

Date: 01 April 2020
Our ref: [REDACTED]
Your ref: [REDACTED]



[REDACTED]
Canterbury City Council

Customer Services
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

BY EMAIL ONLY

Dear [REDACTED]

Planning consultation: Planning application for the proposed South Canterbury urban extension, for up to 4,000 dwellings

Location: Land North And South Of New Dover Road Canterbury Extending North To Canterbury-Dover Railway Line West To Nackington Road And South To A2.

Thank you for your consultation on the above dated 12 March 2020 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 INTERNATIONAL WILDLIFE SITES VIA TRANSFER OF EFFLUENT TO ALTERNATIVE WWTW

We advise that the HRA currently has provided insufficient information to conclude that internationally protected wildlife sites will not be adversely impacted by this scheme. Specifically further detail is required for impacts of the tankering strategy as follows:

1. The location and capacity of any WwTWs receiving tankered effluent from the application sites
2. Air quality impacts resulting from the tankering proposals on international wildlife sites.

In the absence of this information no assessment of Likely Significant Effect (LSE) or any required mitigation to ensure no adverse impact on integrity on international wildlife sites has been made.

The proposed mitigation strategy for water quality impacts has therefore not been tested and there is therefore no certainty that it can be delivered.

Without this information, Natural England may need to object to the proposal. Please re-consult Natural England once this information has been obtained.

Natural England's further advice on designated sites and advice on other issues is set out below and in the attached Annexe A.

We continue to advise the following:

- That an assessment of the location and capacity of any alternative Wastewater Treatment Works (WwTW) to treat the additional effluent to an acceptable level before release is required. This should consider the impact of use on other Plans or Projects;
- That an assessment of any air quality impact on international wildlife sites is undertaken. This should include sites within 200m of roads used for the tankering strategy.

In the absence of this information we advise that an assessment of any Likely Significant Effect (LSE) of tankering proposals on internationally protected wildlife sites cannot be made.

The Habitats Regulations Assessment is required to assess the impact of Plans or Projects on Internationally protected wildlife sites along with any mitigation that is required. This should be done through the HRA in order for sound conclusions to be drawn on impact pathways, mitigation and significance. The Test of LSE should not be conditioned, and is an integral part of the HRA.

We advise that as the tankering strategy relates to mitigation proposed for the impact pathway of water quality, this mitigation proposal is currently neither certain nor secure. It has not yet be demonstrated that a mitigation strategy which avoids/mitigates impacts to internationally protected wildlife sites can be delivered. In the absence of this information the current proposals do not meet the requirements of the HRA and risk providing a development which cannot be occupied.

The Grampian condition cited effectively includes a *condition* to prevent a Likely Significant Effect, which we continue to advise against, as follows:

- There is sufficient capacity at alternative wastewater treatment works to treat the foul effluent and it can be disposed of without causing a likely significant effect upon any other European protected sites
- The routing of tankers will avoid any Air Quality Management Areas

It is not clear in the absence of this assessment how your authority can ascertain at this stage that you can find a works which will not have a Likely Significant Effect.

We strongly disagree with this aspect of the HRA and advise against the use a Grampian condition to establish LSE.

Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 281 (6) of the Wildlife and Countryside Act 1981 (as amended) to notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, your authority has taken account of Natural England's advice. You must also allow a further period of 21 days before the operation can commence

If you have any queries relating to the advice in this letter please contact me on [REDACTED] or [REDACTED].

Yours sincerely

[REDACTED]
[REDACTED]

Annexe A – Further detailed response

We have the following advice regarding the first steps of screening for impacts of a proposed tankering scheme on international wildlife sites.

Water quality

Interest features of the Stodmarsh designated sites rely on a high quality of water and are sensitive to changes in water quality. Investigations are being undertaken to determine the impact of future growth and existing Wastewater Treatment Works (WwTW) discharges into the catchment of the Stodmarsh designated sites (of which the WwTW this development would likely connect to, is one). Some of the habitats within Stodmarsh are directly linked to the Stour, while some are indirectly linked to the Stour and others have been identified as requiring links to the river to provide adequate water supply in times of low rainfall.

There is therefore a pathway of impact between changes to the water quality of the Stour and habitats within Stodmarsh. The impact of Southern Water's existing assets including their WwTW outputs on Stodmarsh is the subject of an agreed investigation in the Environment Agency's Water Industry National Environment Programme (WINEP) that will report by 2022.

