

**6. ASSESSMENT UNDER THE HABITAT REGULATIONS: DEMOLITION OF ALL SITE BUILDINGS, REMOVAL OF CONCRETE SURFACING, AND REDEVELOPMENT FOR 25 X 2,3,4 AND 5 BED DWELLINGS, PARKING AND GARAGING SERVED BY PRIVATE DRIVE FROM EXISTING ACCESS FROM RICHARD LANE, MARKOVITZ LIMITED RICHARD LANE TIDESWELL (JK)**

**APPLICANT: M Markovitz Ltd**

**Site and Surroundings**

The application site lies on the south side of Richard Lane at the southern edge of Tideswell village. The builders supply depot currently comprises a large concrete open storage yard with industrial buildings forming office and ancillary retail space together with dry/covered storage. Tideswell Dale lies immediately to the south of the site which is part of the Peak District Dales Special Area of Conservation - PDD SAC. The public sewage treatment works serving Tideswell sits within the dale and discharges to the adjacent watercourse, Tideswell Brook which then discharges into the Wye.

A full planning application has been submitted to the Authority for the redevelopment of the depot for 25 residential dwellings. Foul water is to be discharged to the public sewer and surface waters via soakaways or via the combined sewer. A water quality report submitted on behalf of the applicant assesses the potential impacts of the development on water quality providing the information needed to understand the potential impacts upon the PDD SAC.

**Proposal**

Habitat Regulations Assessment in relation to the potential effects resulting from surface and foul water drainage from the redevelopment of the builders supply depot for 25 residential dwellings on the Peak District Dales SAC.

**RECOMMENDATION:**

- 1. That this report be adopted as the Authority's Habitat Regulations Assessment in relation to the proposed redevelopment of the Markovitz building supply depot at Richard Lane, Tideswell.**
- 2. It is determined that the redevelopment is unlikely to have a significant effect on the integrity of the Peak District Dales SAC. Thus redevelopment of the site is not considered to be contrary to the provisions of Regulation 61 and 62 of the Conservation of Habitats and Species Regulations 2010 and the EU Habitats Directive and an Appropriate Assessment is not considered necessary.**

**Key Issues**

The UK is bound by the terms of the Habitats Directive (92/43/EEC). Under Article 6(3) of the Habitats Directive, an appropriate assessment is required where a plan or project is likely to have a significant effect upon a European Site, either individually or in combination with other projects in view of the European Site's conservation objectives. The Directive is implemented in the UK by the Conservation of Habitats and Species Regulations 2010 (as amended) (the Habitats Regulations).

Natural England has advised the Authority that, as a competent authority under the provisions of the Habitats Regulations, it should have regard for any potential impacts that a plan or project may have on a European site. In this case the designated site is the Peak District Dales Special Area of Conservation (PDD SAC). The concern is whether the additional foul sewage flows arising from the proposed development through the Tideswell Sewage Treatment works, whose discharge water ultimately ends up in the river Wye via Tideswell brook, will add to the already high phosphate levels in both watercourses. These levels already exceed the Environment Agency's water quality limits for the PDD SAC so it is necessary to consider the significance of any potential effects from the proposed development.

## **Assessment**

### **The Habitat Regulation Assessment Process**

The Habitat Regulation Assessment (HRA) process involves several stages:

Stage 1 – Likely Significant Effect Test,

Stage 2 – Appropriate Assessment

Stages 3 & 4 – Assessment of Alternative Solutions and Imperative Reasons of Overriding Public Interest Test.

Stage 1: This is essentially a risk assessment utilising existing data, records and specialist knowledge. This stage identifies the likely impacts of a project upon a European Site and considers whether the impacts are likely to be significant. The purpose of the test is to screen in or screen out whether a full Appropriate Assessment is required. Where likely significant effects cannot be excluded, assessing them in more detail through an appropriate assessment is required to reach a conclusion as to whether an adverse effect on the integrity of the site can be ruled out.

Stage 2: This is the appropriate assessment and this involves consideration of the impacts on the integrity of the European Site with regard to the conservation site's structure and function and its conservation objectives. Where there are adverse effects an assessment of mitigation options is carried out. If the mitigation cannot avoid any adverse effect or cannot mitigate it to the extent that it is no longer significant, then development consent can only be given if an assessment of alternative solutions is successfully carried out or the Imperative Reasons of Overriding Public Interest (IROPI) test is satisfied.

Stage 3&4: If a project will have a significant adverse effect and this cannot be either avoided or mitigated, the project cannot go ahead unless it passes the IROPI test. In order to pass the test, it must be objectively concluded that no alternative solutions exist. The project must be referred to the Secretary of State on the grounds that there are Imperative Reasons of Overriding Public Interest as to why the project must proceed. Potential compensatory measures needed to maintain the overall coherence of the site or integrity of the European Site network must also be considered.

### **Impact Pathways**

The PDD SAC covers approximately 2,326ha and comprises a number of constituent Sites of Scientific Interest (SSSIs), the nearest of which lies in the dale 0.35km SE of the development site.

In the consideration of the application the potential pathways of impact on the PDD SAC has been identified by Natural England as being hydrological as the final discharge of foul and surface waters would be into Tideswell Brook which is hydrologically linked to the river Wye which is currently experiencing phosphate concentrations in excess of the conservation target.

The Water Quality Impact Assessment report commissioned by the applicants calculates that the development is likely to produce about 8m<sup>3</sup> of waste water per day which would have a phosphorous load of about 14.5mg/litre. For storm water drainage the report notes the redevelopment will reduce the impermeable areas by 85% with roof and driveway areas discharging to soakaways. Only the communal highway area is proposed to discharge to Tideswell Brook as the hard surfacing areas do at present but with a much restricted area and also at a restricted rate of 10ltrs/second.

Severn Trent Water confirm that the Tideswell Waste Water Treatment works has sufficient capacity to accept the additional flows and that the works is performing well and is under its consent threshold for phosphate levels. It can therefore easily accommodate the increased flow and maintain its performance on phosphate reduction probably without having to make any adjustments for the small additional flows from the proposed development.

The report sets out that the conservation target for phosphate levels in the river Wye is 0.040mg/litre however the most recent measurement in the river was 0.055mg/litre. In general it stated that waste water plants were the main point source outputs for river phosphorous and in the Wye Valley with Buxton WWTW being the main contributor with Tideswell only discharging less than 4% of the combined treatment works flow. The Environment Agency and Natural England are hopeful that ongoing improvements to the Buxton WWTW will meet the target conservation level, however if not, they would target potential diffuse sources of phosphate such as agricultural run-off. Tideswell wWTW was not identified as a worthwhile target for intervention measures due to its small scale.

The proposed development itself would contribute only 0.1% to the total point source flow of phosphate into the river and is therefore considered by the applicants consultant to be insignificant.

### **Conclusion**

It is concluded at Stage 1 of the HRA, that the Water Quality Impact Assessment report commissioned by the applicant has demonstrated that the proposed redevelopment for 25 houses as proposed in application No NP/DDD/0117/0040 is unlikely to have a significant effect on the integrity of the Peak District Dales SAC. The application proposal is therefore not considered to be contrary to the provisions of Regulation 61 of the Conservation of Habitats and Species Regulations 2010 and the EU Habitats Directive and an Appropriate Assessment is not considered necessary.

### **Human Rights**

Any human rights issues have been considered and addressed in the preparation of this report.

### **List of Background Papers (not previously published)**

Nil