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| PLACE PLANNING AND REGENERATIONMemorandum:Internal e-planning consultation | | | | |  | | |
| **To:** | | Transport Development  Urban Design Officer  Environmental Health and Safety  Lead Local Flood Authority  Environmental Policy Officer (SPA)  Environmental Policy  Biodiversity Officer  Implementation | **From:** | Trevor Yerworth | | |
| **Direct Line No.** | 01344 351182 | | |
| **Dated:**  **Doc Ref:**  **Valid Date:** | 17.11.2020 EMEMO  28th October 2020 | | |
| **Ref:** | 20/00860/OUT **(Please quote this on all correspondence)** Original Planning Number (if applicable): PP-09197766 | | | | |
| **Proposal:** | Outline application for the erection of three detached buildings comprising a total of 15 flats following for the demolition of all the existing buildings on the site with issues of access and layout only to be determined. | | | | |
| **Location:** | 92A Yorktown Road Sandhurst Berkshire | | | | |
| **Officer Notes:** | No pre-application enquiry submitted. | | | | |

I notify you of the above planning application for your consultation, and would be grateful to receive any comments you may wish to make, in writing, by **8 December 2020. Should no response be received by this date it will be taken you have no comments to make.**

Please note that unless this consultation relates to a pre-app our response may be put on-line.

Please do not hesitate to contact me should you have any questions.

Case Officer *Trevor Yerworth*

## For Head of Planning

**VIEW this application online (click on link below)**

Enter the application number - 20/00860/OUT

<http://www.bracknell-forest.gov.uk/viewplanningapplications>

(Please note that it can take 1 working day from the validation date [namely 28.10.2020] before this application and drawings are available on line).

NOTE:

1. Internal Consultee’s wishing to check plan measurements or sensitive documentation should use the tools available via the internal IDOX software.

2. Please note should you require a hard copy of a plan you have two choices:

i) View/Photocopy the drawings from the “Registered Copy” held at reception ground floor TS South (Plan copier - second floor TS South)

ii) View/Print the drawings directly from IDOX to the plan printer “IP\_The beast” located on the ground floor TS South

3. Two new viewing stations are now also available on the ground floor TS South

Finally, as an internal consultee you should have access to the internal IDOX Server and relevant printer, if not you need to notify the ICT Helpdesk.

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| PLACE PLANNING AND REGENERATIONMemorandum:Consultee Response (Planning) NOTE: Consultee to complete yellow boxes and return this memo via email to the Case Officer | | | | | | | |  | |
| **TO:** | | Trevor Yerworth | | Direct Line: 01344 351182 | Planning Development Control | | | | |
| **FROM:** | | Simon Cridland | | | **Ext No.** | 1186 | | | |
| **Consultee:**  *Delete those not applicable* | | SPA | | | **Dated:** | 24/11/2020 | | | |
| **Ref:** | | | 20/00860/OUT(Please quote this on all correspondence) | | | | | | |
| **Proposal:** | | | Outline application for the erection of three detached buildings comprising a total of 15 flats following for the demolition of all the existing buildings on the site with issues of access and layout only to be determined. | | | | | | |
| **Location:** | | | 92A Yorktown Road Sandhurst Berkshire | | | | | | |
| **Consultee**  **Response:** | | | **DWG / Doc Ref:** | | Type here all dwg no’s / documents referred to… | | | | |

In light of the “Sweetman Judgement” (People Over Wind and Sweetman v Coillte Teoranta, April 2018) the comments below comprise an Appropriate Assessment and includes advice on necessary avoidance and mitigation measures which is consistent with the advice provided to PINS on such matters.

Natural England has issued a standard consultation response <https://www.bracknell-forest.gov.uk/sites/default/files/documents/ne-standing-advice-update-june-2020.pdf> to ensure compliance with the consultation requirements of Regulation 63(5) of the Conservation of Habitats and Species Regulations (2017) (as amended) *“The competent authority must for the purposes of the assessment consult the appropriate nature conservation body and have regard to any representations made by that body within such reasonable time as the authority specifies”*  to confirm that it has no comments to make on Appropriate Assessments which are carried out by Bracknell Forest Council for planning applications which conclude no adverse effects on the integrity of habitats sites due to measures being secured through a legal agreement and in accordance with the following:

* the Bracknell Forest Thames Basin Heaths Special Protection Area Supplementary Planning Document (2018)
* further agreed policies, guidance and evidence as listed below.

**Summary of Response**

The Council, in consultation with Natural England, has formed the view that any net increase in residential development between 400m and 5km straight-line distance from the Thames Basin Heath Special Protection Area (SPA) is likely to have a significant effect on the integrity of the SPA, either alone or in-combination with other plans or projects. An Appropriate Assessment has been carried out including mitigation requirements.

