

12. CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2017: PROPOSED CONVERSION OF FORMER BARN TO HOLIDAY ACCOMMODATION AND ASSOCIATED WORKS TO ACCESS AND PARKING AREA, AND FORMATION OF NEW ACCESS TO BROOKSIDE FARM, UNNAMED SECTION OF A623 FROM MIRES LANE TO LONG LANE WARDLOW NP/DDD/0319/0272 (JK)

Summary

1. The planning application requires a new package treatment plant to deal with foul sewage from the proposed holiday unit. This outfall and drainage field would be sited within 100m of the Cressbrook Dale Special Area of Conservation (SAC). If a proposed plan or project is considered likely to have a significant effect on a protected habitats site (either individually or in combination with other plans or projects) then an appropriate assessment of the implications for the site, in view of the site's conservation objectives, must be undertaken. A potential risk has been identified of phosphate in the effluent leaching through the thin soils and down pathways in the underlying rock strata into groundwater and then into the river Wye. The assessment concludes that there is unlikely to be a significant effect upon the SAC. This is because of the distance of the drainage field from the designated site coupled with the intervening soil depths and underlying rock strata will likely ensure phosphate levels are considerably reduced from initial levels before they possibly enter the river; and then this would be at the lower end of the sensitive section of the river. For these reasons an appropriate assessment is not considered necessary.

Site and Surroundings

2. Brookside Farm is located at the junction of the A623 and the B6465 road up to Wardlow Village from Wardlow Mires. The property comprises a single two storey dwelling sitting within a large garden which is raised up at the rear of the house. On the south-western edge of this large garden is an old two storey limestone stone barn – Roost Barn. The building is currently in ancillary domestic use for keeping chickens and has a much later low pitched single storey limestone lean-to extension under a corrugated steel roof. The barn is small, with one room up and down with external stone steps to access the first floor.
3. The lower part of the site, the house and main access lie within flood zones 2 and 3. The barn is also close to Cressbrook Dale SSSI to the west which is part of the Peak District Dales SAC and the Derbyshire Dales National Nature Reserve (NNR (24m away), SAC and SSSI (approx. 60m).
4. A full planning application has been submitted to the Authority for the conversion of the barn to a one bed holiday cottage which requires a new package sewage treatment plant to be installed within the garden to deal with the foul sewage from the new dwelling unit. The outfall from the plant would discharge into a drainage field/soakaway within the garden soil bed.
5. Advice from Natural England and the additional information from the applicant's agent about the sewage plant and its outfall soakaway system provide the information we need to understand the potential impacts upon the designated sites.

RECOMMENDATION:

1. **That this report be adopted as the Authority's assessment of likely significant effects on protected habitat under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) in relation to the proposed conversion of Roost Barn to a single (restricted holiday occupancy) dwelling at Brookside Farm, Wardlow.**
2. **It is determined that the conversion is unlikely to have a significant effect on the Cressbrook Dale 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 2017 (as amended) and the EU Habitats Directive and an Appropriate Assessment is not considered necessary.**

Key Issues

6. 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 2017 (as amended) (the Habitats Regulations). Cressbrook Dale SSSI falls within the Peak District Dales Special Area for Conservation (SAC) and therefore falls within the definition of a "European Site".
7. The conservation objective of this SAC are to 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 qualifying natural habitats and habitats of qualifying species The structure and function (including typical species) of qualifying natural habitats
 - The structure and function of the habitats of qualifying species
 - The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely
 - The populations of qualifying species, and,
 - The distribution of qualifying species within the site.
8. The particular features reportable for Cressbrook Dale SSSI are:-
 - Dry grasslands and scrublands on chalk or limestone) (Festuco-Brometalia), (note that this includes the priority feature "important orchid rich sites")
 - Plants in crevices in base-rich rocks
 - Mixed woodland on base-rich soils associated with rocky slopes
 - White-clawed (or Atlantic stream) crayfish *Austropotamobius pallipes*
9. All planning applications which are not directly connected with, or necessary for, the

conservation management of a habitat site, require consideration of whether the proposed development is likely to have significant effects on that site. This consideration – typically referred to as the ‘Habitats Regulations Assessment screening’ – should take into account the potential effects both of the development itself and in combination with other plans or projects. Where the potential for likely significant effects cannot be excluded, a competent authority, in this planning case the National Park Authority, must make an appropriate assessment of the implications of the development for that site, in view of the site’s conservation objectives. The competent authority may agree to the plan or project only after having ruled out adverse effects on the integrity of the habitats site. Where an adverse effect on the site’s integrity cannot be ruled out, and where there are no alternative solutions, the plan or project can only proceed if there are imperative reasons of overriding public interest and if the necessary compensatory measures can be secured.

