



Habitat Regulation Assessment (HRA) Screening Matrix and Appropriate Assessment Statement

PLEASE NOTE: Undertaking the HRA process is the responsibility of the decision maker as the Competent Authority for the purpose of the Habitats Regulations, however, it is the responsibility of the applicant to provide the Competent Authority with the information that they require for this purpose.

Application reference:	RR/2020/2260/P
Application address:	Land at Clavering Walk, Bexhill on Sea, East Sussex
Application description:	Reserved Matters application pursuant to outline application RR/2018/3127/P to consider appearance, landscaping, layout and scale in respect of the erection of 70 dwellings and associated car parking, open space and infrastructure.
Status of Application:	Pending decision (outline permission granted 13 February 2020)
Proximity to SPA/SAC/Ramsar:	Adjacent to nearest boundary of Pevensey Levels SAC and Ramsar designations from proposed site
Lead Planning Officer: Jeff Pyrah	
Stage 1 - details of the plan or project	
European site potentially impacted by planning application, plan or project:	YES (impact on water quality and water levels) Pevensey Levels SAC and Ramsar Site
Is the planning application, project or plan directly connected with or necessary to the management of the site?	No
Are there any other projects or plans that	Yes. There are other planning allocations or planning permissions in both Rother and Wealden

together with the planning application being assessed could affect the site?

districts that could have water quality or water resources impacts on the Pevensy Levels that could act in combination.

Stage 2 - HRA screening assessment

Test 1: the significance test – The Applicant 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 SPA/SAC/Ramsar.

Following the recent CJEU ruling, 'People Over Wind, Peter Sweetman v Coillte Teoranta', we can no longer take into account any avoidance and mitigation measures as part of the application at this stage of HRA. For applications in the hydrological catchment area of the Pevensy Levels the Council's "*Habitat Regulations Assessment Likely Significant Effects and Appropriate Assessment*" September 2018 concludes that without mitigation it is not possible to assume that development would not have likely significant effects on the SAC/Ramsar Site in terms of water quality and water levels. Therefore when considering such applications, even where a scheme of mitigation is proposed assessment would progress to Stage 3.

Stage 3 - HRA – Appropriate Assessment

Test 2: the integrity test – If there are any potential significant impacts, the applicant must provide evidence showing avoidance and/or mitigation measures to allow an Assessment to be made.

Section 1: Conservation objectives for the site

(SAC)

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 the habitats of qualifying species
- The structure and function of the habitats of qualifying species
- The supporting processes on which the habitats of qualifying species rely
- The populations of qualifying species, and,
- The distribution of qualifying species within the site.

Qualifying Features:

S4056. *Anisus vorticulus*; Little whorlpool ram's-horn snail

(Ramsar)

From EA's "Pevensey Levels SSSI Water Level Management Plan" December 2006

Maintain water levels in Main River and IDB watercourse at 0.3m below mean field level throughout the year;

- For the rest of the site, maintain water levels 0.3m below mean field level throughout the year as a minimum;
- Restore winter flooding to the site; and
- Restore the functioning of the ditch system

Qualifying Features:

Ramsar criterion 2

The site supports an outstanding assemblage of wetland plants and invertebrates including many British Red Data Book species.

Ramsar criterion 3

The site supports 68% of vascular plant species in Great Britain that can be described as aquatic. It is probably the best site in Britain for freshwater molluscs, one of the five best sites for aquatic beetles *Coleoptera* and supports an outstanding assemblage of dragonflies *Odonata*.

Section 2: Assessment Matrix

Identification of the potential effects and their impacts on the Conservation Objectives

Potential Effect	Site Conservation Objectives	Qualifying Features	Potential for Impact?	Relevant Mitigation Measures
CONSTRUCTION PHASE				
Increase in pollutant loads (including sediment, nutrients, oxygen demanding substances, road salts, heavy metals, bacteria and viruses entering the water environment)	<ul style="list-style-type: none"> - Maintaining or restoring the extent and distribution of the habitats of qualify species; - The structure and function of habitats; - The populations of qualifying species; - Distribution of qualifying species. - Maintaining 	<p>All qualifying features including:</p> <p>Lesser Whirlpool Ram's Horn Snail (SAC)</p> <p>Outstanding assemblage of wetland</p>	<p>Yes.</p> <p>Direct impact. without mitigation, flora and fauna and their habitat dependent on maintenance of water quality and levels would be at risk from:</p> <ul style="list-style-type: none"> - High sediment loads from construction that could smother habitats and species; and - Excessive input of 	<p>The following safeguarding measures are proposed in the submitted Drainage Technical Note, dated Nov 2020, Ref: 180303-04A (Part 7) to avoid this risk:</p> <ul style="list-style-type: none"> - the ponds and basin and connection to the watercourse will be constructed prior to the contributing impermeable areas discharging into the watercourses. - outlet flow controls will be installed to maintain discharge rates prior, including an elevated outlet flow to create a sump. It is noted that it will be responsibility of the site manager to carry out periodic removal of silt accumulations.

