

From:

To:

Cc:

RE: LIAM 2019-12-19 302356 Nature Reserve Improvements (North York Moors) NYM-2019-0600-FL

Date: 16 December 2019 10:54:41

Attachments:

Dear Helen Webster,

Thank you for providing the updated information.

The documents show that there are no habitat losses for European features nor SSSI features, therefore there is no loss to a notified feature. The method statement demonstrates that the mitigation is sufficient to prevent any damage to any notified features. For these reasons, Natural England has **no objection** to the proposal.

The NYMNPA will need to carry out an Appropriate Assessment (AA) as part of the Habitat Regulations Assessment but with this information, the AA can be concise (the assessment should be appropriate to the scale and impacts from the proposal). We recommend that the AA should conclude there will be no adverse effect on the integrity of the site.

Please note that our other advice (Protected Landscapes and that Annex A) contained within our response on the 22nd October is still pertinent in the determination of this application.

Kind Regards

Liam

Liam O'Reilly
Sustainable Development Lead Adviser
Yorkshire Area Team
Natural England
Lateral
8 City Walk
Leeds, LS11 9AT

[on your pre-application planning proposals using our chargeable advice service.](#)

We are here to secure a healthy natural environment for people to enjoy, where wildlife is protected and England's traditional landscapes are safeguarded for future generations.

From: planning@northyorkmoors.org.uk [<mailto:planning@northyorkmoors.org.uk>]

Sent: 28 November 2019 11:29

To: SM-NE-Consultations (NE) <consultations@naturalengland.org.uk>

Subject: nature reserve west of A169 and south of Ellerbeck - NYM/2019/0600/FL

You have received this email from North York Moors National Park Authority (Planning Service) in relation to a planning matter at nature reserve west of A169 and south of Ellerbeck.

The attached correspondence contains important information; please retain it for your records.

If this is a consultation/re-consultation and you are set up with a log-in username and password, please click the link <http://tinyurl.com/z5qmn4j>

In any correspondence, please quote the Council reference number, which is included in the attached letter.

If you are a statutory consultee and would like to use electronic correspondence via our e-consultation site please contact the Planning Dept via email at planning@northyorkmoors.org.uk who will be happy to set you up with a log-in username and password..

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- Microsoft Word Viewer for Word attachments.
- Adobe Reader for PDF attachments.



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From: [Elspeth Ingleby](#)
To: [Helen Webster](#); [Planning](#)
Cc:
Subject: FW: Fen Bog planning application - NYM/2019/0600/FL nature reserve west of A169 and south of Ellerbeck
Date: 02 December 2019 12:16:09

Dear Helen,

I have reviewed the additional information supplied with relation to this development and am satisfied that the works will have no negative impact on the site and will result in improved management of the reserve.

I have also forwarded below Liam O'Reilly's response on behalf of Natural England on receipt of the information. You will see from Kate's original email in the stream below that she consulted with Liam and myself prior to sending the amended documents to yourself and planning in order to ensure we were happy with the scope of works and prevent further delays. You will see that Liam has indicated that his response can be taken as NEs response to a re-consult on this information.

For the purposes of the Habitat Regulations in relation to the European Designated sites I assert that;

- The works are not necessary for the management of a European Designated Site
- The works will have no Likely Significant Effect on any European Designated Site.

Thanks

Elspeth

Elspeth Ingleby MA_{Cantab} ACIEEM

Ecologist

North York Moors National Park Authority
The Old Vicarage, Bondgate, Helmsley, York YO62 5BP
Telephone: 01439 772700

From: O'Reilly, Liam
Sent: 25 November 2019 12:04
To: Kate Yates; Elspeth Ingleby
Cc: Samuel Newton; Nelson, Justine
Subject: RE: Fen Bog planning application - NYM/2019/0600/FL nature reserve west of A169 and south of Ellerbeck

Hello Kate,

Apologies for the delay.

The habitat losses show that they aren't European features nor SSSI features, therefore there is no loss to a notified feature.

The NYMNPA will have to carry out an Appropriate Assessment (AA) as part of the Habitat Regulations Assessment but with this information, the AA can be very concise (the assessment should be appropriate to the scale and impacts from the proposal). We recommend that the AA should conclude there will be no adverse effect on the integrity of the site.

The method statement is satisfactory. Although, you may want to include something about biosecurity (e.g. check, clean and dry) to ensure no non-native species are introduced to the site.

I can confirm, that Natural England has no objection to this proposal. I would be satisfied if this is taken as

our response to the consultation but happy to be formally re-consulted if required.

