

Date: 22 June 2018
Our ref: 247852
Your ref: APP/18/00450



Mr Lewis Oliver
Havant Borough Council

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

T 0300 060 3900

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.

Location: Land at Forty Acre Farm, Havant Road, Havant

Thank you for your consultation on the above dated 23 May 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.

Natural England has reviewed the information submitted with the planning application. Whilst it is recognised that this is an outline application, more detailed information is necessary to provide the certainty required for the Habitats Regulations. Following recent 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:

- Clarification of the specifications of the care village
- Further information on the Wintering Bird Mitigation Area – costed management plan, agreement of management body, timing and availability, measures to address disturbance
- Calculation of a nutrient budget for the development
- Clarification of potential air quality effects.

Without this information, Natural England may need to object to the proposal.

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

Solent Recreation Mitigation Contributions

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 a 66-bed care home is proposed as part of the planning application. It is generally considered that a developer contribution (or bespoke mitigation) will be required for apartments for the active elderly, but not for secure accommodation such as a residential nursing home for people who are unable to independently leave that accommodation. However, mitigation may be required for any staff living on-site. Clarification is sought with regard to the specifications of the proposed care home to determine if mitigation is needed.

SPA Supporting Habitat

The planning application includes the provision of a Wintering Bird Mitigation Area to mitigate the loss of supporting habitat for brent geese. Half of the site is classified as a Secondary Support Area (H04B) and half is a Low Use site (H04C) in the forthcoming update of the Solent Wader and Brent Goose Strategy.

Natural England welcomes and supports the principle of a Wintering Bird Mitigation Area on-site.

We advise that you request further information on the Wintering Bird Mitigation Area to inform the Habitat Regulations Assessment and Appropriate Assessment:

1) Costed management plan

For the Wintering Bird Mitigation Area, further details of the value of the commuted sum and maintenance fund are required, as evidenced by an agreed, costed, 80 year management and monitoring plan. The management plan should include full details of the infrastructure to be provided by the applicant, along with details of the ongoing maintenance / replacement requirements with costs calculated for perpetuity (usually taken as 80 years).

2) Agreement of management body

It is noted that the management of the proposed Wintering Bird Mitigation Area will be through a management company. 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. This approach ensures the level of certainty required by the Habitats Regulations that the area will be managed in perpetuity for brent geese and waders.

If a management company is used to undertake the management and maintenance, your authority will need to be satisfied that financial arrangements are in place that will guarantee the provision of sufficient funds to ensure the full delivery of the agreed management plans for the 80 year period. If a resident service charge is to be applied then your authority will need to be satisfied that the charge is legally robust and ring fenced for the purpose of delivering the agreed management plans. Further information is needed on the legal clauses covering the collection and enforcement of the resident service charge, the value of the charge and how it has been calculated, along with details of how any shortfall in payments from households will be reclaimed.

In addition to a service charge, the scheme will require the payment of an agreed commuted sum to your authority to be made available to the management company (or other third party) to cover any shortfall in payments from householders and so ensure the continued delivery of

the management plans. Natural England would expect the financial arrangements put in place by your authority to be sufficiently robust as to allow your authority to agree to take over the legal responsibility of delivering the management plans should the management company fail (eg through the company folding, failing to collect the service charge, the funds are not applied appropriately in accordance with the management plan, or for any other reason). The S106 will also need to provide clauses that provide appropriate 'step-in' rights for Havant BC to take over the management of the Wintering Bird Mitigation Area should it be required.

If a management company is used, Natural England strongly recommends that a NGO partner (such as the Hampshire and Isle of Wight Wildlife Trust or RSPB) or an accredited ecological consultancy is involved with the first ten years of the management of the site. This expertise will help ensure the success of site and allow management to be modified in the early stages, if necessary. This approach helps secure an effective and successful mitigation area that maximises its potential and provides the level of certainty required for the Habitats Regulations.

