

Habitats Regulations Assessment (HRA) Screening and Appropriate Assessment (AA)

PLEASE NOTE: Undertaking the HRA process is the responsibility of Havant Borough Council as the Competent Authority for the purpose of the Habitats Regulations. However, it is the responsibility of the applicant to provide the Competent Authority with the information that they require for this purpose.

HRA drafting date:	24/01/24
HRA completion date:	26/02/24
Application reference:	APP/23/00665
Application address:	Land on the east side of Helmsley House, Bartons Road, and west of Normandy Way, Havant
Application description:	Erection of a 78 bed older persons care home (Use class C2) together with construction of new access road, car/cycle parking, drainage works, hard/soft landscaping and other associated infrastructure.
Lead Planning Officer:	David Eaves
Please note that all references in this assessment to the 'Habitats Regulations' refer to The Conservation of Habitats and Species Regulations 2017 (as amended).	

Stage 1 - details of the plan or project

European site potentially impacted by planning application, plan or project:	▪ Chichester & Langstone Harbours Special Protection Area (SPA) ▪ Chichester & Langstone Harbours Ramsar site ▪ Solent Maritime Special Area of Conservation (SAC) ▪ Solent and Dorset Coast Special Protection Area (SPA) ▪ Solent and Southampton Water SPA ▪ Solent and Southampton Water Ramsar ▪ Portsmouth Harbour SPA ▪ Portsmouth Harbour Ramsar ▪ Solent and Isle of Wight Lagoons SAC (Hereafter known as the Solent European Sites)
Is the planning application directly connected with or necessary to the management of the site (if yes, Applicant should have provided details)?	No. The development consists of an increase in residential dwellings, which is neither connected to nor necessary to the management of any European site.
Are there any other projects or plans that together with the planning application being assessed could affect the site?	Yes. All new housing development within 5.6km of the Solent SPAs is considered to contribute towards an impact on site integrity in combination with other development in the Solent area due to increase in recreational pressure.

	All new housing development that would drain to the Budds Farm or Thornham Wastewater Treatment Works due to increase in nitrogen deposition leading to a reduction in water quality. The PUSH Spatial Position Statement (https://www.push.gov.uk/work/planning-and-infrastructure/push-position-statement/) sets out the scale and distribution of housebuilding which is being planned for across South Hampshire.
--	---

Stage 2 - HRA screening assessment

Screening under Regulation 63(1)(a) of the Habitats Regulations – The Applicant to provide evidence so that a judgement can be made as to whether there could be any potential significant impacts of the development on the integrity of the SPA/SAC/Ramsar.

Recreational Pressure

The proposed development is within 5.6km of Chichester & Langstone Harbours SPA/Ramsar. In accordance with advice from Natural England and as detailed in Policy DM24 of the adopted Havant Borough Local Plan (Allocations) and the Solent Recreation Mitigation Strategy, a net increase in housing development within 5.6km of the Solent SPAs is likely to result in impacts to the integrity of those sites through a consequent increase in recreational disturbance.

Development within the 5.6km zone will increase the human population at the coast and thus increase the level of recreation and disturbance of bird species. The impacts of recreational disturbance (both at the site-scale and in combination with other development in the Solent area) are analogous to impacts from direct habitat loss as recreation can cause important habitat to be unavailable for use (the habitat is functionally lost, either permanently or for a defined period). Birds can be displaced by human recreational activities (terrestrial and water-based) and use valuable resources in finding suitable areas in which to rest and feed undisturbed. Ultimately, the impacts of recreational disturbance can be such that they affect the status and distribution of key bird species and therefore act against the stated conservation objectives of the Chichester and Langstone Harbour SPA and Ramsar sites.

The SRMS in paragraph 6.9 outlines that:

The need for mitigation for the recreational impact of other types of residential accommodation will be assessed on a case-by-case basis by the local planning authority. The key 'test' is based around the likelihood of the proposed development generating additional recreational visits to the SPA(s). For example, in respect of residential accommodation designed specifically for elderly people, 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 and which does not provide residents parking or allow pets (this would also apply to people living with conditions that limit their mobility). However, mitigation may be required for any staff living on-site. Retirement properties designed for independent living with parking provision and which allow pets will be treated the same as C3 residential properties.

Water Quality

The proposed development is within the catchment of a wastewater treatment works that would drain into the Chichester and Langstone Harbours SPA.

Natural England advises that there is a likely significant effect on the Solent European Sites due to the increase in wastewater from the new housing as a result of the Havant Borough Local

Plan. Natural England also advises that any development proposed through any planning application providing overnight accommodation which would discharge into the Solent would be likely to cause a significant effect as there is uncertainty as new housing in the Solent catchment could have an adverse effect on the Solent's European Sites.

Natural England advise that there is existing evidence of high levels of nitrogen and phosphorus in the Solent water environment with evidence of eutrophication at some designated sites. This causes eutrophication, which affects vegetation growth and food resources for qualifying species such that it affects the status and distribution of those species and therefore act against the stated conservation objectives of the Chichester and Langstone Harbour SPA and Ramsar sites. The Partnership for South Hampshire (PfSH), Natural England (NE), and Environment Agency (EA) have been jointly working to develop an Integrated Water Management Strategy (IWMS). This examines the potential for the PfSH region to accommodate future housing growth without having a detrimental effect upon the water environment. There is currently uncertainty as to whether there is sufficient capacity to accommodate the new housing growth.

Natural England recommends that any new proposals which include overnight accommodation have inevitable wastewater implications. These implications, and all other matters capable of having a significant effect on designated sites in the Solent, must be addressed in the ways required by Regulation 63 of the Habitats Regulations. Nonetheless, the existing use of the site can be taken into account and it is the 'net' nutrient emissions into European Sites that is critical.

This would need to be examined within an appropriate assessment and that the existing nutrient and conservation status of the receiving waters be taken into account.

As a result, there would be a likely significant effect to the following Solent European Sites due to water quality:

- Chichester & Langstone Harbours Special Protection Area (SPA)
- Chichester & Langstone Harbours Ramsar site
- Solent Maritime Special Area of Conservation (SAC)
- Solent and Dorset Coast Special Protection Area (SPA)
- Solent and Southampton Water SPA
- Solent and Southampton Water Ramsar
- Portsmouth Harbour SPA
- Portsmouth Harbour Ramsar
- Solent and Isle of Wight Lagoons SAC

Would the proposal lead to a likely significant effect on European site integrity? Yes, due to recreational pressure and water quality loss/degradation of supporting habitats and construction impacts.

(If yes, continue to Stage 3).

Stage 3 - Appropriate Assessment

Appropriate Assessment under Regulation 63(1) - if there are any potential significant impacts, the applicant must provide evidence showing avoidance and/or mitigation measures to allow an Assessment to be made. The Applicant must also provide details which demonstrate any long-term management, maintenance and funding of any solution.

Recreation Pressure

The relates to a 78-bed care home (Use Class C2). In terms of the occupiers of the care home, the planning agents has confirmed that:

Unlike other forms of C2 use including housing with care, or Extra Care, an older persons Care Home provides 24hour, CQC-regulated care to elderly residents, who will neither own nor be able to drive private vehicles or indeed to leave the premises without supervision – indeed, staff will specifically need to be aware of residents’ movements at all times.

As experienced specialist developers of care homes, we can confirm that the average age of residents entering such care homes is over 80 years of age, and the most likely reason for admission is that they are no longer able to care for themselves independently. The Care Home is designed to be self-sufficient, with all facilities in-house, with ‘destination’ facilities including cinema room, shop, hair salon etc, and with providers coming into the facility to put on events.

Unlike older Residential care homes, the new facility will specialise in dementia care alongside nursing care, with heightened levels of acuity. It is therefore most unlikely that residents would be leaving the premises other than to attend for other medical needs, and never unaccompanied by staff.

In addition, the site is approximately 2.7km from the coast with significant gradients and transport infrastructure to negotiate in order to reach the coast from the care home. Accordingly, it is not considered that any patients will undertake visits to the coast. The facility would be self-contained with on-site facilities including various communal spaces, café, multiple lounges and dining rooms, shop, Resident Activity space, Hair Salon and Treatment Room. There is a commercial kitchen and Laundry. There are communal balconies and external patios. Moreover, externally, there would be landscaped grounds providing natural growing areas, sensory garden, courtyard garden and a seating area etc.

The residents’ bedrooms would not be self-contained accommodation – all the rooms would be ensuite bedrooms only, with no cooking or clothes washing facilities, and with all dining and lounge provision provided on a communal basis, so the residents would not be living in a self-contained manner. There would be no resident parking.

Furthermore, the proposed development would also not feature any on-site staff living accommodation.

For the above reasons, the care home development is not considered to require mitigation through the Solent Recreation Mitigation Strategy (SRMS) due to the nature and type of development, the distance and terrain from the site to the SPA, the type of residents who will be living at the establishment and the internal and external facilities for the residents.

Water Quality

The project being assessed would result in an increase in population in the catchment of several Solent European Sites as set out in stage 2. As advised by Natural England, a permanent significant effect on the Solent European Sites due to the decrease in water quality as a result of new development is likely. As such, in order to lawfully be permitted, further assessment is needed as to the net nutrient emissions from the site, including any avoidance or mitigation measures proposed.

Havant Borough Council has published a Position Statement and Mitigation Plan for Nutrient Neutral Development. This sets out how mitigation can be provided to enable development to take place within Havant Borough whilst avoiding any likelihood of a significant effect on the Solent European Sites identified in stage 2.

Natural England have produced ‘Advice on achieving nutrient neutrality for new development in the Solent region’. This sets out a methodology to calculate the nutrient emissions from a development site. The applicant has used this methodology to calculate the nutrient emissions

from the site. This calculation has confirmed that the site will emit a nutrient load into European Sites via wastewater treatment works at Budds Farm. The calculations for this development site are part of the application case file. The calculation confirms that the amount of mitigation required is 28.58kg/N per year.

Achieving a position where there are no net nutrient emissions into the Solent European Sites from this development involves the use of a specific on-site avoidance measures as well as the use of a third party mitigation scheme. The Warnford Park Mitigation Scheme is proposed as mitigation for the development site. Natural England has confirmed that the scheme is appropriate for development draining to Budds Farm. This is due to Budds Farm being a coastal WwTW and the nutrients discharged from the long sea outfall are spread over a wider area due to water currents therefore a wider area can be considered for mitigation, page 27 of Natural England's methodology sets out the spatial suitability of mitigation schemes. In particular, paragraph 5.40 of the Solent Nutrients Guidance (v5 June 2020) details that mitigation affecting the River Meon can mitigate development draining to Budds Farm WwTW. The Warnford Park Mitigation Scheme will result in a reduction in nitrogen emitted into the Solent European Sites from the River Meon. As such, it represents a suitable mitigation scheme for this development.

A nitrate mitigation proposals pack has been provided to the Council and has been considered as part of the development HRA AA. The effect of this pack is to demonstrate that sufficient nutrient mitigation for the proposed development has been reserved subject to the grant of planning permission.

The following Grampian condition will need to be imposed:

The development hereby permitted shall not commence unless the Council has received the Notice of Purchase in accordance with the legal agreement between the Council, South Downs National Park Authority and Andrew Sellick of Gawthorpe Estate dated 20th December 2023 in respect of the Credits Linked Land identified in the Nitrates Mitigation Proposals Pack.

Reason: To demonstrate that suitable mitigation has been secured in relation to the effect that nutrients from the development has on European protected sites

The Council has entered into an overarching legal agreement with the mitigation land provider. This is necessary to secure this avoidance and mitigation package for the lifetime of the development in order to ensure that there will be no adverse effect on the integrity of protected sites as a result of development taking place which relies on the Warnford Park scheme for its mitigation.

Stage 4 – Summary of the Appropriate Assessment (To be carried out by the Competent Authority (the local planning authority) in liaison with Natural England

This assessment represents Havant Borough Council's Appropriate Assessment as a Competent Authority in accordance with requirements under Regulation 63 of The Conservation of Habitats and Species Regulations 2017 (as amended), Article 6 (3) of the Habitats Directive and having due regard to its duties under Section 40(1) of the NERC Act 2006 to the purpose of conserving biodiversity. Consideration of the Ramsar site/s is a matter of government policy set out in the National Planning Policy Framework.

This assessment concludes that the application will have a likely significant effect in the absence of avoidance and mitigation measures on the above Solent European sites.

The authority has concluded that the adverse effects arising from the proposal are wholly consistent with the effects detailed in the Position Statement and Mitigation Plan for Nutrient Neutral Development with regards water quality.

The authority's assessment is that the application complies with these strategies and the potential to provide mitigation to remove the significant effects that otherwise would have been likely. It can therefore be concluded that there will be no adverse effect on the integrity of the designated sites identified above.

Natural England Officer:

Summary of Natural England's comments:

NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED.

We consider that without appropriate mitigation the application could have potential significant effects on designated sites in the Solent, including:

- Portsmouth Harbour Special Protection Area (SPA)/Ramsar site
- Chichester and Langstone Harbours SPA/ Ramsar Site
- Solent and Isle of Wight Lagoons Special Area of Conservation (SAC)
- Solent Maritime SAC
- Solent and Southampton Water SPA
- Solent and Dorset Coast SPA.

In order to support the conclusion of no adverse effect on the integrity of designated sites, the following should be secured:

- Provision of appropriate mitigation to offset the nitrogen burden arising from this development.

This will be provided by the Warnford Park strategic mitigation site. Natural England's further advice on designated sites/landscapes and advice on other natural environment issues is set out below.

Habitats Regulations Assessment

Natural England notes that a report to inform an Appropriate Assessment of the proposal has been produced in accordance with regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the Appropriate Assessment stage of the Habitats Regulations Assessment process, and a competent authority should have regard to Natural England's advice.

Your appropriate assessment 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, providing that all mitigation measures are appropriately secured in any planning permission given.

Deterioration of the Water Environment - Nutrient mitigation

Nutrient Budget

The most recent nitrogen budget dated 13th November 2023 calculates a nitrogen budget for this development of 28.43 kg Total Nitrogen (TN)/yr. Other calculations with very similar results are also present on the planning portal. The HRA does not confirm the final amount to be mitigated for. Yourself as competent authorities should be satisfied that the mitigation provided fully offsets the nutrient burden from this development. **Officer comment** – *the revised nitrogen budget confirms a requirement for 28.58 kgN/yr.*

Please note the calculation is based on all wastewater from the development being treated at Budds Farm WwTWs. If this situation changes, a reassessment of the nutrient calculation will be required and a revised Habitats Regulations Assessment will be necessary.

Bespoke Occupancy

We note that an alternative occupancy figure has been used in the calculation based on the Office of National Statistics's average home room size. Please note that the Natural England Solent Nutrient Budget Calculator uses a default value for the number of residents per dwelling of 2.4, reflecting the national average from Office of National Statistics (ONS) data. It is Natural England's view that competent authorities may choose to adopt bespoke calculations for detailed planning applications, if sound evidence is available. However please note, unless there is a clear justification for them to differ, such rates would need to be applied consistently in line with other policy requirements/approaches used in relation to the scheme (e.g. for calculating open space requirements). These are matters for each competent authority. Natural England's advice is to take a precautionary approach that recognises the uncertainty.

Nutrient Mitigation

In line with Natural England's advice, it is noted that land at Warnford Park in Warnford will be used to neutralise the additional nutrient burden that will arise from the proposed development. This is achieved by taking land out of intensive agricultural use.

Provided the above measures can be secured, together with long term management and maintenance to ensure effective mitigation for the lifetime of the development, Natural England raises no further concerns.

It is noted that the mitigation would be secured through a Grampian condition, requiring the mitigation package to be agreed, provided to the Council and implemented prior to the occupation of the development. It is our view that in this case, provided the Council as competent authority is satisfied that the approach will ensure the proposal is nutrient neutral and the necessary measures can be fully secured; Natural England raises no further concerns.

Please consult Natural England on the discharge of the Grampian condition.

Recreational disturbance - Solent Special Protected Areas (SPAs)

This application is within 5.6km of the Solent and Southampton Water SPA and will lead to a net increase in overnight accommodation. Natural England is aware that Havant Borough Council have adopted planning policy to mitigate against adverse effects from recreational disturbance on the Solent SPA sites, as agreed by the Solent Recreation Mitigation Partnership (SRMP), also known as Bird Aware Solent.

As noted in the HRA, the Solent Recreation Mitigation Strategy, paragraph 6.9 outlines that: *The need for mitigation for the recreational impact of other types of residential accommodation will be assessed on a case-by-case basis by the local planning authority. The key 'test' is based around the likelihood of the proposed development generating additional recreational visits to the SPA(s). For example, in respect of residential accommodation designed specifically for elderly people, 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 and which does not provide residents parking or allow pets (this would also apply to people living with conditions that limit their mobility). However, mitigation may be required for any staff living on-site. Retirement properties designed for independent living with parking provision and which allow pets will be treated the same as C3 residential properties.*

The Appropriate Assessment considers the details of this particular planning proposal, and also confirms that no staff accommodation is to be provided on site. The Appropriate Assessment concludes that this development would not result in additional recreational pressure to the Solent SPA sites. These are matters for competent authorities to determine. Provided that the competent authority are satisfied that robust evidence has been provided to support this

conclusion, and that the use of the site can be secured in-perpetuity, Natural England raise no comments on this aspect of the proposal. We advise that a precautionary approach is adopted in light of any uncertainty.

Other advice

Further general advice on the protected species and other natural environment issues is provided at Annex A.

If you have any queries relating to the advice in this letter, please contact consultations@naturalengland.org.uk.

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.