

Your ref - APP/20/01093 - Erection of 195No. dwellings, associated open space, pumping station, sub-station and formation of new vehicular access off Sinah Lane. Change of use of land from agricultural to a Wader and Brent Geese Refuge Area (Resubmission of APP/18/00724 - Land at Sinah Lane, Hayling Island

Thank you for consulting us on the above application. We responded to the previous application APP/18/00724.

The consultation documents provided by your authority do not include information to demonstrate that the requirements of Regulations 63 and 64 of the Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') have been considered by your authority, i.e. the consultation does not include a Habitats Regulations Assessment.

In advising your authority on the requirements relating to Habitats Regulations Assessment, it is Natural England's advice that the proposal is not 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.

Construction impacts

The shadow HRA sets out a Construction Environmental Management Plan (CEMP) will be submitted. The CEMP should be submitted to and approved in writing by the district ecologist. Provided the approved CEMP is secured via an appropriately worded condition attached to any planning consent and includes measures for dust control, pollution and surface water drainage measures during construction and measures to prevent noise, lighting and visual disturbance on the designated sites and supporting habitat, Natural England raises no further comments.

It is recommended that the following condition is attached to any planning permission: 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)

Loss of supporting habitat

We note that the Winter Bird Mitigation Strategy proposes a refuge on the north of the proposed housing development adjacent to the Hayling Island Brent Goose Refuge (E26). The area would be actively managed to provide permanent foraging for Brent Geese and other waders during the winter by the RSPB.

With regard to management, it should be confirmed in the AA whether the land itself will be transferred to the RSPB or whether there will be a long term lease. It is Natural England's preference for the land ownership to be transferred so that the site is secured permanently. Provided the RSPB confirm that they will take on the management of the Wintering Bird Mitigation Area for the commuted sum and the above issues are addressed, then Natural England raises no further comments. Appropriate legal agreements will need to be in place to ensure this is secured with any planning permission.

Provided any planning permission secures that the Wintering Bird Mitigation Area is operational at the time it is required to offset the adverse effects which are being addressed, Natural England

raises no further comments. Natural England recommends that the planning permission secures that the infrastructure works for the Wintering Bird Mitigation Area are progressed at the earliest opportunity and prior to commencement of construction.

To ensure that the Wintering Bird Mitigation Area is completed to the required standard, Natural England strongly recommends that a condition is attached to any outline permission that secures a sign-off visit by Natural England, prior to the commencement of development. For your information, this visit would fall under our Discretionary Advice Service.

Deterioration of the water environment

We have reviewed the nitrogen budget and have the following comments to make. As the calculation shows a negative budget, a 20% precautionary buffer does not need to be added at stage 4. The final nitrogen budget is therefore 155.5Kg/N/year. This is dependent on 7.33ha of retained woodland/public open space as future land use. We note that the Wintering Bird Mitigation Strategy proposes that default future management will be through cutting with low intensity grazing as an alternative. The 5 kg/TN/ha open space figure assumes there is no grazing or a very low density - 1 livestock unit per 10 ha per year. We advised that if grazing levels are likely to be higher than this level then it may be more appropriate to use an alternative figure in the calculation.

Provided the Council, as competent authority, is satisfied that the approach will ensure the proposal is nutrient neutral and the necessary measures can be fully secured; Natural England raises no further concerns.

Sustainable urban Drainage System (SuDS)

Provided the SuDS is designed, installed with appropriate management in accordance with the requirements in the CIRIA SuDS Manual (C753) and is secured with any planning permission, Natural England raise no further concerns. The pollution hazard indices in the CIRIA SuDS Manual (C753) relate to 'protected waters' with regards to drinking water supply. Step 3 under Section 26.7.1 of the SuDS manual outlines that the requirement for extra treatment should be considered in relation to discharge to environmentally protected sites. It states that 'an additional treatment component (i.e. over and above that required for standard discharges), or other equivalent protection, is required that provides environmental protection in the event of an unexpected pollution event or poor system performance'.

Recreational disturbance

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). The development proposal will need to be in accordance with the Definitive Strategy rates. Please note these rates were updated as of 1 April 2020.

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.

The above details should be included in the Appropriate Assessment to ensure there is no adverse impact from the construction and operational phases on the adjacent designated sites and its

functional land. 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.

Protected Species and Biodiversity

Natural England does not hold locally specific information relating to protected species, local or national biodiversity priority habitats and species, local sites (biodiversity and geodiversity) and local landscape character. These remain material considerations in the determination of this planning application and we recommend that you seek further information from the [Hampshire Biodiversity Information Centre](#) and other appropriate bodies.

Natural England has published Standing Advice on protected species. Please note Standing Advice is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation. If you have any specific questions not covered by our Standing Advice, or have difficulty in applying it to this application please contact us at consultations@naturalengland.org.uk.

Provided the implementation of an HCC approved Ecological Mitigation and Enhancement Plan is secured by any permission then your authority may be satisfied that it will have met its duties relating to conserving biodiversity under Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006.

Biodiversity net gain and 'additionality'

The forthcoming Environment Bill seeks to mandate biodiversity net gain. National guidance is currently being prepared to support the design and deliverance of net gain, including guidance on the concept of 'additionality' where multiple outcomes are sought from the same site, for example achieving net gain on sites identified to address requirements under separate legislation and/or policy.

In advance of such guidance, it can still be advised that a main principle of biodiversity net gain is that it cannot be claimed for meeting existing legal requirements or commitments, to avoid any double counting. [Defra's guide for biodiversity offsetting](#) outlines that habitat creation/enhancement measures 'should not be used to deliver biodiversity conservation that would have happened anyway'. [CIEEM, CIRIA, IEMA Biodiversity Net Gain Good Practice Principles](#) outline that net gain must be additional, and 'achieve nature conservation outcomes that demonstrably exceed existing obligations (i.e. do not deliver something that would occur anyway)'.

In practice, clear demonstration is required that the net gain outcomes are additional to those delivered as requirements under the Habitats Regulations. Where it is hard to make such distinctions, the local authority may deem it reasonable to request further offsite measures to ensure net gain is properly achieved.

Please contact me if you have any queries relating to the above advice

Kind regards

Rachael Clemson
Sustainable Development Lead Adviser
Thames Solent Area Team