This site is located approximately **0.87 km** from the boundary of the SPA and therefore is likely to result in an adverse effect on the SPA, unless it is carried out together with appropriate avoidance and mitigation measures.

On commencement of the development, a contribution (calculated on a per-bedroom basis) is to be paid to the Council towards the cost of measures to avoid and mitigate against the effect upon the Thames Basin Heaths SPA, as set out in the Council's Thames Basin Heaths Special Protection Area Supplementary Planning Document (SPD). The strategy is for relevant developments to make financial contributions towards the provision of Suitable Alternative Natural Greenspaces (SANGs) in perpetuity as an alternative recreational location to the SPA and financial contributions towards Strategic Access Management and Monitoring (SAMM) measures. The Council will also make a contribution towards SANG enhancement works through Community Infrastructure Levy (CIL) payments whether or not this development is liable to CIL.

In this instance, the development would result in a net increase of **three x 1-bedroom dwellings and twelve x 2 –bedroom dwellings replacing the existing 3 -bedroom dwelling** which results in a total SANG contribution of **£69,413.**

The development is required to make a contribution towards Strategic Access Management and Monitoring (SAMM) which will is also calculated on a per bedroom basis. Taking account of the per bedroom contributions this results in a total SAMM contribution of **£6,798.**

The total SPA related financial contribution for this proposal is **£76,211.** The applicant **must agree** to enter into a S106 agreement to secure this contribution and a restriction on the occupation of each dwelling until the Council has confirmed that open space enhancement works to a SANG is completed. Subject to the completion of the S106 agreement, the proposal would not lead to an adverse effect on the integrity of the SPA and would comply with SEP Saved Policy NRM6, Saved policy EN3 of the BFBLP and CS14 of CSDPD, the Thames Basin Heaths Special Protection Area SPD and the NPPF.

**1. The Conservation of Habitats and Species Regulations (2017 as amended)**

In accordance with The Conservation of Habitats and Species Regulations (2017 as amended) Regulation 63 a competent authority (in this case Bracknell Forest Council (BFC)), before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which—

1. is likely to have a significant effect on a European site…(either alone or in combination with other plans or projects), and
2. is not directly connected with or necessary to the management of that site.

must make an appropriate assessment of the implications of the plan or project for that site in view of that site’s conservation objectives.

A person applying for any such consent, permission or other authorisation must provide such information as BFC may reasonably require for the purposes of the assessment or to enable it to determine whether an appropriate assessment is required.

BFC must for the purposes of the assessment consult Natural England (NE) and have regard to any representations made by that body. It must also, if it considers it appropriate, take the opinion of the general public, and if it does so, it must take such steps for that purpose as it considers appropriate. In the light of the conclusions of the assessment, and subject to Regulation 64 (Considerations of overriding public interest), BFC may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site.

In considering whether a plan or project will adversely affect the integrity of the site, BFC must have regard to the manner in which it is proposed to be carried out or to any conditions or restrictions subject to which it proposes that the consent, permission or other authorisation should be given.

**2. Stage 1 Screening for Likely Significant Effects**

BFC accepts that this proposal is a ‘plan or project’ which is not directly connected with or necessary to the management of a European Site. There are two European Sites partly located within Bracknell Forest – the Thames Basin Heaths Special Protection Area (SPA) and Windsor Forest and Great Park Special Area of Conservation (SAC). The potential adverse effects on the integrity of both sites include recreational activities from inside the SPA and air pollution from inside and outside the SPA and the SAC.

At this stage the Council cannot rule out ‘likely significance effects’ on the SPA and SAC (alone or in combination with other plans or projects) because the proposal could undermine the Conservation Objectives of these sites. This is because the proposal lies with **0.87 km** of the SPA and:

* represents a net increase in dwellings within 400m - 5km of the Thames Basin Heaths Special Protection Area (SPA) which will lead to an increase in local population and a potential increase in recreational activity on the SPA
* may lead to an increase in traffic movements (and therefore air pollution) on roads within 200m of the SPA and SAC

As the ‘likely significance effects’ cannot be ruled out at this stage an Appropriate Assessment must be undertaken.

**3. Stage 2 Appropriate Assessment**

Based on the information provided by the applicant, BFC must decide whether or not an adverse effect on site integrity (alone or in combination with other plans or projects) can be ruled out. Mitigation may be able to be provided so that the proposal is altered to avoid or reduce impacts.

