

Date: 23 July 2019
Our ref: 287704
Your ref: APP/18/00450



Mr Lewis Oliver
Havant Borough Council

Customer Services
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BY EMAIL ONLY

Dear Lewis,

Planning consultation: APP/18/00450 Erection of 320 dwellings (including a 30% provision of affordable homes), 66 bed care home, provision of public open space, habitat mitigation zone, allotments, closure of existing access and creation of 2 new access points and associated infrastructure following demolition of existing buildings. Further information provided
Location: Land at Forty Acre Farm, Havant Road, Havant

Thank you for your consultation on the above dated 02 July 2018 which was received by Natural England on the same 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.

Following case law (People Over Wind and Sweetman vs Coillte Teoranta (ref: C-323/17)), it is Natural England's advice that Havant Borough Council, as competent authority, will need to undertake an appropriate assessment prior to any planning permission being granted. The information submitted with the application will need to be of sufficient detail to undertake this assessment.

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 the Chichester and Langstone Harbours Special Protection Area. Natural England requires further information in order to determine the significance of these impacts and the scope for mitigation:

- Further information on the Wintering Bird Mitigation Area – agreement of management body, timing and availability of mitigation area and measures to be adopted during construction.

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

Further information required

SPA Supporting Habitat – Wintering Bird Mitigation Area

The planning application includes the provision of a Wintering Bird Mitigation Area to mitigate the loss of supporting habitat for brent geese. Natural England welcomes and supports the principle of a

Wintering Bird Mitigation Area on-site. We advise that you request further information to inform the Habitat Regulations Assessment and appropriate assessment.

Agreement of the management body

Without mitigation, there would be a loss of supporting habitat in relation to the Chichester and Langstone Harbours Special Protection Area. Therefore, Natural England strongly recommends that the Wintering Bird Mitigation Area is agreed, secured, fully implemented and transferred to an appropriate management body in perpetuity with funding for management, maintenance and monitoring prior to the commencement of the development.

Natural England welcomes the extension of the Wintering Bird Mitigation Area to include the southern area and the incorporation of scrapes into the mitigation area. We welcome the dense hedgerow planting to support the stock fencing.

The additional information submitted includes a costed management plan. However, this has not been agreed with an appropriate management body. It is noted that discussions are being held with the RSPB, which is welcomed. The costed management plan will need to be agreed to meet the certainty requirements for the Habitats Regulations and further information is requested prior to determination to inform the appropriate assessment.

It is Natural England's strong preference for the site to be managed specifically for the geese and / or waders, ideally as a nature reserve owned or leased by LPA or NGO partner (or similar stable management body such as the Land Trust) in perpetuity.

The ecological function of an off-setting site is likely to be seriously undermined if subject to regular disturbance from recreational use and unmanaged public access. Appropriate management secured through an agreed costed management plan helps to provide certainty of the effectiveness of the Wintering Bird Mitigation Area in perpetuity.

It is noted that it is currently proposed to remove the existing tree line within the Wintering Bird Mitigation Area. It is unclear at this stage whether this tree removal is necessary and advise that an adaptive management approach to the Wintering Bird Mitigation Area is adopted and that this decision can be taken at a later stage by the agreed management body.

Timing and availability

Further details on the timing of the Wintering Bird Mitigation Area is required. The mitigation area will need to be operational at the time it is required. Essentially, 'in time' to offset the adverse effects which are being addressed. Natural England recommends that the infrastructure works for the Wintering Bird Mitigation Area are progressed at the earliest opportunity, prior to commencement. This will need to be secured with any planning permission.

Natural England encourages the applicant to sow the grassland within the Wintering Bird Mitigation Area as soon as possible, and in advance of this winter to ensure the area is available to brent geese and waders at the earliest opportunity.

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.

Mitigation during construction

The shadow Habitats Regulations Assessment includes mitigation measures during construction to address fugitive dust and construction noise impacting the adjacent SPA, SAC and Ramsar site. It is Natural England's view that the key measures required to protect the designated sites should be identified in the Habitat Regulations Assessment and secured with any planning permission.

We advise that the measures included in the shadow Habitats Regulation Assessment are extended to include a consideration of the proposed Wintering Bird Mitigation Area which is supporting habitat to the Chichester and Langstone Harbours SPA. We recommend that the necessary measures to ensure there are no impacts from construction noise and visual disturbance on the Wintering Bird Mitigation Area are included within the Habitats Regulations Assessment and secured with any permission. These measures include phasing the development to construct the houses adjacent to the Wintering Bird Mitigation Area outside of the overwintering period and the use of a visual screen and an acoustic barrier, if required.

Natural England also recommends a condition to ensure that 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).

Natural England recommends that measures are taken to ensure that there will be no impacts from construction lighting on the Wintering Bird Mitigation Area.

We advise that you may wish to seek your own legal advice on the implications of the Sweetman II ruling and the level of detail that should be included within an appropriate assessment.

