

Date: 25 January 2023
Our ref: 417996
Your ref: APP/22/01210



Ms Tina Pickup
Havant Borough Council

BY EMAIL ONLY

Customer Services
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Dear Tina,

Planning consultation: NUTRIENTS CALCULATIONS - Demolition of existing 2-bedroom detached house/detached garage, erect new 3-bedroom three storey detached house with integral single garage & assoc.

Location: 25 Sandy Beach Estate, Hayling Island, PO11 9RG

Thank you for your consultation on the above dated 03 January 2023 which was received by Natural England on the same day.

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.

SUMMARY OF NATURAL ENGLAND'S ADVICE

FURTHER INFORMATION REQUIRED TO DETERMINE IMPACT ON DESIGNATED SITES

As submitted, the application could have a likely effect on:

- Solent and Dorset Coast Special Protection Area (SPA)
- Solent Maritime Special Area of Conservation (SAC)
- Solent and Southampton Waters SPA and Ramsar
- Chichester and Langstone Harbours SPA, Ramsar and Site of Special Scientific Interest (SSSI)

Your authority will need to undertake a Habitats Regulations Assessment (HRA) to determine whether the proposal is likely to have a significant effect on the sites named above, proceeding to the appropriate assessment stage where significant effects can be ruled out. The following information is required to inform the HRA:

- Consideration of this project's effects on total nitrogen and/or total phosphorus nutrient loading within the Solent catchment.
- Consideration of potential for impacts to be caused through noise and visual disturbance to Solent SPAs and functional land.
- Consideration of potential impacts from construction, including a Construction Environment Management Plan (CEMP).
- Any other likely significant effects that could arise from the development should also be assessed.

Once the above information is obtained, please consult Natural England on any appropriate assessment your authority may decide to make

Natural England's advice on other natural environment issues is set out below.

Habitats Regulations Assessment

Despite the proximity of the application to European Sites, the consultation documents provided do not include information to demonstrate that the requirements of regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) have been considered by your authority, i.e. the consultation does not include a Habitats Regulations Assessment.

It is Natural England's advice that the proposal is not directly connected with or necessary for the management of the European site. Your authority should therefore determine whether the proposal is likely to have a significant effect on any European site, proceeding to the Appropriate Assessment stage where significant effects cannot be ruled out. Natural England must be consulted on any appropriate assessment your authority may decide to make.

Natural England advises that there is currently not enough information provided in the application to determine whether the likelihood of significant effects can be ruled out.

We recommend you obtain the following information to help you undertake a Habitats Regulations Assessment.

Solent and Southampton Water SPA and SAC

Deterioration of the water environment

With regard to the integrity of the designated sites, we advise that there is currently uncertainty as to whether the increase in waste water from new housing in the Solent catchment will have an adverse effect on the international sites.

There is existing evidence of high levels of nitrogen and phosphorus in the Solent water environment with evidence of eutrophication at some designated sites. The Partnership for South Hampshire (PfSH), Natural England (NE), and Environment Agency (EA) have been jointly working to develop an Integrated Water Management Strategy (IWMS). This examines the potential for the PUSH region to accommodate future housing growth without having a detrimental effect upon the water environment. A Water Quality Working Group has been set up to identify and analyse the existing evidence gaps and evaluate the need for strategic mitigation measures. However, there is currently uncertainty as to whether there is sufficient capacity to accommodate the new housing growth.

The proposal comprises new housing development and has inevitable waste water implications. It is Natural England's view that these implications, and all other matters capable of having a significant effect on designated sites in the Solent, must be addressed in the ways required by Regulation 63 of the Conservation of Habitats and Species Regulations 2017.

It is Natural England's view that there is a likely significant effect on the internationally designated sites (SPA, SAC) due to the increase in waste water from the new housing. As you are aware, where there is a likelihood of significant effects (excluding any measures intended to avoid or reduce harmful effects on the European site), or there are uncertainties, a competent authority should fully assess (by way of an "appropriate assessment") the implications of the proposal in view of the conservation objectives for the European site(s) in question. Appropriate assessments cannot have lacunae and must contain complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the works proposed on the protected site concerned. Complete information is required to ensure that the proposal will not affect the integrity of the international sites.

Natural England advises that the waste water issue is examined within the appropriate assessment and that the existing nutrient and conservation status of the receiving waters be taken into account. LPAs will be aware of recent CJEU decisions regarding the assessment of elements of a proposal aimed toward mitigating adverse effects on designated sites and the need for certainty that mitigating measures will

achieve their aims. The achievement of nutrient neutrality, if scientifically and practically effective, is a means of ensuring that development does not add to existing nutrient burdens.

To assist you in screening for the likelihood of significant effects on European sites, Natural England offers the following advice in regards to nutrients, based on the information provided:

- the proposal is not directly connected with or necessary for the management of the European site
- the proposal is unlikely to have a significant effect on any European site, either alone or in combination with other plans and projects, and can therefore be screened out from further appropriate assessment

When recording your HRA we recommend you refer to the following information to justify your conclusions regarding the likelihood of significant effects:

- No net gain in dwellings on site making this a like for like single dwelling replacement.

