

River Mease Special Area of Conservation/SSSI - Habitat Regulations Assessment

Application reference DMPA/2024/1510 - Change of use from equestrian to 6 pitch traveller site and the erection of a day room on Land at Clover Park, Acresford Road, Netherseal

Proximity to SAC: Within the water catchment zone for the Rier Mease SAC and 0.6km north of the River.

Designation features: (Spined loach (*Cobitis taenia*), Bullhead (*Cottus gobio*), Otter (*Lutra Lutra*), Freshwater Crayfish (*Austropotamobius pallipes*) and Water courses of plain to montane levels with *R. fluitantis*)

1. Application site and proposed development
 - 1.1. The application site comprises a broadly rectangular area of land extending to around XX ha and lying between Acresford Road to the north west, Burton Road (A444) to the east and Hooborough Brook to the south east. The application seeks permission for the change of use of equestrian land to a 6 pitch traveller site with the erection of a day room.
2. The Habitat Regulations Assessment
 - 2.1. The Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora, better known as 'The Habitats Directive', provides legal protection for habitats and species of European importance. Articles 3 to 9 provide the legislative means to protect habitats and species of Community interest through the establishment and conservation of an EU-wide network of sites known as Natura 2000. These are Special Areas of Conservation (SACs) designated under the Habitats Directive and Special Protection Areas (SPAs) designated under the Conservation of Wild Birds Directive (2009/147/EC).
 - 2.2. Articles 6(3) and 6(4) of the Habitats Directive set out the decision-making tests for plans and projects likely to affect Special Areas of Conservation. Article 6(3) establishes the requirement for an assessment of any plan or project not directly connected with or necessary to the management of a Natura 2000 site but likely to have a significant effect thereon, either individually or in combination with other plans or projects. Article 6(4) further requires that where in spite of a negative assessment of the implications of a Natura 2000 site and in the absence of alternative solutions, a plan or project must nevertheless be carried out for imperative reasons of overriding public interest (the IROPI test), including those of a social or economic nature. Article 6(4) further states that Member States shall take all compensatory measures necessary to ensure that the overall coherence of Natura 2000 is protected.

Stages and approach of assessment

- 2.3. There are 4 stages involved in completing an assessment under the Habitats Directive with the outcome of each stage indicating whether the next stage is required. These are:

Stage 1 – Screening: To test whether a plan or project either alone or in combination with other plans and projects is likely to have a significant effect on an international site.

Stage 2 – Appropriate Assessment: To determine whether, in view of an international site's conservation objectives, the plan (either alone or in combination with other projects and plans) would have an adverse effect (or risk of this) on the integrity of the site with respect to the site structure, function and conservation objectives. If adverse impacts are anticipated, potential mitigation measures to alleviate impacts should be proposed and assessed.

Stage 3 – Assessment of alternative solutions: Where a plan is assessed as having an adverse impact (or risk of this) on the integrity of an international site, there should be an examination of alternatives (e.g. alternative locations and designs of development); and

Stage 4 – Assessment where no alternative solutions remain and where adverse impacts remain: In exceptional circumstance (e.g. where there are imperative reasons of overriding public interest), compensatory measures to be put in place to offset negative impacts.

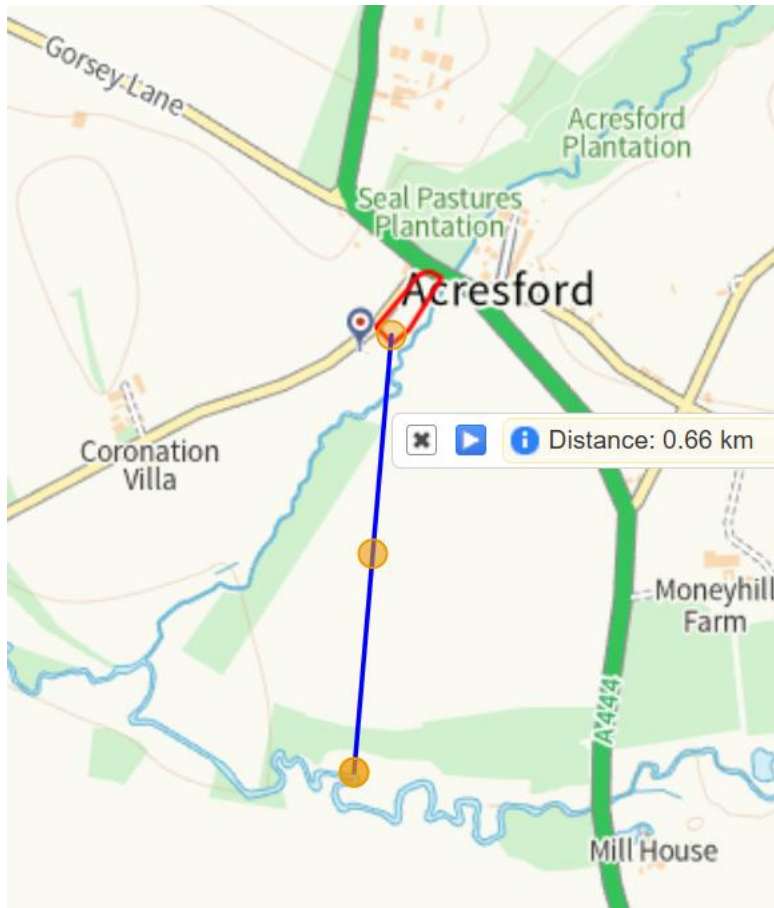
- 2.4. This guidance stresses limits to the areas and the species and habitats protected by the Habitats Directive as follows:
- **Spatial limit.** Measures are aimed only at species and habitats located '*in the SACs*', or in some cases outside of the SAC if external events may have an impact on the species and the habitats inside the SAC.
 - **Limit of habitats and species concerned.** The appropriate measures concern only habitats and species '*for which the areas have been designated*'. The aim is not therefore to take general conservation measures, but rather to take measures focused on the species and habitats which justified the selection of the special area of conservation.
- 2.5. This is an assessment under Regulation 631 of the Conservation of Habitats and Species Regulations 2017 (known as 'the Habitats Regulations') which transposes the requirements of the Habitats Directive into national law in England and Wales. The assessment considers the anticipated effects of the proposed scheme (DMPA/2024/1510) for the change of use of equestrian land to a 6 pitch traveller site with the erection of a day room on Land at Clover Park, Acresford Road, Netherseal.
- 2.6. This assessment has regard to, and is in accordance with:
- The Habitats Regulations;
 - Good practice guides in undertaking such assessments, such as that published by Natural England, the Countryside Council for Wales and Scottish Natural Heritage
 - All relevant guidance from the European Commission (as previously noted) and the UK Government.
 - Relevant decisions, for example, at Government level in Great Britain, and by Reporters / Inspectors;
 - Relevant judgments of the Court of Justice of the European Union, and the Courts in the UK including the People Over Wind and Sweetman v Coillte Teoranta (C-323/17).

