

Date: 10 January 2022
Our ref: 375859
Your ref: HS/FA/21/00327



Development Management
Hastings Borough Council
Muriel Matters House, Breeds Place
Hastings
East Sussex
TN34 3UY

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

T 0300 060 3900

BY EMAIL ONLY

Dear Stephanie Wood

Planning consultation: HS/FA/21/00327

Location: Queensway North, St Leonards-on-Sea

Thank you for your consultation on the above dated 24 November 2021 which was received by Natural England on the same day.

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.

SUMMARY OF NATURAL ENGLAND'S ADVICE

FURTHER INFORMATION REQUIRED TO DETERMINE IMPACTS ON DESIGNATED SITES

As submitted, the application could have potential significant effects on

- Marline Valley Woods Site of Special Scientific Interest (SSSI)

Natural England has considered the additional information provided, but requires further information in order to determine the significance of these impacts and the scope for mitigation.

The following information is required:

- How the requirements of the Mitigation Hierarchy are being followed;
- Document references for the Drainage Strategy, Site Wide Management Plan and the Construction Environmental Management Plan (CEMP);
- Detailed information of the drainage scheme. In particular, details of the drainage arrangements proposed for Plot 2.1 including confirmation that the proposal for infiltration tanks has been removed and that the sandstone layer will not be breached;
- Additional information regarding impacts on drainage system as a result of the proposal to raise ground levels;
- Detailed SuDs information;
- Clarification of impact assessment methodology;
- Additional information regarding monitoring requirements;
- Revised biodiversity net gain provision;
- Additional information regarding protection of Ancient Woodland.

Additional Information

Firstly, we note the removal of development from Plot 2.2 of the Proposed Development. Although this represents a reduction in overall development at this Site, we have advised that Plot 2.1. is the area of most concern to Natural England. We have advised that in order to demonstrate adherence to the mitigation hierarchy the application will need to demonstrate how impacts are first avoided and alternatives considered. We remain concerned with a number of elements of the scheme and consider that some of our previous concerns have not been sufficiently addressed.

In our previous response of 22nd June 2021, we highlighted the below issues for which we required further information. We have examined the further information which has been submitted since our previous response and which is available on Hastings Borough Council's website. However, we consider that insufficient additional information has been submitted to address our concerns. Please see our concerns below.

How the Requirements of the Mitigation Hierarchy are being followed

In our last response dated 22 June 2021 we raised concern that the Proposed Development did not clearly demonstrate that the proposals have followed the requirements of the mitigation hierarchy, as alternatives had not been considered. The mitigation hierarchy requires that it should first be considered whether adverse impacts can be avoided before considering mitigation proposals. In the absence of proposed alternatives, the Proposed Development does not follow the mitigation hierarchy.

We note that the Applicant has responded in their comments of 18th November 2021 that an assessment of alternatives has not been undertaken, but that design evolution demonstrates that the proposed development layout has been developed to avoid areas where the top of the Sandstone is known to be present at shallow depths. We further note that the Applicant has explained that the implementation of the Drainage Strategy, Site Wide Management Plan and the Construction Environmental Management Plan (CEMP) is expected to mitigate the potential effects of the proposed development on surface water and pollution on the SSSI. Natural England request that the exact document references are provided to aid understanding.

Natural England continues to be concerned that the Mitigation Hierarchy has not been followed. The removal of Plot 2.2 from the Proposed Development does not avoid impact to the area of the Site which is of highest risk and it remains unclear how the proposed drainage scheme and storage tanks represent the approach which will be of least impact. Natural England request that the requirements of the Mitigation Hierarchy are followed.

Plot 2.1, earthworks and wider drainage strategy

In our previous response dated 22 June 2021, we raised a number of concerns regarding development on Plot 2.1 and in relation to the wider drainage strategy of the Site.

In our last response dated 22 June 2021 we advised that the EIA must contain evidence to show that sandstone layers will not be breached by the development. We set out that we would require additional information to demonstrate how the proposed drainage scheme, including water storage areas, can be constructed to avoid this. We note that the Applicant has responded in their comment of 18th November 2021 that details contained within the Hydrogeological and Foundation Design Assessment show cross sections through Plot 2.1 which show that the sandstone layer will not be breached by the foundations proposed. However, Natural England require further information to understand the drainage strategy for Plot 2.1 (including the proposed infiltration tanks) to ensure that the sandstone layer will not be breached.

