

Date: 15 July 2022  
Our ref: 396944  
Your ref: WSCC/030/21



West Sussex County Council  
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**BY EMAIL ONLY**

T 0300 060 3900

Dear Chris Bartlett,

**Planning consultation:** HRA & Appropriate Assessment - Clay quarry & construction materials recycling facility (CMRF) for CD&E wastes including use of existing access from Loxwood Road, the extraction/exportation of clay and restoration using suitable recovered materials from the CMRF to nature conservation interest etc

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

Thank you for your consultation on the above dated 17 June 2022 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.

## **Comments on Habitats Regulations Assessment (HRA) and Appropriate Assessment**

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

This advice should be taken as Natural England's formal **representation on appropriate assessment** given under regulation 63(3) of the Conservation of Habitats and Species Regulations 2017 (as amended). You are entitled to have regard to this representation.

Special Areas of Conservation (SACs) are designated for rare and vulnerable habitats and species. Many of these sites are designated for mobile species that may also rely on areas outside of the site boundary. These supporting habitats may be used by SAC populations or some individuals of the population for some or all of the time. These supporting habitats can play an essential role in maintaining SAC species populations, and proposals affecting them may therefore have the potential to affect the European site.

It should be noted that the potential impacts that may arise from the proposal relate to the presence of (SAC) interest features that are located outside the site boundary.

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>

### **Additional Comments**

Based on the information submitted, it is evident that this proposal 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. 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. As Barbestelle and Bechstein's bats have been recorded within this area, it is likely that the land is functionally linked habitat to the SACs. Therefore, the proposal if approved would likely result in the loss of c3.03ha of functionally linked woodland habitat of the SACs. Loss of functionally linked habitat at this scale would likely result in an adverse effect on the integrity of The Mens and Ebernoe Common SAC sites either alone or in combination with other plan and projects.

### **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.

If you have any queries relating to the advice in this letter please contact me at [thomas.scott-heagerty@naturalengland.org.uk](mailto:thomas.scott-heagerty@naturalengland.org.uk)

Yours sincerely

Thomas Scott-Heagerty  
Lead Advisor - Sussex and Kent Area Team