3) 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, with evidence to show it is functioning and readily available to SPA birds prior to any loss or damage to the original site. This will need to be secured with any planning permission.

During construction, mitigation measures to ensure there are no adverse impacts on the Wintering Bird Mitigation Area will need to be identified and secured with any planning permission. The development may need to be phased to avoid the construction of the most sensitive housing areas during the over-wintering period. The use of acoustic and visual screens may also be necessary.

4) Disturbance

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. Natural England recommends that further consideration is given to additional measures to prevent indirect effects on this mitigation area over the long term.

It is noted that there is a footpath around the outside of this area. Whilst we appreciate the benefits of having the option of a longer walk for residents, we would advise that further consideration is given to the potential for unmanaged access and disturbance from dogs over the long term. It may be possible to route a footpath through the woodland to the west of the Wintering Bird Mitigation Area to the open space to the south avoiding the need for a circulatory walk. Alternatively, we advise that further consideration is given to additional measures to prevent disturbance and unmanaged access. For example by including additional screening such as a wide buffer of scrub with thorny species immediately adjacent to the outer edge of the fence. Occasional bird hides and/or viewing platforms with interpretation would be beneficial.

We support the proposal for wader scrapes on site and note that these are proposed for the public access open areas to the south of the development area. Natural England strongly recommends that the Wintering Bird Mitigation Area is extended to the south to incorporate these scrapes within a larger nature reserve area. The eastern section of the site could then be managed appropriately for nature conservation without the potentially conflicting pressures of recreational disturbance.

We advise that the remaining green space within the wider site includes adequate space for ball games, perhaps in the area of the children's play park and picnic tables as well as a

suitable area for dog walking with open space for dogs to run off-lead. We encourage the inclusion of dog splashes, dog agility equipment and a dog loo pen.

Water Quality

The waste water from the new development will introduce an additional source of nutrient loading (Total Nitrogen) to the Chichester and Langstone Harbours SPA, Ramsar catchment. There is existing evidence of high levels of nitrogen and phosphorus in the water environment with evidence of eutrophication at some designated sites.

An Integrated Water Management Study for South Hampshire was commissioned by the Partnership for Urban South Hampshire (PUSH) Authorities to examine the delivery of development growth in relation to legislative and government policy requirements for designated sites and wider biodiversity. This work has identified that there is uncertainty as to whether housing development in the later stages of the plan period would require mitigation.

In light of this uncertainty, Natural England advises that a nutrient budget is calculated for this development. For confidence that the development will be deliverable, Natural England recommends that the proposals achieve nutrient neutrality. We would advise that the [Poole Harbour approach](#) is reviewed in the first instance. Please note this approach can be adapted to reflect the situation in the Solent. Natural England would be happy to advise on the calculation methodology further as part of our [Discretionary Advice Service](#).

Air Quality

We note that an air quality assessment has been undertaken. The air quality assessment needs to fully consider the in-combination effects in line with the Wealden Judgement 2017 (CO/3943/2016 Wealden District Council v Secretary of State for Communities and Local Government). Clarification is sought as to whether there is a 1000AADT increase on any road link adjacent to any international designated sites and whether modelling has determined a 1% increase in the critical load. If these thresholds are exceeded, further assessments will be required.

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

We advise that a Construction Environmental Management Plan (CEMP) should be submitted to and approved in writing by the Local Planning Authority as a condition of any planning permission. This should identify the steps and procedures that will avoid or mitigate impacts on the ecological interests and sensitivities at the site. The CEMP shall ensure best working practices are maintained during the construction phase.

Water resources

Natural England encourages all new development to adopt the higher standard of water efficiency under the Building Regulations (which equates to 110 litres /head/day including external water use) and re-use in line with best practice. Consideration should be given to the use of grey water recycling systems and efficient appliances.

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
Lead Advisor Solent
Dorset, Hampshire and Isle of Wight