

Assessing the Need to Carry Out an Appropriate Assessment

History

Oxfordshire County Council is the competent authority as defined in Regulation 6(1) of the Conservation (Natural Habitats & c.) Regulations 1994.

On 19th May 2003, Planning and Regulation Committee approved Appropriate Assessments of the sand and gravel workings at Cassington and the effect it might have on the Special Areas of Conservation at Cassington Meadow and Pixey Mead.

The assessments are required by Regulation 48 of the Conservation (Natural Habitats & c.) Regulations 1994, implementing Article 6(3) of the Habitats Directive (92/43/EEC). The assessments at the time had been prepared by Oxfordshire County Council in partnership with English Nature.

At the time there were extant planning permissions for sand and gravel working in the vicinity of what were candidate SACs. The extraction of the sand and gravel involved dewatering the deposit in order to work the material dry. Dewatering draws down water levels on surrounding land and could have affected the SACs on which the maintenance of water levels is critical. A legal agreement to overcome the potential adverse effects of changes in ground water levels was drawn up in 1986 between the predecessors of the operator and Natural England.

The agreement involved the construction of bunding between the workings and the SACs with a recharge ditch on the SACs side, into which water from dewatering operations would be pumped in order to maintain groundwater levels on the SACs. Detailed groundwater monitoring had been undertaken following that agreement.

The appropriate assessments concluded that, at that time, no further action was required by Oxfordshire County Council apart from keeping abreast of the monitoring results.

Since that assessment the mineral has been almost completely worked and the areas of extraction closest to the SACs have been restored to lakes.

The operators had maintained ongoing dialogue with the Environment Agency (EA) and Natural England (NE) regarding hydrology of the Oxford Meadows SAC since extraction ceased in Stage 13 (see attached plan) in 2008. At EA's request the operators had undertaken installation of additional western extension of the discharge ditch in order to allow high groundwater levels in SAC to dissipate, along the A40 side of Stage 2 in 2008, and then de-silted previous Stage 2 discharge/recharge ditch in 2010.

In recent years the communication between the operator and NE appears to have been interrupted. There had been no hydrological monitoring reported to the last liaison meeting for the site. The operator has indicated a willingness to co-operate with the EA and NE.

Planning permission was granted in March 2011 to give a longer period for the extraction of the final reserves. There was no further development proposed at that time and a further appropriate assessment was not carried out.

Current Application

The current application seeks a further extension of time, but again does not seek any new extraction, and is only for development that was contemplated in the 2003 permission when the Appropriate Assessment was carried out.

Both Natural England and the Environment Agency were consulted on the application and neither commented on the application. Further advice was sought from Natural England with the following points highlighted:

- The plant site is on a site that is already well through the process of digging and restoring.
- The plant site lies to the north of land that has already been extracted and restored to a lake.
- The proposed development would result in no change to the existing restoration, it would just give longer for the extraction to take place.
- A previous Section 73 to extend the time was granted in 2010, and it was not considered necessary to carry out an assessment at that time.

Natural England confirmed that under those circumstances a new full Appropriate Assessment was not required.

It is not clear whether the bunding that was put in place at the time of the Appropriate Assessment is still in place, but from the continuing dialogue between the two sides there do not appear to have been any issues raised in relation to the effect of dewatering on the extraction site.

Conclusion

In view of the existing works, the existing legal agreement with the operator to mitigate any effects if they do arise, and the lack of concern raised by Natural England, a further Appropriate Assessment does not need to be carried out.

In order to ensure that the requirements of the 2003 Appropriate Assessment are adhered to, there should be a condition attached to any permission requiring hydrological surveys to be carried out prior to the recommencement of extraction, and annually during the extraction process. The Survey results to be shared with the Mineral Planning Authority and Natural England. This would allow any mitigation to be sought through the legal agreement if necessary.