



Herefordshire Council
Neighbourhood Planning
Plough Lane
Hereford
HR4 0LE

Our ref: SV/2018/109876/OR-
53/PO1-L01

Your ref:

Date: 15 November 2021

F.A.O: Mr. James Latham

Dear James

TARRINGTON NEIGHBOURHOOD PLAN – REVISED APPROPRIATE ASSESSMENT

I refer to your email of the 6 October 2021 in relation to the Revised Appropriate Assessment (AA) for the Tarrington Neighbourhood Plan. It is understood that this reconsultation has resulted from the examination process and centres around Policy TAR2 and that such a Policy, along with SD4 in the Local Plan, would ensure that there will not be a significant effect on the integrity of the River Wye (including the River Lugg).

Prior to this resubmission your Council have been in discussion with Natural England (NE) around this Policy and matters relating to nutrient neutrality within the Plan area. Whilst I appreciate that NE is the primary statutory consultation body for AA's we have previously provided comment with a view to ensuring a robust submission and that development can be achieved without impact on the River Lugg Catchment. The comments below have been produced following discussions with NE and also in consideration of similar issues with the Clun catchment in Shropshire.

Whilst we recognise the work undertaken to date on the Plan, and revised AA, with a view to overcoming the outstanding issues, we would reiterate that, in our view, there is not currently the required degree of certainty around available nutrient neutrality options and, therefore, it has not been demonstrated that the proposed growth would not result in a significant impact on the integrity of the River Wye (including Lugg) SAC.

As confirmed within the AA document the most significant issue within the Lugg catchment relates to water quality and the potential impact of policies and site allocations within the Neighbourhood Plan. Specifically, the Lugg Catchment area is subject to measures to reduce nutrients particularly phosphates. In light of the

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interpretation of the Dutch Case where a site is falling its water quality objectives, and is classified as unfavourable condition, there is limited scope for the approval of additional damaging effects and measures that can't be relied upon or are uncertain. The Dutch judgment also means that the current Nutrient Management Plan (NMP) can no longer be relied upon as mitigation as there is not enough certainty that the measures set out within the current plan can be delivered. Therefore the current NMP does not provide reasonable scientific certainty as a mitigation measure and is to be updated.

The conclusions drawn within the revised AA are that 'there will not be a significant effect on the integrity of the River Wye (including the River Lugg) SAC when the rewording of Policy TAR2 is taken into account' and that the Policy, along with Policy SD4 in the Local Plan, will ensure that developments will not receive planning permission if they cannot demonstrate nutrient neutrality.

We would still question the approach of allocating sites and then relying on further assessment at the subsequent planning application stage in the absence of certainty that they can be delivered without impact on the Lugg Catchment. Should this approach be taken, and planning permission is refused where development does not contribute to achieving nutrient neutrality (or accord with Policy TAR 2/SD4), this may lead to stalled applications and uncertainty around what and when development could come forward. Whilst the AA has been revised the approach of relying on Policy at the planning application stage remains and therefore there is still no certainty that the allocation within the plan can be delivered.

Note: Government Guidance notes that adequate water and wastewater infrastructure is needed to support sustainable development. It states that sufficient detail should be provided to give clarity to all parties on if/when infrastructure upgrades will be provided, looking at the needs and costs (what and how much). The NPPG refers to "ensuring viability and deliverability – pursuing sustainable development requires careful attention to viability and costs in plan making and decision making". Plans should be "deliverable".

Leaving or deferring such matters to the planning application stage may not be appropriate, given the above. NPPG advises that you should ensure a reasonable prospect of delivery as part of effective plan making. You should therefore justify and be confident/satisfied that your approach is reasonable and effective.

We would reiterate that, as submitted, it is not clear whether the Neighbourhood Plan is supported by an effective, robust evidence base focusing on 'deliverability', particularly as there are not specific identified solutions or mitigation proposed but rather emerging potential options that have yet to be fully developed or quantified. Specifically the current NMP can no longer be relied upon and the forthcoming revised NMP, whilst scheduled to be completed during the plan period, has not been fully realised at this time to allow certainty that any further measures will enable the scale of growth proposed in the catchment without detrimental effect.

On this point there is also a concern relating to the cumulative impact of multiple Neighbourhood Plans, and strategic documents, adopting a similar approach and seeking to rely on forthcoming measures which may not provide sufficient mitigation as that mitigation is yet to be robustly outlined and quantified.

