

Date: 09 August 2017
Our ref: 221582
Your ref: Mid Devon Local Plan Examination



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BY POST and EMAIL

Dear Mr Young

Planning consultation: Mid Devon Local Plan Review Examination, Matters & Issues raised by the inspector (Hearing 1)

Thank you for your communication regarding the Inspector's matters and issues for Hearings 1 and 2 dated 17 July 2017 which was received by Natural England on the same date.

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.

Natural England's advice in response to Question 9, Hearing 1 in relation to proposals at Junction 27 are set out in Annex 1. A summary of our response is set out below

Summary of Natural England's advice

Question 9 – Is the approach to the SAC sufficient and linked to that, what account is taken of the Priority Habitats that form part of the proposed allocation?

The Appropriate Assessment report concludes in para 5.1 that the J27 site alone or in combination with the Local Plan proposals, will not have an adverse effect on the integrity of the Culm Grasslands SAC. Natural England concurs with this conclusion in so far as it relates to the Mid Devon Local Plan, including the allocation at J27, at the time of submission. **Further assessment is however required to ensure that in-combination impacts have been considered fully. This will include an assessment of recent project and plan proposals and in particular modifications proposed recently within the North Devon and Torridge Local Plan**

There are priority habitats within the allocation area. These are not linked to the Culm grasslands SAC. Natural England support the inclusion of additional wording to the Plan text in para 3.184d to state that "Priority habitats exist within the site and in line with criterion c) of Policy J27 should be protected and enhanced."

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

For any queries relating to the specific advice in this letter only please contact Carol Reeder on

0208 225 6245 / 07721 108902 or carol.reeder@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

Carol Reeder
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Annex 1

Mid Devon Local Plan Review Examination

Matters and Issues

Hearing 1: Proposal at Junction 27 (J27)

Response from Natural England (6242) to Question 9

Question 9 – Is the approach to the SAC sufficient and linked to that, what account is taken of the Priority Habitats that form part of the proposed allocation?

Approach to the Culm Grasslands Special Area of Conservation

1 When assessing the potential effect on habitat from air pollution due to increases in traffic, it would be expected to assess oxides of nitrogen (NOx), nitrogen deposition and acid deposition. The Appropriate Assessment has met this expectation. For a specific European Site, the relevant habitats are listed on the Air Pollution Information System Site relevant Critical Loads pages (<http://www.apis.ac.uk/src1>). The Appropriate Assessment did assess these habitats.

2 In terms of magnitude and extent of predicted effects, the Appropriate Assessment of air pollution effects on the Culm Grasslands SAC (Core Document ENV04) found that the proposed J27 site allocation in combination with other Local Plan allocations would increase NOx levels immediately adjacent to the A361, over the plan period. However, the effects would be very localised within the SAC with substantial impacts only at the immediate SAC boundary where it is coincident with the kerb of the A361 and moderate impacts only within 6m of the SAC boundary taking the most conservative scenario. For nutrient and acid nitrogen deposition, the impacts are described as slight, up to 6m and 4m into the SAC respectively. In the context of the SAC overall, Natural England does not regard these increases as representing an adverse effect on the integrity of the site due to the magnitude of change and extent of effect predicted.

The Appropriate Assessment report concludes in para 5.1 that the J27 site alone or in combination with the Local Plan proposals, will not have an adverse effect on the integrity of the Culm Grasslands SAC. Natural England concurs with this conclusion in so far as it relates to the Mid Devon Local Plan, including the allocation at J27, at the time of submission. **However see also comments below in relation to in combination assessment and modifications proposed recently for the North Devon and Torridge Local plan which adjoins the Plan area.**

3 As stated in the Appropriate Assessment the most appropriate mitigation for the effects of air pollution at the Culm Grasslands SAC is to target agricultural sources of nitrogen (which is outside the remit of the Local Plan at this time). Improvements to vehicle emissions nationally (also outside the remit of the Plan), and sustainable transport initiatives, for example those encouraged in the Local Plan, will also contribute to reduced vehicle emissions potentially affecting the SAC's qualifying features. For this reason Natural England supports the inclusion of Plan policies which promote sustainable transport and which will therefore help reduce and mitigate future potential impacts on the Culm grassland SAC arising from locally produced vehicle emissions. Policies S1 (e) (sustainable transport and travel), DM3 (transport and air quality) and J27 (b) (provision of transport improvements to ensure accessibility of all modes), are particularly relevant in this respect.

