

Date: 13 September 2013
Our ref: JAL/LEG01-12-011
Your ref: MCF1-001/LF



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By Email Only

Dear Lisa,

Latchmore Brook Restoration Project (Higher Level Stewardship ref: AG0030016)

I refer to your letter dated 31 January 2013 and note that you are instructed by the Friends of Latchmore Brook. I apologise for the delay in responding to your letter. Natural England would not normally anticipate taking so long to substantively respond to the points that you have raised but you will appreciate that there are a number of complex issues to consider and a number of parties involved with the restoration project. This letter seeks to address the material issues that you have raised.

1. It is not yet known whether the Latchmore Project will involve the movement of 5,000 cubic metres of earth in the New Forest SAC. How much earth will be moved is a matter for the Forestry Commission (FC) and is still to be determined.
2. As you will be aware, Natural England is not a statutory consultee for screening opinions under the Town and Country Planning (England) Regulations 2011 (T&CP EIA Regulations). As is clear from the email chain Natural England was not "consulted" on the screening decision. It was however informed of the NFNPA's conclusion and a Natural England officer replied to the NFNPA to confirm that we agreed with their view. It is correct to say that Natural England did not look at this issue in any depth at that time.
3. Since receiving your letter Natural England has also sought legal advice specifically on the issue of the need for an EIA either under the Town and Country planning regime or the EIA (agriculture) regime. This has led to Natural England being in a position to take a more informed view. Having considered this matter more closely and taken advice Natural England is of the opinion that this is a matter where an EIA assessment should properly be carried out under the T&CP EIA Regulations. We have informed the NFNPA and FC of our views.
4. You state that you are surprised that Natural England did not comment on the amount of gravel that was being moved when it responded to the NFNPA on its screening opinion. As stated above the question of the amount of gravel to be moved has not yet been resolved.
5. We remain of the view for the purposes of the Habitats Directive that this project is "directly connected with or necessary to the management of the site" and therefore does not require an appropriate assessment.

6. Natural England also remains of the view that it is taking a precautionary approach in relation to this project. The project will reverse the detrimental effects of the modified Latchmore Brook that currently has degraded mire, fen meadow, rush pasture, wet heath and grassland and will restore breeding habitat for the southern damselfly. Natural England is of the view that the restoration will positively impact all the directly and indirectly qualifying European features. We therefore feel our approach is entirely in accordance with EU law and in making any judgments about the site and the project we have applied a precautionary approach.

Yours sincerely

Julie Lunt
Head of Legal Services
For and on behalf of Natural EngLand