SPA and SPA Functionally Linked Land

The proposals have the potential to affect SPA or SPA functionally linked land, which forms part of a network of terrestrial sites located outside of the Solent SPAs boundaries used by SPA species (including qualifying features and assemblage species) as alternative areas for roosting and foraging. These sites support the functionality of the designated sites and are therefore protected in this context. Please see the [Solent Wader and Brent Goose Strategy](#) (SWBGS) for more information.

The site affected is H81, classed as a SPA Site, which supports vulnerable bird species such as Brent Geese, Curlew and Grey Plover.

It is advised that the impact is properly assessed and any identified impacts are addressed in line with the [SWBGS Guidance on Mitigation and Offsetting Requirements](#). Please note, where financial contributions are proposed, for example to mitigate impacts on Low Use sites, it is advised that a sufficient level detail of the measures to which they will be directed is provided to inform your authority's appropriate assessment, in order to provide the necessary confidence and certainty that such mitigation will be effective and deliverable in perpetuity.

Natural England will be happy to advise further on this aspect via our Discretionary Advice Service (DAS).

Noise and Visual Disturbance

The proposals may have the potential to cause likely significant effect on the Langstone and Chichester Harbours SPA, SSSI and Ramsar, Solent and Dorset Coast SPA and Solent Maritime SAC. A Habitats Regulations Assessment should examine the potential for impacts to be caused through noise and visual disturbance.

Where potential impacts are identified, Natural England would recommend that impacts are avoided by securing the following planning condition:

Noise disturbance

'Percussive piling or works with heavy machinery (i.e. plant resulting in a noise level in excess of 69dbAmax – measured at the sensitive receptor) should be avoided during the bird overwintering period (i.e. October to March inclusive).' The sensitive receptor is the nearest point of the SPA or any SPA supporting habitat (e.g. high tide roosting site).

If such a condition is problematic to the applicant than Natural England will consider any implications of the proposals on the SPA bird interests on a case by case basis through our Discretionary Advice Service.

Visual Disturbance

The qualifying features are also sensitive to visual disturbance. The proposal will need to ensure that any potential visual disturbance is adequately mitigated through the use of visual screening.

It is advised that the impact is properly assessed and any identified impacts are addressed in line with the [SWBGS Guidance on Mitigation and Offsetting Requirements](#).

We advise that you may want to seek your own legal advice on the implications of the Sweetman II ruling and the level of detail that should be included within an Appropriate Assessment.

Construction Impacts

We note that a Construction Environment Management Plan has been submitted. We consider that without appropriate mitigation the application would:

- have an adverse effect on the integrity of Langstone and Chichester Harbours SPA and Ramsar, Solent and Dorset Coast SPA and Solent Maritime SAC
- damage or destroy the interest features for which Langstone and Chichester Harbours Site of Special Scientific Interest has been notified.

Without best practice working methods and mitigation there is risk during the construction phase of the development that pollution from machinery, equipment or materials may enter into the water. Natural England recommends that a Construction Environment Management Plan (CEMP) is produced prior to start of the works and submitted and approved in writing by your authority. The CEMP should include the following:

- A list of defined potential impacts to the designated sites
- Details of methods for pollution control to ensure that no pollution (such as debris from dust or surface run off) is able to enter the water
- Details on the storage and disposal of waste on site
- Details on how sediment/concrete/other debris that may be accidentally released during construction will be captured to prevent entering the water
- Details of biosecurity to ensure that all equipment brought onto site does not bring any contaminants such as invasive species onto the site and into the waters.
- Noise/visual/vibrational impacts
- Visual screening (for SPA birds)
- Measures to ensure no materials, machinery, vehicles or works will encroach on the designated site

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

It is advised that, if necessary, any measures proposed to mitigate construction impacts on European designated sites are outlined for incorporation into your authority's Appropriate Assessment.

Other Advice

Further general advice on the consideration of protected species and other natural environment issues is provided at Annex A.

Should the proposal change, please consult us again.

If you have any queries relating to the advice in this letter please contact me on 07436 902849.
Yours sincerely

Rosie Carter
Sustainable Development Advisor
Thames Solent Area | Natural England
www.gov.uk/natural-england

ANNEX A

Natural England offers the following additional advice:

Landscape

Paragraph 174 of the [National Planning Policy Framework](#) (NPPF) highlights the need to protect and enhance valued landscapes through the planning system. This application may present opportunities to protect and enhance locally valued landscapes, including any local landscape designations. You may want to consider whether any local landscape features or characteristics (such as ponds, woodland, or dry-stone walls) could be incorporated into the development to respond to and enhance local landscape character and distinctiveness, in line with any local landscape character assessments. Where the impacts of development are likely to be significant, a Landscape & Visual Impact Assessment should be provided with the proposal to inform decision making. We refer you to the [Landscape Institute](#) Guidelines for Landscape and Visual Impact Assessment for further guidance.

