

, PERM,23/09/1996

APP/13/00498 - Consultation on application to Hampshire County Council to vary condition 2 of Planning Permission APP/11/01470., NPW,02/02/2016

APP/13/00592 - Application for removal of Condition 13 of Planning Permission

APP/10/00737., PERM,12/02/2014

APP/14/01264 - Proposed removal of stockpiled material and associated engineering operations, UNK,

APP/15/00959 - Variation to Condition No. 6 of Planning Permission APP/14/00708 relating to height increase of 2m to the approved building.(APP/14/00708 was a variation of Reserved Matter approval APP/13/00911). , PERM,20/11/2015

APP/15/01089 - Discharge of Condition No. 5 of Planning Permission APP/13/00592., PERM,22/10/2015

APP/16/00373 - County Matter application for variation of condition 12 of Planning Permission APP/13/00498 (to allow the acceptance of trade waste) at Havant HWRC, Harts Farm Way, Havant PO9 1HS., RNO,27/04/2016

APP/17/00075 - Erection of 1No. warehouse and 1No. portacabin for storage and distribution purposes (Class B8) with associated open storage, access and servicing arrangements, car parking, landscaping & associated works, PERM,25/05/2017

APP/17/00511 - Proposed Gas fuelled Capacity Mechanism embedded generation plant to support the National Grid. (23.11.17). Request to discharge condition no's 3,4,5 & 6 (14.01.19)., PERM,23/11/2017

APP/17/00623 - 6no. non-illuminated fascia signs, 2no non-illuminated totem signs, 1no. non-illuminated post mounted sign and 1no. flag. , PERM,15/08/2017

APP/17/00959 - Application for non-material amendments to Planning Permission APP/17/00075 relating to additional hardstanding area to north west end of site and relocation of diesel tank., PERM,29/09/2017

APP/18/00071 - Proposed new factory and wood chip store and associated works for B1, B2 and B8 use (approved 19/12/2018). , PERM,19/12/2018

APP/18/00160 - Non material amendment relating to installation of 3No. additional windows, PERM,29/03/2018

APP/18/00928 - Condition 6 - External Materials pack to discharge condition 6.

Document reference 18079-EXM01 refers (4 pages) Conditions 7 & 8 - Drainage - PTA Planning Conditions 7 & 8 Report (22 pages) Condition 9 - Hard Landscaping Plan 18079-HL-001 & Hard Landscaping Materials 18079-HL-002, UNK,

APP/18/01281 - Variation of conditions 2 (approved plans) and 3 (sewer diversion details) of Planning Permission APP/17/00511 (Proposed Gas fuelled Capacity Mechanism embedded generation plant to support the National Grid) in order to retain the existing sewer, change type of containerised generator, remove transformers and replace with a single 33kv transformer, amend size of proposed substation, reconfigure layout accordingly, replace proposed acoustic fence by a timber fence, and slightly amend fence line around the access to compound., PERM,14/03/2019

APP/19/00047 - Condition 3 - Letter from Southern Water confirming that they have no objection to Condition 2 and 3. Condition 4 - Report from Waterco - w10748-180913 Condition 5 - Landscaping Scheme A4101/01/A Condition 6 -

Landscaping Scheme A4101/01/A, UNK,

APP/19/00663 - Variation of Condition 2 of Planning Permission APP/18/00071 (Proposed new factory and wood chip store and associated works for B1, B2 and B8 use) relating to amendments to approved elevations., PERM,01/10/2019

APP/19/01206 - Application for non-material change to Condition 2 of Planning Permission APP/18/01281 relating to replacement of Drwg no: 4000-GF-DR-PP-103 with Drwg no: 4000-GF-DR-PP-103 A., PERM,14/02/2020

APP/21/00389 - Variation of Condition 2 of Planning Permission APP/17/00075 relating to amendment to approved drawings., PERM,29/07/2021

APP/22/00881 - Change to external layout including amendments to parking layout

and numbers.
, DEL,

3 Proposal

- 3.1 Proposed Gas fuelled Capacity Mechanism embedded generation plant to support the National Grid. A resubmission of previously approved applications (APP/17/00511 as amended by APP/18/01281) in order to secure a further three years to commence development following transfer of ownership of the site.

4 Policy Considerations

National Planning Policy Framework

Havant Borough Council Borough Design Guide SPD December 2011

Havant Borough Council Parking SPD July 2016

Havant Borough Local Plan (Core Strategy) March 2011

CS11	(Protecting and Enhancing the Special Environment and Heritage of Havant Borough)
CS16	(High Quality Design)
DM10	(Pollution)
DM12	(Mitigating the Impacts of Travel)
DM14	(Car and Cycle Parking on Development (excluding residential))

Havant Borough Local Plan (Allocations) July 2014

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Building Control

No comment received

Councillor Imogen Payter

No comment received

Councillor J Branson - St Faiths

No comment received

Councillor T Pike - St Faith's

No comment received

Council's Ecologist, Strategic Environmental Delivery

Initial response

The existing site is essentially devoid of vegetation and I do not have concerns in relation to on-site ecological matters. The submitted Air Quality Assessment was judged to be acceptable and the scheme is essentially identical to that previously

submitted. As highlighted by Natural England in their response dated 6 September 2021, the air quality dispersion modelling predicts an exceedance of the 1% threshold on parts of the northern edge of the Solent Maritime SAC and Chichester & Langstone Harbours SPA/Ramsar (including the underlying Langstone Harbour SSSI). The modelling is based upon a 'worst-case' scenario of almost continuous operation – this does not reflect the actual operating system to be used and modelling is therefore precautionary. The background NO_x levels are already in exceedance.

