascertained that the proposal will not adversely affect the integrity of the European site, your authority cannot permit the proposal unless it passes the tests of regulation 64; that is that there are no alternatives, and the proposal must be carried out for imperative reasons of overriding public interest.

Your authority may now wish to consider the exceptional tests set out within regulation 64. Specific guidance about these tests can be found at: <https://www.gov.uk/government/publications/habitats-and-wild-birds-directives-guidance-on-the-application-of-article-6-4>

We advise that the measures proposed within this development are not considered sufficient to ensure water neutrality and to avoid adverse effects on the integrity of the interest features of the Arun Valley SPA, SAC and Ramsar site. We note and concur with the Council's decision that insufficient information/evidence has been provided to demonstrate the required degree of certainty that mitigation would be effective or guaranteed as follows:

- Full specifications of the proposed surface water lagoon should be submitted. This must state the capacity of the lagoon and also evidence the annual flow of rainfall that would supply the lagoon.
- Insufficient details have been provided to evidence the water usage of the dust suppression system. These details should be provided and inputted into the water neutrality calculations
- Insufficient details have been provided to evidence/support water usage of the development's infrastructure and facilities (such as wheel washers, sinks, toilets). All systems within the development that have water usage should evidence water consumption rates, and include these rates within the water neutrality calculations.
- The use of imported water for staff drinking water lacks the required level of certainty.

Priority habitats

We note that the proposal would result in the loss of priority habitats which are listed as 'Habitats and Species of Principal Importance' within the England Biodiversity List, published under the requirements of S41 of the Natural Environment and Rural Communities (NERC) Act 2006.

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>.

Furthermore, Natural England note with concern that the proposal appears to have a net loss in biodiversity. The National Planning Policy Framework sets out in paragraph 174(d) that planning decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity.

Minerals Plan

Natural England reiterates that this application site has not been allocated within either the WSCC Joint Minerals Plan (2021) or WSCC Waste Local Plan (2014) , and currently does not comply with Policy M17 (Minerals Local Plan) or Policy W14 (Waste Local Plan) due to the likely impacts on designated bat features and impacts to important habitat features.. Therefore, the need for this development does not appear to be supported.

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.

If you have any further questions, please contact me at thomas.scott-heagerty@naturalengland.org.uk

Yours sincerely,
Thomas Scott-Heagerty
Lead Advisor – Sussex & Kent Area Team