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LAND AND BUILDINGS TO EAST OF BRIDGE FARM, WOODBIDGE, SUFFOLK – DC/15/4788/OUT

HABITATS REGULATIONS ASSESSMENT UPDATE

Introduction

1. This note is provided in order to update the Authority on matters in relation to European Designated Sites with specific reference to concerns raised by Natural England (NE) during the application consultation stage.
2. Ecology Solutions Ltd (ESL) reviewed the consultation response from Natural England relating to the above application. Following this review ESL arranged a meeting with John Jackson, the officer who provided the consultation response on behalf of NE through its Discretionary Advice Service (DAS). The meeting took place on 8th February 2016
3. The purpose of the meeting was to discuss the letter submitted by NE, dated 15 January 2016, requesting further information in response to the planning application at the subject site. Discussion was also had with reference to the Discretionary Advice Service response letter dated 14 December 2015 which reviewed the draft '*Document to inform Habitats Regulations Assessment Statement (IHRA) November 2015*'. The objective was to ascertain that Natural England's remaining concerns could be overcome and that there was no in principle objection to the scheme and to clarify what information was required by Natural England to provide comfort that the proposals would be in compliance with the requisite legislative tests set out in the Habitats Regulations.
4. The information provided below represents ESL's note from the meeting held on 8th February 2016. It is expected that NE will confirm their agreement on the points set out below on the 21st February once John Jackson returns from annual leave on Monday 22nd February

Meeting 8th February 2016

Attendees:

John Jackson (Natural England [NE]) **JJ**
Dominic Farmer (Ecology Solutions [ESL]) **DF**

5. JJ stated that from his perspective there were no fundamental, in principle objections to the scheme on the basis of ecology but that NE required further information/clarification with regard to the following:
 - Potential impacts on the Deben Estuary SPA and district-wide in-combination effects on Natura 2000 sites;
 - The principles of the type of Green Infrastructure to be proposed on site to maximise attractiveness to dog-walkers, and
 - Comfort as to the mechanisms of securing the proposed avoidance and mitigation measures in perpetuity.
6. DF sought JJ's clarification that NE agreed that the proposals would not have a significant effect on the Sandlings SPA when considered alone. JJ confirmed this was the case.
7. DF stated that ESL had extrapolated the data from the Suffolk Coastal District Council (SCDC) Core Strategy Appropriate Assessment (CSAA) and used the same methods as approached in the CSAA to provide further information on possible in-combination effects on the Sandlings SPA (i.e. 215 units from the proposals in-combination with the allocations considered in the CSAA). JJ welcomed this approach and confirmed this was a helpful exercise to provide the information NE desired. JJ stated that he would look at the information in greater detail when ESL submitted it to him formally but that on first glance the figures did indicate that in-combination any increases in recreation on the Sandlings SPA (i.e. other Natura 2000 sites other than the Deben Estuary SPA) would not be significant.
8. JJ also confirmed that ESL should check if the proposals would fall into the category of 'windfall development' and thus be covered by the existing CSAA assessment in any event. If so, this should be clarified in any formal submission to NE.
9. JJ confirmed that the main issue from NE's perspective related to impacts on the Deben Estuary from 'visits by foot' and 'visits by car'.
10. DF again stated that ESL had extrapolated data from the CSAA to rule out impacts on the SPA at Woodbridge and provide an assessment of likely extra visits to the car parks at Martlesham Church and Waldringfield. JJ expressed reservations over use of the NANT survey data and requested that ESL try and look at other information in the CSAA beyond the NANT surveys to support the initial assessment that DF has presented. DF stated that the NANT

surveys had to be referenced and given they had been accepted as part of the CSAA were considered a key piece of data, although JJ stated that the CSAA had largely been completed without any visitor survey information. Notwithstanding the concerns over the NANT surveys JJ accepted that again the figures suggested insignificant increases in the context of the proposed avoidance and mitigation measures but would want to look at these figures in more detail upon formal submission to him. In particular, JJ referred to frequent use of the Waldringfield car park despite its apparent 'private' nature. DF referred JJ to the CSAA text and stated that ESL was following the same approach to assessment as set out in the CSAA (which he again reiterated had clearly been accepted).

11. DF also confirmed how the calculated number of additional visits by those on foot had been arrived at in the IHRA. JJ again expressed reservations over the use of the NANT data for this purposed. DF confirmed that in ESL's opinion the number of extra visits would be 3 to 6 per day and that JJ/NE's assertion of 100 daily visits (based on all dog-owning households visiting twice daily) was an absolute worst-case and highly unlikely. JJ accepted that the figure was more likely somewhere between the 3-6 predicted by ESL and the worst-case 100 extra daily visits. DF confirmed that the precise number would be avoided/mitigated in any event by means of the proposed package of measures being put forward.
12. JJ stated that NE welcomed the removal of the access point onto Sandy Lane and agreed this would prevent direct access to the SPA by foot but that this needed to be monitored and, if necessary, fencing etc repaired to be effective. DF confirmed that the IHRA did refer to maintenance/repairs of the fence (first bullet point to para 6.9). DF stated that a management plan for the Green Infrastructure could form part of a planning condition/legal agreement (s106) to ensure 'in perpetuity' maintenance which was the other concern raised by JJ. JJ accepted that this would provide the necessary comfort to NE.
13. JJ stated that NE required further information on the principles of the quality of the proposed Green Infrastructure (GI) and requested that ESL set out some of the principles with reference to a document produced by Jenkinson (2103) which was highlighted in the planning application consultation response by NE. These principles (as opposed to any onerous details) would then be used to inform the management plan (as secured by condition/s106) thus ensuring a high quality GI that would be attractive to dog-walkers, e.g. including off-lead areas, dog bins etc.
14. JJ stated that he would be keen for some assessment of the possible numbers of dog-walkers that would be attracted to the GI. DF stated he was unclear how that could be done save for using the 8ha per 1000 population standard and trying to assess numbers based on likely dog ownership. DF also reinforced the point that the GI would also attract other people/dog-owners from the local area and thus reduce existing pressures as well mitigating the current proposals. DF also raised that the proposals included promotion of circular walks using existing local public rights of way (provided by way of

