Herefordshire Council

The Conservation of Habitats and Species Regulations (2017)
Part 6, section 63
'Assessment of implications for European sites and European offshore marine sites'

Habitats Regulation Assessment

This is a record of the Habitat Regulations Assessment (HRA) (including Screening for Likely Significant Effects and Appropriate Assessment where required) carried out by Herefordshire Council (the competent authority) as required by Regulation 63 of the Conservation of Habitats & Species Regulations 2017 (the 'Habitats Regulations') relating to the following **planning application.**

This HRA is carried out in accordance with the relevant guidance documents including those by Natural England at https://www.gov.uk/guidance/appropriate-assessment, and David Tyldesley Associates https://www.dtapublications.co.uk/

The HRA is carried out by Herefordshire Council. Detailed information will need to be provided by the applicant to enable to authority to make the assessment.

The Project / Plan

1.1 Planning Application Reference Number, Description and Address

Application reference number: : 191013
Address: Land to the North of Ashperton Village Hall, Ashperton, Herefordshire
Description: Application for approval of reserved matters following Outline 152041 (Proposed residential development of 10 dwellings (amendment to original application)) for the approval of Appearance, Landscaping and Scale.
Applicant: Mr Harvey Davies
Case officer: Mr Ollie Jones

Location OSGR: 364379, 242019
Link to Planning Application on Herefordshire Council Website:
https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=191013&search-term=191013

Outline:
https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=152041&search-term=152041

1.2 Description of the plan or project (details)

Application for approval of reserved matters following Outline 152041 (Proposed residential development of 10 dwellings (amendment to original application)) for the approval of Appearance, Landscaping and Scale (including drainage)

1.3 Documents and plans considered – *delete/ add as appropriate*

Herefordshire Local Plan Core Strategy 2011 – 2031
River Wye SAC Nutrient Management Plan
National Planning Policy Framework
The Conservation of Habitats and Species Regulations 2017 (as amended)

1.4 Planning Policy context:

Rural Settlement

1.5 Size (ha) and description (habitats etc.) of existing site

0.91 agricultural pasture

1.6 Surrounding land use and context in relation to designated sites

Village edge/agricultural

Relevant Habitats (Natura 2000) site(s)

Please select all that apply from:

☒ **River Wye Catchment SAC (including schemes impacting on the linked River Lugg SSSI)**

Details of the Site:

1.River Wye SAC

The River Wye SAC covers an area of 2234.89 ha in Gloucestershire, Herefordshire, Monmouthshire and Powys.

Designated features

Qualifying habitats
The site is designated under article 4(4) of the Directive (92/43/EEC) as it hosts the following habitats listed in Annex I:

- Transition mires and quaking bogs. (Very wet mires often identified by an unstable 'quaking' surface).
- Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho Batrachion vegetation. (Rivers with floating vegetation often dominated by water crowfoot)

Qualifying species
The site is designated under article 4(4) of the Directive (92/43/EEC) as it hosts the following species listed in Annex II:

- Allis shad Alosa alosa
- Atlantic salmon Salmo salar
- Brook lamprey Lampetra planeri
- Bullhead Cottus gobio
- Otter Lutra lutra
- River lamprey Lampetra fluviatilis
- Sea lamprey Petromyzon marinus
- Twaite shad Alosa fallax
- White-clawed (or Atlantic stream) crayfish Austropotamobius pallipes

Conservation Objectives of the Designated features:

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;

- The extent and distribution of qualifying natural habitats and habitats of qualifying species
- The structure and function (including typical species) of qualifying natural habitats
- The structure and function of the habitats of qualifying species
- The supporting processes on which qualifying natural habitats and habitats of qualifying species rely

- The populations of qualifying species, and,
- The distribution of qualifying species within the site.

[European Site Conservation Objectives for River Wye SAC - UK0012642 (naturalengland.org.uk)]

Site Condition
Site condition, for the area of the site in England, is taken from the constituent SSSI units for the River Wye SSSI and the River Lugg SSSI.

