
Site Address:	Boatyard, Marine Walk, Hayling Island, PO11 9PG		
Proposal:	Proposed extension to an existing pontoon.		
Application No:	APP/20/00725	Expiry Date:	15/10/2020
Applicant:	Mr Wilson Wilsons of Hayling Ltd.		
Agent:	Ms S Roberts Critchley Architecture and Design Ltd	Case Officer:	Lesley Wells
Ward:	Hayling East		

Recommendation: **GRANT PERMISSION**

1 Site Description

The application site is located in 'My Lord's Pond' at the Northern point of 'Wilson's Boatyard', north of Marine Walk.

The application site is 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), Chichester Harbour Site of Special Scientific Interest (SSSI) and the Chichester Area of Outstanding Natural Beauty (AONB)

The existing pontoon is above the 'Mean Low Water' mark and therefore outside of Crown Land. However, the existing pontoon is located outside the ownership boundary of the Applicant. Notice 1 has been served on the relevant owner, as per the details in Certificate B.

The site falls within Flood Zone 2 and 3.

2 Planning History

93/51187/003 - New boatshed with office. (Renewal of Planning Permission 88/51187/2)., PERM,
05/51187/004 - Erection of a pontoon adjacent to and the east of the existing slipway., WD,31/05/2005
05/51187/005 - Erection of a Pontoon adjacent to and east of the existing slipway. (Resubmission)., PERM,02/08/2005
APP/10/00953 - Construction of Sea Defence Works. (Retrospective application.), PERM,03/03/2011
APP/11/01268 - Discharge of Condition No. 1 of Planning Permission APP/10/00953., REF,24/10/2011

3 Proposal

The proposals comprise the installation of a new pontoon section, extending the existing pontoon to the north-east. The pontoon will be fully supported on float cages.

The floating pontoon will be attached to the existing pile at the end of the existing pontoon. There will be an internal pile guide which is to be built into the new pontoon frame. There will be no new piles driven. The pontoon will rise and fall with the tide. There will be no direct contact between the pontoon and the sea bed.

The new pontoon unit will measure 10.0m by 2.5m and will be constructed from cast aluminium with a hardwood slat surface. There will be cast aluminium deck cleats at intervals along the edges of the pontoon.

4 Policy Considerations

National Planning Policy Framework
Havant Borough Council Borough Design Guide SPD December 2011
Havant Borough Council Parking SPD July 2016

Havant Borough Local Plan (Core Strategy) March 2011

CS11	(Protecting and Enhancing the Special Environment and Heritage of Havant Borough)
CS12	(Chichester Harbour Area of Outstanding Natural Beauty (AONB))
CS15	(Flood and Coastal Erosion)
CS16	(High Quality Design)
DM8	(Conservation, Protection and Enhancement of Existing Natural Features)

Havant Borough Local Plan (Allocations) July 2014

AL1	(Presumption in Favour of Sustainable Development)
DM23	(Sites for Brent Geese and Waders)
AL2	(Urban Area Boundaries and Undeveloped Gaps between Settlements)

Havant Borough Pre Submission Local Plan 2036

Emsworth Neighbourhood Plan Post Examination Version 2020

Listed Building Grade: Not applicable.
Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Chichester Harbour Conservancy

Suggested considerations –

1. schedule/samples of materials to be agreed prior to construction
2. prior to the commencement of any site works suitable development compensation measures should be secured by planning condition or legal agreement (the latter is preferable) to benefit and assist the reclamation of intertidal habitat in the surrounding area (such as through the removal of nearby swinging moorings that are currently taking up intertidal habitat)
3. the pontoon should not be used for any creating additional berthing locations

4. construction of the pontoon hereby permitted shall not commence until details of the depth and type of any submerged foundations to be used for construction of the same have been submitted to and approved in writing by the Local Planning Authority.

Officer comment: As to the suggested conditions: details of material have been provided. Condition 2 is not recommended by the Ecologist or Natural England. Condition 3, is recommended. Condition 4: there are no submerged foundation associated with the development.

Councillor Leah Turner - Hayling East

No comment received.

Councillor M Wilson - Hayling West Ward

No comment received.

Councillor R Raines - Hayling East

No comment received.

Countryside Access Team

No comment received.

Ecology - No Objection

The application is supported by Extended Phase One Ecological Assessment (draft report) by Phillips Ecology (June 2020).