Relevant documents

- 2.7. The following documents are those which have been considered in this assessment:
- The citations and maps for the River Mease SAC;
 - The Water Quality (Phosphate) Management Plan for the River Mease (including diffuse water management plan appended WQMP)
 - The Site Improvement Plan for the River Mease
 - River Mease SSSI condition Assessment.
 - River Mease Standing Advice from Natural England (October 2017).
 - Area of the Mease Catchment available here
 - Documents and plans submitted in support of application reference DMPA/2024/1510

1.1 The application site lies within the water catchment zone of the River Mease SAC and therefore has the potential to impact the site. The application is not directly connected with, or necessary to the management of the site.

The application site lies circa 0.66km to the north of the River Mease at the closest boundary of the site:



Stage 1 Screening assessment

The stage one assessment seeks to establish, based upon evidence supplied by the applicant, whether or not there could be any potential significant impacts of the development on the integrity of the Special Area of Conservation.

The whole site lies within the River Mease Catchment area as defined by Natural England. It is understood that the development of new dwellings or other forms of residential development that provides overnight accommodation within the catchment is likely without mitigation, to result in significant effects on the River Mease Special Area of Conservation due to the introduction of necessary foul drainage to serve such accommodation. This is due to the capacity of the mains foul sewage network the connection of additional foul drainage has the potential to result in an increase in pollutants filtering into the river and its tributaries.

The River Mease Special Area of Conservation (SAC) is designated due to the sensitivity of species to changes in phosphate levels and therefore any increase in the potential for phosphate filtration has the potential to negatively impact upon the SAC.

The development proposed would increase the number of overnight stays within the catchment and as such would stand to increase foul waste that without mitigation would pose a risk to the SAC.

Foul Drainage

Natural England's Advice to LPAs, dated 16 March 2022 states in respect of business or commercial development that

"The Nutrient Neutrality Methodology enables a nutrient budget to be calculated for all types of development that would result in a net increase in population served by a wastewater system.

For the purposes of the Methodology, it is assumed that anyone living in the catchment also works and uses facilities in the catchment, and therefore wastewater generated can be calculated using the population increase from new homes and other accommodation. This removes the potential for double counting of human wastewater arising from different planning uses."

The site of the proposed development falls within the catchment of the River Mease Special Area of Conservation (SAC). The supporting information states that no foul drainage discharge would occur to ground and proposes the use of sealed cess pits to capture foul flows and the subsequent removal by tanker and disposal of foul waste outside the River Mease Special Area of Conservation (SAC) catchment area.

Due to the nature of the development, which does not propose foul discharge connection, it follows that there would not be additional impacts (from foul drainage) and it is therefore not considered that any significant effects on the River Mease SAC or the Species for which it is designated, would arise as a result of the development in this regard.

On this basis, as part of the screening process, it is considered that significant effects are not likely to arise from the development in terms of foul drainage and that impacts from foul drainage can be screened out and that appropriate assessment is not required in this regard.

Surface Water Drainage

The River Mease SAC is currently failing the Water Framework Directive for phosphate levels and any new development needs to demonstrate nutrient neutrality. Natural England standing advice is that there would be no impact on the River Mease SAC where there is 100% infiltration to the ground, as phosphates and nutrients would bind within the soil in such situations and not reach the river.

The site at present is mostly comprised of loose permeable materials. In respect of the amenity room building, it is considered likely that this would require additional footings and surfacing. It is not clear whether additional hardstanding would be installed for the static caravans or if the existing permeable surface would be retained in areas other than that required for the amenity room. The permeable surfaces on and surrounding the site are considered to provide sufficient opportunity for any surface water to infiltrate to ground as currently occurring.

The site has been considered by the Council's Environmental Health Officer who set out that surface water drainage may require percolation testing. It is considered that there would not be additional risk in respect of the proposed development opening up pollutant pathways.

On this basis and as part of the screening process it is considered that significant effects are not likely to arise from surface water and that impact in this respect can be screened out. As such appropriate assessment is not required for the site in respect of surface water drainage.

Screening Conclusion

In respect of risks of likely significant effects advice indicates where the competent authority is certain that the likely significant effects are either absent or can be avoided that a likely significant effect will not occur and appropriate assessment is not required.

Officers consider on the basis of the information provided that appropriate assessment is not required in this instance as significant likely risks are avoidable through the implementation of measures outlined above that avoid the risk of likely significant effects from the development on the River Mease SAC.