River Wye SSSI

Unit	Unit name	Condition	Condition Threat Risk	Habitat	Area (ha)	GridRef
001	TIDAL RIVER - ESTUARY TO BROCKWEIR BRIDGE	Unfavourable - Declining	High	RIVERS AND STREAMS	114.9234 ha	ST 537 956
002	BROCKWEIR BRIDGE TO MONMOUTH	Unfavourable - Declining	High	RIVERS AND STREAMS	36.3835 ha	SO 534 055
003	MONMOUTH TO ROSS	Unfavourable - Declining	High	RIVERS AND STREAMS	157.0946 ha	SO 573 185
004	ROSS TO HEREFORD	Unfavourable - Declining	High	RIVERS AND STREAMS	293.5648 ha	SO 568 320
005	HEREFORD TO BREDWARDINE BRIDGE	Unfavourable - Declining	High	RIVERS AND STREAMS	150.1955 ha	SO 418 415
006	BREDWARDINE BRIDGE TO WHITNEY TOLL	Unfavourable - Declining	High	RIVERS AND STREAMS	122.4429 ha	SO 300 461
007	WHITNEY TOLL TO HAY	Unfavourable - Declining	High	RIVERS AND STREAMS	30.8778 ha	SO 242 458

River Lugg SSSI

Unit	Unit name	Condition	Condition Threat Risk	Habitat	Area (ha)	GridRef
001	RIVER LUGG (WYE SAC)	Unfavourable - Declining	High	RIVERS AND STREAMS	58.8726 ha	SO 530 455
002	BODENHAM WEIR TO LEOMINSTER	Unfavourable - Declining	High	RIVERS AND STREAMS	20.4404 ha	SO 503 573
003	LEOMINSTER TO MORTIMERS CROSS	Unfavourable - Declining	High	RIVERS AND STREAMS	36.2719 ha	SO 448 623
004	MORTIMERS CROSS TO PRESTEIGNE	Unfavourable - Declining	High	RIVERS AND STREAMS	26.8469 ha	SO 366 648

Other Relevant Documents
There is a Site Improvement Plan for the River Wye which can be found at [Site Improvement Plan: River Wye - SIP199 (naturalengland.org.uk)]

Stage1: Preliminary Screening including Likely Significant Effects (LSE)

Completed by:

Ecology (J Bisset)
12/02/2025

Table 1: Initial Screening
Does the project or plan qualify for exemption from the HRA process?

Is the project or plan directly connected with or necessary for the conservation management of the habitat site (provide details)? If so the project may be considered exempt from the HRA process.	No

If the proposal is considered exempt from the HRA process? Has this been consulted upon and agreed with Natural England?	NA/Not exempt

Table 2: Screening for Likely Significant Effects (LSE)

Key issues considered:

☒ **Foul water**

☒ **Surface water**

Details of key issues & identification of potential effect pathways

TEN dwellings with associated new foul water and surface water flows created (Nutrient pathways)

***NB**: Where avoidance and mitigation measures do not form an integral part of the project/ plan and are to be put in place to reduce the impacts, these must not be considered in order to avoid impacts at the Screening stage and will require consideration at the Appropriate Assessment stage (in line with the People Over Wind judgement).*

Are there any potential effects of the project or plan when considered alone?	Yes *If 'yes' then proposal must be carried forward to the Appropriate Assessment Stage.* *If 'no' then proposal must still be considered in-combination below.* *The identification of a potential effect pathway is sufficient to require an Appropriate Assessment i.e. no judgement on significance/ or threshold is applied at screening stage. Existence of a pathway is considered to be an LSE.*
Are there any potential effects of the project or plan in combination with other projects or plans?	Yes – as an effect alone *If 'yes' then proposal must be carried forward to the Appropriate Assessment Stage.*

Natural England consultation reference and summary (if available):

XXXXXX

Summary of LSE test conclusions

☐ **Likely significant effects – Appropriate Assessment required.**

Stage 2: Appropriate Assessment

Completed by:

Ecology (J Bisset)
Date: 12/02/2025

Appropriate Assessment statement including alone, impacts in-combination and discussion of proposed mitigation measures

Complete the tables and boxes below, deleting as necessary. Where information is taken from supporting documents this should be quoted and fully referenced. Any documents not available on the Council's website should be provided to Natural England when they are consulted.

