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Our ref: 385087  
Your ref: APP/21/01310



Steve Weaver  
Havant Borough Council

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**BY EMAIL ONLY**

Dear Steve Weaver,

**Planning consultation:** UPDATED NITROGEN BUDGET further to retrospective COU to wedding and events venue with retention of permanent ancillary buildings and structures; erection of removable structures; and use of land as campsite in association with events.

**Location:** Tournerbury Woods, Tournerbury Lane, Hayling Island.

Thank you for your consultation on the above dated 23 February 2022 which was received by Natural England on the same date. Thank you for allowing us extra time to consider the application and provide this response.

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**

**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 Chichester and Langstone Harbours Special Protection Area (SPA) and Ramsar site and Solent Maritime Special Area of Conservation (SAC)
- damage or destroy the interest features for which Chichester Harbour Site of Special Scientific Interest (SSSI) has been notified.

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

- an appropriate financial contribution to Havant Borough Council's mitigation scheme to fully offset the nutrient burden associated with this development.
- measures such as those set out in the Visitor Management Strategy (VMS) to address impacts including disturbance to overwintering SPA birds and the Heronry (within the SSSI), and to manage potential impacts from camping activities.

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

**Please note**, 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. Any other likely significant effects that could arise from the development should also be assessed.

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

### **Nutrient Neutrality**

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 online<sup>1</sup>.

We note that the updated nitrogen budget now no longer includes use of wood cottage which will be retained as a holiday let. Provided the Council as competent authority is satisfied that the use as a holiday let represents the current baseline and will therefore not result in any additional nutrient discharges to the designated sites, we raise no further comments on this aspect.

It is noted that the approach to address the positive nitrogen budget for this development (arising from the proposed camping) is via Havant Borough Council's mitigation scheme. Please note that where the necessary avoidance and mitigation measures are limited to collecting a funding contribution that is in line with an agreed strategic approach for the mitigation of impacts on Habitats Sites then, provided no other adverse impacts are identified by your authority's appropriate assessment, your authority may be assured that Natural England agrees that the appropriate assessment can conclude that there will be no adverse effect on the integrity of the Habitats Sites from this aspect of the proposals.

### **Disturbance to overwintering SPA birds**

In relation to disturbance impacts to overwintering birds as a qualifying feature of the SPA, we are satisfied impacts can be addressed through various mitigation measures as set out in the visitor management strategy (VMS) dated December 2021. Comments on relevant aspects of the application and VMS which have informed our advice are included below. Should this application be granted, we advise that the relevant details and the measures set out in the VMS are secured by planning conditions.

We understand that noise disturbance associated with events would be infrequent (a maximum of 3-4 times across the month of October and restricted from November to March), of short duration (max. 1-2 hours) and extremely localised in nature. The marquee is located where it is screened by vegetation from the harbour itself. In addition, there are measures requiring dogs to be kept on leads at all times and no fireworks are allowed. Music is proposed to be provided using an attenuated directional sound system.

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

When the temporary jetty is not in use, the foreshore will be roped off with signs to restrict access, but in any case the foreshore is unlikely to be attractive to guests in wedding attire because of the muddy and rocky terrain underfoot. Proposed barriers and signage will further discourage access.

Subject to the proposed measures in the VMS being implemented, and on the basis that the limited events do not fall within the coldest overwintering months, we do not consider that the proposal will result in significant disturbance impacts to overwintering birds and is therefore unlikely to result in an adverse effect on the integrity of the SPA. This should be assessed through your authority's HRA.

### **Chichester Harbour Site of Special Scientific Interest (SSSI)**

The application site is located within Chichester Harbour SSSI Unit 3, which is designated for lowland mixed deciduous woodland. The northern part of the woodland known as The Bury is an area of ancient semi-natural woodland which has historically supported a heronry.

Based on available evidence, (previous visits in 2014 and 2018, ecological evidence submitted by the applicant and aerial photos) Natural England is satisfied that there have been no direct impacts to the interest features of the SSSI unit from this proposal. Subject to mitigation, we consider that this proposal is unlikely to impact the site's ability to support the monitored feature of this SSSI unit (recorded in 2010 as favourable). We are therefore content that the proposal would not impact the statutory designation of this site as a SSSI. Advice on the mitigation measures required to support this position is provided below. Should planning permission be granted, we advise these measures are secured to ensure the interest features of the SSSI are appropriately protected.

With regards to the Heronry within The Bury, evidence suggests that Herons are more likely to be disturbed by vehicles stopping than by vehicles which drive by without stopping. The VMS sets out that visitors are unlikely to stop on the access track but as a precaution, signage will be erected at entrances to the access track advising visitors to not stop due to nesting birds. Based on this evidence and the measures set out in the VMS, we are satisfied there is unlikely to be increased disturbance to the Heronry during the nesting months of January to June. Provided the measures within the VMS are secured with any permission we are satisfied the proposals will have mitigated any potential disturbance impacts from vehicle access and raise no further concerns.

