

Date: 19 August 2021
Our ref: 361143
Your ref: APP/21/00647



Adrian Ellis
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BY EMAIL ONLY

Dear Adrian

Planning consultation: Outline (all matters reserved except for access) application comprising 65no. dwellings with access from The Mallards, together with car parking, landscaping, electrical substation, public open space and associated work.

Location: Land south of The Mallards and west of Langstone Road, Havant

Thank you for your consultation on the above dated 21 July 2021.

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 potential significant effects on Chichester and Langstone Harbours Special Protection Area (SPA). Natural England requires further information in order to determine the significance of these impacts and the scope for mitigation.

The following information is required:

- Details on how the financial contribution to Solent Wader and Brent Goose Strategy will directly compensate the loss of the Secondary Support Area (H27)
- A Habitat Regulations Assessment
- A Construction Environmental Management Plan (CEMP)

Without this information, Natural England may need to object to the proposal.

Please re-consult Natural England once this information has been obtained.

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

The consultation documents provided by your authority do not include information to demonstrate that the requirements of Regulations 63 and 64 of the [Conservation of Habitats and Species Regulations 2017 \(as amended\)](#) have been considered by your authority, i.e. the consultation does not include a Habitats Regulations Assessment.

In advising your authority on the requirements relating to Habitats Regulations Assessment, it is Natural England's advice that the proposal is not necessary for the management of the Habitat site.

Your authority should therefore determine whether the proposal is likely to have a significant effect on any Habitat site, proceeding to the Appropriate Assessment stage where significant effects cannot be ruled out.

Recreational pressure

The application site is within 5.6km of the Solent and Southampton Water Special Protection Area (SPA) and will lead to a net increase in residential accommodation. To address any potential significant effects, any forthcoming planning application will need to comply with 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) Definitive Strategy.

Provided there is commitment to this mitigation early in the process and an appropriate planning condition or obligation is attached to any forthcoming planning permission to secure this measure, this will ensure this potential effect has been appropriately addressed. Our advice is that this needs to be confirmed by the Council, as the competent authority, via an appropriate assessment to ensure there is no adverse effect on the integrity of the site(s) in accordance with the Conservation of Habitats and Species 2017 (as amended)

SPA supporting habitat

The application site is identified in the Solent Wader and Brent Goose Strategy as Secondary Support Area (H27) and the proposals will lead to the loss of this site. The Solent Waders and Brent Goose Strategy (SWBGS) aims to protect the network of non-designated terrestrial wader and brent goose sites that support the Solent Special Protection Areas (SPA) from land take and recreational pressure associated with new development.

The application is supported by an Ecological Impact assessment (ECOSA Ltd July 2021) which sets out that a financial contribution will be made to the Solent Wader and Brent Goose Strategy to offset the direct loss of Secondary Support Area H27.

The Solent Wader and Brent Goose Strategy: Guidance on Mitigation and Off-setting Requirements (October 2018) sets out that it is expected that in most cases the loss, or partial loss, of Secondary Support Areas will be off-set by the provision of suitable replacement habitats which are supported by an agreed costed habitat management plan and funding secured in perpetuity.

Where there is a likelihood of significant effects (excluding any measures intended to avoid or reduce harmful effects on the Habitat site), or there are uncertainties, a competent authority should fully assess (by way of an “appropriate assessment”) the implications of the proposal in view of the conservation objectives for the Habitat site(s) in question. Appropriate assessments cannot have lacunae and must contain complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the works proposed on the protected site concerned.

Therefore it is also Natural England’s advice that further detail is required to inform the Appropriate Assessment with regards to how the financial contribution will directly compensate the impact from the loss of the Secondary Support Area; i.e. how it will be used to maintain and enhance the wider network within the Borough in a timely manner.

It is Natural England’s advice that the proposed funding should be managed by the respective local authority to support schemes across the network, this includes those in neighbouring authority boundaries. Where no such strategic schemes are currently available, the onus falls to the applicant to provide a suitable mitigation solution.

Construction Environmental Management Plan (CEMP)

Due to the close proximity of the site to Chichester and Langstone Harbours Special Protection Area and Ramsar site and the Solent Maritime Special Area of Conservation, Langstone Harbour SSSI and Solent Wader and Brent Goose Strategy sites (HH25C, H126). Natural England advise that best practice measures are adopted during construction to limit noise and visual disturbance to the adjacent sensitive habitat. Natural England advises that a Construction Environmental Management

Plan (CEMP) should be submitted to and approved in writing by the district ecologist/biodiversity officer that identifies the steps and procedures that will be implemented to avoid or mitigate constructional impacts on the adjacent Chichester and Langstone Harbours SPA, Ramsar and the SPA's functional land mentioned above.