homeowner packs to new residents and through signage within the GI encouraging responsible dog ownership etc.) to further help avoid/mitigate any impacts on the Deben Estuary SPA.

15. JJ stated that ideally some form of monitoring of the GI (to check it was being used by dog-walkers) would be completed and that this may likely fall to the developer to complete (potentially as part of the management plan for the GI).
16. JJ stated that with the above measures (access removal, GI provision, promotion of alternative walks away from the SPA) there was still likely to be a residual risk of visitors to the SPA due to the draw of the coast. DF stated that even when invoking the precautionary principle European guidance confirms that the aim is not to achieve zero risk. Nonetheless, with the provision of financial contributions towards off-site (on SPA) measures this residual risk of adverse effects could be adequately mitigated such that there would be no likely adverse effect on the SPA (or *de minimis*). JJ agreed that this would likely be the case with the mitigation and avoidance in place. DF reminded JJ of the Dilly Lane case law that referred to the need to include mitigation/avoidance measures as if part of the project when making a screening assessment under the Habitats Regulations as to whether there would likely be a significant effect on the SPA alone or in-combination.
17. With regard to the proposed financial contribution JJ confirmed that he hoped this could be towards the visitor management strategy that NE were currently in discussions with SCDC over. DF queried the timeframe for agreement of the visitor management strategy. JJ stated that timeframes were unknown but hoped it would be within a year (but that he could not be held to any timeframes at present). As such, DF suggested that the mechanism for contribution be achieved by a legal agreement along the following principles: A proportionate financial contribution be made to the strategic visitor management if this were in place prior to first occupation of the proposed development. If the strategic visitor management were not in place prior to first occupation then a unilateral undertaking to provide funding for interim wardening of the SPA (for a set period or until establishment of the strategic visitor management) would be entered in to by the developer and the level of contribution/timeframes would be agreed with SCDC/NE.
18. JJ confirmed that the above mechanism would provide the comfort required by NE to address any potential residual effects from recreation on the Deben Estuary SPA.
19. JJ highlighted the lack of existing visitor survey data for the SPA (beyond the NANT surveys) and a need for monitoring of the SPA and nearby car parks. DF stated that the strategic visitor management proposed or even the unilateral undertaking (if required as a fall back) could go towards visitor surveys/monitoring. DF referred to experience on a new town in East Devon where ESL's clients had entered into an obligation to undertake such surveys pre/during construction at certain trigger points (e.g. upon occupation of dwelling number X).

20. DF confirmed that landscape issues were beyond the remit of the meeting with ESL and would be addressed by others as necessary and that agreement was sought only in relation to NE's ecological remit.

Meeting summary

21. JJ stated that he would not be able to look at any formal submission from ESL this week and that he was on leave the following week. JJ stated that he would be able to look at further information on Monday 22 February and would set aside time to respond.

22. DF summarised that JJ appeared content that all further information and ecology (SPA) concerns would be overcome subject to provision of the following information:

- (i) Calculation of increase in visitors to Sandling SPA in addition to CSAA (if proposals not deemed windfall development);
- (ii) Calculation of likely increase in visitors to 3 SPA car parks – Woodbridge, Martlesham and Waldringfield;
- (iii) Clarification of the calculation of dog-walking numbers generated by the development proposals;
- (iv) Principles of on-site GI provision within the development in context of Jenkinson publication and an assessment (quantified insofar as possible) of likely usage by dog-walkers;
- (v) Use of Management Plan (secured by s106/condition) to provide in perpetuity management of on-site GI;
- (vi) Confirmation of mechanism to provide financial contributions, e.g. wardening of SPA or visitor surveys, to address any residual visits to SPA in context of mitigation and avoidance measures proposed.

23. JJ confirmed that this was correct.

24. The meeting concluded.

Conclusions

25. ESL will submit the requested information to NE such that this can be reviewed on John Jackson's return early week commencing 22nd February.
26. Given that there are no in principle objections and the issues are matters of clarification only, it is fully expected that any holding objection can be removed subject to the securing of appropriate planning conditions.
27. As such, on the correct reading of the legislation, guidance and case law there is no reason where legally compliant consent could not be granted in respect of considerations associated with European designated sites and the application of the Habitats Regulations.