Potential impacts associated with camping include trampling, tipping, soil compaction around tree roots, increased light pollution, localised enrichment, and contamination of soils. Whilst we appreciate that camping is likely to only take place on a small number of nights per year, it is our preference that camping takes place outside of the woodland and within the wedding venue area, for example within existing open, lawned areas closer to the marquee and Woods Cottage.

In addition to the measures set out for camping, we recommend the VMS is expanded to include further controls on the location, number of permitted pitches and permitted nights. It is important that the camping area is not managed through vegetation management such as tree pruning, removal of trees or understorey, or removal of deadwood. Pitches should be rotated so that the same areas are not repeatedly used, and the VMS should set out how this will be achieved.

### **Protected Landscapes - Chichester Harbour AONB**

The proposed development is for a site within a nationally designated landscape, namely Chichester Harbour AONB. Natural England advises that the planning authority uses national and local policies, together with local landscape expertise and information to determine the proposal. The policy and statutory framework to guide your decision and the role of local advice are explained below.

Your decision should be guided by paragraph 176 and 177 of the National Planning Policy Framework which gives the highest status of protection for the 'landscape and scenic beauty' of AONBs and

National Parks. For major development proposals paragraph 172 sets out criteria to determine whether the development should exceptionally be permitted within the designated landscape.

Alongside national policy you should also apply landscape policies set out in your development plan, or appropriate saved policies.

We also advise that you consult the relevant AONB Partnership or Conservation Board. Their knowledge of the site and its wider landscape setting, together with the aims and objectives of the AONB's statutory management plan, will be a valuable contribution to the planning decision. Where available, a local Landscape Character Assessment can also be a helpful guide to the landscape's sensitivity to this type of development and its capacity to accommodate the proposed development.

The statutory purpose of the AONB is to conserve and enhance the area's natural beauty. You should assess the application carefully as to whether the proposed development would have a significant impact on or harm that statutory purpose. Relevant to this is the duty on public bodies to 'have regard' for that statutory purpose in carrying out their functions (S85 of the Countryside and Rights of Way Act, 2000). The Planning Practice Guidance confirms that this duty also applies to proposals outside the designated area but impacting on its natural beauty.

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.

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

Yours sincerely,

**Amy Kitching**

Senior Adviser Sustainable Development  
Thames Solent Area Team  
Natural England

## Annex A – Additional advice

Natural England offers the following additional advice:

### Landscape

Paragraph 174 of the [National Planning Policy Framework](#) (NPPF) highlights the need to protect and enhance valued landscapes through the planning system. This application may present opportunities to protect and enhance locally valued landscapes, including any local landscape designations. You may want to consider whether any local landscape features or characteristics (such as ponds, woodland, or dry-stone walls) could be incorporated into the development to respond to and enhance local landscape character and distinctiveness, in line with any local landscape character assessments. Where the impacts of development are likely to be significant, a Landscape & Visual Impact Assessment should be provided with the proposal to inform decision making. We refer you to the [Landscape Institute](#) Guidelines for Landscape and Visual Impact Assessment for further guidance.

### Best and most versatile agricultural land and soils

Local planning authorities are responsible for ensuring that they have sufficient detailed agricultural land classification (ALC) information to apply NPPF policies (Paragraphs 174 and 175). This is the case regardless of whether the proposed development is sufficiently large to consult Natural England. Further information is contained in [GOV.UK guidance](#). Agricultural Land Classification information is available on the [Magic](#) website on the [Data.Gov.uk](#) website. If you consider the proposal has significant implications for further loss of 'best and most versatile' agricultural land, we would be pleased to discuss the matter further.

Guidance on soil protection is available in the Defra [Construction Code of Practice for the Sustainable Use of Soils on Construction Sites](#), and we recommend its use in the design and construction of development, including any planning conditions. For mineral working and landfilling separate guidance on soil protection for site restoration and aftercare is available on [Gov.uk](#). Detailed guidance on soil handling for mineral sites is contained in the [Institute of Quarrying Good Practice Guide for Handling Soils in Mineral Workings](#).

Should the development proceed, we advise that the developer uses an appropriately experienced soil specialist to advise on, and supervise soil handling, including identifying when soils are dry enough to be handled and how to make the best use of soils on site.

### Protected Species

Natural England has produced [standing advice](#)<sup>2</sup> to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice. Natural England will only provide bespoke advice on protected species where they form part of a Site of Special Scientific Interest or in exceptional circumstances.

### Local sites and priority habitats and species

You should consider the impacts of the proposed development on any local wildlife or geodiversity sites, in line with paragraphs 175 and 179 of the NPPF and any relevant development plan policy. There may also be opportunities to enhance local sites and improve their connectivity. Natural England does not hold locally specific information on local sites and recommends further information is obtained from appropriate bodies such as the local records centre, wildlife trust, geoconservation groups or recording societies.

