

Mr Robert Williams

Alder Mill
Sheepy Road
Atherstone
Warwickshire
CV9 3AH

27 January 2022

Our ref: 19/000053/CM
Ask for: Steven Aldridge

Dear Mr Williams,

Town and Country Planning Act 1990 (as amended)
Town and Country Planning (Development Management Procedure)
(England) Order 2015 (as amended)
Town and Country Planning (Environmental Impact Assessment)
Regulations 2017 (Regulation 25)

Application Ref: 19/000053/CM **Grid Ref:** (E) 383959, (N) 278992

Applicant: NRS Aggregates Ltd

Proposal: Proposed sand and gravel quarry with progressive restoration using site derived and imported inert material to agricultural parkland, public access and nature enhancement

Location: Land at Lea Castle Farm, Wolverley Road, Broadwaters, Kidderminster, Worcestershire

I hereby request the following further information, under Regulation 25 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017:

Biodiversity (Habitat Regulations Assessment)

The application site is located approximately 70 kilometres north-east of the Severn Estuary SPA and SAC which are European sites (also commonly referred to as Natura 2000 sites), which is also notified as a Ramsar Site (of

international importance) and at a national level as the Upper Severn SSSI. The River Wye SAC is located about 40 kilometres south-west of the site. Despite the distance from these European sites, the River Stour is located in close proximity to the application site (within 135 metres of the application site) and are hydrologically linked to these European sites. In view of this, and due to the nature and location of proposed project, the Mineral Planning Authority (MPA) consider there is potential the proposal may affect the interest features of these European designated sites through functional hydrological connectivity and the potential presence of migratory species within the upper River Severn catchment. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2017, as amended (the 'Habitats Regulations').

The Government's Planning Practice Guidance (PPG) provides advice and guidance in relation to planning applications which may impact upon European sites and Habitats Regulations Assessment (HRA). HRA *"refers to the several distinct stages of Assessment which must be undertaken in accordance with the Conservation of Habitats and Species Regulations 2017 (as amended) and the Conservation of Offshore Marine Habitats and Species Regulations 2017 (as amended) to determine if a plan or project may affect the protected features of a habitats site before deciding whether to undertake, permit or authorise it. European Sites and European Offshore Marine Sites identified under these regulations are referred to as 'habitats sites' in the National Planning Policy Framework (NPPF).*

All plans and projects (including planning applications) which are not directly connected with, or necessary for, the conservation management of a habitat site, require consideration of whether the plan or project 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 plan / project itself and in combination with other plans or projects. Where the potential for likely significant effects cannot be excluded, a competent authority must make an appropriate assessment of the implications of the plan or project for that site, in view 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 over-riding public interest and if the necessary compensatory measures can be secured" (Paragraph Reference ID: 65-001-20190722).

The PPG goes on to state that *"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 (Part 6 of the Conservation of Habitats and Species Regulations 2017)...A significant effect should be considered likely if it cannot be excluded on the basis of objective information and it might undermine a site's conservation objectives. A risk or a possibility of such an effect is enough to warrant the need for an appropriate assessment. The conservation objectives relate to each of the habitats and species for which the site was designated" (Paragraph Ref ID: 65-002-20190722).

As set out in the PPG at Paragraph Reference ID: 65-005-20190722, *"in April 2018, the Court of Justice of the European Union delivered its judgment in Case C-323/17 People Over Wind & Peter Sweetman v Coillte Teoranta ('People over Wind'). The judgment clarified that when making screening decisions for the purposes of deciding whether an appropriate assessment is required, competent authorities cannot take into account any mitigation measures. As a result, a competent authority may only take account of mitigation measures intended to avoid or reduce the harmful effects of a plan or project as part of an appropriate assessment itself".*

To assist the MPA, as the competent authority in undertaking a HRA screening, the MPA request a shadow HRA screening is submitted to consider whether the proposal in isolation and in combination with other development (not taking into account mitigation measures, as per the case law referenced above) would result in likely significant effects upon the Severn Estuary SPA / SAC / Ramsar and River Wye SAC.