4 The proposed submission version of the Plan incorporating modifications (core document SD01) included a clause (J27 (e)) requiring the identification and agreement of measures required to mitigate impacts on the SAC. However the Appropriate Assessment report concluded, that the proposed allocation would not have an adverse effect on the integrity of the Culm grassland SAC. It is therefore suggested that clause (e), which requires that mitigation measures for the Culm Grasslands SAC are identified and agreed, be deleted. The Appropriate Assessment refers to the contribution sustainable transport initiatives will have in mitigating impacts on the SACs qualifying features (notwithstanding the conclusions of no adverse impact on the SAC from this allocation). Natural England therefore welcomes the inclusion of clause J27 (b) (provision of transport improvements to ensure accessibility of all modes).

In combination effects and consideration of recently published proposals within the emerging North Devon and Torridge Local Plan.

5 North Devon Council and Torridge District Council are preparing a joint plan which is currently being examined, having been submitted for examination in June 2016. A number of main modifications were published for consultation on 20th July 2017, which post-date the submission of the Mid Devon Local Plan. The modifications include a number of new allocations for housing to address a need for uplift in housing supply (around 17%). Traffic associated with additional allocations within North Devon & Torridge could, in combination with proposals in Mid Devon, have an impact on the Culm Grasslands SAC which lies adjacent to the main route linking Mid Devon to North Devon/Torridge (A361). The potential impact of the additional proposals within the North Devon/Torridge area, in combination with those proposed within adjoining areas such as Mid Devon will therefore need to be subject to a Habitats Regulations Assessment. Whilst the North Devon and Torridge modifications post-date the submission of the Mid Devon Plan, both plans are currently being examined and timings for conclusion of examination proceedings are unknown. Natural England therefore consider the findings of the Habitats Regulations Assessment for additional allocations within North Devon and Torridge a relevant consideration for the Mid Devon Plan examination and urge that the Habitats Regulations Assessment for the Mid Devon plan is updated accordingly. The in-combination impacts of recent projects/proposals (i.e. recently permitted or 'live' applications) should also be taken into account.

6 In support of the above, we would like to draw your attention to the judgement in the Wealden case and in particular the finding that where the likely effect of an individual plan or project does not itself exceed the threshold of 1000 'Average Annual Daily Traffic' (AADT) or 1% critical load guidelines, its effect must still be considered alongside the similar effects of other live plans and projects to check whether their added or combined effect on a site could be significant. The likely significant effects threshold should therefore be applied in combination. Natural England's current advice regarding this case is set out below.

Consideration of air quality impacts and the outcome of the Wealden case.

7 Natural England issued updated transport guidance for internal use in response to the Wealden judgement. This was after the HRA had been undertaken. The Judgment found that the use of 1000 AADT and equivalent 1% of critical level/load guidelines as the sole means of catering for in-combination effects lacks coherence, particularly where other figures are known which, when added together, would cause that threshold to be exceeded. Natural England's updated guidance is that where evidence is available, such as increases in traffic from other plans that will affect the same roads being assessed, the 1000 AADT (or 1%) threshold should also be applied to the combined values to screen for in-combination effects.

8 The Mid Devon Local Plan and Junction 27 HRA applied the old criteria for assessing likely significant effects (LSE). However as the projected increases in traffic from the proposal alone exceeded the 1000 AADT criterion, it was not screened out and an Appropriate Assessment has been undertaken. Natural England is therefore of the view that the Wealden judgement does not impact on the ultimate findings of the HRA.

A copy of the full judgement is included in Annex 2 .

Mid Devon District Council have been advised to have regard to the outcome of the Wealden case.

Priority habitats.

9 Natural England's response to proposed modifications to the plan (dated 14 February 2017) advised that a number of priority habitats (deciduous woodland) exist within the site and that the need for their retention/enhancement be referred to in the plan text. It is understood that Mid Devon District Council now propose (as set out in their response to Inspector's matters and issues, IDO2, Hearing 1, question 9) inclusion of the following supporting text in para 3.184d: "Priority habitats exist within the site and in line with criterion c) of Policy J27 should be protected and enhanced." Natural England supports this revision. The priority habitats within the site are not linked to the culm grassland SAC.

Annex 2: the 'Wealden Judgement', March 2017 (Wealden District Council v Secretary of State for communities and Local Government, Lewes District Council and South Downs National Park Authority).

<http://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&ved=0ahUKEwiqwsnPmMXVAhVXFMAKHZ8UCbUQFggsMAE&url=http%3A%2F%2Fwww.wealden.gov.uk%2Fnmsruntime%2Fsaveasdialog.aspx%3FIID%3D21727%26sID%3D3484&usg=AFQjCNHqVnTOW25bL2CtOJXLS-C6zqvHw>

(Attached)