

From: Petrovic, Milena <Milena.Petrovic@naturalengland.org.uk>
Sent: 20 August 2020 18:04
To: Donophy, Selina
Cc: Havant Planning and Development Mailbox New
Subject: APP/20/00369 Nutrient budget calculation from applicant. NE Response.

Dear Selina,

Consultation: APP/20/00369 - COU of A2 (photography studio) to C3 (residential) to form 2No. 1 bed flats - 14 East Street, Havant (Havant BC) - Amended nitrates calculations

Thank you for your consultation on the nutrient budget calculations for the above case. We **do not agree** with the final figure produced by the applicant that the development will only produce an additional 0.56kg of Nitrogen per year.

The council should undertake an Appropriate Assessment for this development, covering recreational disturbance and nutrient neutrality and consult Natural England. Please see below for more detail.

Nutrient Neutrality:

It is Natural England's view that there is a likely significant effect on internationally designated sites (SPA, SAC) due to the increase in waste water from the proposal. As you are aware, where there is a likelihood of significant effects (excluding any measures intended to avoid or reduce harmful effects on the European site), or there are uncertainties, a competent authority should fully assess (by way of an "appropriate assessment") the implications of the proposal in view of the conservation objectives for the European site(s) in question. Appropriate assessments cannot have lacunae and must contain complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the works proposed on the protected site concerned. Complete information is required to ensure that the proposal will not affect the integrity of the international sites.

Natural England advises that the waste water issue is examined within the appropriate assessment and that the existing nutrient and conservation status of the receiving waters be taken into account. LPAs will be aware of recent CJEU decisions regarding the assessment of elements of a proposal aimed toward mitigating adverse effects on designated sites and the need for certainty that mitigating measures will achieve their aims. The achievement of nutrient neutrality, if scientifically and practically effective, is a means of ensuring that development does not add to existing nutrient burdens. Natural England has prepared a methodology setting out how this can be achieved (Nutrient neutrality guidance June 2020 Version 5). Natural England is aware Havant Borough Council has adopted an interim strategy using Grampian conditions to address nutrient impacts from developments currently in the planning system and we have been working with the Council to develop this approach.

Please note we advise that the competent authorities to whom Natural England gives its statutory advice on the environment will need to seek and rely upon their own legal advice on the interpretation of the Habitats Regulations and case law.

Recreational Disturbance:

The application site is within 5.6km of Solent Special Protection Areas (SPAs) and proposes an increase in residential units. 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 & Species Regulations 2017.

If you have any queries on this advice, please contact me on the numbers below.

Kind regards,

Milena Petrovic
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