

Date: 18 July 2023  
Our ref: 437789  
Your ref: 23/00570/DOC



[REDACTED]  
Rochdale Borough Council

**BY EMAIL ONLY**

Customer Services  
Hornbeam House  
Crewe Business Park  
Electra Way  
Crewe  
Cheshire  
CW1 6GJ

T [REDACTED]

Dear [REDACTED]

**Planning consultation: Submission of details to comply with conditions 3 (invasive species), 8 (site investigation), 11 (drainage scheme) and 13 (canal protection) on planning permission 20/01093/FUL**

**Location: 1 Dobfield Road, Rochdale, Rochdale, OL16 3AW**

Thank you for your consultation on the above dated and received by Natural England on 07 June 2023.

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.

**Further Information Requested: Updated Habitats Regulations Assessment**

Further planning documents have been submitted in relation to the discharge of conditions. In light of new findings and contradictory evidence, the Habitats Regulations Assessment (HRA) requires amendment. We do not support discharge of the above associated conditions until this document is updated and Natural England is reconsulted.

**Drainage**

Natural England are not satisfied with the proposed drainage strategy (EBC01070 – 200, dated April 2023) as the likely significant effects (LSEs) have not been addressed within the current Shadow HRA - Habitats Regulations Assessment For Planning Application 20/01093FUL, Land Adjacent To 1 Dobfield Road Rochdale, April 2021.

The Shadow HRA states '*Water Pollution (post development) - On the completion of the development foul water and surface water **will not** be discharged into the Canal*' within Table 1. In addition, the letter report titled Proposed Residential Development at Dobfield Road, Rochdale – Drainage Strategy, dated 24<sup>th</sup> August 2020 supported the HRA by stating '*The developer is therefore proposing to provide a pumping station and rising main to connect to the nearest public sewer*'.

The potential LSEs arising from surface and foul water discharge have not been assessed within the HRA. The current design shows nine Kingspan Klargester BA biodisc sewage treatment plant with nine associated garden soakaways, with the addition of permeable paving and road soakaways. It is likely that discharge will enter Rochdale Canal SAC by these pathways.

We strongly recommend that the Environment Agency is contacted for their planning comments.

## Ground Contamination

New evidence found within the GeoEnvironmental Site Investigation Report (March 2023) suggests that the Habitats Regulations Assessment (HRA) will need to be updated. The presence of ground contamination such as lead and arsenic must be assessed to determine whether LSEs will occur to Rochdale Canal Special Area of Conservation (SAC).

We support remediation efforts which handle soils and contaminants without causing harm to the designated site. Natural England also support measures which prevent the run-off of contaminants into Rochdale Canal SAC.

## Herbicide Use

Natural England do not support the use of herbicide within 1m of Rochdale Canal due to the risk this poses to Floating water plantain (*Luronium natans*) both within the vicinity and to the wider canal. Alternative measures such as hand pulling should be explored when working in such close proximity to the canal.

There has been no assessment of potential LSEs arising from the use of herbicide on the qualifying feature within the Shadow HRA. However, herbicide treatment has potentially been taking place within 1m of Rochdale Canal SAC since 2021. The use of herbicide near to Rochdale Canal is in contradiction to the adopted shadow HRA. Specifically Table 1 states *There will be no use of herbicides close to the Canal - Screened Out – No Likely Significant Effect*.

## Operational Impacts

We would also welcome this as an opportunity to review potential LSEs during the operational phase such as garden application of herbicide and fertiliser, existing septic tank decommission, planting of trees within close proximity of the bank and end of garden moorings which can cause shading of the SAC, amendment to the bank structure including jetties/viewing platforms and increased water-related recreation.

## Additional Advice

Natural England offer the following additional advice:

### Operations Requiring Natural England Consent

Herbicide use near Rochdale Canal SSSI is classed as an operation likely to damage the special interest and requires Natural England consent. Should the planning process not have secured its safe use in regards to the designated site, application should have been made to Natural England for its use. More information can be found at <https://www.gov.uk/government/publications/request-permission-for-works-or-an-activity-on-an-sssi>.

Natural England requested further information on 28 June 2023 to understand if herbicide application has already occurred within this proximity and whether additional Natural England permission was sought. This information remains outstanding and is still required.

### Discretionary Advice Service

Should the applicant wish to discuss the further information required and scope for mitigation with Natural England, we would be happy to provide advice through our [Discretionary Advice Service](#).

If you have any queries relating to the advice in this letter or any additional consultation requests to [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk).

Please consult us again once the information requested above has been provided.

Yours sincerely

Zoe Haysted, Sustainable Development Lead Adviser  
Wetlands, Water and Natural Course (Cheshire to Lancashire)

## **Annex A – Consulting Natural England**

We signpost the following information for the LPA to note for future planning applications and to advise applicants accordingly:

### ***Applying for Assent/Consent in a SSSI***

Additional written consent from Natural England may be required if as an owner or occupier, you intend to carry out a proposed operation or management change on a Site of Special Scientific interest (SSSI) that needs Natural England's permission. Further guidance and application form can be found at <https://www.gov.uk/guidance/protected-areas-sites-of-special-scientific-interest>.

Example operations requiring Natural England consent at Rochdale Canal SSSI are application of fertilisers, herbicides, drainage, management of aquatic and bank vegetation for drainage purposes, alteration of water levels, earthworks and recreation which may require consideration in the future. Further information and a full list of activities can be found at: <https://designatedsites.naturalengland.org.uk/>.

Should prior approval be given, and before a public body, statutory undertaker or other body commences a permitted development within or might affect a Site of Special Scientific Interest (SSSI), it must give written notice to Natural England and await its assent or, in some cases, its advice. See [here](#)<sup>1</sup> for further details.

### ***Permitted Development***

A development likely to have a significant effect on a European Site and which would normally rely on permitted development rights must not begin or continue before the developer has received written notice of the approval of the local planning authority. In these instances, an application to the local planning authority should be made for its approval as required by Regulation 77 of The Conservation of Habitats and Species Regulations 2017. Your authority should then determine whether the proposal is likely to have a significant effect on any European site, proceeding to the Appropriate Assessment stage where significant effects cannot be ruled out. Natural England must be consulted on any Appropriate Assessment your authority may decide to make.

### ***Enforcement***

Natural England's enforcement responsibilities are outlined on the [Gov.UK website](#)<sup>2</sup>. Our regulatory role involves helping people to comply with laws that protect wildlife and the natural environment. As a last resort, we also take enforcement action when these laws are broken.

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<sup>1</sup> <https://www.gov.uk/guidance/sites-of-special-scientific-interest-public-body-responsibilities>

<sup>2</sup> <https://www.gov.uk/guidance/enforcement-laws-advice-on-protecting-the-natural-environment-in-england>