

1Exeter City Council

HABITATS REGULATIONS ASSESSMENT (HRA)

Application Number:	20/0321/FUL
Application Address:	Land At Broom Park Nurseries And Five Acres Exeter Road Topsham
Application Description:	Demolition of existing buildings: Proposed residential development of 64 no. residential units, including affordable housing, plus open space, landscaping, car parking, cycle spaces, drainage, vehicular access, internal roads, provision of link road and all associated infrastructure and development.
HRA Completion Date:	23/06/2020

HRA completed by:
Mike Higgins, Principal Project Manager (Development)

Summary:
<p>The proposal comprises a full application for 64 dwellings with associated open space, parking, roads and associated infrastructure. The site is located within 10 kilometres of both the Exe Estuary Special Protection Area and the East Devon Pebblebed Heaths Special Protection Area and Special Area of Conservation.</p> <p>This Appropriate Assessment concludes that, whilst the development has the potential to have a significant effect on the European Sites, and an adverse impact on the achievement of the conservation objectives for the sites, the impacts of the development can be mitigated through a financial contribution secured via a S106 Agreement towards the implementation of measures in Table 26 of the South East Devon European Site Mitigation Strategy, which are designed to avoid and mitigate the adverse impacts of increased visitor pressure brought about through population growth. It is therefore concluded that planning permission can be granted.</p>

Section 1 - details of the plan or project	
<p>European Sites potentially impacted by the plan or project:</p> <p>European Site descriptions (including Qualifying Features) are available as follows:</p> <p>Exe Estuary SPA –</p> <p>http://jncc.defra.gov.uk/default.aspx?page=2028</p> <p>East Devon Pebblebed Heaths SPA / SAC –</p> <p>http://jncc.defra.gov.uk/page-2032-theme=default and http://jncc.defra.gov.uk/protectedsites/sacselection/sac.asp?EUCode=UK0012602</p>	<ul style="list-style-type: none">• Exe Estuary Special Protection Area• East Devon Pebblebed Heaths Special Protection Area and Special Area of Conservation <p><i>NOTE that Dawlish Warren Special Area of Conservation is not considered to be impacted by plans or projects within the administrative boundary of Exeter as it is more than 10 kilometres distant from Exeter. The SE Devon European Site Mitigation Strategy identifies that development over 10 kilometres away from the protected sites is unlikely to impact on those sites through giving rise to increased visitor pressures.</i></p>

Is the plan or project directly connected with or necessary to the management of the site (provide details)?	No – the development comprises the construction of 64 dwellings with associated parking and open space which is neither connected to, nor necessary for, the management of any European Site.
Are there any other plans or projects that, together with the plan or project being assessed here, could affect the site (provide details)?	<p>Policy CP3 in Exeter City Council's Core Strategy, adopted in February 2012, provides for the development of at least 12,000 dwellings over the plan period to 2026 – see: https://exeter.gov.uk/media/1636/adopted-core-strategy.pdf</p> <p>The SE Devon European Sites Mitigation Strategy has been developed to accommodate the delivery of 30,000 dwellings across the Exeter, East Devon and Teignbridge administrative areas.</p> <p>The proposed development at this location is part of far wider reaching development strategy for Exeter and Greater Exeter which will result in a sizeable increase in population and thereby an increase in visitor pressure on the protected habitats.</p>

Regulation 70 of the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) is clear that the assessment provisions, i.e. Regulation 63 of the same regulations, apply in relation to granting planning permission on an application under Part 3 of the TCPA 1990. The assessment below constitutes the City Council's assessment of the implications of the development described above on the European Site/s in question, in accordance with Regulation 63 of the Habitats Regulations.

Section 2 – assessment of the implications of the plan or project for European Sites

TEST 1 - likelihood of the plan or project having a significant effect on the European Sites

This test is to determine whether or not any possible effect could constitute a significant effect on a European Site, as set out in regulation 63 (1) (a) of the Conservation of Habitats and Species Regulations 2017.

The proposed development is located approximately 0.4 kilometres from the closest part of the Exe Estuary SPA and within the zone of influence of the East Devon Pebblebed Heaths SPA/ SAC.

The proposed development could, by virtue of being located within 10 kilometres of the European sites in question, and by virtue of its impacts in combination with other residential developments in Exeter, have implications for these sites which could be permanent, arising from the operational phase of the development, i.e. from the occupation of the dwellings in question and the likely increased visitor pressures on the protected habitats to which this will give rise.

In their response to the consultation on this planning application, dated 16th April 2020, Natural England stated:

This development falls within the 'zone of influence' for the Exe Estuary SPA, East Devon Pebblebed Heaths SAC and East Devon Heaths SPA as set out in Policy CP16 of the Exeter Core Strategy and the South East Devon European Sites Mitigation Strategy (SEDEMS). It is anticipated that new housing development in this area is 'likely to have a significant effect', when considered either alone or in combination, upon the interest features of the European sites due to the risk of increased recreational pressure caused by that development.