The project's exceedance will potentially affect c.16ha of intertidal habitat. This represents between 0.14% and 0.28% of the European designated sites. Intertidal habitats, including saltmarsh, are subject to tidal incursion twice each day and this is anticipated to wash away and disperse any deposited nitrogen such that effects on individual vegetation communities is considered highly unlikely. Given the limited area potentially affected it is considered that the proposals would not result in impacts sufficient to undermine to European sites' conservation objectives and site integrity. If you have any queries please don't hesitate to contact me.

Case Officer comment : *Amended Air Quality Assessment received following this initial response*

Further response

I have reviewed the Harts Farm Way Air Quality Assessment (Wood, May 2022). The AQA concludes that there is likely to be an exceedance in Annual Mean NO_x levels within the Solent Maritime SAC and the contiguous Chichester & Langstone Harbours SPA (plus underlying SSSI). This exceedance is estimated to extend to c.9 hectares and will include habitat listed under Annexe 1 of the Habitats Directive. In addition, there are predicted exceedances at several sites included in the Solent Waders & Brent Goose Strategy (SWBGS). SWBGS sites are functionally linked to the SPA and must therefore be treated as analogous to the SPA in terms of effects. There are also exceedances in acid deposition at one SWBGS site, H09. This SWBGS site is largely developed and does not, in my view, constitute suitable habitat for SPA birds.

The predicted exceedances within the SAC and SPA (and underlying SSSI) will affect the Annexe 1 habitat 'Estuaries (H1130): Mudflats and sandflats not covered by seawater at low tide'. Using DEFRA's MAGIC website, this habitat is described as 'intertidal mud'. This habitat is situated within the Solent Maritime SAC and Chichester & Langstone Harbours SPA. From my review of DEFRA's MAGIC data and the inventory of Priority Habitats available from HBIC, I am content that there are no areas of saltmarsh or other Annexe 1 habitats within the predicted exceedance zone. It is therefore concluded that only intertidal mud habitat is within the exceedance envelope.

It is not clear from the report what is proposed in terms of avoiding or mitigating this exceedance impact. Whilst the exceedance envelope may be small in the context of the wider designated sites, it is nevertheless an exceedance of published limits. It follows that there is potential for effects on vegetation communities/habitats associated with the designated sites, such that SAC/SPA qualifying features may be impacted. For the SPA, the Supplementary Advice on Conservation Objectives (SACO) states that to avoid/mitigate air quality impacts the target is to 'maintain concentrations and deposition of air pollutants at below the site-relevant Critical Load or Level values given for this feature of the site on the Air Pollution Information System'. With the exceedance of these values for NO_x there is a potential Likely Significant Effect on the conservation objectives of the SPA. This requires further action to avoid/mitigate this effect.

The SACO advice for the Solent Maritime SAC does not explicitly mention air pollution as a potential impact. However, as identified within the AQA report, nutrient enrichment is discussed as a potential threat.

In summary, there are predicted exceedances in air pollutants across an area containing habitats associated with the Solent Maritime SAC and Chichester & Langstone Harbours SPA. This exceedance may result in a Likely Significant Effect on qualifying features of these designated sites, such that the sites' conservation objectives are undermined. No details of any mitigating actions are provided: the fact that only a small proportion of the sites are within the exceedance envelope is not sufficient to avoid a Likely Significant Effect. This AQA needs to be developed into a Habitats Regulations Assessment (HRA) in order that the Local Planning Authority can understand the potential for effects on the internationally designated sites. This should include an assessment of the potential for impacts on the specific qualifying features of the designated sites within the exceedance envelope.

NPPF, Circular 06/2005 and Natural England Standing Advice on Protected Species, require that planning decisions are based on full, up-to-date ecological information and it is essential that all necessary survey, assessment and mitigation information is available to the LPA prior to determination, particularly in the case of protected species, which are a material planning consideration. This will enable the LPA to determine the application on the basis of full knowledge about the ecological impacts of the proposal and to ensure that any impacts can and will be mitigated, and are acceptable

If you have any queries, please don't hesitate to contact me.

Case officer comment : Submission of Shadow HRA from applicants then followed

Final response

The application is accompanied by a Shadow Habitats Regulations Assessment (Biora, October 2022).

The HRA includes a detailed assessment of individual European designated site qualifying features and explores the potential impacts from various pathways on each of these. I am satisfied that the HRA methodology used is appropriate. The HRA focusses on various air quality pathways.

In accordance with the previous AQA, the HRA concludes that predicted exceedances within European sites are unlikely to result in Likely Significant Effect, based on the fact that the exceedances are within a relatively limited geographical area and are within habitats (in this instance intertidal mudflats) that are not particularly sensitive to the effects of nitrogen deposition. I note that Natural England have confirmed that they do consider the HRA content to be acceptable.