We do acknowledge that Herefordshire Council are investigating a wide range of mitigation measures and working with partners, including the Environment Agency, to resolve the current water quality issues within the Lugg catchment.

We are aware that Herefordshire Council are investigating the potential for integrated wetlands to assist in the reduction of phosphate levels within the catchment with a view to helping free up some growth in the Wye and Lugg catchment. This is linked to the NMP, which is currently under review, and a development contribution scheme. Whilst we are aware of this work, and have recently commented on a planning application for the first of such wetlands, the extent of these proposals, and the how these benefits are quantified in relation to the volume of allocations across these Neighbourhood Plans, has yet to be fully developed. Therefore, at this time, it is uncertain whether this will enable to volume of housing proposed across this Plan to be delivered, and in combination with other similar Plans within the Catchment.

You should therefore be satisfied that mitigation is a viable and deliverable and that you have reasonable certainty to take forward the allocation within the Plan as oppose to allocating a site that may not subsequently be able to accord with Policy TAR2/SD4.

As previously stated you may wish to consider, for this and other Plans within the Catchment, an evidence base of possible mitigation measures, in sufficient detail (including feasibility/likely cost, etc) which could be provided locally or in the catchment and/or planning contributions (linked to what is being potentially progressed) to assist delivery of nutrient neutrality or betterment measures in the Neighbourhood Plan area. This could link to the revised NMP as part of a suite of environmental projects or improvements and may be achieved through a supporting evidence base specific to the Plan.

In the absence of robust and quantified evidence-based mitigation measures there is not certainty in relation to delivering the allocation within the Plan with the assurance that there will not be a significant effect on the integrity of the River Lugg.

Yours faithfully

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Date: 15 November 2021
Our ref: 372101
Your ref: Tarrington Group Neighbourhood Plan



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Dear Mr Latham

Tarrington Group Neighbourhood Development Plan

Thank you for your consultation on the above.

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.

The Tarrington Group Neighbourhood Plan allocates housing sites that are within the catchment of the River Lugg.

Natural England notes that Herefordshire Council, as the competent authority, has undertaken an appropriate assessment of the proposal in accordance with regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process, and a competent authority should have regard to Natural England's advice.

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered your assessment, and the measures proposed to mitigate for any adverse effects, Natural England's advice is that your assessment is not sufficiently rigorous or robust to justify this conclusion and therefore **it is not possible** to ascertain that the proposal will not result in adverse effects on the integrity of the sites in question. Further information is needed around the nutrient neutrality required.

The River Lugg is part of the [River Wye Special Area of Conservation \(SAC\)](#) which is a European designated site (also commonly referred to as Natura 2000 sites). European sites are afforded protection under the Conservation of Habitats and Species Regulations 2017, as amended (the 'Habitats Regulations'). The SAC is notified at a national level as the [River Lugg Site of Scientific Interest \(SSSI\)](#).

Following the recent Coöperatie Mobilisation judgement (the 'Dutch Case') ([Joined Cases C-293/17 and C-294/17](#)), proposals that would increase Phosphate levels in the River Lugg part of the River Wye SAC are deemed to be having an adverse effect on the integrity of the site.

It is not entirely clear whether the appropriate assessment is relying upon other strategic mitigation options. For the avoidance of doubt, the application of the Dutch Case means Core Strategy Policy SD4 and the revised Nutrient Management Plan cannot be relied upon as strategic mitigation, as they do not provide sufficient 'certainty' that river targets can be met.

Policy TAR2 in the Tarrington Neighbourhood Plan sets out a requirement for nutrient neutrality. This is accepted as a valid form of mitigation for proposals in the River Lugg catchment connecting to mains drainage, avoiding adverse effects on the integrity of the River Lugg part of the River Wye SAC. However, we advise that further clarity is needed on the nutrient neutrality options available, in order to show that the policy and the proposed allocations are deliverable.

Further detail should be provided on options available to developers to deliver nutrient neutrality. For example if a constructed wetland will be in place, then the Neighbourhood Plan should refer to this. If a constructed wetland will not be an option for Tarrington then the Neighbourhood Plan should refer to measures that will be available, in order to provide more certainty. We would also highlight the opportunity to require nature-based solutions that deliver multiple benefits, for example delivering a community green space that also helps deliver net gain for biodiversity and climate change adaptation.

For any further consultations on your plan, please contact: consultations@naturalengland.org.uk.

Yours sincerely

Rebecca Underdown

Planning for a Better Environment
West Midlands Area Team