In line with the SEDEMS and the Joint Approach of Exeter City Council, Teignbridge District Council and East Devon District Council, we advise that mitigation in the form of a financial contribution will be required to prevent such harmful effects from occurring as a result of this development. Permission should not be granted until such time as the implementation of the financial contribution has been secured.

Natural England's response highlights the potential for ecological impacts during the operational phase of the development.

It is proposed that a habitats mitigation contribution is top-sliced from CIL receipts from this development as a contribution towards the costs of implementing the measures listed in Table 26 of the South East Devon European Site Mitigation Strategy. The relevant amount will be top-sliced from CIL receipts in accordance with established 'per dwelling' contributions applicable in the zones in which the development is located.

Conclusion regarding the likelihood of a significant effect

Summarise whether or not there is a likelihood of a significant effect on a European Site, as set out in regulation 63 (1) (a) of the Conservation of Habitats and Species Regulations 2017.

Whilst the conclusion of 'Test 1' above is that the development is likely to have a significant effect on the European Sites in question when considered in combination with other developments, it is considered that, by top-slicing an appropriate contribution from CIL receipts from the development, and by ring-fencing these monies for spend on implementing the avoidance measures in Table 26 of the SE Devon European Sites Mitigation Strategy, the impacts of the development can be reduced to a level where they can be considered not to result in a significant effect on the identified European Sites, i.e. the impacts of the development can be mitigated such that planning permission can be granted.

TEST 2 – appropriate assessment of the implications of the development for the identified European Sites in view of those sites' conservation objectives

The analysis below constitutes the City Council's assessment under Regulation 63 (1) of the Conservation of Habitats and Species Regulations 2017. The Conservation Objectives for the European Sites are attached as Appendix 2 to this document.

The identified potential effects are examined below to determine the implications for the identified European Sites in line with their conservation objectives and to assess whether the

proposed avoidance and mitigation measures are sufficient to remove any potential impact. The relevant Conservation Objectives are detailed in Appendix 2.

TEMPORARY CONSTRUCTION PHASE EFFECTS

The European Sites are located a substantial distance away from the development site and are therefore outside the zone of influence of construction activities. As a consequence, there will be no temporary construction phase effects.

PERMANENT, OPERATIONAL EFFECTS

The proposed development is located approximately 0.4 kilometres from the closest part of the Exe Estuary SPA and within the zone of influence of the East Devon Pebblebed Heaths SPA/ SAC.

The South East Devon European Site Mitigation Strategy (SEDESMS), and associated visitor survey data, identifies that the vast majority of visitors to the European Sites come from within a 10 kilometre radius, (and by implication that development beyond the 10 kilometre radius is unlikely to result in increased visitor pressure on the protected habitats). It identifies that visitors to the European Sites are likely, through their presence and actions, to have an adverse impact on the achievement of the conservation objectives for the Sites.

The proposed development could, by virtue of being located within 10 kilometres of the European Sites in question, and by virtue of its impacts in combination with other residential developments in Exeter, have implications for these sites which could be permanent, arising from the operational phase of the development, i.e. from the occupation of the dwellings in question and the likely increased visitor pressures on the protected habitats to which this will give rise.

It is proposed that a habitats mitigation contribution is top-sliced from CIL receipts from this development as a contribution towards the costs of implementing the measures listed in Table 26 of the South East Devon European Site Mitigation Strategy. The relevant amount will be top-sliced from CIL receipts in accordance with established 'per dwelling' contributions applicable in the zones in which the development is located.

Conclusion regarding the implications of the development for the identified European Sites in view of those sites' conservation objectives.

The following conclusions can be drawn:

- The new dwellings will give rise to increased visitor pressure on the European Sites, and therefore to an adverse impact upon the achievement of the Conservation Objectives for the European Sites in question.
- The measures in Table 26 of the SEDESMS are designed to avoid/mitigate such pressures and thereby reduce the impacts of the development to a level where they can be considered not to result in a significant effect on the identified European Sites, and thereby to a level where the Conservation Objectives for the European Sites are achieved.
- In other words, by top-slicing an appropriate contribution from CIL receipts from the development, and by ring-fencing these monies for spend on implementing the avoidance measures in Table 26 of the SE Devon European Sites Mitigation Strategy, the impacts of the development can be reduced to a level where planning permission can be granted.

Appendix 1



Appendix 2 – Conservation Objectives for the Exe Estuary Special Protection Area and for the East Devon Pebblebed Heaths Special Protection Area / Special Area of Conservation



European Site Conservation Objectives for Exe Estuary Special Protection Area Site Code: UK9010081

With regard to the SPA and the individual species and/or assemblage of species for which the site has been classified (the 'Qualifying Features' listed below), and subject to natural change;

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;

- The extent and distribution of the habitats of the qualifying features
- The structure and function of the habitats of the qualifying features
- The supporting processes on which the habitats of the qualifying features rely
- The population of each of the qualifying features, and,
- The distribution of the qualifying features within the site.