Other advice

Deterioration of the water environment

Natural England advises that the calculation is modified to reflect the allotment land use that is also being proposed. However, it is noted that this update is unlikely to change the conclusion of the nitrogen assessment.

Please note that the 5th column in Table 2 needs updating with revised figures. It is noted that this is a typo and will not affect the overall calculation.

We advise that the following assumptions are secured with any planning permission:

- Natural England requires a condition that secures the water use of 110 litres per person per day
- All wastewater from the development will be treated at Budds Farm WwTW. If this situation changes, a reassessment of the nutrient calculation will be required.
- As competent authority, you will need to be assured for perpetuity that the open space that uses the 5 kg/ha/yr rate will be managed as such and there will be no additional inputs of nutrients or fertilisers onto this land. Appropriate planning and legal measures will be necessary to ensure it will not revert back to agricultural use, or change to alternative uses that affect nutrient inputs on the long term. For example, measures are secured for the long term management to ensure the provision of dog bins for the public open space and that these are regularly emptied.

Recreational Disturbance

Natural England is aware that Havant Borough Council has adopted a planning policy to mitigate against the adverse effects from in-combination recreational disturbance on the Solent SPA sites, as agreed by the Solent Recreation Mitigation Partnership (SRMP) Definitive Strategy. We advise that an appropriate planning condition or obligation is attached to any planning permission to secure this measure for the 320 residential dwellings.

It is noted that the care home is for high-dependency residents and no staff will be living on site. Natural England agrees that no mitigation for recreational disturbance is required in this case.

Biodiversity Mitigation and Enhancement Plan

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. In some instances, further surveys may be necessary through an ecological appraisal to be agreed by an HCC ecologist.

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.

In order for your authority to be assured that the proposal meets the requirements of the standing advice and the additional requirements for biodiversity enhancement as set out in National Planning Policy Framework paragraphs 7, 109 and 118, Natural England recommends that the application is supported by a Biodiversity Mitigation and Enhancement Plan (BMEP), or equivalent, that has been agreed by a Hampshire County Council (HCC) Ecologist and we suggest it includes measures for bats, birds and reptiles. The BMEP should include measures for biodiversity enhancement within the developed area such as native tree planting and native hedging, bat boxes and bird nest boxes.

It would be acceptable to Natural England for the BMEP to be secured by condition, as detailed ecological surveys have been undertaken at the site. Please note provided that the Hampshire County Council Ecologists' are satisfied with the submitted biodiversity mitigation and enhancement measures and the measures are secured by any permission then no further consultation with Natural England on this aspect of the proposal is required.

Construction Environmental Management Plan

Natural England advises a Construction Environmental Management Plan (CEMP) should be submitted to and approved in writing by the district ecologist/biodiversity officer that identifies the steps and procedures that will be implemented to avoid or mitigate constructional impacts on species and habitats. The CEMP should address the following impacts:

- Storage of construction materials/chemicals and equipment;
- Dust suppression
- Lighting
- Chemical and/or fuel run-off from construction into nearby watercourse(s)
- Waste disposal
- Noise/visual/vibrational impacts
- Visual screening (for SPA birds)

The approved CEMP should be secured via an appropriately worded condition attached to any planning consent and shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.

Sustainable Urban Drainage Systems (SuDS)

The shadow Habitats Regulations Assessment states that suitable and recognised SuDs techniques will be adopted in accordance with the SuDS Manual (CIRIA, 2007). 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’.

Natural England agrees with this approach and we advise that this is secured with any planning permission.

Soils and Land Quality

From the documents accompanying the consultation we consider this application falls outside the scope of the Development Management Procedure Order (as amended) consultation arrangements, as the proposed development would not appear to lead to the loss of over 20 ha ‘best and most versatile’ agricultural land (paragraph 112 of the National Planning Policy Framework).

For this reason we do not propose to make any detailed comments in relation to agricultural land quality and soils, although more general guidance is available in Defra [Construction Code of Practice for the Sustainable Use of Soils on Construction Sites](#), and we recommend that this is followed. If, however, you consider the proposal has significant implications for further loss of ‘best and most versatile’ agricultural land, we would be pleased to discuss the matter further.

Landscape

Paragraph 109 of the National Planning Policy Framework (NPPF) highlights the need to protect and enhance valued landscapes through the planning system. A Landscape & Visual Impact Assessment has been provided with the proposal to inform decision making. Natural England recommends that a landscape and open space strategy is agreed and secured with your Authority’s landscape officer.

On receipt of the information requested, we will aim to provide a full response within 21 days of receipt. Please be aware that if the information requested is not supplied, Natural England may need to consider objecting to the proposal on the basis of potential harm to the above designated site.

We would be happy to discuss the above issues at a meeting in due course.

Should the developer wish to explore options for avoiding or mitigating effects on the natural environment with Natural England, we recommend that they use our [Discretionary Advice Service](#).

Please send further correspondence, marked for my attention, to consultations@naturalengland.org.uk.

Yours sincerely

Rachel Jones
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Dorset, Hampshire and Isle of Wight