

Date: 09 June 2022
Our ref: 387800
Your ref: APP/21/00893



Adrian Ellis
Havant Borough Council

BY EMAIL ONLY

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

T 0300 060 3900

Dear Adrian,

Planning consultation: **FURTHER INFORMATION ** Outline planning application for demolition of the existing buildings and the erection of a new residential scheme (C3 use of approximately 210 dwellings to include affordable housing) and associated landscaping, access and supporting infrastructure, all other matters reserved

Location: Land north of Long Copse Lane, Emsworth, PO10 7UN

Thank you for your consultation on the above dated 17 March 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 a likely significant effect on:

- Solent Maritime Special Area of Conservation (SAC)
- Chichester and Langstone Harbours SPA and Ramsar site
- Singleton & Cocking Tunnels SAC
- Chichester Harbour Site of Special Scientific Interest (SSSI)
- Langstone Harbour SSSI

Your Authority will need to undertake a Habitats Regulations Assessment (HRA) to determine whether the proposal is likely to have a significant effect on the sites named above, proceeding to the appropriate assessment stage where significant effects cannot be ruled out. The following

- Consideration of this project's effects on total nitrogen and/or total phosphorus nutrient loading within the Solent catchment, including a nutrient budget calculation.

- Details of proposed mitigation measures to address any nutrient impacts, including appropriately funded management and monitoring, and details of how the measures will be secured for the lifetime of the development.
- Any other likely significant effects that could arise from the development should also be assessed.

Once the above information is obtained, please consult Natural England on any appropriate assessment your authority may decide to make.

Habitat Regulations Assessment required

Your authority should 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. consultations should include a HRA. The proposed development, and the application of any measures to mitigate the likely harmful effects from it, should be formally checked and confirmed by your Authority, as the competent authority, via an appropriate assessment, in view of the European Sites' conservation objectives. Further information on carrying out a HRA as a competent authority can be found online¹.

Once a HRA has been completed or adopted by the competent authority, Natural England will further review the proposal.

Nitrogen Neutrality

On 16 March 2022 we wrote to your authority about the availability of an updated package of tools and guidance in relation to nutrient impacts. An updated nutrient budget calculator for the Solent was released on 20 April 2022. We recommend that your authority moves to using the updated generic Nutrient Neutrality Methodology and the updated catchment calculators in preference to existing methodologies whether produced by Natural England or your own authority. Your authority will be best placed to consider how it transitions to the new tools and guidance. Natural England recognises that for some existing catchments where nutrient neutrality is being implemented and mitigation is being actively progressed, authorities may need to consider the associated practicalities of moving to the new guidance whilst recognising their role as Competent Authority.

Please note, at present some elements of the guidance (national methodology, nutrient budget calculators) issued by Natural England should be considered as provisional due to the outstanding appeal to the Court of Appeal in Wyatt v Fareham BC [2021] EWHC 1434 (Admin), which although not concerned with the national methodology issued on 16th March 2022, could impact on certain elements contained within the methodology because that case considers similar (but not identical) earlier guidance for the Solent region. Natural England intends to review the national methodology following judgment in the appeal in Wyatt which may require amendments to be made.

We note that the nutrient budget for this application has been calculated in line with the Solent Nutrients Guidance, V5, June 2020. Your authority, as Competent Authority, should consider how the updated Nutrient Neutrality Methodology relates to the nutrient budget provided with this application, and any proposed mitigation.

¹ <https://www.gov.uk/guidance/habitats-regulations-assessments-protecting-a-european-site#follow-hra-principles>

Shadow Habitat Regulations Assessment

The proposal is supported by a shadow HRA (Pegasus Group March 2022). The following comments are provided to assist your authority in completing the HRA for the proposals and take into account the information provided by Pegasus Group on behalf of the applicant.

Nutrient Neutrality mitigation

As mitigation it is now proposed to plant additional 5.5 ha of woodland on the Standard Park Estate, on land currently used for cereal cropping. This is welcomed. To demonstrate that proposed mitigation will remain effective for the lifetime of the development, information on management and monitoring will be required.