This document should be read in conjunction with the accompanying *Supplementary Advice* document, which provides more detailed advice and information to enable the application and achievement of the Objectives set out above.

Qualifying Features:

- A007 *Podiceps auritus*; Slavonian grebe (Non-breeding)
 - A046a *Branta bernicla bernicla*; Dark-bellied brent goose (Non-breeding)
 - A130 *Haematopus ostralegus*; Eurasian oystercatcher (Non-breeding)
 - A132 *Recurvirostra avosetta*; Pied avocet (Non-breeding)
 - A141 *Pluvialis squatarola*; Grey plover (Non-breeding)
 - A149 *Calidris alpina alpina*; Dunlin (Non-breeding)
 - A156 *Limosa limosa islandica*; Black-tailed godwit (Non-breeding)
- Waterbird assemblage

This is a European Marine Site

This SPA is a part of the Exe Estuary European Marine Site (EMS). These Conservation Objectives should be used in conjunction with the Regulation 35 Conservation Advice document for the EMS. For further details about this please visit the Natural England website at: <http://www.naturalengland.org.uk/ourwork/marine/protectandmanage/mpa/europeansites.aspx> or contact Natural England's enquiry service at enquiries@naturalengland.org.uk or by phone on 0845 600 3078.

Explanatory Notes: European Site Conservation Objectives

These Conservation Objectives are those referred to in the Conservation of Habitats and Species Regulations 2010 (the "Habitats Regulations") and Article 6(3) of the Habitats Directive. They must be considered when a competent authority is required to make a 'Habitats Regulations Assessment' including an Appropriate Assessment, under the relevant parts of this legislation.

These Conservation Objectives and the accompanying Supplementary Advice (where this is available) will also provide a framework to inform the management of the European Site under the provisions of Articles 4(1) and 4(2) of the Wild Birds Directive, and the prevention of deterioration of habitats and significant disturbance of its qualifying features required under Article 6(2) of the Habitats Directive.

These Conservation Objectives are set for each bird feature for a [Special Protection Area \(SPA\)](#). Where the objectives are met, the site will be considered to exhibit a high degree of integrity and to be contributing to achieving the aims of the Wild Birds Directive.

Publication date: 30 June 2014 (Version 2). This document updates and replaces an earlier version dated 29 May 2012 to reflect Natural England's Strategic Standard on European Site Conservation Objectives 2014. Previous references to additional features identified in the 2001 UK SPA Review have also been removed.



European Site Conservation Objectives for East Devon Pebblebed Heaths Special Area of Conservation Site Code: UK0012602

With regard to the SAC and the natural habitats and/or species for which the site has been designated (the 'Qualifying Features' listed below), and subject to natural change;

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;

- The extent and distribution of qualifying natural habitats and habitats of qualifying species
- The structure and function (including typical species) of qualifying natural habitats
- The structure and function of the habitats of qualifying species
- The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely
- The populations of qualifying species, and,
- The distribution of qualifying species within the site.

This document should be read in conjunction with the accompanying *Supplementary Advice* document, which provides more detailed advice and information to enable the application and achievement of the Objectives set out above.

Qualifying Features:

H4010. Northern Atlantic wet heaths with *Erica tetralix*; Wet heathland with cross-leaved heath

H4030. European dry heaths

S1044. *Coenagrion mercuriale*; Southern damselfly

Explanatory Notes: European Site Conservation Objectives

These Conservation Objectives are those referred to in the Conservation of Habitats and Species Regulations 2010 (the "Habitats Regulations") and Article 6(3) of the Habitats Directive. They must be considered when a competent authority is required to make a 'Habitats Regulations Assessment', including an Appropriate Assessment, under the relevant parts of this legislation.

These Conservation Objectives and the accompanying Supplementary Advice (where available) will also provide a framework to inform the measures needed to conserve or restore the European Site and the prevention of deterioration or significant disturbance of its qualifying features as required by the provisions of Article 6(1) and 6(2) of the Directive.

These Conservation Objectives are set for each habitat or species of a [Special Area of Conservation \(SAC\)](#). Where the objectives are met, the site will be considered to exhibit a high degree of integrity and to be contributing to achieving Favourable Conservation Status for that species or habitat type at a UK level. The term 'favourable conservation status' is defined in Article 1 of the Habitats Directive.

Publication date: 30 June 2014 – version 2. This document updates and replaces an earlier version dated 29 May 2012 to reflect Natural England's Strategic Standard on European Site Conservation Objectives 2014.