

Date: 14 November 2023  
Our ref: 455360  
Your ref: HPK/2023/0064



High Peak Borough Council

**BY EMAIL ONLY**

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Dear Rachel Robinson

**Planning consultation:** Resubmission of approval HPK/2017/0232 for proposed conversion of former White Lion Pub and associated outbuildings to form 13 apartments

**Location:** The Artisan Quarter, Spring Gardens, Buxton, Derbyshire, SK17 6BZ

Thank you for your consultation on the above dated 31 October 2023 which was received by Natural England on 31 October 2023.

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**

##### **NO OBJECTION**

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection.

Natural England's advice on other natural environment issues is set out below.

#### **Peak District Dales Special Area of Conservation:**

The proposed development lies within the catchment of Unit 70 and 71 of The Wye Valley SSSI<sup>1</sup>, a component site of the Peak District Dales SAC. The site is currently in unfavourable condition and failing to meet its conservation objectives because of nutrient enrichment in the water. Point Source, i.e. foul water discharges from development (including via mains sewage treatment works), are one of the main contributors to nutrient enrichment. As such, Natural England have updated our advice regarding the Peak District Dales SAC and the River Wye SSSI. Our full updated advice was sent to your authority on 16<sup>th</sup> March 2022<sup>2</sup>.

For more information regarding the site's designated features, condition assessment and conservation objectives visit Natural England's [Designated Sites View](#).

#### **Habitats Regulations Assessment (HRA)**

<sup>1</sup>

<https://designatedsites.naturalengland.org.uk/SiteDetail.aspx?SiteCode=S2000186&SiteName=wye%20valley&countyCode=&responsiblePerson=&SeaArea=&IFCAArea=>

<sup>2</sup> <https://publications.naturalengland.org.uk/publication/4792131352002560>

In advising your authority on the requirements relating to Habitats Regulations Assessment, it is Natural England's advice that the proposal is not necessary for the management of the European site. Your authority should therefore determine whether the proposal is likely to have a significant effect on any European site, proceeding to the Appropriate Assessment stage where likely significant effects cannot be ruled out.

The following advice should be taken in to account by the competent authority within the HRA.

### **European sites – Peak District Dales Special Area of Conservation**

Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on the Peak District Dales Special Area of Conservation and has no objection to the proposed development.

The calculations provided by the applicant in email dated October 25<sup>th</sup> 2023, using the Natural England Nutrient Budget calculator, indicate that the proposed development will reduce the phosphorous input to the River Wye from the site. As such, and as set out in our previous advice letter (dated July 12<sup>th</sup> 2023), where your authority are satisfied that the hotel use could be continued without any further consents, a likely significant effect on the Wye Valley SSSI and Peak District Dales SAC can be ruled out.

### **The Wye Valley Site of Special Scientific Interest**

Based on the plans submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection.

### **Other advice**

Further information regarding Nutrient Neutrality can be found in the suite of documents located [here](#).

Further general advice on the consideration of protected species and other natural environment issues is provided at Annex A. The LPA should also be aware of the recent rulings and implications of the People Over Wind and Dutch Nitrogen Cases. A summary of these can be found below in Annex B.

Should the proposal change, please consult us again.

If you have any queries relating to the advice in this letter please contact me on 02087204183

Yours sincerely

Robbie Clarey  
Lead Adviser – East Midlands Area Delivery

## Annex B - Recent Rulings

Competent authorities undertaking HRAs should be aware of a recent ruling made by the Court of Justice of the European Union (the CJEU) on the interpretation of the Habitats Directive in the case of *People Over Wind and Sweetman vs Coillte Teoranta* (ref: C-323/17). The case relates to the treatment of mitigation measures at the screening stage of a HRA when deciding whether an appropriate assessment of a plan/project is required. The Court's Ruling goes against established practice in the UK that mitigation measures can, to a certain degree, be taken into account at the screening stage.

As a result, Natural England advises that any "embedded" mitigation relating to protected sites under the Habitat Regulations 2017 Regulation 63 (1) should no longer be considered at the screening stage, but taken forward and considered at the appropriate assessment stage to inform a decision as whether no adverse effect on site integrity can be ascertained. In light of the recent case law, any reliance on measures intended to avoid or reduce harmful effects at the likely significant stage is vulnerable to legal challenge. You may also want to seek your own legal advice on any implications of this recent ruling for your decisions

Your authority should also be aware of a recent Ruling made by the Court of Justice of the European Union (the CJEU) on the interpretation of the Habitats Directive in the case of *Coöperatie Mobilisation* (AKA the Dutch Case) ([Joined Cases C-293/17 and C-294/17](#)).

The *Coöperatie Mobilisation* case relates to strategic approaches to dealing with nitrogen. It considers the approach to take when new plans/projects may adversely affect the ecological situation where a European site is already in 'unfavourable' conservation status, and it considers the acceptability of mitigating measures whose benefits are not certain at the time of that assessment.

Competent authorities undertaking HRA should be mindful of these cases and should seek their own legal advice on the implications of these recent rulings for their decisions.