

Date: 20 December 2017
Our ref: 233188
Your ref: APP/17/01250



Mrs R McMurray, Havant Borough Council

BY EMAIL ONLY

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Dear Mrs McMurray

Planning consultation: APP/17/01250 Engineering works to construct three clay-cored sea defence embankments – length of embankment incorporating the diversion of footpaths 45 length of embankment running along the north to south boundary & length of embankment to the east of Mill Lane); ground raising & associated protection works around Southern Water assets; associated drainage; & the active breach of the existing coastal sea wall to allow the creation of a dynamic inter-tidal habitat. Incorporating S257 application for Diversion of Footpaths 45, 49 & 51

Location: Land east of Southmoor Lane, Havant

Thank you for your consultation on the above dated 01 November 2017 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.

NO OBJECTION - SUBJECT TO APPROPRIATE COMPENSATION AND MITIGATION BEING SECURED

As submitted the application would:

- have an adverse effect on the integrity of Chichester and Langstone Harbours Special Protection Area and Ramsar Site
- damage or destroy the interest features for which Langstone Harbour Site of Special Scientific Interest has been notified.

In order to address these adverse effects and make the development acceptable, the following measures are required:

- It is Natural England's view that the loss of 9 hectares of coastal grazing marsh would result in an adverse effect on the integrity (AEOL) of the Chichester and Langstone Harbours SPA and should be compensated for through the Environment Agency's Regional Habitat Creation Programme – see EA note appendix R part A.
- The detailed design should include the incorporation of high tide roost islands within the managed realignment scheme.
- A Biodiversity Mitigation and Enhancement Plan (BMEP) should be submitted at the detailed application stage that has been agreed by a Hampshire County Council (HCC)

Ecologist and Natural England.

- Prior to the commencement of the development hereby approved, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The Construction Environmental Management Plan shall identify the steps and procedures that will avoid or mitigate impacts of the designated sites. Once approved, the Construction Environmental Management Plan shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.

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

Further detailed advice

Appropriate Assessment - Adverse effect on the integrity (AEOI) of the Chichester and Langstone Harbours SPA and Ramsar

Natural England supports the proposal for the managed realignment at Southmoor to create valuable saltmarsh habitat to compensate for coastal squeeze impacts arising from coastal risk management measures. However, it is Natural England's view that the loss of 9 hectares of coastal grazing marsh would result in an adverse effect on the integrity of the Chichester and Langstone Harbours SPA and Ramsar, and therefore compensation is required. This approach has been agreed by the Environment Agency in the Covering Note for Appendix R part A.

All appropriate assessments must be based on the conservation objectives for a site. For SPA / Ramsar sites, these are to maintain the extent, distribution, structure and function of the habitats of the qualifying features. The Southmoor site was designated as coastal grazing marsh to support the qualifying features at high tide by offering a foraging and roosting site. Freshwater and coastal grazing marsh provide only 2.6% of the wider Chichester and Langstone Harbours SPA habitats and is therefore a valuable limited resource to support birds at high tide. This supporting habitat type will not be conserved in its extent and quality by the managed realignment and the new habitat will not deliver the same function at high tide.

The ecological function of the SPA is also supported by non-designated terrestrial wader and brent goose sites that are used by SPA species for roosting and feeding, as identified by The Solent Wader and Brent Goose Strategy (SWBGS). This functionally linked land is under increasing pressure from housing and other development and the forthcoming SWBGS provides guidance on the offsetting requirements to address the incremental and in-combination impacts arising from the loss of these sites. It is Natural England's view that the loss of Southmoor alone and in-combination with additional plans and projects, including proposed housing development on functionally linked land, means the proposal would adversely affect the integrity of the SPA / Ramsar site.

There is limited survey information provided by the consultants to provide certainty about the usage of the Southmoor site and we would advise that this data cannot be relied upon to conclude no AEOI. The core counts from WeBS, carried out on a monthly basis provide a better view of the bird usage, although this is still not sufficient to provide a comprehensive understanding of birds using this site in relation to other high tide roosts. Natural England would advise that twice monthly high tide surveys from October to March as a minimum, with a need for expert interpretation / judgement to take into account the importance of the site in relation to the continued ecological function of the SPA. Birds use high tide roosts in different conditions and without co-ordinated high tide roost counts over various conditions we cannot be certain of the full use of this supporting habitat.