Kind Regards

Liam

Liam O'Reilly
Sustainable Development Lead Adviser
Yorkshire Area Team
Natural England
Lateral
8 City Walk
Leeds, LS11 9AT

Tel –
Mob -

[Get environmental advice on your pre-application planning proposals using our chargeable advice service.](#)

We are here to secure a healthy natural environment for people to enjoy, where wildlife is protected and England's traditional landscapes are safeguarded for future generations.

From: Kate Yates

Sent: 20 November 2019 16:49

To: O'Reilly, Liam ; Elspeth Ingleby
(e.ingleby@northyorkmoors.org.uk) <e.ingleby@northyorkmoors.org.uk>

Cc: Samuel Newton <s.newton@northyorkmoors.org.uk>

Subject: Fen Bog planning application - NYM/2019/0600/FL nature reserve west of A169 and south of Ellerbeck

Hello,

As requested I have put together some additional information on the areas of work at Fen Bog within the planning application.

I thought I'd send these directly to you both prior to submission to the planning office to check that this is sufficient and therefore save time if anything else is required.

I've attached;

1. draft method statement for the works,
2. loss of habitat calculation for each area of work.

There are a number of additional photos for each area (referenced in 2), which I haven't attached due to file size but would include in the planning application.

Let me know if you would like to see them in advance.

I'm out of the office tomorrow but back in on Friday, so will follow this up with a quick phone call as I'd appreciate your thoughts.

I hope this is ok.

Kind regards,

Kate Yates

Living Landscapes Officer (Hambleton, Ryedale & Scarborough)

**NORTH YORKSHIRE COUNTY COUNCIL
BUSINESS and ENVIRONMENTAL SERVICES**



**LOCAL HIGHWAY AUTHORITY
CONSIDERATIONS and RECOMMENDATION**

Application No: **NYM/2019/0600/FL**

Proposed Development: Application for improvement works to entrance and car parking area, restoration of

footpath and replacement interpretation

Location: nature reserve west of A169 and south of
Ellerbeck

Applicant: KATE YATES

CH Ref: **Case Officer:** Vikki Orange

Area Ref: **Tel:**

County Road No: **E-mail:**

To: North York Moors National Park
Authority
The Old Vicarage
Bondgate
Helmsley
YO62 5BP

Date: 29 November 2019

FAO: **Copies to:**

With reference to the amendment to the original application details to withdraw 40m of sleeper boardwalk, retaining replacement of no. existing interpretation board:

There are **no local highway authority objections** to the proposed development.

Signed: <p style="text-align: center;"><i>Vikki Orange</i></p> <p><small>For Corporate Director for Business and Environmental Services</small></p>	Issued by: Kirby Misperton Highway Office Beansheaf Industrial Park Tofts Road Kirby Misperton YO17 6BG e-mail:
--	---

Date: 22 October 2019
Our ref: 296241
Your ref: NYM/2019/0600/FL



Miss Helen Webster
Development Management
North York Moors National Park Authority
The Old Vicarage
Bondgate
Helmsley
York
North Yorkshire
YO62 5BP

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

BY EMAIL ONLY

Dear Miss Helen Webster

Planning consultation: NYM/2019/0600/FL – Application for improvement works to entrance and car parking area, restoration of footpath and boardwalks.

Location: Nature reserve west of A169 and south of Ellerbeck.

Thank you for your consultation on the above which was received by Natural England on 26 September 2019.

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.

SUMMARY OF NATURAL ENGLAND'S ADVICE

FURTHER INFORMATION REQUIRED TO DETERMINE IMPACTS ON DESIGNATED SITES

As submitted, the application could have potential significant effects on North York Moors Site of Special Scientific Interest (SSSI), Special Area of Conservation (SAC), Special Protection Area (SPA) and Fen Bog SAC and Newtondale SSSI. Natural England requires further information in order to determine the significance of these impacts and the scope for mitigation.

The following information is required:

- A survey of the vegetation in relation to the location of the proposal.

Without this information, Natural England may need to object to the proposal.

Please re-consult Natural England once this information has been obtained.

Natural England's further advice on designated sites/landscapes and advice on other issues is set out below.

Additional Information required

The application site is within or in close proximity to a European designated site (also commonly referred to as Natura 2000 sites), and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2017, as amended (the 'Habitats Regulations'). The application site is within the North York Moors Special Protection Area (SPA) and Special Area of Conservation (SAC) and also within Fen Bog SAC which are European sites. The site is also notified at a national level as North York Moors Site of Special Scientific Interest (SSSI) and Newtondale SSSI.

