

Date: 09 February 2021
Our ref: APP/20/01127
Your ref: 340930



Lewis Oliver
Havant Borough Council

Customer Services
Hornbeam House
Crewe Business Park
Electra Way
Crewe
Cheshire
CW1 6GJ

T 0300 060 3900

BY EMAIL ONLY

Dear Lewis

Planning consultation: Application for full planning permission, pursuant to APP/16/01237 etc. The siting of 112 holiday caravans with areas of open recreational space etc

Location: Mill Rythe Holiday Village, 16 Havant Road, Hayling Island, PO11 0PB

Thank you for your consultation on the above dated Click here to enter a date. which was received by Natural England on Click here to enter a date.

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 IMPACTS ON DESIGNATED SITES

As submitted, the application could have potential significant effects on Chichester and Langston Harbours Special Protection Area (SPA). Natural England requires further information in order to determine the significance of these impacts and the scope for mitigation.

The following information is required:

- A Construction Environmental Management Plan
- A costed management plan for the Solent Wader & Brent Goose site H40/Mill Rythe Holiday Park Site of Importance to Nature Conservation (SINC)
- A Habitat Regulations Assessment and Appropriate Assessment

Without this information, Natural England may need to object to the proposal.

Please re-consult Natural England once this information has been obtained.

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

Habitat Regulations Assessment

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 \(Amendment\) \(EU Exit\) Regulations 2019](#) 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.

Please note that, recent case law ('Sweetman II') outlines that mitigation measures should not be assessed through a Habitats Regulations Assessment (HRA) to 'screen out' impacts at the stage of considering Likely Significant Effects (LSE), rather avoidance / mitigation measures should be considered through an Appropriate Assessment. Therefore in this case, as mitigation measures are proposed to avoid a likely significant effect your authority's HRA will need to include an Appropriate Assessment under Regulation 63(1) of the [Conservation of Habitats and Species \(Amendment\) \(EU Exit\) Regulations 2019](#). Please note Natural England are a statutory consultee for Appropriate Assessments and should be re-consulted once your authority has completed its HRA.

Solent SPA functionally linked land

The eastern part of the application site is identified in the Solent Waders and Brent Goose Strategy as a Low Use site, the site H43 supports Brent Geese. This area is also identified as Mill Rythe Holiday Park Site of Importance to Nature Conservation (SINC). The Solent Waders and Brent Goose Strategy (SWBGS) aims to protect the network of non-designated terrestrial wader and brent goose sites that support the Solent Special Protection Areas (SPA) from land take and recreational pressure associated with new development.

Natural England is concerned that, without appropriate mitigation, the proposed development could have significant direct impacts upon the qualifying features of the aforementioned designated site due to impacts on the Solent Waders and Brent Goose ecological network.

The application is supported shadow HRA which considers impacts to the SWBGS site during the construction phase it does not however consider the operational phase impacts to the SPA functionally linked land. The terrestrial wader and brent goose sites are located on land that falls outside of the Solent SPAs boundaries. However, as this land is frequently used by SPA species (including qualifying features and assemblage species), it supports the functionality and integrity of the designated sites for these features. This land will contribute to the achievement of the SPAs' conservation objectives and is therefore protected in this context. This land supports the SPA ecological network by providing alternative roosting and foraging sites. The operational phase impacts to SPA functionally linked land should be considered further in the HRA including direct loss of part of the site and potential disturbance from lighting & recreational use on the remaining area, proceeding to AA where impacts are identified.

The supporting shadow HRA and ecological mitigation strategy state the site is not currently under suitable management and has developed a longer sward and scrub therefore is now considered unsuitable for brent geese. All Low Use sites have the potential to be used by waders or brent geese and these sites have the potential to support the existing network and provide alternative options and resilience for the future network. The in-combination loss of these sites would impact on the continued ecological function of the wader and brent goose network and proportionate mitigation, off-setting and/or enhancement measures will be required. In order to consider site reclassification, this will need to be supported by 3 consecutive years of survey to the agreed survey methodology with the site under appropriate habitat management conditions for waders and / or brent goose usage throughout the survey period.

An agreed and deliverable mitigation strategy could address the potential for significant effects arising from the development on the qualifying features of the Solent and Southampton Water SPA. Guidance on the off-setting and mitigation requirements has been issued to local planning authorities and this sets out the necessary measures to avoid impacts. Securing early commitment to this mitigation will ensure the potential significant effects have been addressed.

The supporting ecological mitigation strategy sets out a number of measures to mitigate for the direct loss of part of the SINC/SWBGS site including

- Management of habitats within the retained section of Mill Rythe Holiday Village SINC and Solent Wader and Brent Goose Strategy Site H43 (the former pitch and put golf course) to provide a wildlife area;
- Restricted access to the managed wildlife area and to the sea wall during sensitive periods for wintering birds; and
- Provision of interpretation boards and information packs detailing the importance of the site and surroundings for wildlife.

We recommend a comprehensive costed management plan for the retained area is submitted to and approved by an HCC ecologist, and secured with any permission. It should set out how management will be secured, monitored and enforced in perpetuity (normally 80 years), the council should also consider appropriate step in rights. Details should be examined via an appropriate assessment to ensure there are no adverse effects of integrity on the designated site. This could include consideration of appropriate change of ownership to a non-government organisation or local planning authority. Whilst it is appreciated that land transfer is not a preferred option for many land owners, it is one way to address the above tests of certainty of delivery in perpetuity and enforceability.

Where impacts cannot be avoided or adequately mitigated on-site, proportionate mitigation would comprise off-setting or enhancement measures via payment towards the management and enhancement of the wider waders and brent geese ecological network.