It is Natural England's view that woodland planting on agricultural land is a means of securing permanent land use change without necessitating land purchase as it can be evidenced easily by aerial photography and site visits. In a relatively short time, woodland planting would require a felling licence and woodland removal would also be covered by the EIA Regulations where woodland is planted as mitigation for internationally designated sites. The Forestry Commission is the determining authority for both of these elements.

The local planning authorities are the competent authorities with regard to the Habitat Regulations and must be assured and satisfied that any mitigation proposed can be secured and delivered in perpetuity. Any scheme for offsetting nitrogen must meet the basic tests of certainty of delivery, enforceability and the need for securing the adopted measures for perpetuity to ensure it is effective mitigation. Changes on agricultural land need to be enforceable for perpetuity and the local planning authority will need to be certain that these changes have occurred and will continue to occur on the long term.

The application should be supported by a management and monitoring plan for the mitigation land. It would be appropriate for this strategy to cover an establishment phase of 10 years, which ensures the mitigation is delivered as planned. The establishment phase takes the scheme to the point where further mechanisms, including the felling licence and EIA regulations would be in place. Going forward, monitoring would need to secure the adopted measures and the long term management for the in perpetuity period (80-125 years). It is Natural England's view that any planning permission would need to secure appropriate monitoring for both these phases. As an example the management and monitoring plan for Roke Manor agreed management prescriptions for an establishment phase of 10 years.

It would be appropriate for the continuation phase (10+ years) of the woodland mitigation to be monitored by remote measures and reliance on Forestry Commission felling licence and EIA Regulations. Remote measures could include a review of aerial photography, or satellite imagery data, which is able to produce land cover maps at 5m square resolution. The appropriate assessment should also detail who will be responsible for the establishment, management and monitoring of the land and how the works, and associated funding, will be appropriately secured.

The management and monitoring strategy should also detail proposed timings of the works to ensure that appropriate mitigation will be in place in advance of any potential effects from the development, i.e. in advance of dwelling occupation.

The monitoring should be completed by an independent party such as Natural England, Local Planning Authority, Forestry Commission, appropriate Non-Government Organisation, or independent ecological consultant. The management and monitoring plan should also detail how monitoring will be reported to Havant Borough Council and responded to with mechanisms in place to rectify and identified issues.

The above details should be included in your authority's appropriate assessment.

Singleton and Cocking Tunnels SAC

The population of Bechstein's bats present in Havant is likely to be functionally linked to the Singleton and Cocking Tunnels SAC, due to evidence from bat movement tracking data it is known that another bat species from this site has travelled to the Havant area.

The application is supported by a Biodiversity Enhancement and Management Plan (BEMP) (March 2022 Davidson-Watts Ecology), Natural England is supportive of the scheme's layout and welcomes the comprehensive mitigation, compensation and enhancement proposals which have been based on the principles of the Trowbridge Bat Mitigation Strategy and includes 35m wide unlit buffers and provision of offsite habitat creation and enhancement measures.

We note that at this stage the BEMP is outline in its recommendations, the outline BEMP should be submitted to and approved by your retained ecologist. Should permission be granted we advise that a fully detailed BEMP, to be provided prior to commencement, is secured by appropriately worded condition.

This should provide further details on the management and monitoring of both on-site and offsite mitigation as well as access prevention measures to the adjacent ancient woodland.

In our previous response we advised that a detailed lighting strategy should be submitted to and approved by the HCC ecologist. Appendix 6 of the shadow Habitat Regulations Assessment sets out that the proposed buffers will be unlit with light levels between 0 and 0.2/0.4lux within the buffers and 1lux at the boundaries. Natural England welcomes the provision of substantial unlit/darkened buffers. This detail should be included in your authority's appropriate assessment.

Construction impacts

The application is supported by a Construction Environmental Management Plan in Appendix 7 of the shadow Habitats Regulation Assessment. This should be submitted to and approved by the HCC ecologist. The approved CEMP should be secured via an appropriately worded condition attached to any planning consent and shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.

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

Please note that if your Authority is minded to grant planning permission contrary to the advice in this letter and aforementioned letter sent to your Head of Planning, you are required under Section 28I (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.

Yours sincerely,

Rachael Clemson
Thames Solent Area Team
Natural England