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Our Ref: 257754

Your Ref: APP/18/00672



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BY EMAIL ONLY

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Dear Mrs Haywood

Planning Consultation: Erection of 46 dwellings with parking, access, footpath diversion, landscaping, surface water drainage and felling / works to trees.

Location: Land off Westwood Close, Emsworth.

Thank you for the above consultation received by Natural England on 4th 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

NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

This application is within 5.6km of Chichester Harbour Special Protection Area and will lead to a net increase in residential accommodation. Natural England is aware that Havant Borough Council has recently adopted a Supplementary Planning Document (SPD) or planning policy to mitigate against adverse effects from recreational disturbance on the Solent SPA sites, as agreed by the Solent Recreation Mitigation Partnership (SRMP).

Provided that the applicant is complying with the SPD or policy, Natural England are satisfied that the applicant has mitigated against the potential adverse effects of the development on the integrity of the European site(s), and **has no objection** to this aspect of the application.

In addition in order to mitigate these adverse effects and make the development acceptable, the following mitigation measures are required / or the following mitigation options should be

secured:

- A Construction Environmental Management Plan (CEMP) should be submitted to and approved in writing by a Hampshire County Council (HCC) ecologist 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
 - Chemical and/or fuel run-off from construction into nearby watercourse(s)
 - Waste disposal
 - Noise/visual/vibrational impacts

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.

- Details of the proposed Sustainable Urban Drainage System SuDS should be approved and secured by an appropriately worded planning condition(s) attached to any consent
- A Biodiversity Mitigation and Enhancement Plan (BMEP), or equivalent, should be submitted to approved in writing by a HCC ecologist and secured by condition.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

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

Chichester and Langstone Harbours SPA & Solent & Dorset Coast pSPA – 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 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). 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.

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 in this case, as mitigation measures are proposed to avoid a likely significant effect your authority's HRA will need to include an Appropriate Assessment under Regulation 63(1) of The Conservation of Habitats and Species Regulations 2017. Please note Natural England are a statutory consultee for Appropriate Assessments and should be re-consulted once your authority has completed its HRA.

Solent Maritime SAC – Water Quality

The application site is bordered on the eastern side by a tributary of the River Ems which provides a direct pathway to the Solent Maritime SAC and Chichester Harbour SSSI.

The application is supported by Flood Risk Assessment and Flood Risk and SuDS Strategy Note (RCP Architecture & Civil Engineering June 2018 & February 2018). Natural England welcomes the proposed SuDS measures of swales, ditches, attenuation basins and cellular storage tanks.

It is Natural England's advice that provided these measures and the details of the proposed SuDS are approved and secured by an appropriately worded planning condition(s) attached to any consent, no further consultation with Natural England on this aspect of the proposal will be required.

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

Protected species

Please note we have not assessed the application and associated documents for impacts on protected species. Natural England has published Standing Advice on protected species. 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.

Biodiversity Mitigation and Enhancement

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 and net gain as set out in National Planning Policy Framework paragraphs 8, 118, 170, 174 and 175d, 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.

Provided an HCC approved BMEP is received and secured by any permission then your authority may be satisfied that it will have met its duties under Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 which states 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', and in relation to European Protected Species Regulation 9(3) of The Conservation of Habitats & Species Regulations 2017.

Natural England notes and welcomes the ecological appraisal, dormouse report and bat activity survey report submitted with the planning application. These reports include mitigation measures for reptiles, bats, badgers, dormice and birds as well as enhancement measures for biodiversity gain such as native tree planting and native hedging, bat boxes and bird nest boxes.

In addition the ecological appraisal notes that a site-wide ecological mitigation strategy will be set out in the future, this should be included in the BMEP as the footpath diversion in particular offers opportunities for site wide enhancement. Further opportunities for enhancement might include:

- Providing a new footpath through the new development to link into existing rights of way.
- Restoring a neglected hedgerow.
- Creating a new pond as an attractive feature on the site.
- Planting trees characteristic to the local area to make a positive contribution to the local landscape.
- Using native plants in landscaping schemes for better nectar and seed sources for bees and birds.
- Incorporating swift boxes or bat boxes into the design of new buildings.
- Designing lighting to encourage wildlife.
- Adding a green roof to new buildings.