The policies and guidance in section 3a below set out the Councils approach to avoidance and mitigation measures which have been agreed with NE. For the majority of housing developments this will comprise the provision of (or contribution towards) Suitable Alternative Natural Greenspace (SANG) and a contribution towards the Strategic Access Management and Monitoring (SAMM) Project. Larger developments with a net increase of over 50 houses which are not allocated sites will be asked to provide more information on the likely significant effects of the proposal on European Sites as a result of air quality so that the Council can undertake the Appropriate Assessment. Further guidance can be provided on this. However, there is currently no requirement for air quality mitigation measures for the majority of housing developments based the following evidence:

* In November 2011, the Council undertook an air quality assessment (which took account of background growth) to assess the likely significant effects of the Site Allocations Local Plan (Habitats Regulations Appropriate Assessment Site Allocations Local Plan Draft Submission November 2011) on the Thames Basin Heaths SPA. As a result of this assessment the allocations at Transport Research Laboratory and Broadmoor were required to undertake more detailed air quality assessments at the planning application stage and this has been carried out. No likely significant air pollution effects on the SPA were identified and this was agreed with NE.
* In March 2017, a high court judgement (Wealden District Council v. Secretary of State for Communities and Local Government, Lewes District Council and South Downs National Park Authority [2017]) quashed part of the Lewes Joint Core Strategy. This judgement related to the assessment of nitrogen deposition impacts from increased traffic flows on European Sites and the potential for in-combination effects. In January 2018 the Royal Borough of Windsor and Maidenhead (RBWM) carried out a Habitats Regulation and Air Quality Assessment. This takes account of background growth in surrounding boroughs including Bracknell Forest and concludes no likely significant air pollution effects on Windsor Forest and Great Park SAC. This assessment has also been agreed with NE.
* In March 2020, RBWM published its updated Habitats Regulations Assessment and Air Quality Assessment <https://www3.rbwm.gov.uk/info/201048/evidence_base_and_monitoring/592/evidence_base> Five European Sites were included in the assessment (including the Thames Basin Heaths SPA and Windsor Forest and Great Park SAC). The conclusions were that there will be no adverse impact on site integrity at any European Site alone or in combination with other plans and projects (including in Bracknell Forest) due to changes in air quality.

a. Policies and Guidance

For this proposal the following guidance and policies apply:

* South East Plan (May 2009) Policy NRM6 (Thames Basin Heaths Special Protection Area) <https://www.bracknell-forest.gov.uk/planning-and-building-control/planning/planning-policy/development-plan/south-east-plan>
* Bracknell Forest Borough Local Plan (2002) Policy EN3 sets out the approach the Council will take in order to protect European nature conservation sites <https://www.bracknell-forest.gov.uk/planning-and-building-control/planning/planning-policy/development-plan/local-plan-2002>
* Bracknell Forest Core Strategy Development Plan Document (DPD) Policy CS14 (Thames Basin Heaths SPA) <https://www.bracknell-forest.gov.uk/sites/default/files/documents/core-strategy-development-plan-document-february-2008.pdf>
* Bracknell Forest Site Allocations Local Plan (July 2013) <https://www.bracknell-forest.gov.uk/sites/default/files/documents/salp-adopted.pdf>
* Thames Basin Heaths SPA SPD (April 2018) <https://www.bracknell-forest.gov.uk/sites/default/files/documents/thames-basin-heaths-spa-supplementary-planning-document.pdf>
* Thames Basin Heaths SPA Delivery Framework (2009) <https://files.bracknell-forest.gov.uk/sites/bracknell/documents/thames-basin-heaths-spa-delivery-framework.pdf>

The project as proposed would not adversely impact on the integrity of the SPA and SAC if avoidance and mitigation measures are provided as stipulated by these policies and guidance.

b. SPA Avoidance and Mitigation Measures

**i) The provision of Suitable Alternative Natural Greenspace (SANG) and its ongoing maintenance in perpetuity.**

In accordance with the SPA SPD, the development will be required to provide alternative land to attract new residents away from the SPA. The term given to this alternative land is Suitable Alternative Natural Greenspace (SANG). As this development leads to a net increase of less than 109 dwellings, the developer may make a payment contribution towards strategic SANGs (subject to SANGs capacity in the right location within Bracknell Forest).

The cost of the SANG enhancement works will be funded through the Community Infrastructure Levy (CIL) whether or not this development is liable for CIL. The Council will carry out these works as part of its on-going SANG enhancement programme. The remaining SANG contributions (for example, to fund in-perpetuity maintenance) will be taken through Section 106 Agreement contributions.

