

FAO – Lewis Oliver

Your ref – APP/18/01109 - HRA and Appropriate Assessment - Outline application for the redevelopment of Former Dairy Crest site for up to 78 dwellings with access off Fulflood Road - Dairy Crest Depot, Dunsbury Way, Havant
Our ref – 280664

Dear Lewis,

Thank you for consulting Natural England on the above Habitats Regulations Assessment and Appropriate Assessment.

Recreational disturbance

Since this application will result in a net increase in residential accommodation, impacts to the coastal Special Protection Area(s) and Ramsar site(s) may result from increased recreational pressure. Havant Borough Council has measures in place to manage these potential impacts through the agreed strategic solution which we consider to be ecologically sound.

Subject to the appropriate financial contribution being secured, Natural England is satisfied that the proposal will mitigate against the potential recreational impacts of the development on the site(s). The development proposal will need to be in accordance with the Definitive Strategy rates. Please note these rates were updated as of 1 April 2019.

It is Natural England's view that the Solent Mitigation Recreation Strategy Contribution adequately mitigates the effects of the development on potential recreational impacts on the designated sites.

Deterioration of the water environment

With regard to the integrity of the designated sites, we advise that there is currently uncertainty as to whether the increase in waste water from new housing in the Solent catchment will have an adverse effect on the international sites.

There is existing evidence of high levels of nitrogen and phosphorus in the Solent water environment with evidence of eutrophication at some designated sites. The Partnership for Urban South Hampshire (PUSH), Natural England (NE), and Environment Agency (EA) have been jointly working to develop an Integrated Water Management Strategy (IWMS). This examines the potential for the PUSH region to accommodate future housing growth without having a detrimental effect upon the water environment. A Water Quality Working Group has been set up to identify and analyse the existing evidence gaps and evaluate the need for strategic mitigation measures. However, there is currently uncertainty as to whether there is sufficient capacity to accommodate the new housing growth.

The proposal comprises new housing development and it is Natural England's view that the existing uncertainty about the deterioration of the water environment must be appropriately addressed in order for the assessment to be legally compliant in light of recent case law. The key pieces of case law are *Sweetman II (People Over Wind, Peter Sweetman v Coillte Teoranta)* judgement which was issued in April 2018 by the Court of Justice of the European Union (CJEU) and the CJEU case known as the Dutch case (*Joined Cases C-293/17 and C-294/17 Coöperatie Mobilisation for the Environment UA and Others v College van gedeputeerde staten van Limburg and Others*).

It is Natural England's view that there is a likely significant effect on the internationally designated sites (SPA, SAC, pSPA) due to the increase in waste water from the new housing. 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 the implications of the proposal in view of the conservation objectives for the European site(s) in question within the appropriate assessment. 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. To address the existing uncertainty, Natural England recommends that the proposals achieve nutrient neutrality. Natural England has prepared a methodology setting out how this can be achieved and this is attached for your information. It is appreciated that this may be difficult for smaller developments and developments on brownfield land. Natural England has advised that Havant Borough Council set up an interim approach that developments can contribute to thereby ensuring that this uncertainty is fully addressed by all applications. Natural England is working closely with Havant Borough Council and other PUSH planning authorities to help address this issue. Natural England can also provide further advice to the applicant on mitigation options under our [Discretionary Advice Service](#).

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.

Please let me know if you have any queries or would like to discuss the above further.

Kind regards
Rachel

Rachel Jones
Lead Advisor Sustainable Development
Dorset, Hampshire and Isle of Wight Area Team

Tel : 07717 808691

<http://www.gov.uk/natural-england>

Please send planning consultations to Natural England by email to:
consultations@naturalengland.org.uk.

www.gov.uk/government/organisations/natural-england

Natural England is accredited to the Cabinet Office Customer Services Excellence Standard.

Natural England offers two chargeable services – The Discretionary Advice Service ([DAS](#)) provides pre-application, pre-determination and post-consent advice on proposals to developers and consultants as well as pre-licensing species advice and pre-assent and consent advice. The Pre-submission Screening Service ([PSS](#)) provides advice for protected species mitigation licence applications.

This email and any attachments is intended for the named recipient only. If you have received it in error you have no authority to use, disclose, store or copy any of its contents and you should destroy it and inform the sender. Whilst this email and associated attachments will have been checked for known viruses whilst within the Natural England systems, we can accept no responsibility once it has left our systems. Communications on Natural England systems may be monitored and/or recorded to secure the effective operation of the system and for other lawful purposes.