To clarify (although this does not affect the overall assessment): the various sites listed within the Solent Waders & Brent Goose Strategy (SWBGS) are not 'candidate' sites but rather each is graded according to its importance to overwintering SPA bird species (Core site, Primary, Secondary etc.). In line with Natural England guidance, these non-SPA sites are treated as functionally linked land and therefore analogous to the SPA in terms of their function to SPA qualifying species: in this case bird species. Their treatment as 'seasonal' SPA habitat is to ensure that impacts arising from development related impacts are considered fully. I acknowledge that many SWBGS sites comprise improved grassland, often of amenity value, and as such are not analogous with the often highly sensitive vegetation communities found within

European sites such as SPAs and SACs. I am unsure whether SWBGS sites should be assessed within HRA as, in the context of AQ impacts, equivalent to locally designated sites or should be treated as an extension of SPA habitat – this is something that LPAs need clarification on from Natural England.

In any case, I am now satisfied that sufficient analysis has been undertaken of the potential for impacts to European sites.

If you have any queries, please don't hesitate to contact me.

County Minerals

No comment received

Defra

No comment received

Developer Services, Southern Water

In determining the application, we ask that the Planning Authority take into account the provisions of Paragraphs 180, 182 and 183 of the National Planning Policy Framework (NPPF) regarding the proposed location of development in relation to existing uses that may be a source of pollution (in terms of odour). We apply a precautionary buffer zone for any development located within 500 metres of the boundary of a WWTW. The proposed development is located approximately 130 metres from the Budds Farm Havant Wastewater Treatment Works, and as such we have applied this requirement to our planning consultation response.

Due to the potential odour nuisance from a Wastewater Treatment Works, no sensitive development should be located within the 1.5 OdU odour contour of the WWTW. An Odour Assessment will need to be carried out by a specialist consultant employed by the developer to a specification that will need to be agreed in advance with Southern Water to identify and agree the 1.5 OdU contour. Please contact Southern Water to discuss and agree the Scope of the odour assessment.

Any sewer diversion proposals currently being dealt under our reference SWS.S185.001941 needs to be agreed and approved by Southern Water before implementing on site.

It is possible that a sewer now deemed to be public could be crossing the development site.

Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site.

Southern Water requires a formal application for a connection to the public foul sewer to be made by the applicant or developer.

To make an application visit Southern Water's Get Connected service: developerservices.southernwater.co.uk and please read our New Connections Charging Arrangements documents which are available on our website via the following link:

southernwater.co.uk/developing-building/connection-charging-arrangements

The supporting documents make reference to drainage using Sustainable Drainage Systems (SuDS).

Under certain circumstances SuDS will be adopted by Southern Water should this be requested by the developer. Where SuDS form part of a continuous sewer system, and are not an isolated end

of pipe SuDS component, adoption will be considered if such systems comply with the latest Sewers for Adoption (Appendix C) and CIRIA guidance available here:

water.org.uk/sewerage-sector-guidance-approved-documents/

ciria.org/Memberships/The_SuDS_Manual_C753_Chapters.aspx

Where SuDS rely upon facilities which are not adoptable by sewerage undertakers the applicant will need to ensure that arrangements exist for the long-term maintenance of the SuDS facilities. It is critical that the effectiveness of these systems is maintained in perpetuity. Good management will avoid flooding from the proposed surface water system, which may result in the inundation of the foul sewerage system.

Thus, where a SuDS scheme is to be implemented, the drainage details submitted to the Local Planning Authority should:

- Specify the responsibilities of each party for the implementation of the SuDS scheme.
- Specify a timetable for implementation.
- Provide a management and maintenance plan for the lifetime of the development.

This should include the arrangements for adoption by any public authority or statutory undertaker

and any other arrangements to secure the operation of the scheme throughout its lifetime.

The Council's Building Control officers or technical staff should be asked to comment on the adequacy of soakaways to dispose of surface water from the proposed development.

The Council's technical staff and the relevant authority for land drainage consent should comment on the adequacy of the proposals to discharge surface water to the local watercourse.

We request that should this planning application receive planning approval, the following informative is attached to the consent: Construction of the development shall not commence until details of the proposed means of foul sewerage and surface water disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water.

This initial assessment does not prejudice any future assessment or commit to any adoption agreements under Section 104 of the Water Industry Act 1991. Please note that non-compliance with Sewers for Adoption standards will preclude future adoption of the foul and surface water sewerage network on site. The design of drainage should ensure that no groundwater or land drainage is to enter public sewers.

For further advice, please contact Southern Water, Southern House, Yeoman Road, Worthing,

West Sussex, BN13 3NX (Tel: 0330 303 0119).

Website: southernwater.co.uk or by email at:

SouthernWaterPlanning@southernwater.co.uk

Engineering/Drainage

No comment received

Environment Agency

We have reviewed the application and have no objection to the proposal as submitted.

Advice to Local Planning Authority/Applicant

Environmental permit

Planning permission does not remove the requirement for an Environmental Permit.

The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:

- on or within 8 metres of a main river (16 metres if tidal)
- on or within 8 metres of a flood defence structure or culvert (16 metres if tidal)
- on or within 16 metres of a sea defence

- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in a floodplain more than 8 metres from the river bank, culvert or flood defence structure (16 metres if it's a tidal main river) and you don't already have planning permission.

For further guidance please visit

<https://www.gov.uk/guidance/flood-risk-activitiesenvironmental-permits> or contact our National Customer Contact Centre on 03702 422 549. The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

Environmental Health Manager, Community Group

I note that the application essentially seeks to renew prior permissions APP/17/00511 & APP/18/01281, with sufficiently consistent technical details that the previously approved noise, air quality and drainage plans remain applicable.

