

Regulation Committee
Thursday 13 January 2022
10.00 am Luttrell Room - County Hall,
Taunton



SUPPLEMENT TO THE AGENDA

To: The Members of the Regulation Committee

We are now able to enclose the following information which was unavailable when the agenda was published:

Item 5	Application for temporary storage of Limestone Scalpings, Land to the North of Torr Works, East Cranmore, Shepton Mallet (SCC/3839/2021) Response received from Natural England (Pages 3 - 10)
---------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Item 7	Wildlife and Countryside Act 1981 Section 53, Schedule 14 - Application to Upgrade Footpath Y 9/46 in the Parish of East Coker to a Public Bridleway Late paper submissions (Pages 11 - 14)
---------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Published on 11 January 2022

Democratic Services, County Hall, Taunton, TA1 4DY

This page is intentionally left blank

Date: 11 January 2022
 Our ref: 378254
 Your ref: SCC/3839/2021



CArnold@somerset.gov.uk

BY EMAIL ONLY

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

T 0300 060 3900

Dear Colin

Planning consultation: SCC/3839/2021 HRA & Appropriate Assessment - Temporary storage of Limestone Scalpings.

Location: Land to the North of Torr Works, East Cranmore, Shepton Mallet

Thank you for your consultation on the above dated 20 December 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

NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

We consider that without appropriate mitigation the application would have an adverse effect on the integrity of Mells Valley Special Area of Conservation and Mendip Woodlands Special Area of Conservation.

In order to mitigate these adverse effects and make the development acceptable, the following mitigation options as detailed in the appropriate assessment should be secured:

- Bat Habitat Creation - The development will provide an equivalent minimum of 0.92 hectares of optimal habitat accessible to greater horseshoe bats.
- Bat Habitat Management - The management of the Replacement Bat Habitat created as mitigation will be carried out in accordance with the submitted Management and Monitoring Scheme of Replacement Bat Habitat (Wiltshire, 2021) and be implemented within three months prior to the commencement of tipping on the permitted site.
- Dust Suppression Scheme - A revised Dust Suppression Scheme shall be submitted to the Minerals Planning Authority prior to use of the site for tipping.
- Biodiversity Management Plan - An updated Torr Biodiversity Management Plan shall be approved in writing by the Minerals Planning Authority prior to the use of the approved site for tipping.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

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

Internationally Designated Sites

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.

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 the mitigation measures listed within the appropriate assessment conclusion are secured in any planning permission given.

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.

Other advice

In addition, Natural England would advise on the following issues.

Best and Most Versatile Agricultural Land or Minerals and Waste reclamation

Natural England has considered this proposal in the light of our statutory duties under Schedule 5 of the Town and Country Planning Act 1990 (as amended) and the Government's policy for the sustainable use of soil as set out in paragraphs 174 and 175 of the [National Planning Policy Framework](#) (NPPF).

Based on the information provided in support of the planning application, we note that the proposed development would extend to approximately 9.9 ha, including some 9.0 ha of 'best and most versatile' (BMV) agricultural land; namely Grades 1, 2 and 3a land in the Agricultural Land Classification (ALC) system.

While Natural England does not wish to comment in detail on the soils and reclamation issues arising from this proposal, we would expect the Planning Authority to take the economic and other benefits of the BMV land into account (in line with para 174 and 175 of the NPPF). We would also make the following points:

1. We are satisfied that that the site working and reclamation proposals provided in support of this application meet the requirements for sustainable minerals development, set out in current [Minerals Planning Practice Guidance](#), particularly section 6 on restoration and aftercare of minerals sites.
2. In particular, we have noted that the following Sections, Appendices and Plans of the EIA (or Supporting Statement) are sufficient to demonstrate that an equivalent area of the BMV land disturbed as a result of the development, would be reinstated to a similar quality, suited to a productive agricultural after use.
3. In accordance with Schedule 5, Part 1, Paragraph 4 (1) of the Town & Country Planning Act 1990, Natural England confirms that it would be appropriate to specify agriculture as an afteruse, and for the land to be reclaimed in accordance with Paragraph 3 (1) of the 1990 Act; namely that the physical characteristics of the land and soil resource to be restored, so far as practicable, to what they were when last used for agriculture.
4. Should the development proceed (and subject to no more accurate information coming to light during the working of the site), Natural England is satisfied that the Soils and Agricultural Land Classification Report (ES Appendix 2) constitutes a record of the pre-working physical characteristics of the land within the application site boundary.

