

Date: 15 September 2016
Our ref: 195961
Your ref: 2016/60/91967/W



Louise Bearcroft

Louise.bearcroft@kirklees.gov.uk

BY EMAIL ONLY

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

T 0300 060 3900

Dear Louise

Planning consultation: Outline application for residential development and convenience store, and provision of open space

Location: Land at Dunford Road, Hade Edge, Holmfirth, HD9 2RT

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.

**WILDLIFE AND COUNTRYSIDE ACT 1981, AS AMENDED
CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2010, AS AMENDED
THE NATIONAL PARKS AND ACCESS TO THE COUNTRYSIDE ACT (1949)**

Internationally and nationally designated sites

The application site is within or in close proximity to a European designated site (also commonly referred to as Natura 2000 sites), and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations'). The application site is in close proximity to the following sites which are European sites:

- South Pennine Moors Special Area of Conservation (SAC)
- Peak District Moors (South Pennine Moors Phase 1) Special Protection Area (SPA)

The sites are also notified at a national level as the Dark Peak Site of Special Scientific Interest (SSSI). Please see the subsequent sections of this letter for our advice relating to SSSI features.

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have¹. The [Conservation objectives](#) for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

Natura 2000 - Further information required

In advising your authority on the requirements relating to Habitats Regulations Assessment, it is Natural England's advice that the proposal is not necessary for the management of the European site. Your authority should therefore determine whether the proposal is likely to have a significant

¹ Requirements are set out within Regulations 61 and 62 of the Habitats Regulations, where a series of steps and tests are followed for plans or projects that could potentially affect a European site. The steps and tests set out within Regulations 61 and 62 are commonly referred to as the 'Habitats Regulations Assessment' process. The Government has produced core guidance for competent authorities and developers to assist with the Habitats Regulations Assessment process. This can be found on the Defra website. <http://www.defra.gov.uk/habitats-review/implementation/process-guidance/guidance/sites/>

effect on any European site, proceeding to the Appropriate Assessment stage where significant effects cannot be ruled out. Natural England advises that there is currently not enough information to determine whether the likelihood of significant effects can be ruled out. We recommend you obtain the following information to help undertake a Habitats Regulations Assessment:

- The ecological assessment should clarify why the site is not suitable for use by South Pennine Moors Phase 1 SPA birds. Golden Plover in particular may use favoured foraging sites some distance from the SPA. If use cannot be ruled out a bird survey should be undertaken within the bird breeding season (March – August inclusive) in order to assess potential usage by SPA birds.
- An assessment should be made of the potential impacts from increased SPA/SAC visitor pressure as a result of this development, and how these may be mitigated.

Relationship with the Draft Local Plan

Your Authority should consider work being carried out in relation to the Draft Kirklees Local Plan. The Habitats Regulation Assessment (HRA) of the Draft Local Plan identifies the potential for adverse effects with respect to new housing allocations in proximity to the Peak District Moors (South Pennine Moors Phase 1) Special Protection Area (SPA), South Pennine Moors Phase 2 SPA and Special Area of Conservation (SAC), particularly in relation to urban edge effects within 400m (fly-tipping, invasive species, cat predation and increased risk of fire), loss of feeding areas used by SPA birds within 2.5km, and recreational disturbance/tramping.

Further survey work is being carried out through the Local Plan HRA in order to ensure that development proposed in the Plan avoids and or mitigates impacts on these sites.

As this planning application has the potential to cause one or all these adverse effects (alone or in combination) and the Local Plan has not yet been adopted, there is not yet mitigation in place to protect the South Pennine Moors SPA and SAC. Therefore, in order to progress this planning application in advance of the Local Plan, the Local Planning Authority will be required to carry out a HRA of the proposal before determination (as detailed above) and if necessary secure mitigation measures to avoid adverse effects.

It will be crucial to ensure consistency between the evidence base work for the Local Plan and proposed mitigation options for this proposal. Given that much work has already been carried out in relation to the Core Strategy this should assist your Authority in considering potential mitigation options under the requirements of the Habitats Regulations.

SSSI – Further information required

Our comments regarding the potential impacts upon the Dark Peak SSSI coincide with our comments regarding the potential impacts upon the Peak District Moors (South Pennine Moors Phase 1) SPA and South Pennine Moors SAC sites detailed above.