In their comments of 18th November 2021, the Applicant has reiterated, in relation to the above concern, that the ground level across the majority of the Site, and specifically Plot 2.1, will be

raised. In our previous response dated 22 June 2021, Natural England raised concern that raising ground levels will disrupt existing infiltration processes. This comment has not been addressed by the Applicant.

In particular, Natural England raised concern that *Flood Risk Assessment Revision B (March 2021) Appendix B – Consented Site Wide Drainage Strategy and Calculations* includes drawing 26499/2004/500/002 (Foul and surface water drainage site-wide) which shows the inclusion of infiltration tanks on Plot 2.1. We have previously advised that this drawing was not appropriate. We note that this drawing was originally submitted in relation to Discharge of Condition 4, 6(i) and 8 of the Original Application (Application Reference: HS/FA/12/00802) and that it was submitted for information and not for approval. In the decision letter relating to this same application for discharge of conditions (dated 20 December 2016), Hastings Borough Council were clear that the drainage details for individual plots were not approved as part of the decision and that the proposed storage tanks were not considered appropriate. They set out that appropriate drainage for each plot will need to be considered under each relevant application for development. The Applicant's response of 18 November 2021 refers to the inclusion of drawing reference 26499/2004/500/003F, but does not refer to drawing reference 26499/2004/500/002 to which our concern relates. As far as we are aware no additional information has been provided to show that this proposed inclusion of infiltration tanks has been removed on Plot 2.1 and we query why this drawing continues to be included. We advise that additional information is necessary to show that the proposal for the inclusion of storage tanks has been removed.

We further raised concern regarding SUDS features. We note the Applicant's comment of 18 November 2021 that plot 2.2 will no longer be developed and that development on plot 2.1 has been reduced since the original strategy and that these two changes combined have reduced the overall impermeable area of the Proposed Development. However, once again we note the inclusion of drawing 26499/2004/500/002 (Foul and surface water drainage site-wide) and raise concerns that the SuDS features included within this drawing are insufficient. We note that the Applicant has explained in their response of 18th November 2021 that Plot 2.1 incorporates SuDS features which promote biodiversity and contribute to an overall net gain as well as considering the treatment train of surface water in accordance with the SuDS Manual. We previously noted that these should be constructed allowing for at least 1m between the base of the attenuation structure and the highest recorded groundwater level. We requested that additional information was required to demonstrate how this could be achieved. As far as we are aware, further information has not been provided to meet our request. We request that detail of the proposed SuDS features is submitted.

Environmental Implications Letter, clarification of impact assessment methodology and receptor identification and sensitivity

We have examined the further Environmental Implications Letter which was submitted to the Council on 17 November 2021 by Temple on behalf of the Applicant. We note that, in respect of topics previously scoped out of the April 2021 ES, namely, Air Quality, Traffic and Transport, Land Use and Lighting, no changes are anticipated to the conclusions as result of the removal of Plot 2.2 and therefore no further assessments on these topics are deemed necessary.

We have considered Table 1 of the Environmental Implications Letter which reviews the environmental implications associated with the removal of Plot 2.2 for the topics that were scoped into the April 2021 ES, namely: Ecology, Hydrology and Drainage, Ground Conditions, Noise and Vibration, Cultural Heritage, Landscape and Visual Impact and Other Matters (Socioeconomics, Microclimate and Pollution).

We note that the submitted information explains that there are no changes to the likely residual and cumulative effects in terms of ecology of the Proposed Development as a result of the removal of Plot 2.2. We further note that, in terms of hydrology and drainage, there are no changes to the likely residual effects. The Letter notes that the assessment due to Plot 2.2 being removed does not necessarily reduce any of the risks discussed previously. However due to the extent of construction work being reduced, there is no further risk. The Letter further notes that, as with the

conclusion of the April 2021 ES, it is expected that, in terms of cumulative effects to hydrology and drainage, any consideration in fluvial flooding or decrease in water quality would be negligible.

We further note that the submitted information explains that there are no changes to the likely residual and cumulative effects of the Proposed Development in terms of ground conditions, noise and vibration, cultural heritage, landscape and visual, and other matters as a result of the removal of Plot 2.2.