Table 3: Impacts of the plan/ project alone

Complete boxes as appropriate below and delete boxes for potential effect pathways which are not relevant:

Foul Water Package Treatment Plant – Not meeting 7 Criteria for Nutrient Neutrality and requiring phosphate credit purchase

- Original Outline Permission: 152041
- TEN new dwellings
- Std occupancy for Herefordshire 2.3
- Std water efficient condition to 110lpd
- No mains sewer available
- Private Foul water System – Haba Bio Easy Flow PTP (0.8mg/litre Phosphate)
- Discharge via tertiary treatment via private constructed wetland system to Hereford & Gloucester Canal (watercourse and Local Wildlife Site) that is considered as a general binding rule compliant watercourse under the applicant's control.
- Tertiary treatment will further reduce phosphates in outfall by varying degrees – but is proposed to ensure final discharge from PTP and SuDS has negligible nutrients or other pollutants top protect the Local Wildlife Site ecological interest of the receptor H&G Canal.
- Annual Rainfall: 700-750 mm
- Soil Drainage: Slightly Impeded
- Existing land use Residential curtilage Lowland Grazing pasture :0.91Ha (application info)
- Future use Residential Urban Land: 0.51Ha; Greenspace: 0.4Ha
- Nutrient Neutrality to be secured by purchase of approved Phosphate Credits from the Council's Tarrington Integrated Constructed Wetland
- This ICW has permission and will be commissioned by June 2026 and occupation of dwellings will be limited to after this date via relevant condition/legal agreements.

Stage 1

User Inputs

Date of first occupancy:	05/02/2025	
Average occupancy rate:	2.30	
Water usage (litres/person/day)**:**	110	
Development Proposal (dwellings/units)**:**	10	
Wastewater treatment works:	Package Treatment Plant user defined	
Wastewater treatment works P permit (mg TP/litre)**:**	Please enter value in cell to the right:	0.8

Stage 1 Calculated Loading

Additional population	23	people
Wastewater by development	2530	litres/day
Annual wastewater TP load	**0.74**	**kg TP/yr**

Stage 2

User Inputs

Catchment:	Arrow, Lugg and Frome
Soil drainage type:	Slightly impeded drainage
Annual average rainfall (mm)**:**	700.1 - 750
Within Nitrate Vulnerable Zone (NVZ):	Yes

Existing land use type(s)	**Area** (ha)	**Annual phosphorus nutrient export** (kg TP)
Lowland	0.91	0.20
Total:	**0.91**	**0.20**

Stage 3

User Inputs

New land use type(s)	**Area** (ha)	**Annual phosphorus nutrient export** (kg TP)
Residential urban land	0.51	0.74
Greenspace	0.40	0.01
Total:	**0.91**	**0.75**

Stage 4

Calculated Outputs

The total annual phosphorus load to mitigate is:	**1.54 kg TP/year**

Approval of Reserved Matters/Discharge of Condition or s.106 Agreement to secure

- foul water connection to Haba Bio Easy Flow PTP
- water efficiency @ 110 lpd
- Occupation not before June 2026
- SuDS- Constructed Wetland management for minimum 80 years

Mitigation is proposed in this case as an alternative to the purchase of Phosphate credits and is set out in table 4 below.

