

Environment Agency
Manley House
Kestrel Way
Exeter EX2 7LQ

Attn: Christopher Hayball

Your ref: NH/CJH/ADA/4763/2

Our ref: MCF1-001/LF

26 July 2012

Dear Sirs

R.M.Buxton
MA (Cantab) MES (Yale) Solicitor - Advocate

Susan Ring
LLM Env (London) Solicitor - Advocate

Paul Stookes
PhD MSc LLB Solicitor - Advocate

Associate: **Andrew Kelton**
BA (Cantab) MA (UBC Canada)

Associate: **Adrienne Copithorne**
BA (Cantab) MA (UC Berkeley) Solicitor - Advocate

Latchmore Brook Restoration Project (High Level Stewardship ref AG0030016)

We refer to your letter dated 9 July 2012 and for the further documents provided to our clients. A number of supplemental points arise in respect of which we would request your response as soon as practicable, and in any event by 3 August 2012:

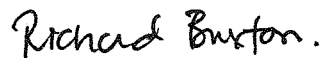
- (i) Please explain why, in light of the repeal of s 8 Land Drainage Act 1991 on 6 April 2012 by Flood and Water Management Act 2010, the Agency had legal capacity to grant a consent pursuant to s 23 Land Drainage Act 1991 on 16 May 2012;
- (ii) Please explain from where the Agency derived the "representation" that gave rise to the conclusion that there would "be no negative impacts on SAC";
- (iii) Please explain why the Agency concluded that a Habitats Regulation assessment is not required where works are for the restoration of a SSSI, as opposed to being works for the restoration of the SAC itself;
- (iv) Please explain why works to Unit 28 are not recorded in the SSSI Restoration Plans 2011 or 2012;
- (v) Please explain why the EA has permitted works to SSSI Unit 28 when Natural England has not been consulted on or given permission for any works to be carried out on SSSI Unit 28;
- (vi) Explain the rationale behind works to raise the bed level of the channel across the lawns of SSSI Unit 28 when the unit is now classified as being in favourable condition by Natural England;
- (vii) Please explain what other consents the Agency considers are required for these works. If the Agency considers that no other consents are required for these works, please explain why the Agency has not screened the application to consider whether an Environmental Statement should be submitted as the body granting development consent for the purposes of the EIA Directive (now consolidated as Directive 2011/92/EC);

(viii) In reference to the Agency's Water Framework Directive Preliminary Assessment, please explain:

- a. Why the Assessment records the SSSI units as being in "unfavourable declining condition" when Natural England assess the units as being in "unfavourable recovering" condition;
- b. When Natural England concluded that the "works will not have a negative impact on the interest features within the SAC, SPA or SSSI" (please provide a copy of the relevant consultation response);
- c. Why the Assessment concludes that despite reaching the relevant threshold, the EA concluded that it did not need to carry out further assessment because "the impacts are benefits". Please refer to the relevant guidance or legislation which justifies such an approach.

We look forward to hearing from you as soon as practicable and in any event by 3 August 2012.

Yours faithfully



Richard Buxton

- cc. Forestry Commission c/o Eversheds (Attn: Mark Rhys-Jones)
Natural England (Attn: Julie Hunt)
New Forest National Park Authority (Attn: Julie Mutlow)
Verderers of the New Forest (Attn: Dominic May)