Recreational disturbance

The application site is also adjacent to Chichester & Langstone Harbours SPA and will lead to a net increase in residential accommodation. To address any potential significant effects, any forthcoming planning application will need to comply with adopted planning policy to mitigate against adverse effects from recreational disturbance on the Solent SPA sites, as agreed by the Solent Recreation Mitigation Partnership (SRMP) Definitive Strategy.

Provided there is commitment to this mitigation early in the process and an appropriate planning condition or obligation is attached to any forthcoming planning permission to secure this measure, this will ensure this potential effect has been appropriately addressed. Our advice is that this needs to be confirmed by the Council, as the competent authority, via an appropriate assessment to ensure there is no adverse effect on the integrity of the site(s) in accordance with the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019.

In addition Natural England welcomes the recommendations in the ecological mitigation strategy to restrict access to the managed wildlife area and to the sea wall during sensitive periods for wintering birds and to provide interpretation boards and information packs detailing the importance of the site and surroundings for wildlife.

We recommend the following are secured by appropriate condition with any permission:

- No dogs shall be permitted on the Mill Hythe Site of Nature Conservation Interest (SINC) / pitch and putt golf course from 01 October to 31 March inclusive.
- Access from the Holiday Village to the sea wall and foreshore shall be closed from 01 October to 31 March inclusive

Construction impacts

Natural England advise that best practice measures are adopted during construction to limit noise and visual disturbance to the adjacent sensitive habitat. Natural England advises that a Construction Environmental Management Plan (CEMP) should be submitted to and approved in writing by the district ecologist that will include a methodology for the demolition and installation of the mixed accommodation. In particular the CEMP should include details of:

- The access route of construction vehicles to and from the site.
- Location of construction compound and car parking.
- Storage and location of equipment and materials.

- Potential for run-off from the site and waste disposal resulting from site preparation, groundwork and the construction phase of the development and appropriate mitigation measures.
- Measures to minimise creation and impact of dust.
- Consideration of how certain activities will be limited in time, location or noise level to minimise the risk of disturbance to SPA birds (i.e. October to March inclusive). Details of noise monitoring of the construction and demolition work at sensitive locations.
- Any percussive piling or works with heavy machinery (i.e. plant resulting in a noise level in excess of 69dbAmax – measured at the sensitive receptor which is the nearest point of the SPA or SPA supporting habitat – high tide roost sites) should not be undertaken during the bird overwintering period (i.e. October to March inclusive).
- Measures to visually screen the construction works from the sensitive areas.
- An ornithological watching brief shall be undertaken for the duration of any demolition and construction works carried out during the sensitive period (01 October to 31 March).
- During construction, access onto the sea wall from the development site should be restricted.

This detail should be included in the Appropriate Assessment to ensure there is no adverse impact from the construction work on the adjacent designated sites and its functional land.

Deterioration of the water environment

The application is supported by a nitrogen budget calculation which sets out the proposals will result in a nitrogen budget of 36.4 Kg/N/yr. Provided the competent authority is assured and satisfied that the site areas used in the calculation are correct and that the existing land uses are appropriately precautionary, then Natural England raises no concerns with regard to the nutrient budget. Please note the calculation is based on all wastewater from the development being treated at Budds Farm. If this situation changes, a reassessment of the nutrient calculation will be required.

Where there is a positive nitrogen contribution then mitigation will be required, this should be examined within the Appropriate Assessment. We are aware that Havant Borough Council has adopted Position Statement and Mitigation Plan for Nutrient Neutrality Development (August 2020), Natural England concurs with the conclusion of this work that this scheme will deliver effective mitigation for developments draining to Budd's Farm WwTW and Thornham WwTW.

Sites of Special Scientific Interest

The above impacts to European sites could you also impact on SSSIs. Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 28I (6) of the Wildlife and Countryside Act 1981 (as amended) to notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, your authority has taken account of Natural England's advice. You must also allow a further period of 21 days before the operation can commence.

Protected Landscape

The proposed development is for a site within or close to a nationally designated landscape namely Chichester Harbour AONB. Natural England advises that the planning authority uses national and local policies, together with local landscape expertise and information to determine the proposal. The policy and statutory framework to guide your decision and the role of local advice are explained below.

Your decision should be guided by paragraph 172 of the National Planning Policy Framework which gives the highest status of protection for the 'landscape and scenic beauty' of AONBs and National Parks. For major development proposals paragraph 172 sets out criteria to determine whether the development should exceptionally be permitted within the designated landscape.

Alongside national policy you should also apply landscape policies set out in your development plan, or appropriate saved policies.

We also advise that you consult the relevant AONB Partnership or Conservation Board. Their knowledge of the site and its wider landscape setting, together with the aims and objectives of the AONB's statutory management plan, will be a valuable contribution to the planning decision. Where available, a local Landscape Character Assessment can also be a helpful guide to the landscape's sensitivity to this type of development and its capacity to accommodate the proposed development.

The statutory purpose of the AONB is to conserve and enhance the area's natural beauty. You should assess the application carefully as to whether the proposed development would have a significant impact on or harm that statutory purpose. Relevant to this is the duty on public bodies to 'have regard' for that statutory purpose in carrying out their functions (S85 of the Countryside and Rights of Way Act, 2000). The Planning Practice Guidance confirms that this duty also applies to proposals outside the designated area but impacting on its natural beauty.

If you have any queries relating to the advice in this letter please contact me on 07500 954264.

Should the applicant wish to discuss the further information required and scope for mitigation with Natural England, we would be happy to provide advice through our [Discretionary Advice Service](#).

Please consult us again once the information requested above, has been provided.

Yours sincerely

Rachael Clemson
Sustainable Development Lead Adviser
Thames & Solent Area Team