

Hannah Halstead

From: Louise Bearcroft
Sent: 24 August 2017 10:26
To: DCAdmin
Subject: FW: Habitat Regulations Assessment for application 2017/91623 and 2016/91967 (Kirklees)

Please log as a consultation response from Natural England to 2017/91623 and 2016/91967.

From: Walsh, James (NE) [<mailto:James.Walsh@naturalengland.org.uk>]
Sent: 23 August 2017 11:46
To: Tom Stephenson; David Wordsworth; Louise Bearcroft
Subject: RE: Habitat Regulations Assessment for application 2017/91623 and 2016/91967 (Kirklees)

Hi Tom

Thank you for sending through the Appropriate Assessment. Natural England agrees with the rationale of the assessment with the different stages clearly set out. We also consider the mitigation measures set out in Sections 2 and 4 of the Stage 2 Assessment to be appropriate. However, it should be noted that it is a requirement of the Regulations to consider the impact of projects **either alone or in combination** at both the Likely Significant Effect (LSE) screening stage and during the Appropriate Assessment (AA) stage.

The 'alone or in-combination' requirement has been included in the Directive and Regulations in order to make sure that prior to their authorisation the effects of numerous small proposals, which alone would not result in a significant effect, are further assessed to determine whether their combined effect would be significant enough to require more detailed assessment.

If there is some residual effect after an Appropriate Assessment has been carried out of the project alone, then there is a need to further consider the impact of this residual effect in-combination with other plans and projects.

This requirement at the AA stage comes from the Waddenzee judgment which says:

"In the Waddenzee judgment, the ECJ ruled that an appropriate assessment implies that all the aspects of the plan or project which can, by them themselves or in combination with other plans and projects, affect the site's conservation objectives must be identified in light of the best scientific knowledge in the field".

We advise that after the mitigation measures in Step 4 have been considered, residual effects of recreational disturbance remain and the in-combination impacts with other housing proposals in the vicinity therefore need to be considered as part of the assessment. Similarly, although impacts from increased traffic are unlikely to be significant alone, they also need to be considered in-combination.

Plans or projects that should be considered in the in-combination assessment include the following:

- The incomplete or non-implemented parts of plans or projects that have already commenced;
- Plans or projects given consent or given effect but not yet started;
- Plans or projects currently subject to an application for consent or proposed to be given effect;
- Projects that are the subject of an outstanding appeal;
- Ongoing plans or projects that are the subject of regular review;
- Any draft plans being prepared by any public body;
- Any proposed plans or projects published for consultation prior to application.

The Habitats Regulations Assessment of the Publication Draft Kirklees Local Plan states that development within 7km of the SPA / SAC could result in recreational impacts. We would advise that this is used as a guideline for the in-combination assessment.

I hope this is helpful and would be happy to discuss further if required.

Kind regards

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