You could also consider how the proposed development can contribute to the wider environment and help implement elements of any Landscape, Green Infrastructure or Biodiversity Strategy in place in your area. For example:

- Links to existing greenspace and/or opportunities to enhance and improve access.
- Identifying opportunities for new greenspace and managing existing (and new) public spaces to be more wildlife friendly (e.g. by sowing wild flower strips)
- Planting additional street trees.
- Identifying any improvements to the existing public right of way network or using the opportunity of new development to extend the network to create missing links.
- Restoring neglected environmental features (e.g. coppicing a prominent hedge that is in poor condition or clearing away an eyesore).

We would recommend that a BMEP is agreed with the HCC Ecologist to ensure that any measures identified within the report, and any further measures as necessary, are secured and implemented with any planning approval. Consideration should be given to other developments proposed in the locality to ensure the biodiversity mitigation and enhancement measures are addressed strategically and consider the continued ecological function of the area.

Please note that provided the HCC Ecologists are satisfied with the submitted BMEP and the full implementation of the plan is secured by any permission then no further consultation with Natural England on this aspect of the proposal is required. In the event that a BMEP cannot be agreed with the applicant then Natural England should be re-consulted on the proposals so that we can reconsider our advice.

Protected Landscapes – Chichester Harbour AONB & South Downs National Park

The proposed development is for a site close to nationally designated landscapes; namely the Chichester Harbour AONB and South Downs National Park. Natural England advises that the planning authority uses national and local policies, together with local landscape expertise and information to determine the proposal. The policy and statutory framework to guide your decision and the role of local advice are explained below.

Your decision should be guided by paragraph 172 of the National Planning Policy Framework which gives the highest status of protection for the 'landscape and scenic beauty' of AONBs and National Parks. For major development proposals paragraph 116 sets out criteria to determine whether the development should exceptionally be permitted within the designated landscape.

Alongside national policy you should also apply landscape policies set out in your development plan, or appropriate saved policies.

Regarding Chichester Harbour AONB we advise that you consult the relevant AONB Partnership or Conservation Board. Their knowledge of the site and its wider landscape setting, together with the aims and objectives of the AONB's statutory management plan, will be a valuable contribution to the planning decision. Where available, a local Landscape Character Assessment can also be a helpful guide to the landscape's sensitivity to this type of development and its capacity to accommodate the proposed development.

The statutory purpose of the AONB is to conserve and enhance the area's natural beauty. You should assess the application carefully as to whether the proposed development would have a significant impact on or harm that statutory purpose. Relevant to this is the duty on public bodies to 'have regard' for that statutory purpose in carrying out their functions (S85 of the Countryside and Rights of Way Act, 2000). The Planning Practice Guidance confirms that this duty also applies to proposals outside the designated area but impacting on its natural beauty.

Regarding South Downs National Park the landscape advisor/planner for the National Park will be best placed to provide you with detailed advice about this development proposal. Their knowledge of the site and its wider landscape setting, together with the aims and objectives of the park's management plan, will be a valuable contribution to the planning decision. Where available, a local Landscape Character Assessment can also be a helpful guide to the landscape's sensitivity to this

type of development and its capacity to accommodate the proposed development.

The statutory purposes of the National Park are to conserve and enhance the natural beauty, wildlife and cultural heritage of the park; and to promote opportunities for the understanding and enjoyment of the special qualities of the park by the public. You should assess the application carefully as to whether the proposed development would have a significant impact on or harm those statutory purposes. Relevant to this is the duty on public bodies to 'have regard' for those statutory purposes in carrying out their functions (section 11 A(2) of the National Parks and Access to the Countryside Act 1949 (as amended)). The Planning Practice Guidance confirms that this duty also applies to proposals outside the designated area but impacting on its natural beauty.

Should the applicant wish to discuss any of the comments set out above with Natural England, we recommend that they seek advice through our [Discretionary Advice Service](#).

Yours sincerely

Rachael Clemson
Dorset, Hampshire and Isle of Wight Area Team