Despite this, further air quality assessment has been undertaken, and a limited additional submission has been made in support of this current application. Comments here are essentially limited to the review of additional air quality information, and are made without prejudice to any additional comments which may be submitted by my Environmental Health colleagues under separate cover in respect of noise / amenity.

Wood Environmental & Infrastructure Solutions UK Ltd. - Technical Note: GFP II Limited - Harts Farm Way Ecological Appraisal (Emissions)

Given that design & specification of the scheme is not materially different to that approved under the 2018 consent, the rationale for commissioning additional air quality assessment is at this point unclear.

The report refers to two prior air quality assessment reports undertaken by Wood E&ISUK Ltd. that have not previously been submitted the LPA in support of any prior application, and which have not been submitted in support of this application;

" Wood (2020). Technical note: GFP II Limited - Harts Farm Way Air Dispersion Modelling.

" Wood (2018) Peak Gen Power Ltd Havant Power Plant Air Quality Impact Assessment.

The Results of the 2020 modelling are discussed in the submitted technical note, alongside an overview of the scenario's tested. It has not been possible to scrutinise the technical detail of the values underpinning the assessment.

In terms of results, the report notably reports that;

" The process contribution (PC) to Annual mean NOx concentrations is predicted to be above the indicative threshold* at (at least-) one receptor under all modelled scenario's. (*1% of the critical concentration / critical level (CLE))

" The affected area (where PC>1% of CLE) equates to approximately 16 ha of relevant habitat.

" Where operation of the facility is limited to <1280 hrs/yr, any exceedance of this indicative threshold (screening value, indicative threshold of significance) would be avoided.

" The predicted environmental concentration (PEC) is predicted to be greater than the applicable CLE at receptor E03 under the baseline scenario (i.e. under the 'do

nothing' scenario that excludes the proposed development).

" The proposed development PC is expected to add +2.7% NO_x to an existing baseline ambient concentration of 31.69 ug/m³ at receptor E03. Under IAQM guidance, this equates to a 'moderate adverse' impact (impact >2% where extant baseline is 103-109% CLE)

" The PEC at 3 of 6 environmental receptors is expected to exceed the applicable CLE for NO_x under the 2500 hrs/yr scenario

Despite the above results, the report concludes that there will be 'no likely significant effects'. This conclusion is reliant upon the premise that 'mudflats are subject to frequent tidal inundation [meaning that these habitats] are likely to be more resilient to the influence of small changes in aerial NO_x emissions compared to other habitat types to which the same Critical Level (30 µg m⁻³) applies'

Relevant local policy is considered to be; Core Strategy DM10 (pollution), NPPF 2021 185-187, and LP2036 E22. Outgoing local policy is arguably less flexible than emerging policy, implementing a stricter view of the breach of a threshold standard ('development that may cause pollution of...air... will only be permitted where... (2) national air quality standards or objectives would not be breached'), whereas emerging policy refers to the need to avoid a 'likely significant negative effect', or to mitigate that effect (e.g., through limiting hours of operation). Note with respect to NPPF para 187, the exceedances, and moderate adverse impact occur within the permitted emissions limits for the proposed plant, so in principle, this issue is material to planning as an issue associated with the 'appropriate use of land'.

I am assuming that the intended operational hours for this facility are as indicated under the prior applications - amounting to 2000 hrs/yr. It would appear that as considered against the air quality limit given in schedule 6 of SI 1001 (2010), and under the IAQM guidance, the impact at a specific relevant location will be moderate, significant, adverse. The threshold is referred to as a 'critical level', and therefore it must be considered that a new breach of this standard must be 'significant'.

The key issue here is 'how' that standard should be taken to apply, and I note the provisions of schedule 1 of SI 1001 (2010) which stipulate measurement criteria, but does not necessarily describe the relevant location & applicable averaging areas to which the standard applies. It should be noted that the relevant air quality standard falls outside of the jurisdiction of the local authority, and it is in fact DEFRA who has responsibility for ensuring that it is met, and so would be able to comment authoritatively on the significance of these results.

I am also mindful that the perception of significance (i.e. moderate adverse deterioration over <1% of the designated habitat) is necessarily an ecological judgement. It may (therefore) be sufficient for planning purposes that the County Ecologist has reviewed and accepted the submitted report.

Ultimately the acceptability of the likely detrimental impact is a planning judgement. Given the jurisdiction & qualifying factors for the relevant standard, and I am flagging a concern (i.e. development would appear to be contrary to extant-, and potentially also emerging- policy); I am not objecting to this development.

I would suggest however that to more robustly support a positive determination of this application against the applicable policy, it might be appropriate for development management to seek comments from additional external consultees (DEFRA), or to seek a more expansive rationale from the County ecologist.

If neither are forthcoming, it might be appropriate to limit the permitted hours of operation so as to limit the PC to <1% of CLE. If this approach is preferred, the applicant may wish to consider refining the modelling assessments so as to limit conservatism in parameter selection, in order to avoid an unnecessarily restrictive condition.

Natural England Government Team - first reponse

Thank you for consulting us on the above application

Air Quality

It is noted that the proposals are essentially identical to the previous application where the air quality assessment was judged to be acceptable.

The updated air quality assessment accompanying this application states that there will be exceedance of the 1% assessment level for nutrient nitrogen within the adjacent designated sites. These include the Chichester and Langstone Harbours SPA, Ramsar site, Solent Maritime SAC and Langstone Harbour Site of Special Scientific Interest. Therefore, Natural England recommends that a Habitat Regulations Assessment is undertaken.