In particular the MPA consider the shadow HRA screening should consider the impacts of the proposal on:

- **Water quality / quantity of functionally linked habitats** – The Severn Estuary SPA and Ramsar site is hydrologically linked to the River Severn and its tributaries (including the River Stour). The qualifying bird species of the European site are reliant on estuarine and coastal habitats within the SPA / Ramsar boundary which have the potential to be susceptible to changes in water quality and quantity as a result of water abstraction, nutrient enrichment, or one-off pollution events. In addition, the qualifying bird species are reliant on non-estuarine habitats within functionally linked watercourses of the Severn Estuary SPA / Ramsar within the River Severn hydrological catchment.

There is the potential for run-off of surface water, pollutants and chemical spills at the application site to result in impacts on the water courses which are functionally linked to the Severn Estuary (e.g., The River

Stour). Such water courses or their adjacent habitats could be of importance to the qualifying bird species of the SPA / Ramsar. Any changes in water quality or quantity within the River Severn or its tributaries due to mineral extraction at the application site, therefore, has the potential to result in likely significant effects on the Severn Estuary SPA / Ramsar.

Particular issues that could affect water quality include dissolved oxygen, which may result in changes to vegetation and invertebrate prey communities for SPA / Ramsar bird species and leaching and runoff from the application site, which is likely to affect nutrient levels. Water quantity could also be affected by water abstraction for minerals processing and disposal of water used in the mineral extraction process.

As above for birds, hydrological connectivity between the Severn Estuary SAC and Ramsar site and the application site could result in impacts on the qualifying fish species due to changes in water quality and quantity as a result of nutrient enrichment, or one-off pollution events.

There is potential for run-off of surface water, pollutants and chemical spills, and changes in the below-ground water connectivity to result in impacts on the water courses which are functionally linked to the Severn Estuary. Such water courses support habitats of importance for the qualifying fish species of the SACs / Ramsar.

- **Non-toxic contamination** – Non-toxic contamination can include the creation of airborne dust which can contribute to nutrient enrichment which can lead to changes in the rate of vegetative succession and habitat composition. Particular issues arising from non-toxic contamination from airborne dust include smothering of habitats leading inhibiting natural processes and increased suspended sediment within the water resulting in reduced levels of dissolved oxygen which may act as a barrier to migrating qualifying fish species.
 - **Air Quality** – Air pollution, in particular nitrogen deposition, has been highlighted as a priority issue in Natural England's Site Improvement Plan for the Severn Estuary SPA / Ramsar. Nitrogen deposition has the potential to result in eutrophication of habitats, which can result in a change in water quality and lead to successional changes to plant communities. Therefore, any development proposal which could result in a significant increase in traffic along a road situated within 200 metres of the SPA / Ramsar or its functionally linked habitats has the potential to adversely affect the integrity of the SPA / Ramsar. There are no strategic or primary roads within a 30 mile radius of Worcestershire that are within
-

200 metres of the Severn Estuary SPA / Ramsar boundary. However, there may be functionally linked habitat (e.g., River Stour) within 200 metres of the routes most likely to be used by HGVs going to and from the application site.

Natural England's Site Improvement Plan for the Severn Estuary SAC / Ramsar lists twaite shad, sea lamprey and river lamprey as being susceptible to the effects of air pollution and nitrogen deposition. Allis shad are also known to regularly hybridise with twaite shad. Due to the possibility of some crossover in the population of twaite shad, allis shad and sea lamprey from the River Wye SAC and the River Severn, effects on the River Wye SAC should also be considered.

Together with consideration of any physical damage or loss of functionally linked habitat, non-physical disturbance of functionally linked habitat, and any recreational pressures on functionally linked habitat.

Should the requested shadow HRA screening identify a likely significant effect, the MPA also request a shadow HRA appropriate assessment.

As set out at Paragraph: Reference ID: 65-003-20190722 of the PPG, *"the scope and content of an appropriate assessment will depend on the nature, location, duration and scale of the proposed plan or project and the interest features of the relevant site. 'Appropriate' is not a technical term. It indicates that an assessment needs to be proportionate and sufficient to support the task of the competent authority in determining whether the plan or project will adversely affect the integrity of the site"*.

Please do not hesitate to contact me should you wish to discuss this request for further information.

In order that the application may be assessed promptly and with an appropriate type and level of information, I would be grateful if you could confirm as soon as practicable the date by when I could expect to receive the further information that is the subject of the above request.

Yours sincerely



Steven Aldridge
Team Manager – Development Management