We cannot therefore rule out, on objective evidence, that this development will not have a likely significant effect on the Stodmarsh designated sites, as such these impacts need to be appropriately avoided or mitigated until such a time where improvements to relevant WwTW have been implemented.

Furthermore Dutch Nitrogen ECJ should be referred to in the HRA, the ruling of which requires proposals affecting International wildlife sites with failing targets for water quality or air quality to have an increased level of certainty in the efficacy of mitigation and for this to be beyond reasonable scientific doubt. For this reason it is no longer acceptable for example, to rely on forecasted improvements to sewage works (as previously accepted) and that development proposals cannot contribute to an already failing target. One way of achieving this is to demonstrate nutrient neutrality.

Natural England has provided a methodology for calculating nutrient levels of Nitrogen and Phosphorous for the Stour catchment and this has been used to assess nutrient impacts for the strategic sites.

We note the proposal to tanker all wastewater produced by the development to an alternative WwTW, where it can be treated and discharged outside of the catchment of the Stodmarsh designated sites. In order to meet the requirements of the Habitats Regulations this mitigation strategy will need to clearly demonstrate how all impact pathways have been appropriately considered, in particular the following will need to be demonstrated:

- That there is sufficient capacity at the alternative WwTW to ensure effluent can be treated and discharged without having a LSE on another designated site considering other Plans or Projects;
- The tankering route has no LSE on another designated site, via alternative impact pathways such as air quality impacts from traffic emissions.

Be advised that any impact pathway which may be generated on any international wildlife site via the use of the named alternative WwTW must be assessed through the HRA.

As explained it should be ascertained that the receiving WwTW has sufficient capacity to treat the effluent generated from the proposals. Furthermore we advise that this assessment considers the apportionment of the WwTW that will be required for your project with the requirements of other

Annexe A – Further detailed response

known plans and projects within Canterbury (or if an alternative LPA is receiving the effluent, any implication this has for their local plans and those of any plans or projects using the treatment works).

The tankering strategy will also need to be appropriately secured and assessed for all potential impacts through the HRA. We strongly advise that should this mitigation be adopted that it is provided as a temporary solution until such time as the WwTW are upgraded and able to receive the sewage outputs from this development.

As this strategy has not yet been assessed the certainty and deliverability of mitigation for impacts to water quality of the Stodmarsh SAC, SPA and Ramsar has not been tested. This is a requirement of the HRA and of the People over wind ECJ.

We further advise that the infrastructure to connect to mains should be built with the works to enable the swift removal of tankering and execution of the long term solution

The Grampian condition cannot be used to test for LSE. Natural England would be expect to be consulted regarding such a Grampian condition including its discharge and any relevant variations.

We advise your authority that strategic approaches should be being sought with partners through the Local Plan Review to provide a clear sustainable approach for the ongoing impact of water quality on the International Site We would welcome working with your authority to achieve this.

Air pollution

Any impact pathway which may be generated on any international wildlife site via the increased traffic resulting from the proposed tankering strategy to an alternative WwTW must be assessed through the HRA.

One should identify any International sites that may be within 200m of the road systems used for the tankering strategy. With regard to potential risks from road traffic emissions, Natural England and Highways England are in agreement that protected sites falling within 200 metres of the edge of a road affected by a plan or project need to be considered further.

If any are identified a high-level assessment of the potential for impact pathways to be significant will need to be undertaken.

For example if none of the site's sensitive qualifying features, known to be present within 200m, are considered to be at risk due to their distance from the road, there it could be ascertained that there is no credible risk of a significant effect, which might undermine a site's conservation objectives.

Further information on qualifying features can be found at

<https://designatedsites.naturalengland.org.uk/>

Be advised the broadly agreed benchmark for significance is 1% of the critical load.

APIS provides key information about feature sensitivity to specific pollutants: by broad category

(habitat, ecosystem and species) and by qualifying feature on each designated European site (Site Relevant Critical Loads Search Tool).

Furthermore a proxy for 1% which can be used for traffic-generated air quality impacts is an estimation of AADT (Average Annual Daily Traffic) which will be generated by the Plan or Project. The 1% significance threshold is equivalent to 1000 AADT for light vehicles or 200 AADT for heavy goods vehicles.

Annexe A – Further detailed response

If your AADT falls below this threshold then the impact can be screened out alone, however, in-combination impacts with other plans or projects that would also increase traffic on the same roads projects need to also be assessed for LSE.

We strongly disagree with this aspect of the HRA and advise against the use a Grampian condition to establish LSE.