The report concludes that the area of designated sites predicted to exceed the 1% critical threshold, represents a very small proportion of the available mudflat within the SPA/Ramsar/SAC/SSSI as a whole, therefore no likely significant effects on these sites are predicted.

Provided you are satisfied with these conclusions, as competent authority, Natural England raises no further comments.

On site ecology

We refer you to the advice of the County Ecologist and Natural England's standing advice on protected species

Natural England Government Team - second response following submission of the HRA and AA as requested in the previous response

Thank you for consulting us on the HRA & AA for the above application

SPA functionally linked land

The proposals are adjacent to a Solent Wader and Brent Goose Strategy Candidate sites H09 and H130 and is also in close proximity to a number of other SWBGS sites. These sites support the functionality of the nearby Chichester & Langstone Harbours SPA and are therefore protected in this context. As a result, Natural England advise that best practice measures are adopted during construction to limit noise and visual disturbance to the adjacent sensitive habitat. Natural England advises that a Construction Environmental Management Plan (CEMP) should be submitted to and approved in writing by the district ecologist/biodiversity officer that identifies the steps and procedures that will be implemented to avoid or mitigate constructional impacts on the adjacent Chichester and Langstone Harbours SPA, Ramsar and the SPA's functional land mentioned above.

The CEMP should address the following impacts:

- Noise/visual/vibrational impacts
- Visual screening (for SPA birds)
- Storage of construction materials/chemicals and equipment;
- Dust suppression
- Chemical and/or fuel run-off from construction into designated sites
- Waste disposal.

The CEMP should ensure there is no percussive piling or works with heavy machinery

(i.e. plant resulting in a noise level in excess of 69dbAmax – measured at the sensitive receptor) to be undertaken during the bird overwintering period (i.e. October to March inclusive). The sensitive receptor is the nearest point of the SPA or any SPA supporting habitat (e.g. high tide roosting site).

This detail should be included in the Appropriate Assessment to ensure there is no adverse impact from the construction work on the adjacent designated sites and its functional land.

Air Quality

Natural England notes that your authority, as competent authority under the provisions of the Habitats Regulations, has screened the proposal to check for the likelihood of significant effects.

Your assessment concludes that the proposal can be screened out from further stages of assessment because significant effects are unlikely to occur, either alone or in combination. This conclusion has been drawn based on the Air Quality assessment provided by the applicant. The air quality dispersion modelling predicts that the critical threshold of 1% will be exceeded but and the limited area of 16ha representing 0.14-0.28% of the European designated site which may potentially affected has been used to screen out effects. It notes that the modelling is based on a worst case scenario and is unlikely to represent real world operational impacts.

For the purposes of a Habitat Regulations Assessment, Natural England advises that the 1% Critical threshold is a screening tool which should be used a guideline to initially check whether a plan or project may require an appropriate assessment. This exceedance therefore need to be formally checked and confirmed by your Authority, as the competent authority, via an appropriate assessment, in accordance with the Conservation of Habitats and Species Regulations 2017 (as amended), in order to more precisely assess the likely effects identified and to inform a conclusion as to whether an adverse effect on site integrity can be ruled out.

We refer you to Natural England's approach to advising competent authorities on the assessment of road traffic emissions under the Habitats Regulation which more fully sets out our approach, section 5 in particular has useful guidance to completing an appropriate assessment. Whilst we appreciate this guide is referring to road traffic emissions which is not applicable to this application, on a point of procedure the approach to HRA and the requirement to proceed to AA if 1% of critical load is exceeded is the same.

Natural England Government Team - third response following submission of the additional air quality assessment

Thank you for your consultation on the above dated 19 May 2022 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.

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 Chichester Harbour Special Protection Area and Solent Maritime Special Area of Conservation.

Natural England requires further information in order to determine the significance of these impacts and the scope for mitigation.

The following information is required:

A Habitat Regulations Assessment proceeding to Appropriate Assessment where impacts are identified

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

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

Natural England's further advice on designated sites/landscapes and advice on other issues is set out below.

Despite the proximity of the application to European Sites, the consultation documents provided do not include information to demonstrate that the requirements of regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) have been considered by your authority, i.e. the consultation does not include a Habitats Regulations Assessment.

It is Natural England's advice that the proposal is not directly connected with or necessary for the management of the European site. Your authority should therefore determine whether the proposal is likely to have a significant effect on any European site, proceeding to the Appropriate Assessment stage where significant effects cannot be ruled out. Natural England must be consulted on any appropriate assessment your authority may decide to make.

Air Quality

In our previous response dated 29th November 2021 we advised that the 1% Critical threshold exceedance needs to be formally checked and confirmed by your Authority, as the competent authority, via an appropriate assessment, in accordance with the Conservation of Habitats and Species Regulations 2017 (as amended), in order to more precisely assess the likely effects identified and to inform a conclusion as to whether an adverse effect on site integrity can be ruled out. This is in line with the procedure set out in Natural England's approach to advising competent authorities on the assessment of road traffic emissions under the Habitats Regulation. Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 281 (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.

Should the applicant wish to discuss the further information required and scope for mitigation with Natural England, we would be happy to provide advice through our Discretionary Advice Service.

For any queries regarding this letter, for new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

Please consult us again once the information requested above, has been provided.