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have¹. The [Conservation objectives](#) for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

The consultation documents provided by your authority do not include information to demonstrate that the requirements of Regulations 63 and 64 of the Habitats Regulations have been considered by your authority, i.e. the consultation does not include a Habitats Regulations Assessment.

We note that your Ecologist (Elspeth Ingleby) has stated that the works are directly connected to and necessary for the management of the site and therefore a Habitats Regulations Assessment (HRA) is not required. However, for a project to be completely exempt from further stages of a HRA, all parts of the project should be directly connected to the management measures which are needed to either maintain or restore the site features to a Favourable Conservation Status. Whilst this project contains conservation management activities amongst its objectives, it also includes other elements which are not directly connected to this imperative. In advising your authority on the requirements relating to Habitats Regulations Assessment, it is Natural England's advice that the proposal is not necessary for the management of the European site.

Your authority should therefore 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. Please note that the scale of impact is not material in making the initial assessment as to the likelihood of a significant effect. Therefore, from the information provided so far, a likely significant effect cannot be ruled out and an Appropriate Assessment is required.

We recommend you obtain the following information to help undertake a Habitats Regulations Assessment:

- A survey of the vegetation in relation to the location of the proposal. This will help to:
 - determine whether the proposal will lead to a loss and/or impact any notified features;
 - identify if any alternatives are available to avoid impacts;
 - identify suitable measures to mitigate impacts.

The above information is also required to determine any impacts to the SSSIs. Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 28I (6) of the Wildlife and Countryside Act 1981 (as amended) to notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, your authority has taken account of Natural England's advice. You must also allow a further period of 21 days before the operation can commence.

¹ Requirements are set out within Regulations 63 and 64 of the Habitats Regulations, where a series of steps and tests are followed for plans or projects that could potentially affect a European site. The steps and tests set out within Regulations 63 and 64 are commonly referred to as the 'Habitats Regulations Assessment' process.

The Government has produced core guidance for competent authorities and developers to assist with the Habitats Regulations Assessment process. This can be found on the Defra website. <http://www.defra.gov.uk/habitats-review/implementation/process-guidance/guidance/sites/>

Protected Landscapes

The proposed development is for a site within or close to a nationally designated landscape namely North York Moors National Park. Natural England advises that the planning authority uses national and local policies, together with local landscape expertise and information to determine the proposal. The policy and statutory framework to guide your decision and the role of local advice are explained below.

Your decision should be guided by paragraph 172 of the National Planning Policy Framework which gives the highest status of protection for the 'landscape and scenic beauty' of AONBs and National Parks. For major development proposals paragraph 172 sets out criteria to determine whether the development should exceptionally be permitted within the designated landscape.

Alongside national policy you should also apply landscape policies set out in your development plan, or appropriate saved policies.

The landscape advisor/planner for the National Park will be best placed to provide you with detailed advice about this development proposal. Their knowledge of the site and its wider landscape setting, together with the aims and objectives of the park's management plan, will be a valuable contribution to the planning decision. Where available, a local Landscape Character Assessment can also be a helpful guide to the landscape's sensitivity to this type of development and its capacity to accommodate the proposed development.

The statutory purposes of the National Park are to conserve and enhance the natural beauty, wildlife and cultural heritage of the park; and to promote opportunities for the understanding and enjoyment of the special qualities of the park by the public. You should assess the application carefully as to whether the proposed development would have a significant impact on or harm those statutory purposes. Relevant to this is the duty on public bodies to 'have regard' for those statutory purposes in carrying out their functions (section 11 A(2) of the National Parks and Access to the Countryside Act 1949 (as amended)). The Planning Practice Guidance confirms that this duty also applies to proposals outside the designated area but impacting on its natural beauty.

Other advice

Further general advice on the protected species and other natural environment issues is provided at Annex A.

If you have any queries relating to the advice in this letter please contact me on 020 802 68668.

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](#).

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

Yours sincerely

Liam O'Reilly
Yorkshire Area Team

Annex A

Natural England offers the following additional advice:

Landscape

Paragraph 170 of the National Planning Policy Framework (NPPF) highlights the need to protect and enhance valued landscapes through the planning system. This application may present opportunities to protect and enhance locally valued landscapes, including any local landscape designations. You may want to consider whether any local landscape features or characteristics (such as ponds, woodland or dry stone walls) could be incorporated into the development in order to respect and enhance local landscape character and distinctiveness, in line with any local landscape character assessments. Where the impacts of development are likely to be significant, a Landscape & Visual Impact Assessment should be provided with the proposal to inform decision making. We refer you to the [Landscape Institute Guidelines for Landscape and Visual Impact Assessment](#) for further guidance.