Landscape

The proposed development is for a site close to the Peak District National Park which is a nationally designated landscape. Natural England advises that the planning authority uses national and local policies, together with local landscape expertise and information to determine the proposal.

Your decision should be guided by paragraph 115 of the National Planning Policy Framework which gives the highest status of protection for the 'landscape and scenic beauty' of AONBs and National Parks. For major development proposals paragraph 116 sets out criteria to determine whether the development should exceptionally be permitted within the designated landscape.

Alongside national policy you should also apply landscape policies set out in your development plan, or appropriate saved policies.

The landscape advisor/planner for the National Park will be best placed to provide you with detailed advice about this development proposal. Their knowledge of the site and its wider landscape setting, together with the aims and objectives of the park's management plan, will be a valuable contribution to the planning decision. Where available, a local Landscape Character Assessment

can also be a helpful guide to the landscape's sensitivity to this type of development and its capacity to accommodate the proposed development.

The statutory purposes of the National Park are to conserve and enhance the natural beauty, wildlife and cultural heritage of the park; and to promote opportunities for the understanding and enjoyment of the special qualities of the park by the public. You should assess the application carefully as to whether the proposed development would have a significant impact on or harm those statutory purposes. Relevant to this is the duty on public bodies to 'have regard' for those statutory purposes in carrying out their functions (section 11 A(2) of the National Parks and Access to the Countryside Act 1949 (as amended)). The Planning Practice Guidance confirms that this duty also applies to proposals outside the designated area but impacting on its natural beauty.

Green Infrastructure potential

The proposed development is within an area that Natural England considers could benefit from enhanced green infrastructure (GI) provision. Multi-functional green infrastructure can perform a range of functions including improved flood risk management, provision of accessible green space, climate change adaptation and biodiversity enhancement. Natural England would encourage the incorporation of GI into this development. Evidence and advice on green infrastructure, including the economic benefits of GI can be found on the Natural England [Green Infrastructure web pages](#).

Other advice

We would expect the Local Planning Authority (LPA) to assess and consider the other possible impacts resulting from this proposal on the following when determining this application:

- local sites (biodiversity and geodiversity);
- local landscape character; and
- local or national biodiversity priority habitats and species.

Natural England does not hold locally specific information relating to the above. These remain material considerations in the determination of this planning application and we recommend that you seek further information from the appropriate bodies (which may include the local records centre, your local wildlife trust, local geoconservation group or other recording society and a local landscape characterisation document) in order to ensure the LPA has sufficient information to fully understand the impact of the proposal before it determines the application. A more comprehensive list of local groups can be found at [Wildlife and Countryside link](#).

Protected Species

We have not assessed this application and associated documents for impacts on protected species.

Natural England has published [Standing Advice](#) on protected species. You should apply our Standing Advice to this application as it is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation.

The Standing Advice should not be treated as giving any indication or providing any assurance in respect of European Protected Species (EPS) that the proposed development is unlikely to affect the EPS present on the site; nor should it be interpreted as meaning that Natural England has reached any views as to whether a licence is needed (which is the developer's responsibility) or may be granted.

If you have any specific questions on aspects that are not covered by our Standing Advice for European Protected Species or have difficulty in applying it to this application please contact us with details at consultations@naturalengland.org.uk.

Biodiversity enhancements

This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. This is in accordance

with Paragraph 118 of the NPPF. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that *'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'*. Section 40(3) of the same Act also states that *'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'*.

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

For any queries relating to the specific advice in this letter only please contact Elisa Neame on 02082-256-852. For any new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

We really value your feedback to help us improve the service we offer. We have attached a feedback form to this letter and welcome any comments you might have about our service.

We also welcome your feedback on Natural England's revised standing advice in terms of its usability (ease of access, presentation), quality of content and, its clarity and effectiveness as a tool in guiding decision-making. Please provide this, with any suggested improvements, by filling in the attached customer feedback form or by emailing your feedback direct to consultations@naturalengland.org.uk.

Yours sincerely,

Elisa Neame
Yorkshire & Northern Lincolnshire Area Team