Natural England Government Team - fourth response following submission of the shadow HRA by the applicant

Thank you for your consultation on the above dated 21 October 2022 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. The consultation documents provided by your authority do not include information to demonstrate that the requirements of Regulations 63 and 64 of the Conservation of Habitats and Species Regulations 2017 (as amended) have been considered by your authority, i.e. the consultation does not include a Habitats Regulations Assessment. In advising your authority on the requirements relating to Habitats Regulations Assessment, it is Natural England's advice that the proposal is not necessary for the management of the European

SUMMARY OF NATURAL ENGLAND'S ADVICE

NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

We consider that without appropriate mitigation the application would have an adverse effect on the integrity of SPA functionally linked land.

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:

- Construction Environmental Management Plan

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures. The detail should be confirmed via an Appropriate Assessment. Your authority should therefore determine whether the proposal is likely to have a significant effect on any European site, proceeding to the Appropriate Assessment stage where significant effects cannot be ruled out.

Solent SPAs functionally linked land – No objection subject to mitigation

We previously responded to this application on 21st July 2022 (Our ref: 394228) Construction Environmental Management Plan (CEMP) should be submitted to and approved in writing by your retained Ecologist that identifies the steps and procedures that identifies the steps and procedures that will be implemented to avoid or mitigate constructional impacts on the adjacent Chichester and Langstone Harbours SPA, Ramsar and the SPA's functional land.

This advice still applies and the detail should be confirmed via an Appropriate Assessment.

Air Quality – No Objection

Natural England notes that the shadow Habitats Regulations Assessment provided with the consultation has screened the proposal to check for the likelihood of significant effects from aerial emissions on the above named European sites. The assessment concludes that the proposal can be screened out from further stages of assessment because significant effects are unlikely to occur, either alone or in combination. It identifies that the localities predicted to have an exceedance of the 1% Critical threshold do not contain habitats or interest features of the SPA which are sensitive to nitrogen and acid deposition.

On the basis of information provided, Natural England concurs with this view. To meet the requirements of the Habitats Regulations, we advise you to record your decision that a likely significant effect can be ruled out.

For any queries regarding this letter, for new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

Natural England - Final response following submission of the HRA

Thank you for your consultation on the above dated 17 January 2023 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.

DESIGNATED HABITATS SITES – NO OBJECTION SUBJECT TO SECURING APPROPRIATE MITIGATION

This advice should be taken as Natural England's formal **representation on appropriate assessment** given under regulation 63(3) of the Conservation of Habitats and Species Regulations 2017 (as amended). You are entitled to have regard to this representation.

With regard to European Sites, Natural England does not object to the granting of this permission subject to the advice given below.

Your appropriate assessment, dated 16th January 2023, concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal Natural England advises that we concur with the assessment conclusions.

This advice is provided on the basis that all mitigation measures will be secured as planning conditions or obligations by your authority to ensure their strict and timely implementation for the full duration of the development.

For any queries regarding this letter, for new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

Landscape Architect

As long as the soft landscaping plans reflect the original submission we have no adverse comments.

Southern Gas Network

Thank you for your enquiry, indicating that an application for planning permission has been made for the above development

There is a high pressure pipeline in the vicinity of these proposed works. We have sent a copy of your correspondence to our local engineer who will be in contact separately. In the meantime, SGN formally object to this planning application until such time as a detailed consultation has taken place.

This pipeline is registered with the Health and Safety Executive as a Major Accident Hazard Pipeline.

Building Proximity Distance

The building proximity distance (Zone 1) for the pipeline is shown in the table above for all our high pressure gas pipelines in the vicinity of your works. This should not however be confused with the HSE consultation zones 2 & 3 which will be considerably greater, further guidance of the requirements can be found in HSE Document: PADHI: HSE's Land Use Planning Methodology. Zone 1 is a safety factor with reference to habitable buildings as recommended by IGE TD/1. It is calculated from the diameter, material, wall thickness and pressure of the particular pipeline. Under Pipeline Safety Regulations 1996 this distance is declared to the HSE. Any intrusion within this safety zone will not be taken lightly and any intention to proceed should be accompanied by a risk assessment or provision of other supporting evidence, especially in the event of any legal proceedings at a later date.

Deed of Grant

Pipelines laid in private land are protected by a 'Deed of Grant', which prohibits certain activities within the easement strip, no addition to or removal of the surface levels, no structures over or within the specified distance of the pipeline. Further details are available if you require them.

Cable Crossing

Any cable crossings should cross at 90 degrees, have a minimum clearance of 600mm from the pipeline and installed in non-metallic ducts which extend 3 metres from the pipeline. Any cables running adjacent must be kept greater than 3 metres from the pipeline. Further details are available if you require them. A request to us for any copies could incur a small fee, payable in advance.

Piling / Boreholes

No piling/boreholes will be allowed within 15 metres of a pipeline without an assessment of the vibration levels at the pipeline. The peak particle velocity at the pipeline should be limited to a maximum level of 75 mm/sec. Where the peak particle velocity is predicted to exceed 50 mm/sec, the ground vibration shall be monitored by you and a SGN technician must supervise on site. This must be calculated and provided to SGN in advance of the work. The results of the vibration levels must also be available to SGN at any time. Before works commence method statements must be agreed with SGN.

No piling/boreholes will be allowed within 3 metres of the pipeline.

Vehicle Crossing

Vehicle crossings over the pipeline must be kept to a minimum and must cross at 90 degrees. The crossing will require agreement with SGN and may require design and calculations, as evidence to prove there is minimal added stress to the pipeline. Method statements must be agreed before works commence.