Surface Water

- All additional surface water will be managed via the Sustainable Drainage System-constructed wetland before managed flow discharge to the Hereford & Gloucester Canal at no greater than 1:1 rates (as required by the H&G Canal Trust) which is a lower rate than existing greenfield run-off rates.
- With no significant nutrient pathways identified this effect is not considered further in the HRA process.

Table 4: Mitigation Requirements and Outcomes

For cases purchasing Phosphate Credits

The development has applied for, and received, an allocation of phosphate credits from Herefordshire Council at a cost of £14,000 per kg as follows:
Annual phosphorous load to mitigate 1.54 kg TP/year * £14,000 per kg

= 1.54* £14,000
= £21,560

This proposal is a valid Planning Application awaiting a positive determination subject to receipt of Phosphate Credits and the developer is prepared to enter into legal agreement with the Council through either a S106 agreement or a S106 agreement including a S111 agreement for phased development to secure the financial payment for phosphate credits.

This proposal will rely upon mitigation provided by Herefordshire Council's Integrated Strategic Wetland at Tarrington, Herefordshire.

Herefordshire Council's Phosphate Credit Allocation Process (taken from the Council's Phosphate Credit Pricing and Allocation Policy April 2022 and Record of Officer Decision July 2024):

The Phosphate Credit Allocation Process is a staged process setting out how Phosphate credits that are generated by Herefordshire Council Integrated Wetlands can be secured by developers to offset the phosphate load of their development. The process necessitates a number of steps which can be run in tandem. This process is monitored throughout and will span several services as well as requiring engagement with, statutory consultees, and developers themselves. Credits will only be released as they become available to ensure the scheme does not over allocate credits..

The process starts with developers working out the number of credits needed using the Council's Phosphate Calculator Budget Tool supplied by Natural England. As credits become available, case officers will contact developers and provide them with an invitation to apply for credits. The developer submits the phosphate calculation and technical information around foul and surface water drainage (if not already submitted). A S106 legal document legally secures the credits and will need to be signed prior to the grant of planning permission. The application is reviewed internally by Legal and Ecology and in consultation with Natural England.

Permission can then be granted or refused:
Where permission is granted, HRA conditions are applied and developers have a set amount of time and requirements they must fulfil otherwise the credits are returned to Herefordshire Council and payment is reimbursed to developers.
If permission is refused on delegated authority or recommended by officers for refusal and then refused at committee credits will not be held. A new application for the site would move to the bottom of the queue.
If permission is refused at committee against officer recommendation then credits will be held, developers have a set amount of time to go through the appeals procedure and the credit sale will be completed in the event of a successful appeal.

Allocation of Credits

Developments which are currently being held due to phosphates are being worked through in date order (the full list of held applications and their status can be found on the Council's website). Applications are split, while remaining in date order, into two groups – those which require mitigation from the Luston Wetland which is high up in the catchment and can provide mitigation for all development in the Nutrient Neutral Catchment and those which can utilise mitigation from the Tarrington Wetland which is lower in the catchment and serves limited sub-catchments.

Point of Payment for Credits

The process by which the payment for credits will be made has been reviewed in 2024 and is set out in the Record of Officer Decision July 2024. Credits can be secured by a 10%. The balance of the payment for credits is then required prior to the commencement of development and will be secured both by condition and within the S106 agreement. The Council will allocate the full requirement of credits to the development at the point of decision and will hold the balance until either (a) full payment is made and the development commences, (b) the permission expires and the balance of the credits is released back into the Council for sale to other developments, (c) the developer uses the Council's credit refund scheme.

The Council's Integrated Wetlands Program

Phosphate Credits in Herefordshire are being generated through the delivery, by Herefordshire Council, of a program of integrated wetlands associated with existing Waste Water Treatment Works (Wwtw).

The phosphate credits being relied upon to mitigate this development are provided by the Council's second integrated wetland which is located on land adjacent to Tarrington Wwtw.