The ecological assessment is based on terrestrial ecology, and our expertise are also specific to terrestrial ecology. Therefore, I would advise the applicant to consult Natural England and the Marine Management Organisation (MMO) to determine if the works will require any marine specific protection measures.

The ecological assessment identified potential impacts to the onsite designated sites: Chichester and Langstone Harbours SPA; Chichester and Langstone Harbours Wetland of International Importance under the Ramsar Convention; Solent Maritime SAC and Chichester Harbour SSSI. During construction there is the potential for water pollution impacts and disturbance to overwintering SPA bird species. The ecology report has set out mitigation measures to avoid these impacts which including timing the construction works between 1st April and 30th September and a number of environmental protection measures. I would support these measures and if you were minded to grant permission, I would simply suggest that the following condition be added to the decision notice:

- **Development shall proceed in accordance with the 'Mitigation Recommendations' in Section 11 of the Phillips Ecology Extended Phase One Ecological Assessment (June 2020) Draft Report.**

Officer comment: the applicant's agent has advised that "Wilson's current pontoon, have a Licence from the Chichester Harbour Conservancy.

This may be significant in that the creek is owned by the Selby Sisters (Unusually) and is not Crown Land, as is the usual case. This may not be within the MMO controls.

As previously, Wilson's intention will be to extend the CHC licence for the extended pontoon."

As to the need for a Marine Licence from the Marine Management Organisation, this is for the applicant to determine once they have received a favourable planning decision. The possible need for this Licence would be an informative on the decision notice, if permission is forthcoming.

Engineering/Drainage

No comment received.

Environment Agency

We have reviewed the application and have **no objection** to the proposal as submitted.

We consider the proposal acceptable in flood risk terms as the proposed pontoon extension is unlikely to increase flood risk. There is no change in usage proposed and as a result no change in its vulnerability class (see Table 2 of NPPF – classified as “Water-compatible development”).

Advice to Local Planning Authority/Applicant

Marine Licence

Please be aware that any works within the Marine area require a licence from the Marine Management Organisation (MMO). It is down to the applicant themselves to take the necessary steps to ascertain whether their works will fall below the Mean High Water Springs mark. Activities taking place below the mean high water mark may require a marine licence in accordance with the Marine and Coastal Access Act (MCAA) 2009.

It is our usual practice to dis-apply the requirement for a Flood Risk Activity Permit (Environmental Permit) if a MMO Marine Licence has been issued.

Environmental Permit

The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:

- on or within 8 metres of a main river (16 metres if tidal)
 - on or within 8 metres of a flood defence structure or culvert (16 metres if tidal)
- on or within 16 metres of a sea defence
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
 - in a floodplain more than 8 metres from the river bank, culvert or flood defence structure (16 metres if it's a tidal main river) and you don't already have planning permission.

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> or contact our National Customer Contact Centre on 03702 422 549. The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

Natural England Government Team - Final Comment - No Objection

SUMMARY OF NATURAL ENGLAND'S ADVICE

NO OBJECTION

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites 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) and has no objection.

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) and the Solent Maritime Special Area of Conservation (SAC).

Appropriate assessment

We note that your authority, as competent authority under the provisions of the Habitats Regulations, has undertaken an Appropriate Assessment of the proposal in accordance with Regulation 63 of the Regulations.

Natural England is a statutory consultee on the Appropriate Assessment stage of the Habitats Regulations Assessment process.

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 all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any permission given.

These include:

- 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.
- Only coatings and treatments suitable for use in the marine environment will be used on the pontoon.
- Any machinery required for the installation of the pontoon will stay on the hardstanding areas of the boatyard and slip way and will avoid the intertidal mudflat habitat.
- The key factor in safeguarding against water pollution during the construction phase will be the diligence of the site manager and operatives. Therefore, the site manager and all site operatives should be made aware of the presence of the designated sites and should understand the requirement to ensure that construction works do not encroach into the designated sites beyond the footprint of the extension.
- Any temporary site compound set out for the storage of equipment, materials or machinery and cutting or mixing materials associated with the construction works should be located as far from the designated sites as possible and not within 10m of the shingle and mudflat habitats. Any temporary compound and all associated construction materials will be removed on completion of the works.
- If possible, store fuel and oils off site. If this is not possible then a proprietary bunded storage facility of the smallest practicable size located as far from the designated sites

as possible and in all cases at least 10m landward from the highwater line should be used.