	<p>watercourse water levels</p> <p>- Restore the functioning of the ditch system.</p>	<p>plants and invertebrates, including many British Red Data Book species (Ramsar)</p> <p>Supports 68% of Aquatic vascular plant species in Great Britain, invertebrates including fresh water molluscs, aquatic beetles and dragon flies (Ramsar)</p>	<p>nutrients that could lead to eutrophication (depletion of oxygen in water).</p> <p>Without appropriate mitigation there is a particular risk to the water environment from the importation of fill material to raise land levels in parts of the site.</p>	<p>- the site manager will regularly inspect the construction phase surface water management methods to monitor performance both from a quantity and quality perspective. This inspection will take place weekly and after any heavy rainfall events.</p>
OPERATIONAL PHASE (ON COMPLETION)				
Potential Effect	Site Conservation Objectives	Qualifying Features	Potential for Impact?	Relevant Mitigation Measures
<p>Deterioration in water quality from increase in pollutant loads from surface water run-off (including sediment, nutrients, oxygen demanding substances, road salts, heavy</p>	<p>- Maintaining or restoring the extent and distribution of the habitats of qualify species;</p> <p>- The structure and function of habitats;</p> <p>The populations of qualifying species;</p> <p>- Distribution of</p>	<p>All SAC and Ramsar qualifying features</p>	<p>Yes. Direct impact. Without mitigation, flora and fauna and their habitat dependent on maintenance of water quality and levels would be at risk from:</p> <p>- High sediment loads that could smother habitats and species; and</p>	<p>The submitted Addendum to information to inform a HRA (including Appropriate Assessment), May 2021 advises that:</p> <p>As part of the outline submission, a dry attenuation basin was proposed as the fourth treatment stage. At this Reserved Matters stage this has been changed to a wet basin;</p> <p>An impermeable geotextile membrane as well as a puddle clay liner has been proposed to line the</p>

<p>metals, bacteria and viruses</p>	<p>qualifying species. - Maintaining watercourse water levels - Restore the functioning of the ditch system</p>		<p>- Excessive input of nutrients leading to eutrophication</p>	<p>swales and basins, rather than a puddle clay liner alone (which was proposed at the outline stage). This update to the design has been included in response to local residents who voiced a preference for geotextile membrane. In practice, either approach is suitable and sufficient, and the combination of both liners will certainly maintain a separation between untreated water in the SuDS system and the ground water;</p> <p>At the detailed design, it is not possible to accommodate a swale within the south west corner of the site. However, this swale would only have served a small portion of the site, such that it would not have represented a treatment stage for the entire permitted development. Instead, this swale will be replaced by a surface water sewer that will connect surface water runoff from this area of the site to the SuDS system in the northern field, and the substitution of this swale for a surface water sewer has no bearing on the SuDS scheme for the site;</p> <p>The drainage plan for the Reserved Matters application confirms that five treatment stages will be delivered for the entire built development, comprising 1) an attenuation basin 2) a swale 3) a second attenuation basin 4) a third attenuation basin and 5) a final swale.</p> <p>The LLFA/PCWLMB advises that the submitted information assures them that the proposed development layout can be drained without increasing flood risk on or off site, subject to further details being submitted and approved to meet the requirements of condition 17.</p>
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Deterioration in water quality from increase in surface water temperature	<ul style="list-style-type: none"> - Maintaining or restoring the extent and distribution of the habitats of qualify species; - The structure and function of habitats; - The supporting processes on which the habitats of qualifying species rely; - The populations of qualifying species; 	All SAC and Ramsar qualifying features	Yes, direct impact. A rise in surface water temperature could cause stress or mortality to aquatic organisms; eutrophication and the extent and distribution of species and their habitat.	The system of swales, filter strip and attenuation basin would serve to slow down the flow of surface water from the developed site so that raised surface water temperatures would drop to ambient levels by the time it reaches the Levels.
Change in water flow into wetlands and altered water levels within it (increase or decrease)	<ul style="list-style-type: none"> - Maintaining or restoring the extent and distribution of the habitats of qualify species; - The structure and function of habitats; - The supporting processes on which the habitats of qualifying species rely; - The populations of qualifying species; 	All SAC and Ramsar qualifying features	Yes, direct impact without appropriate mitigation to ensure that the Levels do not become inundated through flash flooding due to run off from hard surfaces or conversely, a reduction in the volume of surface water draining from the site into the Levels.	<p>Surface water would be managed through the use of three ponds in series before discharging into the adjacent watercourse at a variable rate to equivalent greenfield rates (flow matching).</p> <p>In accordance with 2016 EA guidance, the drainage proposals are designed to accommodate an allowance increase of 40% for climate change.</p>
Wetlands invaded	- Maintaining or	All SAC and	Yes, indirect and direct	All planting to the landscaped areas is proposed to