The Tarrington Wetland has planning permission under application 230655 for the Proposed creation of an Integrated Constructed Wetland. The contract for the physical construction of the wetland has been awarded and the projected timeline demonstrates that works will be complete and fully planted and the wetland connected to the outflow from the Wwtw in summer 2026. On this basis it is proposed that credits being sold off the Tarrington Wetland in advance of the completion of its construction include an occupancy restriction. Natural England have previously agreed this approach. This will be achieved by each planning permission using Tarrington as mitigation will include a condition ensuring that dwellings constructed cannot be occupied prior to the 1st of June 2026.

This second integrated wetland will be delivered on land adjacent to the Tarrington Wwtw. As set out in the feasibility study for the wetland[1] 'The purpose of the wetland would be to provide enhanced treatment for removal of phosphorus from the final effluent of the Tarrington Waste Water Treatment Works (WWTW).'

The aim, in creation of the Tarrington Integrated Wetland is reducing the Total Phosphorus (TP) in the effluent leaving the Tarrington WWTW from an average of 5.10mg/L TP to less than 1mg/L TP.

The Tarrington Wetland generates 78.46kg of phosphate credits for the development market once the 20% river betterment percentage has been reserved. Credits will be offered to developers in batches and detailed budgets requested, this batching process allows the Council to ensure that credits are never over allocated or oversold. An HRA is only undertaken once detailed nutrient budget information has been received, once technical issues around foul and surface water discharges have been agreed as acceptable by the Council's drainage consultee and when credits are available for the scheme.

The Council, working with partners, has assessed potential for integrated wetlands at 8 sites. Natural England have been engaged with the development of the integrated wetland program and did not object to the planning application (reference 230655) to create the Tarrington wetland for the purpose of selling Phosphate Credits.

The precautionary principal has been applied to the construction of the Tarrington wetland:

'To provide a robust wetland design and provide certainty, WUF applied a number of steps to ensure that the design can be considered to provide certainty under the Habitats Directive. These are outlined below and presented in the following sections:

- The primary objective of the wetland is to provide an effluent quality that leaves the wetland at less than 1mgTP/l. To achieve this, and provide certainty around the design, WUF have designed the wetland on the basis of a reduction to 0.8mg/l. This has effectively introduced a 20% buffer and over-sized the wetland to provide greater certainty in its overall future performance, thus adopting a precautionary approach.
- A water balance has been developed and the design has been tested against UK Climate Projections (UKCP) estimates for rainfall and evapo-transpiration in 2070. Understanding the water balance is essential to ensure that the wetland design is robust under current and future climate change conditions and that the hydrology of the system will not be compromised.
- Due to uncertainties with wetland design models, WUF has adopted an approach outlined in the Treatment Wetlands publication (Dotro et al., V7 2017) which recommends application of multiple models to provide sensitivity in terms of calculation of overall design.
- Continued monitoring of phosphorus and flow data at the site to provide increasing and greater understanding of the current operation of the treatment works.'

Text taken from the WUF feasibility study.

The full technical design and modelling work for the Tarrington wetland can be found at in the Wetland Feasibility, Design & Offsetting Report for the Tarrington Wetland by Wye & Usk Foundation (February 2023).

[1] Wetland Feasibility, Design and Offsetting. Wetland Development on the River Wye – Tarrington. Wye and Usk Foundation. (February 2023).

Additionally, the precautionary principle is applied to the allocation of Phosphate Credits with 80% of the capacity generated by the creation of each integrated wetland being allocated to development and 20% of the capacity generated being allocated to providing river betterment. Nutrient Certainty Report

The sale of phosphate credits to developers will allow the Council to recoup its expenditure in delivering the Strategic Wetlands (and credit costs will be regularly reviewed as new wetlands are brought forward) and will also provide ongoing income for the long term management and maintenance of the wetland features.