- If possible, undertake refuelling off site. If this is not possible refuelling should take place as far from the designated sites as possible on an impermeable surface. In practice this is likely to comprise a hardstand portion of the boatyard.
- A spill kit must be maintained on site.

Chichester Harbour Site of Special Scientific Interest

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 and has no objection.

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. Page 3 of 4

Other Relevant Matters

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 [here](#)¹. Natural England does not routinely hold species data, such data should be collected when impacts on priority habitats or species are considered likely.

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.

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.

Natural England Government Team - Initial Comment - No Objection, subject to an HRA & AA and appropriate mitigation secured.

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. Page 3 of 4

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.

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

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. Page 4 of 4

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.

Open Space Society

No comment received.

Royal Society for the Protection of Birds

No comment received.

This application was publicised in accordance with the Council's Code of Practice for Publicity of Planning Applications approved at minute 207/6/92 (as amended), as a result of which the following publicity was undertaken:

Number of neighbour notification letters sent: 8

Number of site notices: Not applicable.

Statutory advertisement: Not applicable.

Number of representations received: 0

Comment	Officer Comment
None.	

7 Planning Considerations

7.1 Having regard to the relevant policies of the development plan it is considered that the main issues arising from this application are:

- (i) Principle of development
- (ii) Impact upon the character and appearance of the area
- (iii) Impact upon residential amenity
- (iv) Ecology and the Habitats Regulation
- (v) Flooding

(i) Principle of development

The application site is located outside of the defined urban area and within a non-urban area. However, the site is located within an existing Boatyard and is concerned with an extension to an existing pontoon, for use in connection with the lawful use of the land. Policies AL1 and AL2 in the Havant Borough Council Local Plan (Allocations) July 2014 are relevant and Policy AL2 states that planning permission will be granted for developments within undeveloped gaps or non-urban areas that help to define the separate identity of settlements and prevent their coalescence where development relates to small scale householder development. Whilst the application is not a householder development, it seeks permission for an extension to an existing pontoon, which would facilitate the lawful use of the site as a Boatyard. This small scale development would not undermine the separate identities of settlements or result in their coalescence. As such, there is no objection in principle to the proposal, subject to compliance with other Development Plan Policies

(ii) Impact upon the character and appearance of the area and the Chichester AONB

The application site is 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), Chichester Harbour Site of Special Scientific Interest (SSSI) and the Chichester Area of Outstanding Natural Beauty (AONB)

The proposal would not be visible from the public footpath to the north east and would be seen in the wider area as an extension to an existing feature, with the backdrop of the Boatyard.

The proposal comprises the installation of a new pontoon section, extending the existing pontoon to the north-east. The pontoon will be fully supported on float cages. The floating pontoon will be attached to the existing pile at the end of the existing pontoon. There will be an internal pile guide which is to be built into the new pontoon frame. There will be no new piles driven. The pontoon would rise and fall with the tide, with no direct contact between the pontoon and the sea bed.

The total length of the existing pontoon is 44.3m. The new pontoon unit would measure 10.0m by 2.5m and will be constructed from cast aluminium with a hardwood slat surface. There will be cast aluminium deck cleats at intervals along the edges of the pontoon.

The applicant has advised that:

"Boating is a major leisure activity, and an increasingly important part of the local tourist economy. There is increasing pressure on all marine facilities along the south coast.

The proposal is to improve the safety of boarding and alighting boat crews at peak times. Sunday evening is a particular peak of activity.

The extended pontoon proposed will considerably improve the berthing times of arriving and departing boats. This in turn will reduce the queue of boats, at peak times, idling in the channel, waiting for a vacant berth to land. Diesel engines in boats are at their least efficient when idling. Therefore, an improved 'turn over' of boats at the new pontoon will reduce diesel residues in the waters of My Lord's Pond.

The existing landing pontoon at Wilson's Boatyard is limited in size, particularly at the deeper channel location. This results in congested and dangerous berthing activities as boats compete to moor to the restricted pontoon. The proposed pontoon extension will allow safer and more orderly berthing and boarding."

The extension of the existing pontoon, would have a localised impact, set against the backdrop of an active Boatyard. Having regard to the location of the development the proposal would not materially impact upon the character and appearance of the area or compromise the purposes of designation or special qualities of the AONB. The proposal would therefore accord with Policies CS11, CS16 of the HBLPCS.

