

EXAMINATION OF THE TARRINGTON NEIGHBOURHOOD DEVELOPMENT PLAN 2011-2031

Herefordshire Council Position Statement on the River Lugg catchment – Implications for the examination of the Tarrington NDP.

On 1st March 2021 the Herefordshire Council issued a Statement on the position with regard to Habitats Regulations Assessments for Neighbourhood Development Plans covering areas which fall within the River Lugg hydrological catchment. Tarrington parish lies within that catchment. The River Lugg hydrological catchment is part of the River Wye Special Area of Conservation (SAC), which is termed a 'European Site'.

The Herefordshire Council statement explains the scientific background. For the Tarrington NDP it had previously been determined that the making of the plan would not be likely to have a significant effect on the European Site. The effect of the new position statement is to withdraw that determination.

The Herefordshire Council position statement makes reference to the 'basic conditions' which must be met before a neighbourhood plan can be 'made', which means that it becomes part of the statutory development plan.

The basic condition in question states: 'the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.' Within that Chapter, Regulation 105 is the most directly relevant. Regulation 105(1) states: 'Where a land-use plan is likely to have a significant effect on a European Site ... the plan-making authority must, before the plan is given effect, make an appropriate assessment of the implications for the site in view of the site's conservation objectives.' Regulation 105(2) requires consultation with 'the appropriate nature conservation body', which is Natural England, for the purposes of that assessment.

The rulings in the European Court of Justice have established that mitigation measures may only be taken into account as part of such an appropriate assessment and not at earlier stages. An appropriate assessment has not been undertaken for the Tarrington NDP. I consider it essential that a full appropriate assessment is undertaken taking account of any possible mitigation measures before any formal determination is made as to whether,

with such measures in place, there would still be a likely significant effect on the European Site.

This is, therefore, a formal request to the Herefordshire Council, both as the 'plan-making authority' and the 'competent authority', that an appropriate assessment of the Tarrington NDP be carried out as required by Regulation 105 of the Conservation of Habitats and Species Regulations 2017.

The examination of the Tarrington NDP has otherwise reached an advanced stage. Some time will be required for the appropriate assessment to be completed. In the circumstances, this is a formal notification that the examination is now SUSPENDED until further notice. Upon receipt of the results of the appropriate assessment I will decide on the next steps.

John Mattocks

Examiner

4th March 2021