We note the review of implications following the removal of Plot 2.2 from the Proposed Development. However, we remain concerned that this review does not address many of the issues we had previously raised and reiterated regarding clarification of impact assessment methodology and receptor identification and sensitivity. We reiterate that the conclusion of a negligible impact cannot yet be justified given the areas of information and clarification that remain outstanding.

In our previous response dated 22 June 2021, we advised that the receptor sensitivity tables included in the report have underestimated the impact of the scheme and explained a number of instances where we considered this is the case. In particular, we raised concern that for surface water Marline Stream and Ghyls has been attributed a medium sensitivity. We note the Applicant's response of 18th November 2021 that the sensitivity of surface water is determined through use of the Water Framework Directive status and that, in this case, as the Site does not fall within a Source Protection Zone and is not a principal aquifer, it should not be classified as 'high'. Natural England do not agree with this approach. The EIA must reflect the sensitivity of receptors in accordance with the 2017 EIA regulations with the purpose of assessing the sensitivity of biodiversity features and the Water Framework Directive, which assesses the status of water bodies, is not of relevance. The sensitivity of Marline Stream and Ghyls should be attributed high sensitivity due to the fact that it is a notified feature of a nationally designated site.

In relation to concerns regarding the way that groundwater receptor had been assessed, we note your response that your EIA assessed the groundwater as a receptor of negligible sensitivity on the basis that the Site has been shown to have Wadhurst Clay – Mudstone at the surface which is defined as Unproductive by the Environment Agency. However, we reiterate our previous response that Unproductive does not accurately reflect the case.

Information regarding in-combination effects

In our previous response of 22 June 2021, we advised that the cumulative impacts of the scheme should be included in the EIA and that this assessment should include the previous development at Queensway South. We note the Applicant's response of 18 November 2021, that the surrounding development is included within the baseline and is therefore inherent within the assessment, as such incorporating these developments again within the cumulative assessment would in effect be double counting their impacts.

Additional information regarding monitoring requirements

The Applicant has previously advised that they intend to follow a monthly monitoring of groundwater. Natural England have previously advised that this is considered insufficient. Natural England note the Applicant's comment of 18 November 2021 on this issue, but note that the particular issue of monthly monitoring has not been addressed. Natural England would welcome further information on this.

Biodiversity Net Gain

In our last response dated 22 June 2021 we raised concern that the proposal would lead to a 25% loss in biodiversity and advised that this would be unacceptable. We note that revised Biodiversity Impact Calculations have been calculated by the Applicant and provided via the Council Website (dated 12 November 2021) using the new Metric 3.0 and that, due to the removal of development from Plot 2.2, the Proposed Development will now result in a decrease of -0.68% in terms of

biodiversity.

While we note this reduction in biodiversity loss, we advise that this development in this sensitive location provides a key opportunity to provide a demonstrable net gain in biodiversity. Net gain through development is a key principle in the government's [25 Year Environment Plan](#) and the National Planning Policy Framework sets out in paragraph 174(d) that planning decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity. The emerging Hastings Borough Council Local Plan (Regulation 18 consultation) includes a draft policy (Development Policy 5 (DP5)) to deliver a minimum of 10% biodiversity net gain on all green field sites either on, or offsite where net gain cannot be achieved on Site.

Ancient Woodland

In our last response dated 22 June 2021, we raised concern that it was unclear how a 15-metre buffer around ancient woodland would be provided and asked for clarification on the distance between the developed area in plot 1.1 and the adjacent ancient woodland.

We note that the Applicant has responded in their comments of 18th November 2021 that their Arboricultural Survey demonstrated that a buffer zone of less than 15m is suitable to avoid root damage to the trees within the ancient woodland area, and the Applicant has made no changes to the design of Plot 1.1 to address these concerns. [Standing advice](#) produced by Natural England and the Forestry Commission for planning authorities in relation to ancient woodland and ancient veteran trees is clear regarding the need to provide a buffer of **at least** 15m around ancient woodland. As this continues to not meet the requirement of Natural England's Standing Advice, Natural England advises that the application is revised to reflect the clear requirements of the standing advice.

If you have any queries on the specific advice in this letter only please contact Eleanor van der Klugt on Eleanor.vanderklugt@naturalengland.org.uk. For any new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

Yours sincerely

Eleanor van der Klugt
Senior Advisor