(iii) Impact upon residential amenity

There is a residential development to the southwest of the proposal. Due to the separation distance of the proposal to existing residential development, it would have no material impact on the amenity of occupiers of these properties. The proposal would therefore accord with Policy CS 16 of the HBLPCS. It is noted that no letters of objections have been received in respect of the proposal.

(iv) Ecology and the Habitats Regulation

Ecology

The County Ecologist (CE) has been consulted over the proposal. As to the CE's comments, whilst recognising the importance of nature conservation has raised no objection to the development subject to the following condition.

"Development shall proceed in accordance with the 'Mitigation Recommendations' in Section 11 of the Phillips Ecology Extended Phase One Ecological Assessment (June 2020) Draft Report".

Habitats Regulations

The Council has conducted a Habitats Regulations Assessment (HRA), including an Appropriate Assessment (AA), of the proposed development under Regulation 63 of The Conservation of Habitats and Species Regulations 2017 (as amended). The Council's assessment as competent Authority under those regulations is included in the case file. The screening under Regulation 63(1)(a) found that there was likely to be a significant effect on overwintering birds on several Solent European Sites (as defined in the applications HRA) as a result of the proposed development.

The planning application was then subject to Appropriate Assessment under Regulation 63. The proposed mitigation measures are set out in paragraph 11 of Phillips Ecology Extended Phase One Ecological Assessment (June 2020) Draft Report, which is an avoidance and mitigation package in respect of overwintering birds. The applicant agrees the planning conditions to secure the mitigation package.

The Appropriate Assessment concluded that the avoidance and mitigation package is sufficient to remove the significant effects on European Sites which would otherwise have been likely to occur. The HRA was subject to consultation with Natural England as the appropriate nature conservation body under Regulation 63(3) who have confirmed that they agree with the findings of the assessment. The applicant has indicated a willingness to accept conditions on the planning permission to secure the mitigation packages.

(v) Flooding

The site falls within Flood Zone 2 and 3. The Environment Agency (EA) has been consulted over the proposal, who has raised no objection "... as the proposed pontoon extension is unlikely to increase flood risk".

8 Conclusion

The proposal would not adversely impact on the character and appearance of the area or residential amenity and is acceptable in ecology and flood risk terms, subject to conditional planning permission.

9 RECOMMENDATION:

That the Head of Planning be authorised to **GRANT PERMISSION** for application

APP/20/00725 subject to the following conditions

- 1 The development must be begun not later than three years beginning with the date of this permission.
Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

Phillips Ecology - Extended Phase 1 Ecological Assessment - Draft Report
June 2020
Design & Access Statement
Information Sheet, Simbro Pontoon System - Concrete Floats
Location Plan - Drawing No. 19058-110B
Proposed Site Plan Pontoon Extension - Drawing No. 19058-111 0
Option B Pontoon Layout - Drawing No. SOL-3572-SC04-001
Option B Pontoon Layout - Drawing No. SOL-3572-SC05-001
Applicant's Agent's email dated 14/1/21

Reason: - To ensure provision of a satisfactory development.
- 3 The development hereby permitted shall proceed in accordance with the Mitigation Recommendations' set out in Section 11 of the Phillips Ecology Extended Phase One Ecological Assessment (June 2020) Draft Report.

Reason: To provide ecological protection and enhancement in accordance with the Conservation Regulations 2017, Wildlife & Countryside Act 1981, National Planning Policy Framework, NERC Act 2006 and Policy CS 11 of the Havant Borough Local Plan (Core Strategy) 2011.
- 4 The pontoon extension installation hereby approved shall be completed between the period 1st April and 30th September to avoid disturbance to overwintering birds that feed and roost in the area.

Reason: To provide ecological protection and enhancement in accordance with the Conservation Regulations 2017, Wildlife & Countryside Act 1981, National Planning Policy Framework, NERC Act 2006 and Policy CS 11 of the Havant Borough Local Plan (Core Strategy) 2011.
- 5 The development hereby permitted shall not be used as berthing locations.

Reason: To provide ecological protection and enhancement in accordance with the Conservation Regulations 2017, Wildlife & Countryside Act 1981, National Planning Policy Framework, NERC Act 2006 and Policy CS 11 of the Havant Borough Local Plan (Core Strategy) 2011.
- 6 The materials for the development hereby approved shall be those set out in the Design and Access Statement.

Reason: In the interests of the amenities of the area and having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.