

3 May 2012

Our ref: SBH/36923

Your ref: RGE



Richard Evans
Minerals and Waste Policy Team Leader
Environment Directorate
Cumbria County Council
Kendal
LA9 4RQ

Land Use Operations
Team
Natural England
Hornbeam House
Crewe Business Park
Electra Way
Crewe
Cheshire CW1 6GJ

BY EMAIL ONLY

T 0300 060 3900

Dear Mr Evans,

CUMBRIA MWDF SITE ALLOCATIONS POLICIES – HABITATS REGULATIONS ASSESSMENT

Thank you for your emails on the above dated 25 April and subsequently, concerning the query raised by the Inspector over whether Natural England has accepted that the Habitats Regulations Assessment (HRA) for this policy document need not cover the Areas of Search included in the Allocations Policies.

As you know, 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.

Looking into the history of our involvement, Natural England, along with the Environment Agency and the Cumbria Wildlife Trust, was closely involved with the County Council in advising on the HRA, and my colleague Mark Hesketh attended a meeting with the County Council officers (and other stakeholders) on 22 October 2009, when I understand that the various site allocations under consideration were discussed for HRA purposes. A further meeting was held on 24 November 2009 which my colleague was unable to attend but passed on comments on behalf of Natural England in an email (dated 24 November). The email made a number of suggestions to improve the HRA and ensure compliance with the Regulations. However, the email stated that 'overall we feel the approach you have taken (in looking at each (minerals and waste) site is reasonable and that you have picked up the main issues that could affect the integrity of N2K sites, namely water quality, water resources and pest control'.

The HRA was sent out with the Regulation 27 consultation on the Site Allocations Policies in December 2009. In paragraph 1.8 it stated: "The Assessment does not include land that the Council is proposing should be identified as Areas of Search for extending quarries or as Mineral Safeguarding Areas (MSA). This is because Areas of Search are fairly broad areas where knowledge about mineral resources is less certain than in Preferred Areas. Mineral Safeguarding Areas also do not imply that a mineral is likely to be worked, they show the extent of geological resources and these are sometimes within European Wildlife Sites."

My colleague responded to the consultation in a letter dated 5 February 2010 'We are now able to agree with your conclusion that the Site Allocations Policies and Proposals Map are not likely to adversely affect the integrity of European Sites'.

Natural England therefore did not raise any objection to the finalised HRA, or its conclusion that the Site Allocations and Proposals Map are not likely to adversely affect the integrity of European Sites. Natural England therefore did not object to the decision of the County Council not to assess the Areas of Search within the HRA.

Clearly, our comments predate the recent High Court case of *Feeney v Oxford City Council* 24 October 2011 and we have not yet had the opportunity to assess the implications of the judgement in that case in relation to our previous comments in relation to the Cumbria document.

Further Information / Consultations

For any correspondence or queries relating to this consultation response please contact my colleagues Chris Smith or Ruth Wearing .

For all other correspondence, please contact the address above or the Natural England consultations email address at consultations@naturalengland.org.uk

Yours sincerely

STEPHEN HEDLEY
Lead Adviser
Land Use Operations Team