In addition, Natural England was working towards improving the management of the SSSI through an improved grazing regime (the site is under a Higher Level Scheme for waders) and to address the disturbance on the site. It is our view that the assessment of the AEOI needs to take these points into consideration when assessing the current and potential use of the site.

With regard to appropriate assessments, all aspects of the plan or project must be identified in light of the best scientific knowledge in the field [case law - *Waddenzee* at paras 54,61]. With regards to

the conclusions on AEOL, it is clear from *Waddenzee* that the competent authority can only make a conclusion on site integrity if they have “made sure”, “made certain”, are “convinced”, that there is “no reasonable scientific doubt remaining”.

It is Natural England’s view that the competent authority cannot be “sure”, “certain”, “convinced” because there is scientific doubt due to the paucity of the information. Therefore, to address this uncertainty, a precautionary approach should be taken and the loss of grazing marsh should be compensated for, as agreed by the adopted Portchester Castle to Emsworth Coastal Flood and Erosion Risk Management Strategy. The issues of alternatives and Imperative Reasons of Over-riding Public Interest can be referred back to the higher tier adopted coastal strategy. Within this adopted strategy, Southmoor was identified as a potential realignment site subject to further studies and compensation for the coastal grazing marsh. The proposal has therefore been examined at the strategic level. With regard to alternatives there is also an agreement between NE and EA that unsustainable seawalls will not be maintained to protect designated nature conservation sites, provided the conservation interest of the site is appropriately addressed. For example in this case, creating grazing marsh in a more sustainable location.

Natural England strongly advises that the detailed design includes the incorporation of high tide roost islands within the managed realignment scheme area. These islands would have limited impact on the predicted habitat extent but would provide a high tide roost resource for waders using the managed realignment area. This is an important consideration as this resource is limited in the locality.

Natural England recommends that the Hampshire County Council Ecologists, Hampshire and the Isle of Wight Wildlife Trust (HIWWT) and the RSPB are involved with the detailed design of the scheme.

Biodiversity Mitigation and Enhancement Plan

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.

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) at the detailed stage that has been agreed by a Hampshire County Council (HCC) Ecologist and Natural England.

The BMEP should include the detailed measures proposed to address the loss of habitats, loss of NERC Section 41 habitats and Local BAP habitats and loss of notable plant species. Mitigation measures for terrestrial breeding birds and reptiles are also required. An overview of these measures has been included in the Environmental Statement but are subject to further clarification as the detailed design evolves.

We would recommend regular discussions with key stakeholders – HIWWT, HCC ecologists, RSPB – to help identify the scope of the BMEP and the requirement for mitigation and enhancement measures during the progression of the detailed stage. For example, the proposed enhancements should include the permanent and floating islands, other opportunities for foraging and roosting, opportunities for seabird breeding areas on the new habitat created and opportunities for new maritime habitats on the remaining sea defence structures. Other enhancement measures to be included are the details of the interpretation boards across the site (for example to protect the high tide roost on the shingle spit), further details of the hide and other opportunities such as viewing platforms, screened footpaths and location of dog-proof fencing and consideration of other

measures to reduce disturbance.

The BMEP should also include an updated biodiversity offsetting calculation that addresses the full detailed scheme including the loss of habitat associated with the borrow pit and the design of the new wetland feature.

Construction Environmental Management Plan

The Construction Environmental Management Plan shall identify the steps and procedures that will avoid or mitigate impacts of the designated sites including avoiding the sensitive bird over-wintering period, dust suppression, noise and vibration and pollution control.

If you have any queries relating to the advice in this letter please contact me on 07717 808691.

We would be pleased to provide advice on the discharge of planning conditions or obligations attached to any planning permission to address the issues above.

Should the proposal change, please consult us again.

We really value your feedback to help us improve the service we offer. We have attached a feedback form to this letter and welcome any comments you might have about our service.

Yours sincerely

Rachel Jones
Lead Advisor, Solent
Dorset, Hampshire and Isle of Wight Team