10. 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 Cressbrook Dale Special Area of Conservation (CDSAC) which is also a National Nature Reserve and a Site of Special Scientific Interest. They have provided further information and advice incorporated into this report on the relevant concern which is whether the outfall from the required new domestic packaged sewage treatment plant arising from this small one bedroomed dwelling and in particular the risk of phosphates within the effluent reaching sensitive ground and surface waters so it is necessary to consider the significance of any potential effects from the proposed development.
11. In this particular case it is not thought appropriate to take the opinion of the general public in addition to the advice of Natural England.

Assessment

The Habitat Regulation Assessment Process

12. The Habitat Regulation Assessment (HRA) process involves several stages:
13. Stage 1 – Likely Significant Effect Test (Habitats Regulations Assessment screening)
Stage 2 – Appropriate Assessment
Stages 3 & 4 – Assessment of Alternative Solutions and Imperative Reasons of Overriding Public Interest Test.
14. 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.
15. 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.

16. 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

17. The development site is located less than 100m from the Cressbrook Dale SSSI, which is part of the extensive Peak District Dales SAC and the Derbyshire Dales National Nature Reserve. This location is also within the limestone catchment of the river Wye (itself also part of the SAC) where phosphate is already a cause for concern. This location requires any potential impacts upon the SAC to be considered under the Habitats Directive, and the UK Habitats Regulations.
18. In this instance, the potential risks are to the freshwater environment and come from the discharge of foul waste, and specifically its phosphate content, from the package treatment works effluent via its infiltration system and drainage field. The potential pathways of impact on the SAC being identified as being the risk of a hydrological connection to the Wye as the final discharge of foul waters percolate through the drainage field soils into the underlying limestone strata through the porous rock, any fissures and potentially any former mine workings that may exist in the area.
19. The applicant's agent has provided details of the Treatment Plant to be used along with the drainage field. The drainage field size takes into account the scale of use (a 1 bed holiday dwelling) and the percolation test rates and has been calculated to require to be 6.78m². It is shown to be sited as far away from the sensitive site as possible within the applicant's ownership and within an existing raised mound in the garden, formed from previous soil deposition. In this area the depth of soil for percolation is much greater (up to 1.2m thick) than the wider surrounding areas where soil cover is normally thinner over the underlying limestone bedrock.
20. Given the maximum depth of soil in the proposed drainage field is still only 1.2m, and this is not achieved across the whole drainage field, Natural England have recommended that additional mounding is incorporated into the design to increase the available soil depth for the absorption of phosphates from the effluent discharge. This can be achieved within the planning application via the recommended planning condition seeking submission, agreement and implementation of a detailed scheme before the dwelling is brought into use.
21. Raising the drainage field soils coupled with their location within a well vegetated garden area beyond the drainage field itself, should provide reasonable opportunity for the phosphate in the discharge to bind with the soils as it moves laterally, especially given the 70m distance from the drainage field to the nearest point of the adjacent SSSI/SAC/National Nature Reserve.
22. Any phosphates not retained within the soils and which are therefore at risk of entering the groundwater system, would have to travel through the limestone to reach the river Wye itself, which should give considerable scope for further attenuation before they reach the river, at a point which in any event would be at the very downstream end of the protected site boundary.
23. In view of the above, it is considered by Natural England and ourselves that the risks to the freshwater interests of the Peak District Dales SAC (which includes both Cressbrook

Dale SSSI and the river Wye, a component of the Wye Valley SSSI) are significantly reduced.

Conclusion

24. It is concluded at Stage 1 of the HRA, that the additional information supplied by the agent regarding the plant and drainage field, coupled with the suggested planning condition demonstrates that the proposed holiday dwelling, and more precisely, its foul sewage disposal system proposed in application No NP/DDD/0319/0272 is unlikely to have a significant effect on the integrity of the Peak District Dales SAC, the Cressbrook Dale NNR and SSSI. The application proposal is therefore not considered to be contrary to the provisions of Regulation 61 of the Conservation of Habitats and Species Regulations 2017 and the EU Habitats Directive and an Appropriate Assessment is not considered necessary.

Human Rights

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

List of Background Papers (not previously published)

Nil

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