The pipeline is of prime importance to the gas supplies of this area. It is essential that you comply with the restrictions detailed below and in the document SGN/WI/SW/2 in order to protect our plant and equipment and for the safety of your own operatives. A SGN representative must be contacted before any works commence. Further guidance / restrictions are detailed below:

1. No mechanical excavation is allowed within 3 metres either side of pipeline.
2. No plant or storage of equipment shall be made within any easement strip.
3. If any metallic pipes or cables are being laid in proximity to gas pipelines then

interference testing will be required, the cost of which to be borne by the promoter of the works. A minimum clearance of 600mm is required.

4. All precautions stated in publication SGN/WI/SW/2 (Safe Working in the Vicinity of High Pressure Gas Pipelines) shall be fully complied with in all respects. Acceptance of SGN/WI/SW/2 shall be acknowledged by the responsible site person signing and returning the form Appendix A (back page) to the SGN representative contacted in (7).

5. No thrust boring shall take place within 3 meters of the pipeline.

6. All planting within the easement strip should comply with 'Notes for Guidance on Tree Proximity'.

7. Before commencing work on site you must contact our Pipeline Maintenance Section on the number above at least seven days before work commences. A Southern Gas Networks representative will then contact you to arrange to visit site. Details of working near to highpressure gas pipelines can then be discussed.

8. Pipeline sections that are planned and agreed by SGN to be permanently covered (i.e. by road surface) will require a coating survey. SGN will repair any indicated coating defects free of charge. The survey costs will be borne by the promoter of the works. Prior to any surface cover cathodic protection coupons and reference cells will require installation at no cost to SGN.

9. This pipeline is cathodically protected and as such has test cables located in test posts, were these to be lost through this work we would look to you for remedial action at no cost to SGN.

10. Intrusive construction methods will require an agreed method statement prior to work starting.

11. Any extended period of SGN site supervision may incur charges to you. These will be charged based on visiting times, materials and occurrences. You will be informed when these come into effect and be invoiced direct.

12. Any piling or boreholes within 15 metres of the pipeline may require vibration monitoring. No piling or boreholing must take place within 3 metres of the pipeline. Please ensure these conditions, together with any relevant drawings are forwarded for use by the construction personnel of your works.

6 **Community Involvement**

This application was publicised in accordance with the Council's Code of Practice for Publicity of Planning Applications approved at minute 207/6/92 (as amended), as a result of which the following publicity was undertaken:

Number of neighbour notification letters sent: 6

Number of site notices: 1

Statutory advertisement: Not applicable.

Number of representations received: 0

Comment	Officer Comment
No comments received	

7 **Planning Considerations**

7.1 Having regard to the relevant policies of the development plan it is considered that the main issues arising from this application are:

- (i) Principle of development
- (ii) Impact upon the character and appearance of the area and impact on neighbour amenity
- (iii) Highways and parking considerations
- (iv) Flooding and landscaping/tree considerations
- (v) Ecology
- (vi) Other matters

(i) Principle of development

7.2 The application site is situated within an urban area where further development is considered acceptable subject to the usual development control criteria. Outline permission for the redevelopment of the site was granted in 2002 and then renewed in 2010. A further application in 2013 (APP/13/00592) sought to remove Condition 7 of the outline permission which limited the amount of Class B8 uses on the overall site. This was approved. Other applications on the overall site have been for reserved matters.

7.3 In 2017 under application reference APP/17/00511 planning permission was granted for a Gas fuelled Capacity Mechanism embedded generation plant to support the National Grid - this has been amended in subsequent applications. In 2018 under APP/18/01281 a variation of condition application was submitted where the plans were varied and this comprises of changes to the site layout , generators, fencing and sewer diversion . This current proposal seeks to allow a further 3 years to allow for the commencement of development as this has now expired. In principle the proposal would accord with Policy CS2 by providing employment opportunities in the Borough.

(ii) Impact upon the character and appearance of the area and impact on neighbour amenity .

7.4 Proposed towards the front (north) of the site would be the metering kiosk surrounded by 2.4 metre high fencing as well as the substation. Security gates would be sited to the entrance to the north off Hermitage Park with security fencing surrounding the compound at 2.4 metres high with 6 metre high security columns. Inside the site surrounded by 4 metre high fencing would be 9 gas units , a spare parts container , switchgear cabin and transformer. To the north, west and south of the site would be landscaping; a detailed landscaping plan has been submitted which shows this to comprise new extra heavy standard tree planting and native planting, as well as grass verges. A welfare cabin would also be located within the compound.

7.5 The surrounding area is industrial in character and therefore the proposal is considered to be in keeping with this with the siting of the various units considered to be acceptable and complemented by the proposed landscaping. The fencing would be high however this is due to security and acoustic reasons. There are no residential properties within close proximity of the site. Should a noise complaint be made by the neighbouring commercial properties then Environmental Health would be able to enforce their own legislation to review this. The principle of this development has already been approved under applications APP/17/00511 amended by APP/18/01281 . Overall the proposal would not result in harm to the character of the area, in

accordance with Policy CS16 of the Havant Borough Local Plan.

(iii) Highways and parking considerations

- 7.6 The internal road to the site has already been constructed. Access to the site would be via the main access to the north and there is an existing access point which has been extended to the compound. The servicing of the site would be limited and the use would generate very low levels of vehicle movement. The access would allow vehicles to access the compound and park centrally which is considered to be sufficient.

