

Date: 20 January 2022
Our ref: 380726
Your ref: APP/21/01283



FAO Graham Speller
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BY EMAIL ONLY

Dear Graham Speller,

Planning consultation: HRA & Appropriate Assessment - Two storey front extension, proposed entrance canopy and replacement roof to kitchen (no increase in occupants).

Location: 1-3 Beech Grove, Hayling Island, PO11 9DP.

Thank you for your consultation on the above dated 18 January 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

NO OBJECTION SUBJECT TO SECURING MITIGATION

Natural England does not object to the proposal due to the suggested condition to ensure that no net increase of residents will occur and considers that the proposed development will not have significant adverse impacts on designated sites within the Solent.

However, Natural England would like to advise Havant Borough Council that it cannot use mitigation measures (including conditions/obligations) in the screening phase of the habitats regulation assessment (HRA) to rule out adverse effects on the integrity of sites (AEOL); per the legal precedent set by the '[People over Wind](#)' CJEU ruling.

If Havant Borough Council grants planning permission, Natural England recommends continuing to the appropriate assessment (AA) phase and citing the proposed condition (limiting residents to 36) as a mitigation measure to ensure that the application aligns with the current legal precedent and Habitats and Species Regulations 2017 (as amended).

Natural England does not need to be re-consulted on this application if the HRA/AA is modified, as based on the information provided, we can advise that the AA could conclude no AEOL.

Natural England's further advice on the environment is set out below.

'People over Wind' CJEU ruling

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 having regard for the measures built into the proposal that seek to avoid all potential impacts.

On the basis of information provided, Natural England's advice is that this proposed development contains measures intended to avoid or reduce the likely harmful effects on a European sites which cannot be taken into account when determining whether or not a plan or project is likely to have a significant effect on a site and requires an appropriate assessment (following the recent *People Over Wind* ruling by the Court of Justice of the European Union).

We advise any proposed measures 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). These measures, and any additional measures that can avoid or reduce any likely harmful effects, can be considered as part of the appropriate assessment, to determine whether a plan or project will have an adverse effect on the integrity of the European sites.

Natural England advises that it is a matter for your Authority to decide whether an appropriate assessment of this proposal is necessary in light of the *People Over Wind* ruling.

Please note that provided Havant Borough Council is satisfied that it fulfils its duty as the competent authority, then no further consultation with Natural England on this proposal is required.

European sites – Chichester and Langstone Harbour Special Area of Conservation, Special Protection Area and Ramsar site.

Based on the plans submitted and the proposed condition limiting the number of residents to 36, Natural England does not object to this proposal; Natural England considers that the development will not significantly affect the designated sites within the Solent.

If you have any queries relating to the advice in this letter please contact me on 07500 059618.

Yours sincerely,

Joshua Smith (BSc, MRes)
Sustainable Development Advisor
Thames Solent Area Team
Natural England