

Date: 04 December 2020
Our ref: 327144
Your ref: APP/20/00725



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BY EMAIL ONLY

Dear Lesley Wells,

Planning consultation: APP/20/00725

Location: Wilsons Boatyard, Marine Walk, Selmore, Hayling Island, Hampshire

Thank you for your consultation on the above dated 02 September 2020 which was received by Natural England on 03 September 2020.

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

NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

We consider that without appropriate mitigation the application would:

- have an adverse effect on the integrity of Chichester and Langstone Harbours Special Protection Area the Chichester and Langstone Harbours Wetland of International Importance under the Ramsar Convention (Ramsar site), the Solent Maritime Special Area of Conservation (SAC) and the Chichester Harbour Site of Special Scientific Interest (SSSI).

In order to mitigate these adverse effects and make the development acceptable, the following mitigation measures are required/ or the following mitigation options should be secured:

- The pontoon extension installation will be completed between the period 1st April and 30th September to avoid disturbance to overwintering birds that feed and roost in the area.

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

Natural England's further advice on designated sites/ landscapes and advice on other natural environment issues is set out below.

The Conservation of Habitats and Species Regulations 2017 (as amended) and The Conservation of Offshore Marine Habitats and Species Regulations 2017 (as amended)

We can confirm that the proposed works are located within Chichester and Langstone Harbours Special Protection Area (SPA), the Chichester and Langstone Harbours Wetland of International Importance under the Ramsar Convention (Ramsar site), the Solent Maritime Special Area of Conservation (SAC) and the Chichester Harbour Site of Special Scientific Interest (SSSI).

Likely significant effect, appropriate assessment required

Natural England's advice is that this proposed development may contain (or require) measures intended to avoid or reduce the likely harmful effects on a European Site, which cannot be taken into account when determining whether or not a plan or project is likely to have a significant effect on a site and requires an appropriate assessment (noting the recent *People Over Wind* Ruling by the Court of Justice of the European Union).

For this reason, we advise that on the basis of the information supplied that the application may have a likely significant effect on these sites. These measures therefore need to be formally checked and confirmed by your Authority, as the competent authority, via an appropriate assessment, in accordance with the Conservation of Habitats & Species Regulations 2017 (as amended).

These measures and any further mitigation measures can be considered during an appropriate assessment, to determine whether a plan or project will have an adverse effect on the integrity of the European site.

Natural England advises that it is a matter for your Authority to decide whether an appropriate assessment of this proposal is necessary in light of the *People Over Wind* ruling. In accordance with the Conservation of Habitats & Species Regulations 2017 (as amended), Natural England must be consulted on any appropriate assessment your Authority may decide to make.

Should an appropriate assessment be undertaken, we recommend that the following mitigation measures be considered in the appropriate assessment; and advise that should these mitigation measure be incorporated into the appropriate assessment and any subsequent license, the proposal is unlikely to result in adverse effects to the European sites affected. Natural England are also unclear from the methods statement whether the floating pontoon will rest on the seabed at low tide. Should this be the case, Natural England advise this should be considered in the appropriate assessment.

Mitigation: seasonal restrictions to ensure extension installation will be completed between the period 1st April and 30th September

Reason: avoid impacts to overwintering bird features

Further advice on mitigation

- The Construction Management Plan should detail how certain activities' will be limited in time, location, duration and noise level to minimise the risk of disturbance to SPA birds.

Marine and Coastal Access Act 2009

The works, as set out in the information supplied by the applicant, are not sited within or near to a Marine Conservation Zone. Natural England have not identified a pathway by which impacts from the development would affect the interest features of the site(s). We are therefore confident that the works will not hinder the conservation objectives of such a site.

Wildlife and Countryside Act 1981 (as amended)

We can confirm that the proposed works are located within Chichester Harbour Site of Special Scientific Interest. Natural England advises that the proposal, if undertaken in strict accordance with the details submitted, is not likely to damage the interest features for which the site has been notified. However, we recommend that the following conditions are attached to the licence to ensure that the activity is undertaken as per the application and therefore compliant with the above legislation:

Condition

All construction work must be completed between the period 1st April and 30th September

Reason

To avoid disturbance to the overwintering birds, an interest feature of the SSSI, which use the area from October to May inclusively.

Other Relevant Matters

Best Practice Measures

In order to further reduce environmental pressures, we recommend that the following best practice measures should be adhered to:

- All reasonable precautions will be undertaken to ensure no pollutants enter the waterbody.
- The applicant should ensure that all equipment, temporary structures, waste and/or debris associated with the application is removed upon completion of the works.
- The applicant should ensure that only coatings and treatments that are suitable for use in the marine environment are used, in accordance with best environmental practice.

Natural England note and agree with the other best practice measures detailed in the ecology report.

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 171 and 174 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 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 here¹. Natural England does not routinely hold species data, such data should be collected when impacts on priority habitats or species are considered likely.

Protected Landscapes – Chichester Harbour AONB

Based on the plans submitted, Natural England has no objection to the proposed development. We do not consider that the proposed development would compromise the purposes of designation or special qualities of the AONB. We would advise that the proposal is determined in line with relevant NPPF and development plan policies, landscape and visual impacts are minimised as far as possible and landscape advice is obtained from the AONB Partnership or Conservation Board.

¹

<http://webarchive.nationalarchives.gov.uk/20140711133551/http://www.naturalengland.org.uk/ourwork/conservation/biodiversity/protectandmanage/habsandspeciesimportance.aspx>

Biodiversity enhancements

Natural England are now seeking a net gain approach to developments. This means that, rather than considering which level of impact may be acceptable, we are aiming to achieve an improvement for protected habitats and species or the ecosystem as a whole. This will help us to avoid the long term degradation of our natural assets. We therefore ask developers to propose additional measures that will help achieve this goal. This may include measures such as helping raise awareness of the local habitats and wildlife by installing interpretation on the natural environment present or contributing to physical enhancements of the site. Specific options can be discussed with Natural England during the course of this application.

The “environmental net gain” principle is one of the key actions noted in Defra’s 25 Year Environment Plan. Additionally, Section 40 (1,3) of the Natural Environment and Rural Communities (NERC) Act, sets out that “Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity”. Conserving biodiversity is thereby defined as “restoring or enhancing a population or habitat”. This requirement to enhance biodiversity applies to the Marine Management Organisation and local authorities responsible for granting any licenses.

Protected species

Natural England has produced standing advice² 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 SSSI or in exceptional circumstances.

In addition, we have not assessed this application and associated documents for impacts on marine protected species as listed on Schedule 5 of the Wildlife and Countryside Act (1981 as amended). The onus is on the Applicant and the planning authority to ensure that they are legally compliant with the legislation throughout the duration of the licence. Further details of the species protected through this legislation throughout the duration of the licence. Further details of the species protected through this legislation can be found here:

<https://www.gov.uk/government/publications/protected-marine-species>

Invasive Non-Native Species (INNS)

The Applicant should ensure that all necessary biosecurity measures are taken to avoid the introduction and / or spread of INNS.

Should the proposal change, please consult us again. Please note that the applicant will also require a marine licence for these works.

If you have any queries relating to the advice in this letter please contact me using the details provided below.

Yours sincerely,



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² <https://www.gov.uk/protected-species-and-sites-how-to-review-planning-proposals>