

From: Norton, Tristan <Tristan.Norton@hants.gov.uk>
Sent: 30 November 2022 13:26
To: Speller, Graham <Graham.Speller@havant.gov.uk>
Cc: Havant Planning and Development Mailbox New <planning.developmentnew@havant.gov.uk>
Subject: APP/22/00850 Land West of Hayling Billy Trail and, Long Island, Langstone Harbour, Havant 22.1235

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Dear Graham,

APP/22/00850 | Proposal for restoration via shingle recharge at 2No nesting sites off Hayling Island (Oyster Bed Lagoon within West Hayling LNR and Long Island) involving raising level of sites up to 3.6m ODN (average recharge height of 0.7m) to create 1,820 m2 and 2,200 m2 restored tide resilient shingle nesting habitat at the two sites respectively. The total calculated tonnage to achieve this is 5,065 tonnes of shingle. | Land West of Hayling Billy Trail and, Long Island, Langstone Harbour, Havant 22.1235

Thank you for consulting me on this application. Thank you for your patience.

The proposed works are for the purpose of protecting and enhancing bird nesting and roosting habitat within one of the most important seabird colonies in the Solent. The works are designed to enhance habitat for nesting tern and gull species and to provide suitable roosting habitat for coastal bird species. The proposed works are situated within the Solent Maritime Special Area of Conservation (SAC), Chichester & Langstone Harbours Special Protection Area (SPA) and Ramsar site, and Langstone Harbour Site of Special Scientific Interest (SSSI). Works will entail the importation of coastal derived shingles of varying size, brought to site via vehicles using the Hayling Billy Trail and, to reach the islands within the Oyster Beds area, temporary pontoons. For the Long Island site shingles and other materials will be delivered via barge.

The application is accompanied by a Habitats Regulations Assessment (Exo Environmental Ltd, June 2022). In procedural terms the HRA includes proposed access route mitigation measures as intrinsic to the scheme's delivery and therefore concludes that potential impacts can be screened out of further assessment. This argument is, it could be argued, in accordance with guidance on HRA (see CJEU C-323/17 People Over Wind and Peter Sweetman vs Coillte Teoranta) but is a nuanced point within the HRA process. I would have preferred to see the HRA proceed to Stage II, and consider the potential for impacts on specific SAC and SPA features and explore the impacts of the proposed access arrangements. The proposed access is certainly not 'no impact' and, through the inclusion of details to demonstrate how measures are in place to avoid/minimise damage, could be argued as mitigation measures to avoid/minimise damage (albeit limited and localised) to SAC qualifying habitats.

Overall this is a technical point on the HRA process and different practitioners approach HRA in different ways. Havant Borough Council, as the Competent Authority under the Habitats Regulations, usually takes a more precautionary approach to HRA, with potential impacts (however minimal) taken forward to Stage II of the HRA process and then details included of the extent of those impacts and the measures included to avoid/minimise them.

Impacts to SPA bird species are avoided due to the works timings: to undertake works at any other time would of course result in impacts to nesting birds and the proposed timing is clearly an intrinsic part of the scheme. The proposed access route to the Oyster Beds will occur within areas containing habitats that do, or are likely to, conform to SAC qualifying features. The proposed access route via the northern end of the Oyster Beds seems sensible and the measures described should avoid excessive damage to intertidal habitats within the SAC: I am confident that any localised disturbance will be likely to repair swiftly. On the issue of damage to SAC qualifying habitats, some areas of the access route are mapped as Coastal Vegetated Shingle (CVS) habitat by HBIC: HBIC Priority Habitat mapping is generally more accurate than DEFRA's MAGIC habitat mapping. From my own knowledge of this area I would say that there is clearly habitat analogous to vegetated shingle in the area, as well as areas of fringing saltmarsh, drift line vegetation and coastal grassland habitat – these habitats are typical of the coastal areas of Hayling Island. Whilst these habitats are, in my view, analogous to the SAC qualifying habitats such as Perennial Vegetation of Stony Banks, Annual Drift Line Vegetation and Atlantic Saltmarsh, the potential for impacts is admittedly limited: the works are temporary in nature and have the purpose of enhancing habitat for SPA qualifying features. I am certain that the new shingle will, in time, provide valuable additional vegetation communities. As discussed above, a more precautionary approach to HRA would acknowledge the potential for SAC habitat impacts (compaction, smothering of vegetation, localised disturbance etc.) that will likely occur by using the proposed measures. I also note that HCC, as owners of the Billy Trail, have comments on the proposed use of the path for access: it is to be hoped that access can be agreed with HCC otherwise an alternative access approach would be required.

Access to Long Island will be via barge, and materials brought to site only at high tide periods to avoid damage to SAC intertidal and subtidal habitats. The new shingle will be placed on top of the extensive Sea Couch-grass vegetation here. I would certainly place this habitat within the broader category of saltmarsh, but acknowledge that it is rather species-poor. The introduction of new shingle is highly likely to result in a more diverse coastal plant community over time.

Overall, I consider that the proposed works are for the sole purpose of protecting and enhancing the special interest features of the SPA and, whilst impacts to SAC qualifying habitats are not negligible, these are minor in scale and duration and not likely to result in impacts to the overall ecological integrity of the various designated sites.

If you are minded to grant permission, can I suggest that a Construction Environment Management Plan (CEMP) is secured by condition. This should include firm details of all construction operations and measures designed to avoid impacts to the natural environment.

Prior to the commencement of development activities, a Construction Environment Management Plan (CEMP) shall be submitted for approval to the Local Planning Authority. The CEMP shall be informed by the identified ecological receptors and avoidance and mitigation measures detailed within the Habitats Regulations Assessment (Exo Environmental Ltd, June 2022). Development shall be implemented in strict accordance with the agreed CEMP unless otherwise agreed in writing by the Local Planning Authority. Reason: to provide ecological protection and enhancement in accordance with the Conservation Regulations 2017, Wildlife & Countryside Act 1981, NPPF, NERC Act 2006 and Policy CS 11 of the Havant Borough Core Strategy March 2011

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

Kind regards,

Tristan

Tristan Norton

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Coronavirus (Covid-19)

Hampshire County Council's response to the Covid-19 is available here (<https://www.hants.gov.uk/socialcareandhealth/coronavirus>).

In line with Government advice to reduce non-essential travel and work from home where possible, Ecology officers are now working remotely. Whilst we will endeavour to conduct our services in a timely manner and to meet statutory timescales where we can, there may be some impact to the services we deliver. We will ensure that we keep all applicants / interested parties informed of any further impacts to our services should they arise. The Council's response also means that no non-essential site visits or face to face meetings will be undertaken until further notice. Essential and contractual surveys may continue take place where there is no risk to the surveyor or the public, and in line with Government advice. This will be reviewed on an on-going basis.



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