<p>by aggressive, highly tolerant, non-native vegetation</p>	<p>restoring the extent and distribution of the habitats of qualify species; - The structure and function of habitats; - The supporting processes on which the habitats of qualifying species rely; -The populations of qualifying species.</p>	<p>Ramsar qualifying features</p>	<p>impact. Inappropriate planting within the scheme has the potential to find its way into the habitats of the Levels, invading and smothering the qualifying feature native flora and fauna and disrupting the structure and function of those habitats.</p>	<p>be native. No known invasive species have been specified.</p>
<p>Failure for the proposed SUDs to be properly managed and maintained for the lifetime of the development</p>	<p>- Maintaining or restoring the extent and distribution of the habitats of qualify species; -The structure and function of habitats; -The populations of qualifying species; - Distribution of qualifying species. - Maintaining watercourse water levels</p>	<p>All SAC and Ramsar qualifying features</p>	<p>Yes, direct impact failure to properly maintain the SUDs system would lead to the infiltration of contaminants into water environment of the Levels and potentially, changes in water levels</p>	<p>The SuDS have been offered to Pevensey and Cuckmere Water Level Management Board for adoption and the applicant has advised that this is their preferred option.</p> <p>The Pevensey and Cuckmere Water Level Management Board has advised the applicant that <i>“we have reviewed the details provided and can advise that in principle the Board will be able to adopt the basins, ponds and swales. This is subject to us agreeing on the detail of the structures, ministerial consent being given to allow the Board to continue with the adoption at this particular site and the Board members’ approval”</i>.</p> <p>If agreement cannot be reached, under the S106 agreement for the outline planning permission, the appointment of a Specialist Management Company is ultimately subject to the approval of Rother District Council (Schedule 6, Part 1, item 3).</p>

Failure of the foul drainage system	Maintaining or restoring the extent and distribution of the habitats of qualify species; - The structure and function of habitats; - The populations of qualifying species; - Distribution of qualifying species. - Maintaining watercourse water levels - Restore the functioning of the ditch system.	All SAC and Ramsar qualifying features	Yes, direct impact, Failure of an on-site foul treatment package or the pumps taking effluent to the mains sewer network could have an impact on the water quality of the Levels and the flora and fauna species that it supports	The foul water proposal is for a gravity fed system, with foul water being transferred offsite to a waste water treatment works.
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Stage 4 – Summary of the Appropriate Assessment. To be carried out by the Competent Authority (the local planning authority) in liaison with Natural England

Conclusion

Having considered the likely effects and the proposed mitigation and avoidance measures proposed that would be secured and thereafter maintained for the lifetime of the development by condition, Rother District Council conclude that with mitigation the project would not have an Adverse Effect on the integrity of the European protected site.

Specifically, the applicant has progressed the drainage strategy approved by the outline planning permission to provide a details to avoid impact during construction (a requirement of outline planning permission condition 17) and a drainage design proposed (detailing the strategy approved by the outline planning permission) that would manage surface water through the use of three ponds in series before discharging into the adjacent watercourse at a variable rate to equivalent greenfield rates (flow matching). Surface water would be subject to five treatment stages before discharging from the site. The drainage proposals are designed to accommodate an allowance increase of 40% for climate change. The SuDS have been offered to Pevensy and Cuckmere Water Level Management Board for adoption. If agreement cannot be reached, the SuDS would be offered to either Southern Water or a Specialist Management Company. This would be secured by the legal agreement approved as part of the outline planning permission. Foul water would discharge to an existing public sewer, via gravity.

The LLFA confirms that the submitted information assures them that the proposed development layout can be drained without increasing flood risk on or off site, subject to further details being submitted and approved to meet the requirements of condition 17.

The Council's HRAs that support the Core Strategy address the strategic effect of growth across Rother 'in-combination' with growth in other authority areas over the same time period. The Core Strategy HRAs were focused on the overall quantum and broad distribution of the growth. The DaSA HRAs identifies if any particular site allocations and policies have the potential to cause an adverse effect on the European designated sites, either in isolation of 'in combination' with other plans or projects and to determine whether site-specific mitigation measures are required. The DaSA 'in combination' assessment concluded that there would be no adverse effects due to the policy protection requiring appropriate SuDS for all relevant sites. Similarly, Wealden and Eastbourne have undertaken their own HRAs to support their respective Local Plans vis-à-vis development targets.

The Planning Inspector who considered and granted outline planning permission concluded that the drainage strategy presented and considered at that stage was authoritative and convincing and that, with the proposed mitigation measures included in the s106 obligation, would, beyond reasonable scientific doubt, not have any adverse effect on the integrity of the European sites, either alone or in combination with other plans or projects.

Monitoring and management of SuDS, secured by the s106 obligation at outline stage, would ensure the SuDS would continue to be effective in line with the requirements set out in Policy DEN5. Therefore, it can be concluded that an adverse effect on the integrity of the SAC and Ramsar site would be avoided 'in combination' with other development proposals in Rother, Wealden and Eastbourne districts.

Having made this appropriate assessment of the implications of this project for the European Sites in view of their conservation objectives, and having consulted Natural England and fully considered any representation received (see below) and the representations of all other relevant consultees, the authority may now agree to the project under Regulation 63 of the Conservation of Habitats and Species Regulations 2017.

Natural England

Summary of Natural England's comments:

Your Appropriate Assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any planning permission given.

Signed:

DRAFT