(iv) Landscaping/tree considerations

- 7.7 The proposal includes a landscaping scheme which matches that approved under APP/18/01281 and has again been agreed by Havant's Landscape Architect who has no objection to this proposal.

(v) Ecology

- 7.8 The applicant originally submitted an Air Quality Assessment with this application and Ecology and Natural England were consulted. It was raised as an issue that the proposal could have some impact on intertidal habitats and a HRA was required as well as a revised Air Quality Assessment. A Shadow HRA was provided by the applicant, with Natural England no longer objecting subject to the securing of mitigation via a CEMP report.
- 7.9 On this basis the Council has conducted a Habitats Regulations Assessment (HRA) of the proposed development under Regulation 63 of The Conservation of Habitats and Species Regulations 2017 (as amended). The Council's assessment as competent Authority under those regulations is included in the case file. The screening under Regulation 63(1)(a) found that, based on the applicant's submitted evidence, any effects on nitrogen deposition, air quality or acid deposition would not be significant and therefore any likely significant effects on nearby European sites (the Solent Maritime SAC and Chichester & Langstone Harbours SPA/Ramsar sites) could be screened out. This conclusion has been accepted by Natural England.
- 7.10 The Council's Ecologist also no longer objects to this proposal following submission of further ecological information. It is understood the applicant wishes to supply the CEMP report via condition which has been applied.

(vi) Other matters

- 7.11 The site lies within close proximity of the main gas pipe and Southern Gas have been consulted with. Although an objection has been raised the proposal follows two previous permissions under APP/17/00511 where the proposed generators were closer to the pipe and APP/18/01281 where a similar objection arose. As the site now proposes a reduced scale layout the impact caused to the main gas pipe is considered to be reduced. Following no additional consultation response from Southern Gas it is considered appropriate to include an informative outlining their concerns and requesting that the applicants discuss this further with them. However the concern raised would not warrant a refusal of planning permission and the application is considered to be acceptable.
- 7.12 The amended layout as approved under APP/18/01281 has removed the concern

originally raised by Southern Water and the diversion that was taking place in order to accommodate the original layout of the compound. Southern Water has been consulted on this application and has advised that an odour assessment would be required however it is noted that there is no sensitive development located within close proximity of the site. Please refer to the attached informative relating to Southern Water's comments.

8 Conclusion

- 8.1 The proposal is considered to have an acceptable impact and would provide the benefit of important energy infrastructure within the Borough and is therefore recommended for approval.
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9 RECOMMENDATION:

That the Head of Planning be authorised to **GRANT PERMISSION** for application APP/21/00809 subject to the following conditions:

- 1 The development must be begun not later than three years beginning with the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

30 Jul 2021 HARTS WAY COVERING LETTER

30 Jul 2021 APPENDIX H1 APPROVED DRAINAGE STRATEGY as amended by APPENDIX H2 APPROVED DRAINAGE PLAN uploaded on the 30.07.2022

30 Jul 2021 APPENDIX G APPROVED LANDSCAPE PLAN

30 Jul 2021 APPENDIX F3 HARTS WAY ECOLOGICAL AIR DISPERSION MODELLING

30 Jul 2021 APPENDIX F2 HARTS WAY AIR DISPERSION MODELLING

30 Jul 2021 APPENDIX F APPROVED AIR QUALITY ASSESSMENT

30 Jul 2021 APPENDIX E APPROVED NOISE ASSESSMENT

30 Jul 2021 APPENDIX D HARTS WAY FENCING DETAIL

30 Jul 2021 APPENDIX C HARTS WAY ELEVATION PLANS

30 Jul 2021 APPENDIX B HARTS WAY SITE LAYOUT PLAN

30 Jul 2021 APPENDIX A HARTS WAY LOCATION PLAN

P01.01 ADDITIONAL AIR QUALITY ASSESSMENT (WOOD GROUP MAY 2022)

HRA DATED OCTOBER 2022

Reason: - To ensure provision of a satisfactory development.

- 3 The development hereby permitted shall not commence unless and until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include the steps and procedures that will be implemented to avoid or mitigate

construction impacts on protected species and habitats. The CEMP as a minimum shall provide details of:

- Storage of Construction materials/chemical and equipment
- Parking of construction vehicles
- Measures to ensure dust suppression
- Construction waste disposal
- Measures to minimise noise and vibration impacts to protected species and habitats.

The construction phase shall be carried out fully in accordance with the CEMP as approved unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of protected species and habitats having due regard to the Habitats Regulations, Policy CS11 of the Havant Borough Local Plan (Core Strategy) 2011, the Wildlife and Countryside Act 1981 and the National Planning Policy Framework.

- 4 The landscaping works shown on the approved plans (APPENDIX G APPROVED LANDSCAPE PLAN UPLOADED 30.07.2021) shall be carried out in accordance with the approved details and in accordance with any timing / phasing arrangements agreed or within 6 months of final occupation of the development hereby permitted, whichever is the sooner.

Any trees or shrubs planted or retained in accordance with this condition which are removed, uprooted, destroyed, die or become severely damaged or become seriously diseased within 5 years of planting shall be replaced within the next planting season by trees or shrubs of similar size and species to those originally required to be planted, unless the Local Planning Authority gives its consent in writing to any variation.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs and having due regard to policies CS16 and DM8 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.