

Date: 01 October 2018
Our ref: 260051
Your ref: APP/18/00099



Emma Chisnell
Planning Officer
Havant Borough Council

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

BY EMAIL ONLY

T 0300 060 3900

Dear Emma,

Planning consultation: Erection of 1No. two bed chalet bungalow.

Location: 32 Fishery Lane, Hayling Island, PO11 9NR

Thank you for your consultation on the above dated 27 September 2018 which was received by Natural England on 27 September 2018

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

DESIGNATED SITES [EUROPEAN] – NO OBJECTION SUBJECT TO MITIGATION

The application site is within 5.6km of the Solent and Southampton Water Special Protection Area (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.

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). 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.

Natural England's advice on other natural environment issues is set out below.

European Designated Sites

This application is in close proximity to Solent Maritime Special Area of Conservation and Chichester and Langstone Harbours Special Protection Area and Ramsar protected sites.

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 disturbance. Your authority 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).

Natural England notes the proposed SRMP contributions are based on those in the interim strategy rates. Appropriate assessments must be complete with no lacunae based on the best available scientific information according to the CJEU. As I am sure you are aware, the new Bird Aware Solent Definitive Strategy Rates came into force on 1st April 2018. Natural England's legal advice is that the appropriate assessment needs to include the new definitive strategy rates as permission has not yet been granted, only a resolution to grant.

Therefore, Natural England advise that the mitigation package should be £531.35 based on the definitive strategy rates and including the monitoring and administration fees (<http://www.havant.gov.uk/unilateral-undertaking-solent-recreation-mitigation-strategy>).

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 where impacts are identified as having a LSE, the HRA will need to move on to the Appropriate Assessment stage where avoidance/mitigation measures can be fully assessed.

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 this ruling. In accordance with the Conservation of Habitats & Species Regulations 2017, Natural England must be consulted on any appropriate assessment your Authority may decide to make. You may also want to seek your own legal advice on any implications of this recent ruling for your decisions.

Chichester Harbour SSSI

Provided the measures as outlined in the above box are secured, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection on this aspect of the application. Should the details of this application change, Natural England draws your attention to Section 28(l) of the Wildlife and Countryside Act 1981 (as amended), requiring your authority to re-consult Natural England.

Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 28l (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.

In addition, Natural England would advise on the following issues:

Protected species

Natural England has produced [standing advice](#) to help planning authorities understand the impact of particular developments on protected species. We advise that the standing advice is interpreted for you by your district ecologist, or an equivalent independent party with the necessary expertise. Natural England will only provide bespoke advice on protected species where they form part of a SSSI or in exceptional circumstances.

Should the application change please consult us again.

Yours sincerely

Rachael Clemson
Dorset, Hampshire and Isle of Wight Area Team