Best and most versatile agricultural land and soils

Local planning authorities are responsible for ensuring that they have sufficient detailed agricultural land classification (ALC) information to apply NPPF policies (Paragraphs 170 and 171). This is the case regardless of whether the proposed development is sufficiently large to consult Natural England. Further information is contained in [GOV.UK guidance](#). Agricultural Land Classification information is available on the [Magic](#) website on the [Data.Gov.uk](#) website. If you consider the proposal has significant implications for further loss of 'best and most versatile' agricultural land, we would be pleased to discuss the matter further.

Guidance on soil protection is available in the Defra [Construction Code of Practice for the Sustainable Use of Soils on Construction Sites](#), and we recommend its use in the design and construction of development, including any planning conditions. *Should the development proceed, we advise that the developer uses an appropriately experienced soil specialist to advise on, and supervise soil handling, including identifying when soils are dry enough to be handled and how to make the best use of soils on site.*

Protected Species

Natural England has produced [standing advice](#)² to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice. Natural England will only provide bespoke advice on protected species where they form part of a SSSI or in exceptional circumstances.

Local sites and priority habitats and species

You should consider the impacts of the proposed development on any local wildlife or geodiversity sites, in line with paragraphs 171 and 174 of the NPPF and any relevant development plan policy. There may also be opportunities to enhance local sites and improve their connectivity. Natural England does not hold locally specific information on local sites and recommends further information is obtained from appropriate bodies such as the local records centre, wildlife trust, geoconservation groups or recording societies.

Priority habitats and Species are of particular importance for nature conservation and included in the England Biodiversity List published under section 41 of the Natural Environment and Rural Communities Act 2006. Most priority habitats will be mapped either as Sites of Special Scientific Interest, on the Magic website or as Local Wildlife Sites. List of priority habitats and species can be found [here](#)³. Natural England does not routinely hold species data, such data should be collected when impacts on priority habitats or species are considered likely. Consideration should also be given to the potential environmental value of brownfield sites, often found in urban areas and former industrial land, further information including links to the open mosaic habitats inventory can be found [here](#).

² <https://www.gov.uk/protected-species-and-sites-how-to-review-planning-proposals>

³ <http://webarchive.nationalarchives.gov.uk/20140711133551/http://www.naturalengland.org.uk/ourwork/conservation/biodiversity/protectandmanage/habsandspeciesimportance.aspx>

Ancient woodland, ancient and veteran trees

You should consider any impacts on ancient woodland and ancient and veteran trees in line with paragraph 175 of the NPPF. Natural England maintains the Ancient Woodland [Inventory](#) which can help identify ancient woodland. Natural England and the Forestry Commission have produced [standing advice](#) for planning authorities in relation to ancient woodland and ancient and veteran trees. It should be taken into account by planning authorities when determining relevant planning applications. Natural England will only provide bespoke advice on ancient woodland, ancient and veteran trees where they form part of a SSSI or in exceptional circumstances.

Environmental enhancement

Development provides opportunities to secure net gains for biodiversity and wider environmental gains, as outlined in the NPPF (paragraphs 8, 72, 102, 118, 170, 171, 174 and 175). We advise you to follow the mitigation hierarchy as set out in paragraph 175 of the NPPF and firstly consider what existing environmental features on and around the site can be retained or enhanced or what new features could be incorporated into the development proposal. Where onsite measures are not possible, you should consider off site measures. Opportunities for enhancement might include:

- Providing a new footpath through the new development to link into existing rights of way.
- Restoring a neglected hedgerow.
- Creating a new pond as an attractive feature on the site.
- Planting trees characteristic to the local area to make a positive contribution to the local landscape.
- Using native plants in landscaping schemes for better nectar and seed sources for bees and birds.
- Incorporating swift boxes or bat boxes into the design of new buildings.
- Designing lighting to encourage wildlife.
- Adding a green roof to new buildings.

You could also consider how the proposed development can contribute to the wider environment and help implement elements of any Landscape, Green Infrastructure or Biodiversity Strategy in place in your area. For example:

- Links to existing greenspace and/or opportunities to enhance and improve access.
- Identifying opportunities for new greenspace and managing existing (and new) public spaces to be more wildlife friendly (e.g. by sowing wild flower strips)
- Planting additional street trees.
- Identifying any improvements to the existing public right of way network or using the opportunity of new development to extend the network to create missing links.
- Restoring neglected environmental features (e.g. coppicing a prominent hedge that is in poor condition or clearing away an eyesore).