The development will result in a net increase of **three x 1-bedroom dwellings and twelve x 2 –bedroom dwellings replacing the existing 3 -bedroom dwelling**. Depending on the dwelling mix, the level of SANG payments are set out as follows:

|  |  |  |
| --- | --- | --- |
| No. of  bedrooms | SANG Contribution | Aggregate SANG Contribution |
| 1 bedroom | £4,403 | 3 X £4,403 |
| 2 bedrooms | £5,193 | 12 X £5,193 |
| 3 bedrooms | £6,112 | -£6,112 |
| 4 bedrooms | £6,838 | £0 |
| 5+ bedrooms | £7,886 | £0 |
| Total SANG Contribution | | **£69,413** |

**The enhancement of open space works at the Shepherds Meadow SANG is the most appropriate to this proposal (although it may be necessary to allocate the contribution to another SANG).**

An occupation restriction will be included in the Section 106 Agreement. This serves to ensure that the SANGs enhancement works have been carried out *before* occupation of the dwellings. This gives the certainty required to satisfy the Habitats Regulations in accordance with South East Plan Policy NRM6 (iii) and the Thames Basin Heaths Special Protection Area SPD.

**ii. Strategic Access Management and Monitoring (SAMM) Contribution**

The development will also be required to make a contribution towards Strategic Access Management and Monitoring (SAMM). This project funds strategic visitor access management measures on the SPA to mitigate the effects of new development on it. See the SPA SPD for more information.

The level of contributions are calculated on a per bedroom basis as set out in the SPA SPD Summary Table 1. The application for this development is for **three x 1-bedroom dwellings and twelve x 2 –bedroom dwellings replacing the existing 3 -bedroom dwelling**. Depending on the dwelling mix, the level of SAMM payments are calculated as follows:

|  |  |  |
| --- | --- | --- |
| No. of  bedrooms | SAMM Contribution | Aggregate SAMM Contribution |
| 1 bedroom | £399 | 3 X £399 |
| 2 bedrooms | £526 | 12 X £526 |
| 3 bedrooms | £711 | -£711 |
| 4 bedrooms | £807 | £0 |
| 5+ bedrooms | £1,052 | £0 |
| Total SAMM Contribution | | **£6,798** |

In summary, the total SPA related financial contribution applied through a section 106 agreement for this proposal is **£76,211 (i.e. £69,413 + £6,798). CIL contributions, where relevant, will be applied separately.**

Prior to the permission being granted the applicant must enter into a Section 106 Agreement based upon the above measures.

**iii Air Quality**

No air quality avoidance and mitigation measures are required for this application. Please see section 3 above.

**4. Conclusion**

An Appropriate Assessment is required for this development in accordance with the Habitats Regulations (2017 as amended). Absent any appropriate avoidance and mitigation measures the Habitats Regulations Assessment will conclude that the development is likely to have a significant effect upon the integrity of European Sites with the result that the Council would be required to refuse a planning application.

Provided that the applicant is prepared to make a financial contribution (see section 3b above) towards the costs of SPA avoidance and mitigation measures, the application will be in accordance with the SPA mitigation requirements as set out in the relevant policies above and will therefore comply with the Habitats Regulations.

The Council is convinced, following consultation with Natural England, that the above measures will prevent an adverse effect on the integrity of the SPA. Pursuant to Article 6(3) of the Habitats Directive (Council Directive 92/43/EEC) and Regulation 63(5) of the Conservation of Habitats and Species Regulations (2017 as amended) permission may be granted.

If the applicant does not agree with the above mitigation and enter into a Section 106 Agreement to secure the measures then the application must be refused using the following reason for refusal. A monitoring fee of £480 is also required.

**5. Reasons for Refusal**

**The occupants of the development would put extra pressure on the Thames Basin Heaths Special Protection Area and the proposal would not satisfactorily mitigate its impacts in this respect. In the absence of a planning obligation to secure suitable avoidance and mitigation measures and access management monitoring arrangements, in terms that are satisfactory to the Local Planning Authority, the proposal would be contrary to Article 6(3) of the Habitats Directive (Council Directive 92/43/EEC) and Regulation 63(5) of the Conservation of Habitats and Species Regulations (2017) as amended, Policy NRM6 of the South East Plan, Policy EN3 of the Bracknell Forest Borough Local Plan, Policy CS14 of the Core Strategy Development Plan Document, the Thames Basin Heaths Special Protection Area Supplementary Planning Document (2018).**

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| **Summary**  *Consultee’s summary will be pasted into the Officers Report* | Type summary here which will be included in the Case Officers Report. (300 words)  **N.B.** This is not applicable to Policy comments whose response above will be incorporated into the Officers final report. |

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| **RECOMMENDATION** *check relevant boxes* | | **CONDITIONS** Discharge | **PRE-APP** submission |
| **APPROVE** | **REFUSE** | **COMPLIES with Conditions** | **SUPPORT** PRE-APP |
| **S106** Legal Agreement | **NON-COMPLIANCE** | **OBJECT** PRE-APP |