Priority habitats and Species are of particular importance for nature conservation and included in the England Biodiversity List published under section 41 of the Natural Environment and Rural Communities Act 2006. Most priority habitats will be mapped either as Sites of Special Scientific Interest, on the Magic website or as Local Wildlife Sites. List of priority habitats and species can be found [here](#)<sup>3</sup>. Natural England does not routinely hold species data, such data should be collected when impacts on priority habitats or

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<sup>2</sup> <https://www.gov.uk/protected-species-and-sites-how-to-review-planning-proposals>

<sup>3</sup> <http://webarchive.nationalarchives.gov.uk/20140711133551/http://www.naturalengland.org.uk/ourwork/conservation/biodiversity/protectandmanage/habsandspeciesimportance.aspx>

species are considered likely. Consideration should also be given to the potential environmental value of brownfield sites, often found in urban areas and former industrial land, further information including links to the open mosaic habitats inventory can be found [here](#).

### **Ancient woodland, ancient and veteran trees**

You should consider any impacts on ancient woodland and ancient and veteran trees in line with paragraph 180 of the NPPF. Natural England maintains the Ancient Woodland [Inventory](#) which can help identify ancient woodland. Natural England and the Forestry Commission have produced [standing advice](#) for planning authorities in relation to ancient woodland and ancient and veteran trees. It should be taken into account by planning authorities when determining relevant planning applications. Natural England will only provide bespoke advice on ancient woodland, ancient and veteran trees where they form part of a Site of Special Scientific Interest or in exceptional circumstances.

### **Environmental gains**

Development should provide net gains for biodiversity in line with the NPPF paragraphs 174(d), 179 and 180. Development also provides opportunities to secure wider environmental gains, as outlined in the NPPF (paragraphs 8, 73, 104, 120, 174, 175 and 180). We advise you to follow the mitigation hierarchy as set out in paragraph 180 of the NPPF and firstly consider what existing environmental features on and around the site can be retained or enhanced or what new features could be incorporated into the development proposal. Where onsite measures are not possible, you should consider off site measures. Opportunities for enhancement might include:

- Providing a new footpath through the new development to link into existing rights of way.
- Restoring a neglected hedgerow.
- Creating a new pond as an attractive feature on the site.
- Planting trees characteristic to the local area to make a positive contribution to the local landscape.
- Using native plants in landscaping schemes for better nectar and seed sources for bees and birds.
- Incorporating swift boxes or bat boxes into the design of new buildings.
- Designing lighting to encourage wildlife.
- Adding a green roof to new buildings.

Natural England's [Biodiversity Metric 3.1](#) may be used to calculate biodiversity losses and gains for terrestrial and intertidal habitats and can be used to inform any development project. For small development sites the [Small Sites Metric](#) may be used. This is a simplified version of [Biodiversity Metric 3.1](#) and is designed for use where certain criteria are met. It is available as a beta test version.

You could also consider how the proposed development can contribute to the wider environment and help implement elements of any Landscape, Green Infrastructure or Biodiversity Strategy in place in your area. For example:

- Links to existing greenspace and/or opportunities to enhance and improve access.
- Identifying opportunities for new greenspace and managing existing (and new) public spaces to be more wildlife friendly (e.g. by sowing wild flower strips)
- Planting additional street trees.
- Identifying any improvements to the existing public right of way network or using the opportunity of new development to extend the network to create missing links.
- Restoring neglected environmental features (e.g. coppicing a prominent hedge that is in poor condition or clearing away an eyesore).

Natural England's [Environmental Benefits from Nature tool](#) may be used to identify opportunities to enhance wider benefits from nature and to avoid and minimise any negative impacts. It is designed to work alongside [Biodiversity Metric 3.1](#) and is available as a beta test version.

### **Access and Recreation**

Natural England encourages any proposal to incorporate measures to help improve people's access to the

natural environment. Measures such as reinstating existing footpaths together with the creation of new footpaths and bridleways should be considered. Links to other green networks and, where appropriate, urban fringe areas should also be explored to help promote the creation of wider green infrastructure. Relevant aspects of local authority green infrastructure strategies should be delivered where appropriate.

### **Rights of Way, Access land, Coastal access and National Trails**

Paragraphs 100 and 174 of the NPPF highlight the importance of public rights of way and access. Development should consider potential impacts on access land, common land, rights of way and coastal access routes in the vicinity of the development. Consideration should also be given to the potential impacts on any nearby National Trails. The National Trails website [www.nationaltrail.co.uk](http://www.nationaltrail.co.uk) provides information including contact details for the National Trail Officer. Appropriate mitigation measures should be incorporated for any adverse impacts.

### **Biodiversity duty**

Your authority has a [duty](#) to have regard to conserving biodiversity as part of your decision making. Conserving biodiversity can also include restoration or enhancement to a population or habitat. Further information is available [here](#).