Access and Recreation

Natural England encourages any proposal to incorporate measures to help improve people's access to the natural environment. Measures such as reinstating existing footpaths together with the creation of new footpaths and bridleways should be considered. Links to other green networks and, where appropriate, urban fringe areas should also be explored to help promote the creation of wider green infrastructure. Relevant aspects of local authority green infrastructure strategies should be delivered where appropriate.

Rights of Way, Access land, Coastal access and National Trails

Paragraphs 98 and 170 of the NPPF highlights the important of public rights of way and access. Development should consider potential impacts on access land, common land, rights of way, coastal access routes and coastal margin in the vicinity of the development and the scope to mitigate any adverse impacts. Consideration should also be given to the potential impacts on any nearby National Trails, including the England Coast Path. The National Trails website www.nationaltrail.co.uk provides information including contact details for the National Trail Officer.

Biodiversity duty

Your authority has a [duty](#) to have regard to conserving biodiversity as part of your decision making. Conserving biodiversity can also include restoration or enhancement to a population or habitat. Further information is available [here](#).

From: [Elspeth Ingleby](#)
To: [Helen Webster](#)
Cc: [Planning](#)
Subject: NYM/2019/0600/FL - nature reserve west of A169 and south of Ellerbeck
Date: 14 October 2019 12:58:48

Dear Helen,

I have looked through the information provided for this application and am satisfied that all works are designed specifically to resolve existing issues which negatively the special features of the varied protected habitats found here and can be considered necessary for the management of the designated sites in order to support the recovery or maintenance of habitats to good condition.

For the purposes of the Habitat Regulations, I assert that the works are reasonably necessary for the ongoing management of European sites (North York Moors SAC, North York Moors SPA and Fen Bog SAC) and thus can be screened out from further assessment.

If approved, I would however like to include a condition to require the submission of a Construction Method Statement for the works to be approved by the Authority prior to works commencing. In addition, work area 3 should be assessed by a suitably qualified ecologist prior to works commencing to identify any flora of particular value to the protected habitats that it is not possible to avoid covering with essential sections of boardwalk and specimens should be translocated as necessary to appropriate sites in the immediate vicinity that will not be affected. It is anticipated that the number of such translocations, if any, will be minimal and the works will reduce the existing level of impact to the plants in question.

Many thanks

Elspeth

Elspeth Ingleby MA_{Cantab} ACIEEM

Ecologist

North York Moors National Park Authority

The Old Vicarage, Bondgate, Helmsley, York YO62 5BP

Telephone: 01439 772700

From:
To: [Planning](#)
Subject: FAO Helen Webster RE: nature reserve west of A169 and south of Ellerbeck - NYM/2019/0600/FL
Date: 16 October 2019 11:43:42
Attachments: [image002.png](#)

Hello Helen,

Please can we have an extension until Tuesday 22nd October to respond to this consultation?

Kind Regards

Liam

Liam O'Reilly
Sustainable Development Lead Adviser
Yorkshire Area Team
Natural England
Lateral
8 City Walk
Leeds, LS11 9AT

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From: planning@northyorkmoors.org.uk [<mailto:planning@northyorkmoors.org.uk>]
Sent: 26 September 2019 12:37
To: SM-NE-Consultations (NE)
Subject: nature reserve west of A169 and south of Ellerbeck - NYM/2019/0600/FL

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In any correspondence, please quote the Council reference number, which is included in the attached letter.

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**NORTH YORKSHIRE COUNTY COUNCIL
BUSINESS and ENVIRONMENTAL SERVICES**



**LOCAL HIGHWAY AUTHORITY
CONSIDERATIONS and RECOMMENDATION**

Application No: **NYM19/600/FL**

Proposed Development: Application for improvement works to entrance and car parking area, restoration of footpath and boardwalks

Location: nature reserve west of A169 and south of Ellerbeck

Applicant: Yorkshire Wildlife Trust

CH Ref: **Case Officer:** Vikki Orange

Area Ref: 4/30/279 **Tel:**

County Road No: **E-mail:**

To: North York Moors National Park Authority
The Old Vicarage
Bondgate
Helmsley
YO62 5BP

Date: 7 October 2019

FAO: Helen Webster

Copies to:

There are **no local highway authority objections** to the proposed development

Signed:

Vikki Orange

For Corporate Director for Business and Environmental Services

Issued by:

Whitby Highways Office
Discovery Way
Whitby
North Yorkshire
YO22 4PZ

e-mail: