

Habitats Regulations Assessment (HRA) Screening and Appropriate Assessment (AA)

PLEASE NOTE: Undertaking the HRA process is the responsibility of Havant Borough Council as the Competent Authority for the purpose of the Habitats Regulations. However, it is the responsibility of the applicant to provide the Competent Authority with the information that they require for this purpose.

HRA drafting date:	21 st December 2020
HRA completion date:	22 December 2020
Application reference:	APP/20/01031
Application address:	Land south of Lower Road, Havant
Application description:	Erection of 50 new dwellings together with access, landscaping and open space (Revised Scheme).
Lead Planning Officer:	Daphney Haywood
Please note that all references in this assessment to the 'Habitats Regulations' refer to The Conservation of Habitats and Species Regulations 2017 (as amended).	

Stage 1 - details of the plan or project	
European site potentially impacted by planning application, plan or project:	▪ Chichester & Langstone Harbours Special Protection Area (SPA) ▪ Chichester & Langstone Harbours Ramsar site ▪ Solent Maritime Special Area of Conservation (SAC) ▪ Solent and Dorset Coast Special Protection Area (SPA) ▪ Solent and Southampton Water SPA ▪ Solent and Southampton Water Ramsar ▪ Portsmouth Harbour SPA ▪ Portsmouth Harbour Ramsar ▪ Solent and Isle of Wight Lagoons SAC (Hereafter known as the Solent European Sites)
Is the planning application directly connected with or necessary to the management of the site (if yes, Applicant should have provided details)?	No. The development consists of an increase in residential dwellings, which is neither connected to nor necessary to the management of any European site.
Are there any other projects or plans that together with the planning application being assessed could affect the site?	Yes. All new housing development within 5.6km of the Solent SPAs is considered to contribute towards an impact on site integrity in combination with other development in the Solent area due to increase in recreational pressure. All new housing development that would drain to the Budds Farm or Thornham Wastewater Treatment

	Works due to increase in nitrogen deposition leading to a reduction in water quality. The PUSH Spatial Position Statement (https://www.push.gov.uk/work/planning-and-infrastructure/push-position-statement/) sets out the scale and distribution of housebuilding which is being planned for across South Hampshire.
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Stage 2 - HRA screening assessment

Screening under Regulation 63(1)(a) of the Habitats Regulations – The Applicant to provide evidence so that a judgement can be made as to whether there could be any potential significant impacts of the development on the integrity of the SPA/SAC/Ramsar.

Recreational Pressure

The proposed development is within 5.6km of Chichester & Langstone Harbours SPA/Ramsar. In accordance with advice from Natural England and as detailed in Policy DM24 of the adopted Havant Borough Local Plan (Allocations), Policy E16 of the Pre-Submission Havant Borough Local Plan 2036 and the Solent Recreation Mitigation Strategy, a net increase in housing development within 5.6km of the Solent SPAs is likely to result in impacts to the integrity of those sites through a consequent increase in recreational disturbance.

Development within the 5.6km zone will increase the human population at the coast and thus increase the level of recreation and disturbance of bird species. The impacts of recreational disturbance (both at the site-scale and in combination with other development in the Solent area) are analogous to impacts from direct habitat loss as recreation can cause important habitat to be unavailable for use (the habitat is functionally lost, either permanently or for a defined period). Birds can be displaced by human recreational activities (terrestrial and water-based) and use valuable resources in finding suitable areas in which to rest and feed undisturbed. Ultimately, the impacts of recreational disturbance can be such that they affect the status and distribution of key bird species and therefore act against the stated conservation objectives of the Chichester and Langstone Harbour SPA and Ramsar sites.

The proposed development represents a net increase in residential dwellings. Paragraph 6.4 of the Solent Recreation Mitigation Strategy sets out that the “developer contribution will be required for every net additional dwelling within 5.6 kilometres of the boundaries of the Solent Special Protection Areas” (see para 6.3).

As a result, there would be a likely significant effect to the Chichester & Langstone Harbours SPA due to recreation.

Water Quality

The proposed development is within the catchment of a wastewater treatment works that would drain into the Chichester and Langstone Harbours SPA.

Natural England advises that there is a likely significant effect on the Solent European Sites due to the increase in wastewater from the new housing as a result of the Havant Borough Local Plan. Natural England also advises that any development proposed through any planning application providing overnight accommodation which would discharge into the Solent would be likely to cause a significant effect as there is uncertainty as to whether the increase in waste water from new housing in the Solent catchment will have an adverse effect on the Solent's European Sites.

Natural England advise that there is existing evidence of high levels of nitrogen and phosphorus in the Solent water environment with evidence of eutrophication at some designated sites. This causes eutrophication, which affects vegetation growth and food resources for qualifying species such that it affects the status and distribution of those species and therefore act against the stated conservation objectives of the Chichester and Langstone Harbour SPA and Ramsar 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 PfSH region to accommodate future housing growth without having a detrimental effect upon the water environment. There is currently uncertainty as to whether there is sufficient capacity to accommodate the new housing growth. Natural England recommends that any new proposals which include overnight accommodation have inevitable wastewater implications. 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 Habitats Regulations. Nonetheless, the existing use of the site can be taken into account and it is the 'net' nutrient emissions into European Sites that is critical.

This would need to be examined within an appropriate assessment and that the existing nutrient and conservation status of the receiving waters be taken into account.

As a result, there would be a likely significant effect to the following Solent European Sites due to water quality:

- ☐ Chichester & Langstone Harbours Special Protection Area (SPA)
- ☐ Chichester & Langstone Harbours Ramsar site
- ☐ Solent Maritime Special Area of Conservation (SAC)
- ☐ Solent and Dorset Coast Special Protection Area (SPA)
- ☐ Solent and Southampton Water SPA
- ☐ Solent and Southampton Water Ramsar
- ☐ Portsmouth Harbour SPA
- ☐ Portsmouth Harbour Ramsar
- ☐ Solent and Isle of Wight Lagoons SAC

Loss / degradation of supporting habitats

The site has been monitored as part of the Solent Waders and Brent Goose Strategy and is identified as being part of site H05A for the purposes of the study. It should be noted that H05A encompasses a far larger area than simply the development site, stretching west to the A27, east to the eastern extent of the agricultural land (close to Mill Lane) and south to the railway line. The full extent of the area is available at <https://solentwbgs.wordpress.com/page-2/>. Using the latest data from winter bird surveys across the Solent (which incorporates spatial considerations such as movements rather than just numbers), H05A has been listed as a 'secondary support site'.

As such, the proposed development will result in a loss of foraging habitat in the form of a partial destruction of H05A. This loss of supporting habitat could result in a likely significant effect and therefore these would require Appropriate Assessment.

As a result, there would be a likely significant effect to the following European Sites due to Loss / degradation of supporting habitats:

- Chichester and Langstone Harbours SPA
- Chichester and Langstone Harbours Ramsar site

Construction impacts

There is potential for construction noise, pollution and activity to cause disturbance of SPA qualifying bird species present on site, either using existing habitats or those created as mitigation.

As a result, there would be a likely significant effect to the following European Sites due to construction noise and activity:

- Chichester and Langstone Harbours SPA
- Chichester and Langstone Harbours Ramsar site

Would the proposal lead to a likely significant effect on European site integrity? Yes, due to recreational pressure and water quality.

(If yes, continue to Stage 3).

Stage 3 - Appropriate Assessment

Appropriate Assessment under Regulation 63(1) - if there are any potential significant impacts, the applicant must provide evidence showing avoidance and/or mitigation measures to allow an Assessment to be made. The Applicant must also provide details which demonstrate any long-term management, maintenance and funding of any solution.

Recreational Pressure

The project being assessed would result in a net increase of dwellings within 5.6km of the Solent SPAs. In line with Policy DM24 of adopted Havant Borough Local Plan (Allocations), Policy E16 of the Pre-Submission Havant Borough Local Plan and the Solent Recreation Mitigation Strategy, a permanent significant effect on the Solent SPAs due to increase in recreational disturbance as a result of the new development, is likely. As such, in order to lawfully be permitted, the development will need to include a package of avoidance and mitigation measures.

Havant Borough Council formally adopted the Solent Recreation Mitigation Strategy in February 2018. The SRMS provides a strategic solution to ensure the requirements of the Habitats Regulations are met with regard to the in-combination effects of increased recreational pressure on the Solent SPAs arising from new residential development. This strategy represents a partnership approach to the issue which has been endorsed by Natural England.

As set out in the Solent Recreation Mitigation Strategy, an appropriate scale of mitigation for this scheme would be:

Size of units	Scale of mitigation per unit	Amount proposed in this scheme	Cost
1 bedroom	£356.00	0	£0.00
2 bedroom	£514.00	22	£11,308.00
3 bedroom	£671.00	18	£12,078.00
4 bedroom	£789.00	9	£7,101.00
5 bedroom	£927.00	1	£927.00

Monitoring fee¹ for this scheme: £1,570.70

Administration fee² for this scheme: £23.00

TOTAL AVOIDANCE AND MITIGATION PACKAGE: £33,007.70

¹Monitoring fee is 5% of total mitigation cost

²Administration fee is £23 per application

Policy E16 of the Pre-Submission Havant Borough Local Plan and sets out HBC's approach to securing the appropriate mitigation measures to address the in-combination impact of increased recreational disturbance arising from increased housing development. It states:

“Planning permission will be granted for residential development resulting in a net increase in population that mitigates a likely significant effect on the Solent SPAs”

A legal agreement will be necessary to secure the mitigation package. The applicant has confirmed through a European Site Avoidance and Mitigation Checklist that they commit to providing a mitigation package. Without the security of the mitigation being provided through a legal agreement, a significant effect would remain likely. As long as such a legal agreement is secured through the planning process, the proposed development will not affect the status and distribution of key bird species and therefore the development will not act against the stated conservation objectives of the European sites.

Water Quality

The project being assessed would result in an increase in population in the catchment of several Solent European Sites as set out in stage 2. As advised by Natural England, a permanent significant effect on the Solent European Sites due to the decrease in water quality as a result of new development, is likely. As such, in order to lawfully be permitted, further assessment is needed as to the net nutrient emissions from the site, including any avoidance or mitigation measures proposed.

Havant Borough Council's has published a Position Statement and Mitigation Plan for Nutrient Neutral Development. This sets out how mitigation can be provided to enable development to take place within Havant Borough whilst avoiding any likelihood of a significant effect on the Solent European Sites identified in stage 2.

The Position Statement sets out that for development on agricultural sites, such as this one, that it would be expected that on-site avoidance and mitigation measures would be used to achieve nutrient neutrality.

Natural England have produced 'Advice on achieving nutrient neutrality for new development in the Solent region. This sets out a methodology to calculate the nutrient emissions from a development site. The applicant has used this methodology to calculate the nutrient emissions from the site. This calculation has confirmed that the site will not emit a nutrient load into any European Sites. The calculations for this development site are appended to this assessment.

Achieving a position where there are no net nutrient emissions into the Solent European Sites from this development involves the use of specific on-site avoidance and mitigation measures.

A legal agreement will be necessary to secure this avoidance and mitigation package in perpetuity. Without the security of the mitigation being provided through a legal agreement, a significant effect would remain likely. As long as such a legal agreement is secured through the planning process, the proposed development will not affect the water quality of the Solent European Sites and therefore the development will not act against the stated conservation objectives of the European sites.

Loss / degradation of supporting habitats

The project being assessed would result in the loss / degradation of existing supporting habitats.

Policy E17 of the Pre-Submission Havant Borough Draft Local Plan 2036 sets out HBC's approach to securing the appropriate mitigation measures to address the in-combination impact, this policy states that:

Development proposals on, or adjacent to, sites which are used by Solent waders and/or Brent Geese will be assessed in line with the appropriate regulations. These proposals will, therefore,

require a project level Habitats Regulations Assessment and, if necessary, an Appropriate Assessment. The Council will consider the Solent Waders and Brent Goose (SWBG) Strategy and the latest survey data when making such an assessment.

it states for Secondary Support Areas that:

Secondary Support Areas

Development proposals on Secondary Support Areas will only be permitted where either:

*g. A suitable replacement habitat is provided on a like for like basis on or within the locality of the site which is agreed and secured through a costed Habitat Management and Monitoring Plan; or
h. Where it can be demonstrated that criteria g) is not practicable, a smaller suitable replacement area is agreed and secured through a costed Habitat Management and Monitoring Plan and a financial contribution is provided consistent with the SWBG Strategy.*

The methodology for calculating off-site mitigation is set out in the Solent Waders and Brent Goose Strategy Guidance on Mitigation and Off-Setting Requirements¹. This sets out in paragraph 32 that £85,464 per hectare of habitat lost is an appropriate scale of mitigation package. With the proposed development of 3.85ha (as set out on the application form), this equates to £329,036.40. The applicant has indicated a willingness to provide a mitigation package scaled to this amount.

Policy E25 of the Pre-Submission Local Plan allocates land at 'Broadmarsh' for a Brent Goose and Wader Refuge. This site is close to the proposed development site. The mitigation from this site could be reasonably used to bring forward this refuge project. Nonetheless, it may be that other equally or more suitable projects emerge and so the package should be sufficiently flexible that the refuge can be provided at Broadmarsh, an alternative location or a mixture.

Paragraph 33 of the aforementioned guidance then sets out that where a secondary support area is to be lost with no direct replacement, as is the case here, that additional measures will be necessary to ensure the continued ecological function of the network. This would be for, amongst other things, funding for land purchase and the final package is to be determined on a case by case basis. Havant Borough Council already own the Broadmarsh allocation and so land purchase is not necessary in order to facilitate the refuge scheme. As such, no further funding over and above that calculated through table 1 of the mitigation guidance, is considered necessary.

A legal agreement will be necessary to secure this avoidance and mitigation package in perpetuity. Without the security of the mitigation being provided through a legal agreement, a significant effect would remain likely. As long as such a legal agreement is secured through the planning process, the proposed development will not affect the status and distribution of key bird species and therefore the development will not act against the stated conservation objectives of the European sites.

Construction impacts

During the construction period, noise, pollution and activity has the potential to impact on the designated sites located to the south of the development site. Noise, pollution and construction activity also has the potential to impact on the remainder of site H05A as identified in the Solent Waders and Brent Goose Strategy.

¹ <https://solentwbgs.wordpress.com/page-2/>, direct link
<https://solentwbgs.files.wordpress.com/2018/11/swbgs-mitigation-guidance-oct-2018.pdf>

Such impacts can be addressed in detail through a Construction Environment Management Plan (CEMP) agreed between the applicant and the Local Planning Authority prior to the commencement of development. This can include controlling matters such as minimising idling by machinery, locating construction compounds in less noise sensitive areas of the site and maintaining machinery to further reduce these noise levels. Subject to the imposition of a condition securing these controls, it is considered that the significant effect due to noise, disturbance and construction related pollutants which would have been likely, has been suitably avoided and mitigated. As such, no likelihood of a significant effect remains on this issue subject to a CEMP being secured by condition.

Stage 4 – Summary of the Appropriate Assessment (To be carried out by the Competent Authority (the local planning authority) in liaison with Natural England

This assessment represents Havant Borough council's Appropriate Assessment as a Competent Authority in accordance with requirements under Regulation 63 of The Conservation of Habitats and Species Regulations 2017 (as amended), Article 6 (3) of the Habitats Directive and having due regard to its duties under Section 40(1) of the NERC Act 2006 to the purpose of conserving biodiversity. Consideration of the Ramsar site/s is a matter of government policy set out in the National Planning Policy Framework.

This assessment concludes that the application will have a likely significant effect in the absence of avoidance and mitigation measures on the above European sites.

The authority has concluded that the adverse effects arising from the proposal are wholly consistent with the effects detailed in the Solent Recreation Mitigation Strategy with regards recreational disturbance. The adverse effects are also consistent with the effects detailed in the Position Statement on Mitigation Plan for Nutrient Neutral Development with regards to water quality. The authority's assessment is that the application complies with these strategies and the potential to provide mitigation to remove the significant effects that otherwise would have been likely. It can therefore be concluded that there will be no adverse effect on the integrity of the designated sites identified above. There are likely significant effects in the absence of avoidance and mitigation measures from construction impacts and noise, disturbance and construction related pollutants. Avoidance and mitigation packages have been proposed.

The authority's assessment is that the application complies with these strategies and the potential to provide mitigation to remove the significant effects that otherwise would have been likely. It can therefore be concluded that there will be no adverse effect on the integrity of the designated sites identified above

Natural England Officer:

Natural England's comments:

Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal in accordance with Regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process, and a competent authority should have regard to Natural England's advice.

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for any adverse effects, it is the advice of Natural England that we concur with the conclusion of the HRA, provided all mitigation measures are adequately secured with any permission.

Solent Recreation Mitigation Strategy

Since this application will result in a net increase in residential accommodation, impacts to the coastal Special Protection Area(s) and Ramsar site(s) may result from increased recreational pressure. Havant Borough Council has measures in place to manage these potential impacts through the agreed strategic solution which we consider to be ecologically sound.

Subject to the appropriate financial contribution being secured, Natural England is satisfied that the proposal will mitigate against the potential recreational impacts of the development on the site(s). It is Natural England's view that the Solent Mitigation Recreation Strategy Contribution adequately mitigates the effects of the development on potential recreational impacts on the designated sites.

Nutrient Neutrality

With regard to the deterioration of the water environment, it is noted that achieving a position where there are no net nutrient emissions into European Sites from this development involves the use of specific on-site avoidance and mitigation measures. Provided the necessary measures can be fully secured; Natural England raises no further concerns.

Loss of supporting SPA habitat

The loss of a Secondary Support Area will be offset by a contribution to enhance, manage and monitor the wider Solent Wader and Brent Goose ecological network and secured by legal agreement. Natural England is satisfied with this approach which is in line with agreed offsetting and mitigation guidance.

We understand that Havant Borough Council has a number of options that are being progressed to address the loss of Low Use and Secondary Support Areas in the Borough, which are coming forward in the planning system. We recommend that the confirmed offsetting option is secured with any planning permission. Provided the strategic schemes are in place in time to offset the loss of the Secondary site, Natural England raises no further comments.

Construction impacts on supporting habitat

It is noted that a Construction Environment Management Plan is referenced in the AA. Natural England is satisfied that a noise restriction and an appropriate Construction Environmental Management Plan, which is agreed with Natural England before implementation, would resolve the adverse impacts.

A suggested condition is as follows:

Wherever possible, 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).

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.

Note: The sensitive receptor is the nearest point of the SPA or any SPA supporting habitat (e.g. high tide roosting site).

We advise that the key measures that relate to the qualifying features of the internationally designated sites are detailed in the AA and will need to be secured with any planning permission.

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.