



The countryside charity
Sussex

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Mr Stacey Robins
Wealden District Council
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28th July 2020

[By Post & Email stacey.robins@wealden.gov.uk]

Dear Mr Robins

Compliance with Habitats Regulations – request for constructive dialogue

Last February, after one of our volunteers was prevented from speaking to several applications at PCS. You advised the committee that an invitation would shortly be extended to CPRE for a meeting to discuss our concerns with regards to your approach to the Habitats Regulations. The invitation was issued and in our acceptance we included a single question intended to kick-off the meeting. However, Covid 19 intervened and since then, you have declined our offers of a virtual meeting and have not answered this initial question.

It appears that you are certain that the Council is acting lawfully with regard to compliance with the Habitats Regulations. We still need to be convinced that this is the case. We have submitted several objections to applications this year setting out our reasons for believing there is non-compliance, but these objections have either been ignored or members advised that we are not correct. Your reason appears to be as Inspector Nurser found fault with the Council's HRA, which has now been withdrawn. Officers have never tried to answer the detailed points included within CPRE Sussex objections in relation to compliance with the Habitats Regulations.

We understand that there are groups in the District unhappy with some of the many resolutions to grant permission who are considering legal action. If the challenge included the effect of the development on the SAC, the redetermined application will require an adequate appropriate assessment and could indicate that any further applications approved this year would also be unlawful and should be revoked, which would leave the Council liable for compensation. Alternatively, the Council could seek permission (out of time) for themselves to judicially review the permissions on the basis that these were unlawfully approved.

I am writing to encourage you to work positively and constructively with us on this issue. We are convinced that your evidence confirms that all applications require a positive appropriate assessment before permission can be considered.

To try to re-start constructive dialogue, we include below a list of questions, the answers to which could allow us to better understand your approach to granting approvals. A response would be much appreciated by Friday, 7 August 2020.

To promote, enhance and protect a thriving countryside for everyone's benefit

President: Lord Egremont

Campaign to Protect Rural England Sussex Branch CIO | Registered charity number: 1156568

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1. Your own LAQM monitors and those specifically set up for the SAC in 2014 both show emissions resulting in nitrogen deposition are not falling. Why then do you accept Natural England's view, not backed by any evidence, that harmful emissions are falling?
2. It appears that Natural England consider that you as the competent authority should be undertaking appropriate assessments. But instead, you are screening out any significant effect on the SAC. How are you able to do this when this result is so clearly in conflict with the evidence you have compiled?
3. Do you accept that nitrogen deposition across almost the entire SAC is above the critical load? If not, why not?
4. Do you accept that on the balance of probabilities, that nitrogen deposition across the SAC will remain above the critical load for many years? If not, why not?
5. Do you accept the CJEU stated position that permission cannot be granted all the time the level of nitrogen deposition to the SAC is above the critical load where that permission could result in an increase in harmful emissions? If not, why not?
6. Do you consider that this CJEU position is applicable to Ashdown Forest SAC? If not, why not?
7. Do you consider that both emission scenario B and C indicate that the growth detailed in the withdrawn WLP without mitigation would result in an adverse effect to the SAC? If not, why not?
8. Other than emission scenario A being the scenario that should be used in an appropriate assessment, which other parts of the Ashdown Forest SAC HRA do you now believe not to be correct and why?

Yours sincerely,

A handwritten signature in black ink that reads "Kia Trainor". The signature is written in a cursive, flowing style.

Kia Trainor
Director