Impact point assessment

The Tarrington Wetland is low down in the River Lugg SSSI catchment, in the River Frome sub-catchment. The River Frome enters the River Wye SAC at grid reference SO 56037 238634. There is a considerable length of the River Wye SAC which is upstream of this point and to which mitigation generated by the Tarrington Wetland cannot be applied.

The Tarrington Wetland can mitigate for development which impacts the River Wye SAC at the same point as the mitigation impact acts upon the SAC (grid reference SO 56037 238634) or development which impacts the SAC downstream of the mitigation impact point.

The Tarrington Wetland can only mitigate for development in the following sub-catchments:

- Upper Frome
- New Barns Brook
- Middle Frome
- Lower Frome
- Loden
- A very small part of the Lower Lugg catchment around the villages of Mondiford and Priors Frome

Occupation Restriction

Development relying upon mitigation from the Tarrington wetland cannot be occupied prior to 1st of June 2026 and will be subject to a condition to that effect.

On the basis of the program of integrated wetland delivery and the phosphate credit system developed by Herefordshire Council in partnership with a number of organisations including Natural England this development has committed to purchasing the phosphate credits required to address the phosphate load it generates. It is not considered to have a likely impact on the integrity of the SAC and planning permission can therefore be granted.

Table 5: Remaining Impacts

NONE

Table 6: Consequences for Conservation Objectives of the Designated Site

Impacts on maintaining the favourable condition of the site	No
Disruptions or delays in progress towards achieving the conservation objectives of the site	No
Alterations to natural progression or other natural changes within the site	No
Loss of key habitat/ species features. Fragmentation or isolation of key species and habitats.	No

Impacts to diversity, distribution, density, balance, area or population(s) of key species or habitats that are indicators of the favourable condition of the site, including from disturbance	
Alterations to the ecological relationships and balance between species and habitats that are key to the structure/ function of the site	No
Alterations to nutrient balance or other processes vital to the functioning of the ecosystem	No

Table 7: Integrity Test

Will there be an impact upon the Integrity of the Designated Site?

No

Table 8: Are there Alternative Solutions to the proposal?
If adverse effects on the integrity of the site, either alone or in combination, cannot be ruled out through avoidance or mitigation then alternative solutions must be considered.

No

Please Note: Where there are no satisfactory alternatives then consideration may be given to whether the proposal could follow the Imperative Reasons of Overriding Public Interest (IROPI) route. Is this option is under consideration for a plan or project then specialist legal advice should be sought and followed.

Table 9: Recommended planning conditions to secure mitigation which is required in order to achieve no effect on integrity of the Designated Site.

Approval of Reserved Matters/Discharge of Condition or s.106 Agreement to secure

- foul water connection to Haba Bio Easy Flow PTP
- water efficiency @ 110 lpd
- Occupation not before June 2026
- SuDS- Constructed Wetland management for minimum 80 years

1. None of the dwellings approved by this permission shall be occupied prior to the 1st of June 2026.

   To ensure that the Tarrington integrated wetland scheme can be relied upon with certainty to provide effective mitigation for the potential effects of the development upon the River Wye SAC as part of the Councils Phosphate Credits scheme, thereby safeguarding water quality and the integrity of the River Wye SAC in accordance with policies SS6, SD2, SD4 and LD2 of the Herefordshire Local Plan Core Strategy, the National Planning Policy Framework, the Conservation of Habitats and Species Regulations (2017) and NERC Act (2006)

NEW STANDARD CONDITION AROUND DEPOSIT PAYMENTS

Conclusion of the Appropriate Assessment:

☒ **Herefordshire Council, as a Competent Authority under the Habitat Regulations 2017, Part 6, section 63(5) concludes that there would be NO adverse effects on the integrity of the Special Area of Conservation; subject to appropriate mitigation being secured via the planning conditions listed above. Planning Permission can legally be granted.**

Please Note: The authority must consult Natural England on the draft HRA and must have regard to the advice of Natural England before granting planning permission.