5. Soil is a finite resource which plays an essential role within sustainable ecosystems, performing an array of functions supporting a range of ecosystem services, including storage of carbon, the infiltration and transport of water, nutrient cycling, and provision of food. In order to safeguard soil resources as part of the overall sustainability of the development, it is important that the soil resource is able to retain as many of its important functions as possible. This can be achieved through careful soil management and appropriate, beneficial soil re-use, with consideration on how any adverse impacts on soils can be avoided or minimised.
6. Some suggested conditions to safeguard soil resources and achieve a high standard of agricultural reclamation are attached, which may be of use.
7. The Institute of Quarrying [Good Practice Guide for Handling Soils in Mineral Workings](#) provides detailed advice on the choice of machinery and method of their use for handling soils at various phases, which we strongly recommend is followed. For agricultural after uses, the best available practice is using the excavator-dump truck combination in conjunction with the sequential 'strip' method (Sheets A – D).
8. More general advice for planning authorities on the agricultural aspects of site working and reclamation can be found in the Defra Guidance notes [Reclaim minerals extraction and landfill sites to agriculture](#), which again we strongly recommend is followed.

If you are of the opinion that this proposal may have significant implications for a greater loss of agricultural land, or other considerations which we should take into account, Natural England would be pleased to advise further.

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

Should the developer wish to discuss the detail of measures to mitigate the effects described above with Natural England, we recommend that they seek advice through our [Discretionary Advice Service](#).

Should the proposal change, please consult us again.

Yours sincerely,
Rhona Savin
Wessex Team

This page is intentionally left blank

Annex A – Additional advice

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 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 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. 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](#)¹ 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 174 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 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](#)². 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](#).

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

² <http://webarchive.nationalarchives.gov.uk/20140711133551/http://www.naturalengland.org.uk/ourwork/conservation/biodiversity/protectandmanage/habsandspeciesimportance.aspx>

Annex A – Additional advice

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 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, 11, 102, 130, 131, 174, 175, 179 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:

- 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 112 and 174 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 provides information including contact details for the National Trail Officer.

Annex A – Additional advice

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](#).

This page is intentionally left blank



Regulation Committee

Late Paper Submissions

13th January 2022

Item 7	Page 2	Email from Philip Hackett 07/01/22
Item 7	Page 3	Email from Sarah Bucks 08/01/22

Item Number 7: Email from Philip Hackett, British Horse Society

Dear Harry,

Please can you put this letter of support before the Regulation Committee with regard to the application to upgrade footpath Y 9/46 in the parish of East Coker to a bridleway (371M).

The British Horse Society would like to place on record this letter of support to modify the Definitive Map. The Highway Board Map 1863 identifies the application route as a highway [9.5] and have therefore agreed that the route was maintainable at public expense. The map identifies the route as a continuous highway of which several sections are currently public roads and was presumably at the same status and presumably carried vehicular rights. Additional evidence is put forward in the later 1929 Handover Map [9.6] and the 1910 Finance Act Record Plan raises a strong possibility that it was considered to carry public rights [9.7]. As the committee report concludes this evidence, combined with the additional evidence contained in the report, supports the recommendation.

The objections made by the Parish Council are, as pointed out in the report, not relevant as concerns about safety, amenity and desirability cannot be considered as part of this investigation.

Kind regards,

Philip Hackett

British Horse Society Access Field Officer – South West

Item Number 7: Email from Sarah Bucks, South Somerset Bridleways Association

Dear Sirs,

I understand that the report on this application is to be considered by the Regulation Committee on 13th. January at an in person /real meeting.

As I am advised not to attend such indoor meetings where there is no information about who will be in the room and how many will be attending, nor is there a requirement to show a negative lateral flow test result before entering the meeting room. Therefore, regrettably, I will not be able to attend.

I have read Dr Wood's well researched and well explained report and have nothing to add to it.

I hope the Regulation Committee supports his recommendation.

Your sincerely,

Sarah Bucks

Chair, South Somerset Bridleways Association

This page is intentionally left blank