Protected Species

Natural England has produced [standing advice](#)¹ to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice. Natural England will only provide bespoke advice on protected species where they form part of a Site of Special Scientific Interest or in exceptional circumstances.

Local sites and priority habitats and species

You should consider the impacts of the proposed development on any local wildlife or geodiversity sites, in line with paragraphs 175 and 179 of the NPPF and any relevant development plan policy. There may also be opportunities to enhance local sites and improve their connectivity. Natural England does not hold locally specific information on local sites and recommends further information is obtained from appropriate bodies such as the local records centre, wildlife trust, geoconservation groups or recording societies.

Priority habitats and Species are of particular importance for nature conservation and are included in the England Biodiversity List published under section 41 of the Natural Environment and Rural Communities Act 2006. Most priority habitats will be mapped either as Sites of Special Scientific Interest, on the Magic website or as Local Wildlife Sites. List of priority habitats and species can be found on [Gov.uk](#). Natural England does not routinely hold species data, such data should be collected when impacts on priority habitats or species are considered likely. Consideration should also be given to the potential environmental value of brownfield sites, often found in urban areas and former industrial land, further information including links to the open mosaic habitats inventory can be found [here](#).

Ancient woodland, ancient and veteran trees

You should consider any impacts on ancient woodland and ancient and veteran trees in line with paragraph 180 of the NPPF. Natural England maintains the Ancient Woodland [Inventory](#) which can help identify ancient woodland. Natural England and the Forestry Commission have produced [standing advice](#) for planning authorities in relation to ancient woodland and ancient and veteran trees. It should be taken into account by planning authorities when determining relevant planning applications. Natural England will only provide bespoke advice on ancient woodland, ancient and veteran trees where they form part of a Site of Special Scientific Interest or in exceptional circumstances.

Environmental gains

Development should provide net gains for biodiversity in line with the NPPF paragraphs 174(d), 179 and 180. Development also provides opportunities to secure wider environmental gains, as outlined in the NPPF (paragraphs 8, 73, 104, 120, 174, 175 and 180). We advise you to follow the mitigation hierarchy as set out in paragraph 180 of the NPPF and firstly consider what existing environmental features on and

¹ <https://www.gov.uk/protected-species-and-sites-how-to-review-planning-proposals>

around the site can be retained or enhanced or what new features could be incorporated into the development proposal. Where onsite measures are not possible, you should consider off site measures. Opportunities for enhancement might include:

- Restoring a neglected hedgerow.
- Creating a new pond as an attractive feature on the site.
- Planting trees characteristic to the local area to make a positive contribution to the local landscape.
- Using native plants in landscaping schemes for better nectar and seed sources for bees and birds.
- Incorporating swift boxes or bat boxes into the design of new buildings.
- Designing lighting to encourage wildlife.
- Adding a green roof to new buildings.

Natural England's [Biodiversity Metric 3.1](#) may be used to calculate biodiversity losses and gains for terrestrial and intertidal habitats and can be used to inform any development project. For small development sites the [Small Sites Metric](#) may be used. This is a simplified version of [Biodiversity Metric 3.1](#) and is designed for use where certain criteria are met. It is available as a beta test version.

Natural England's [Environmental Benefits from Nature tool](#) may be used to identify opportunities to enhance wider benefits from nature and to avoid and minimise any negative impacts. It is designed to work alongside [Biodiversity Metric 3.1](#) and is available as a beta test version.

[Green Infrastructure](#)

Natural England's [Green Infrastructure Framework](#) provides evidence-based advice and tools on how to design, deliver and manage green infrastructure (GI) . GI should create and maintain green liveable places that enable people to experience and connect with nature, and that offer everyone, wherever they live, access to good quality parks, greenspaces, recreational, walking and cycling routes that are inclusive, safe, welcoming, well-managed and accessible for all. GI provision should enhance ecological networks, support ecosystems services and connect as a living network at local, regional and national scales.

Development should be designed to meet the [15 Green Infrastructure Principles](#). The Green Infrastructure Standards can be used to inform the quality, quantity and type of green infrastructure to be provided. Major development should have a GI plan including a long-term delivery and management plan. Relevant aspects of local authority green infrastructure strategies should be delivered where appropriate.

GI mapping resources are available [here](#) and [here](#). These can be used to help assess deficiencies in greenspace provision and identify priority locations for new GI provision.

Access and Recreation

Natural England encourages any proposal to incorporate measures to help improve people's access to the natural environment. Measures such as reinstating existing footpaths together with the creation of new footpaths and bridleways should be considered. Links to urban fringe areas should also be explored to strengthen access networks, reduce fragmentation, and promote wider green infrastructure.

Biodiversity duty

Your authority has a [duty](#) to have regard to conserving biodiversity as part of your decision making. Conserving biodiversity can also include restoration or enhancement to a population or habitat. Further information is available [here](#).