

APPENDIX C: Appropriate Assessment

Application Ref. PL/21/3151/OA

Proposal: Outline application for the erection of residential dwellings including affordable housing (Use Class C3), new vehicular access points off Amersham Road and the Eastern Relief Road, a local centre including a community building (Use Classes E(a)(b)(c)(d)(e), F1(d)(e), F2(a)(b) and C3), a primary school and pre-school (Use Classes E(f) and F1(a)), public open space and associated infrastructure (matter to be considered at this stage: access)

Summary

Buckinghamshire Council, as Local Planning Authority, has carried out a Habitats Regulations Assessment (HRA) for net new homes in proximity to the Burnham Beeches Special Area of Conservation (BB SAC)¹. The HRA screened in recreational disturbance from net new homes as having a likely significant effect on the integrity of the conservation purposes of the BB SAC. The HRA sets out what development is likely to have significant effects on the integrity of the conservation objectives of the BB SAC. It concluded that any net new homes within 500 metres of the boundary BB SAC should be avoided. It also concluded that any net new homes between 500 metres and 5.6 kilometres of the BB SAC need to be mitigated. The conclusions of this HRA can help inform the individual Appropriate Assessments of Planning Applications and Permitted Development.

Informing individual Appropriate Assessment of Planning Applications and Permitted Development

Evidence from the Council's Consultants Footprint Ecology² has concluded that likely significant effects on the integrity of the BB SAC from recreational disturbance would derive from a net increase in new homes within a linear distance of 5.6 kilometres from the boundary of the BB SAC. The disturbance is from additional human and dog presence.

Using this evidence, Buckinghamshire Council's HRA determined that the likely significant effects within a 500 metre linear distance of the BB SAC boundary zone were so likely to harm the integrity of the conservation purposes of the BB SAC that net new homes should be avoided as it would not be possible to mitigate the impacts from the recreational disturbance. It also determined that net new homes within a linear distance between 500 metres and 5.6 kilometres of the BB SAC's boundary would need to be mitigated.

The HRA concluded that Planning Applications and Permitted Development, which provide for a net increase in new homes within the 500 metres to 5.6 kilometres zone would have a significant likely effect on the conservation features of the BB SAC and that such

¹ <https://www.chiltern.gov.uk/article/10331/Chiltern-and-South-Bucks-Local-Plan-Submission-Documents>

² <https://www.chiltern.gov.uk/article/10331/Chiltern-and-South-Bucks-Local-Plan-Submission-Documents>

applications and permitted development can only be permitted if the applicant enters into a legal agreement with Buckinghamshire Council, as Local Planning Authority, to pay towards Buckinghamshire Council's Strategic Access Management and Monitoring Strategy.

Natural England (NE), the Government's conservation advisor, agreed with the findings in the HRA.

Appropriate Assessment of Planning Application reference number PL/21/3151/OA

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

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

- a. is likely to have a significant effect on a European site...(either alone or in combination with other plans or projects), and
- b. 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 Buckinghamshire Council may reasonably require for the purposes of the assessment or to enable it to determine whether an appropriate assessment is required.

Buckinghamshire Council must have regard to any representations made by the Conservation Body, NE. 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), Buckinghamshire Council 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, Buckinghamshire Council 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. Stages 1-3 Screening for Likely Significant Effects

Buckinghamshire Council accepts that this proposal is a 'plan or project' which is not directly connected with or necessary to the management of the Burnham Beeches Special Area of Conservation (BB SAC). The potential likely significant effects on the integrity of the BB SAC is from recreational disturbance. A net increase in homes is likely to result in additional visits to the BB SAC with consequential erosion and pollution within the BB SAC.

At this stage Buckinghamshire Council cannot rule out the likely significance effects on the BB SAC (alone or in combination with other plans or projects) because the proposal could undermine the Conservation Objectives of the SAC. This is because the proposal lies between 500 metres and 5.6 kilometres of the boundary of the BB SAC and represents a net increase in homes within this zone which will lead to an increase in local population and a likely increase in recreational disturbance within the SAC.

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

3. Stage 4 Appropriate Assessment

500 metres or more to 5.6 kilometres

Based on the information proposed by the applicant, Buckinghamshire Council 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 can reduce adverse effects.

The Council considers that the Strategic Access Management and Monitoring Strategy (SAMMS) which has been agreed with Natural England is robust and capable of mitigating the likely significant effects of the proposal over 500 metres and up to 5.6 kilometres provided the proposal pays a contribution towards the Strategic Access Management and Monitoring Strategy and legal fees to the Council. The SAMMS is attached as Appendix 1.

a. Fees and Mitigation

For this proposal the following apply:

- Buckinghamshire Council List of Fees and Charges (Fees)
- Strategic Access Management and Monitoring Strategy (SAMMS)

If paid, the project as proposed would not adversely affect the integrity of the BB SAC.

Legal Fees

To cover Buckinghamshire Council's reasonable legal costs and disbursements incurred in connection with the Unilateral Undertaking and the Council's Monitoring Fee.

The monitoring fee is £541.02 and the legal costs will be determined on a case by case basis.

Strategic Access Management and Monitoring Strategy Contribution

The development will be required to make a contribution towards the SAMMS. SAMMS includes projects for visitor access management, monitoring and education measures on the BB SAC to mitigate the effects of new development on it.

A contribution to the SAMMS is required for this development which involves a net increase of residential dwellings. The number of dwellings to be provided on the site is to be confirmed at reserved matters. It is noted that the current contribution for each new dwelling is £2,023.87.

4. Conclusion

An Appropriate Assessment has been carried out for this development in accordance with the Conservation of Habitats and Species Regulations 2017 (as amended). Without mitigation measures the Appropriate Assessment concludes that the development is likely to have a significant effect upon the integrity of the SAC with the result that the Council would be required to refuse this planning application.

Buckinghamshire Council considers, following consultation with NE, that the above measures will prevent a likely adverse effect on the integrity of the BB SAC. 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), and permission may be granted subject to any other planning considerations.

Provided that the applicant has entered in to a legal agreement to secure legal and SAMMS fees the planning application will be in accordance with the SAC mitigation requirements.

If the applicant does not enter into a legal agreement to secure the mitigation, then the application must be refused as there would be an adverse effect from the proposed development on the Burnham Beeches SAC from recreational impacts, alone or in combination with any other plans or projects.

In this case, a legal agreement has not been entered into to secure the mitigation.

As there is mitigation in the form of SAMMS fees that could be secured for this development, it is not necessary to progress to Stage 3 (Alternatives) of a Habitats Regulations Assessments.

The application must therefore be REFUSED for the reasons set out, as it does not comply with the Conservation of Habitats and Species Regulations 2017 (as amended).