Date: 16 July 2015
Our ref: 158611
Your ref: 15NP0036

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Development Management

FAO Chris Stanworth

BY EMAIL ONLY

Dear Chris

Planning consultation: Provision of permanent scour protection to highway bridge. Associated soft engineering works to minimise scour and gravel deposition. Removal of old railway abutment, raising crest of flood embankment to improve risk to flooding to adjoining land
Location: Westnewton Bridge, Kirknewton, Wooler, Northumberland, NE71 6XF

Thank you for your reconsultation on the above dated 06 July 2015 which was received by Natural England on 06 July 2015.

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 CONSERVATION OF HABITATS AND SPECIES (AS AMENDED) REGULATIONS 2010
ARTICLE 16 OF THE TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) ORDER 2010
SECTION 28 OF THE WILDLIFE AND COUNTRYSIDE ACT 1981 (AS AMENDED)

Internationally and nationally designated sites
The application site is within or in close proximity to a European designated site (also commonly referred to as Natura 2000 sites), and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations'). The application site is within the River Tweed Special Area of Conservation (SAC) which is a European site. The site is also notified at a national level as Tweed Catchment Rivers – England: Till Catchment Site of Special Scientific Interest (SSSI). Please see the subsequent sections of this letter for our advice relating to SSSI features.

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have[1]. The Conservation objectives for each European site

[1] Requirements are set out within Regulations 61 and 62 of the Habitats Regulations, where a series of steps and tests are followed for plans or projects that could potentially affect a European site. The steps and tests set out within Regulations 61 and 62 are commonly referred to as the 'Habitats Regulations Assessment' process.
The Government has produced core guidance for competent authorities and developers to assist with the Habitats Regulations Assessment process. This can be found on the Defra website. http://www.defra.gov.uk/habitats-review/implementation/process-guidance/guidance/sites/

explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

Further information required
We note the submission of the '*Response to Natural England Concerns'* document. However, Natural England considers that the additional information is not sufficient to allow the Council to conclude that the proposals would not have an adverse effect on the integrity of the River Tweed SAC. Our detailed comments are provided below;

1. **Sediment control:** Natural England considers that the provision of straw bales either side of the river just downstream of the works area is unlikely to prevent sediment released during the works from being washed downstream and in to the College Burn and River Glen. Bales placed at the side of the water course will act as a flow deflector forcing the water into the main channel and while a small back eddy may form immediately behind the bales - encouraging a proportion of the larger sediment to drop out of suspension - the majority of sediment is likely to bypass the bales (A similar scheme at Powburn Bridge in 2011 proved to be ineffective with several hundred metres of the river downstream impacted for the duration of the works).

   In addition, any sediment released into the river from vehicular movements is unlikely to be controlled by the measures being proposed.

   Sediment control measures usually work by directly filtering out the sediment e.g. sedimats which trap sediment in the fiber of the mats (straw bales will also do this) or by slowing the flow sufficiently such that the sediment has time to settle out e.g. silt traps (of which the silt buster is a mechanical example). The proposed straw bale method does not provide either of the above methods of controlling sediment.

   Other sediment control measures need to be put in place. For example, the discharge from the silt buster could be discharged to ground on farm land adjacent, but sufficiently distant, to the river or even potentially on the gravel shoal downstream of the bridge to help naturally filter out fine sediment.

   Control of sediment across the whole of the river with sedimats, straw bales, or a combination of both, will back up the flow to a certain extent. However, if the control method is positioned slightly further downstream it should avoid the work area being affected. Any barrier would have to be removed once works are completed at the end of each day to allow for passage of migratory fish and remove barriers to flood flow. If a high rainfall event occurred during the day works would have to stop so the barrier could be removed before the site is secured thus removing any flood risk associated with the sediment control measures. A suitable sediment management plan needs to be agreed prior to determination.

2. **Containment of concrete leaching:** As the proposed works are in a gravel based river where the water flows as much through the gravel itself as it does on the surface, it is unlikely to be possible to depress the water level far below surface of the gravel bed through pumping out the shuttered works areas. Even if the works areas are pumped the water table will not be very far below the gravel surface on which the concrete is being poured. Concrete can be highly toxic to aquatic animals (by causing rapid changes in pH) and the risk of concrete leaching through the gravel into the water table is considerable. This type of contamination of the underlying flows through the gravel is unlikely to be prevented using the silt buster facility. Information needs to be provided as to how it is intended to isolate leachate from the freshly poured concrete slab and prevent it from reaching the underlying water table. Consideration should be given to use of a non-permeable membrane of some sort between the slab and the underlying gravel interface to

prevent leaching.

3. **Maintenance of fish passage**: Natural England notes from the statement provided to the River Tweed Commission that if fish passage is compromised, in the event that a step develops downstream of the structure, the council will take action to resolve the issue. It should be noted that as the owner of the structure the council is responsible for ensuring that the design of the slot in the apron does not impede passage of river and/or brook lamprey over the structure. If monitoring identifies this as occurring (for example, if spawning lamprey are identified just downstream of the works when more suitable habitat is available upstream), then appropriate remedial action will need to be undertaken.

4. **HRA requirement**: As the College Burn is part of the River Tweed SAC a Habitats Regulation Assessment is required of the proposed plan. The information supplied in the '*Response to Natural England Concerns'* document seems to indicate that as a WFD assessment has been carried out regarding the proposal and that as this has indicated that the prosed project will not prevent the water body from achieving 'good ecological status' no other assessment is required. On sites where there is another directive in place, in this case the Habitats Directive, WFD is quite clear that if the objectives of the other directive are higher than those of the WFD then the objectives of the other directive must also be met. Therefore, upon receipt of the additional information, your Authority will need to be assess whether there would be an adverse effect on the integrity of the SAC (either alone or in-combination with other plans or projects). If there is an adverse effect (or adverse effect cannot be ruled out) then consideration will need to be given to alternative solutions).

SSSI – Further information required

This application is in close proximity to Tweed Catchment Rivers – England: Till Catchment Site of Special Scientific Interest (SSSI). Natural England considers that further information is required to determine whether the proposals are likely to damage or destroy the interest features for which Tweed Catchment Rivers – England: Till Catchment SSSI has been notified. Our concerns mirror those in relation to the River Tweed SAC and are detailed above.

Should the application change, or if the applicant submits further information relating to the impact of this proposal on the SSSI aimed at reducing the damage likely to be caused, Natural England will be happy to consider it, and amend our position as appropriate.

If your Authority is minded to grant consent for this application contrary to the advice relating to Tweed Catchment Rivers – England: Till Catchment SSSI contained in this letter, we refer you to Section 28I (6) of the *Wildlife and Countryside Act 1981* (as amended), specifically the duty placed upon your authority, requiring that your Authority;

- Provide notice to Natural England of the permission, and of its terms, the notice to include a statement of how (if at all) your authority has taken account of Natural England's advice, and
- Shall not grant a permission which would allow the operations to start before the end of a period of 21 days beginning with the date of that notice.

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us. For comments in relation to other areas of Natural England's remit, please refer to my response of 19th June 2015.

A copy of this response has also been forwarded to Northumberland County Council under planning reference 15/01652/CCD.

For any queries relating to the specific advice in this letter only please contact Colin Godfrey on 03000 601164. For any new consultations, or to provide further information on this consultation

please send your correspondences to consultations@naturalengland.org.uk.

Yours sincerely

Colin Godfrey
Northumbria Team