The CEMP should address the following impacts:

- Noise/visual/vibrational impacts
- Visual screening (for SPA birds)
- Storage of construction materials/chemicals and equipment;
- Dust suppression
- Chemical and/or fuel run-off from construction into designated sites
- Waste disposal.

The CEMP should ensure there is no percussive piling or works with heavy machinery (i.e. plant resulting in a noise level in excess of 69dbAmax – measured at the sensitive receptor) to be undertaken during the bird overwintering period (i.e. October to March inclusive). The sensitive receptor is the nearest point of the SPA or any SPA supporting habitat (e.g. high tide roosting site).

This detail should be included in the Appropriate Assessment to ensure there is no adverse impact from the construction work on the adjacent designated sites and its functional land.

Deterioration of the water environment

With regard to the integrity of the designated sites, we advise that there is currently uncertainty as to whether the increase in waste water from new housing in the Solent catchment will have an adverse effect on the international sites.

The proposal comprises new housing development and has inevitable waste water implications. It is Natural England's view that 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 Conservation of Habitats and Species 2017 (as amended).

The shadow Habitat Regulations Assessment (HRA) (ECOSA Ltd July 2021) includes a nitrogen budget which sets out the proposals will result in a positive nitrogen budget of 70.79Kg/N/year. The nutrient budget has been calculated in line with Natural England's Advice on Achieving Nutrient Neutrality in the Solent (version 5 June 2020). Provided the competent authority is assured and satisfied that the site areas used in the calculation are correct and that the existing land uses are appropriately precautionary, then Natural England raises no concerns with regard to the nutrient budget.

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

The application is supported by a shadow HRA (ECOSA Ltd July) which sets out that in order to deliver nutrient neutrality a financial contribution will be made to Havant Borough Council's Mitigation Plan to secure offsetting land at Warblington Farm. Natural England supports this scheme, the details should be agreed and outlined in the Appropriate Assessment and appropriately secured with any permission.

Sites of Special Scientific Interest

The above impacts to Habitat sites could also impact on SSSIs. Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 281 (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.

In addition, Natural England would advise on the following issues.

Protected Landscapes

The proposed development is for a site within or close to 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 172 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.

Protected species and Biodiversity Enhancement

Please note we have not assessed the application and associated documents for impacts on protected species. Natural England has published Standing Advice on protected species. Standing Advice is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation. If you have any specific questions not covered by our Standing Advice, or have difficulty in applying it to this application please contact us at consultations@naturalengland.org.uk.

In order for your authority to be assured that the proposal meets the requirements of the standing advice and the additional requirements for biodiversity enhancement and net gain as set out in National Planning Policy Framework paragraphs 8, 118, 170, 174 and 175d, Natural England recommends that the application is supported by a Biodiversity Mitigation and Enhancement Plan (BMEP), or equivalent, that has been agreed by a Hampshire County Council (HCC) Ecologist.

Provided an HCC approved BMEP, or equivalent, is received and secured by any permission then your authority may be satisfied that it will have met its duties under Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 which states that 'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity', and in relation to European Protected Species Regulation 9(3) of The Conservation of Habitats & Species Regulations 2017 (as amended).

Natural England notes and welcomes the ecological appraisal submitted with the planning application. This report includes mitigation measures for reptiles, bats, badgers and birds as well as enhancement measures for biodiversity gain such as native tree planting and native hedging, bat boxes and bird nest boxes.

We would recommend that a BMEP is agreed with the HCC Ecologist to ensure that any measures identified within the report, and any further measures as necessary, are secured and implemented with any planning approval. Consideration should be given to other developments proposed in the locality to ensure the biodiversity mitigation and enhancement measures are addressed strategically and consider the continued ecological function of the area.

Please note that provided the HCC Ecologists are satisfied with the submitted BMEP and the full implementation of the plan is secured by any permission then no further consultation with Natural England on this aspect of the proposal is required. In the event that a BMEP cannot be agreed with the applicant then Natural England should be re-consulted on the proposals so that we can reconsider our advice.

If you have any queries relating to the advice in this letter please contact me on 02080 261472.

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](#).

Please consult us again once the information requested above, has been provided.

Yours sincerely

Rachael Clemson
Sustainable Development Lead Adviser
Thames & Solent Area Team