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21st August 2013

Your Ref: 13/00749

Our Ref: 13.08.20 Verner Common, Hayling Island TC

Dear David

13/00749 - Application for Certificate of Lawful proposed development relating to taking off and landing of model helicopters and parking for members – Verner Common, Copse Lane, Hayling Island.

Designated Sites: Chichester Harbour Site of Special Scientific Interest (SSSI)
Chichester & Langstone Harbours Ramsar/Special Protection Area (SPA)
Solent Maritime Special Area of Conservation (SAC)

The proposals for the site involve an application by the land owner for a Certificate of Lawful Development relating to the landing and taking off of model helicopters, along with an area of parking for members of the flying club. The site is located in a highly designated area and is included within the Chichester Harbour SSSI, Chichester and Langstone Harbours SPA and Ramsar and immediately borders the Solent Maritime SAC. The Local Nature Reserve (LNR) of Gutner Point is located approximately 350m to the east of the site. In addition, both the site, an adjacent piece of saltmarsh habitat and Gutner Point are included within the Solent Waders and Brent Goose Strategy¹ as important for both brent goose *Branta bernicla* and waders as feeding and roosting sites. The site is located at National Grid Reference SU 729 015.

The Wildlife Trust has become aware of this application through our weekly screening of applications on your planning website. We **strongly object to these proposals** due to the potential impacts that the activity will and is probably already having, on wading birds and wildfowl associated with the designated sites. We understand that with regard to an application for a Certificate of Lawful Development for existing use, the applicant only has to demonstrate that the activity has been carried out for the last 10 years, and that we are not able to officially comment. However we would like to draw your attention to the following point.

The site is located in a highly sensitive area due to the internationally important populations of wintering and passage wildfowl and waders that it supports. The site is a known important feeding site for brent geese and the surrounding intertidal and saltmarsh habitat is used by wading birds for feeding and roosting. These populations of birds are highly susceptible to disturbance and we consider that the proposals for the site will have a significant impact on them. Due to the importance of these sites, they are

¹ King, D. (2010) Solent Waders and Brent Goose Strategy 2010. Hampshire and Isle of Wight Wildlife Trust

designated under European law, the Conservation of Habitats and Species Regulations 2010, as amended (hereafter referred to as the Conservation Regulations). Given that the proposed activity will be carried out on a European designated site, the potential impacts will need to be considered under the Conservation Regulations, irrespective of the requirements of the planning process.

We draw your attention to the relevant legal tests set out under the Habitats Regulations that must be fulfilled before an application such as this can be granted:

1. **Regulation 61.(1)** Requires that a competent authority (in this case the local authority), before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which —
 - (a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and
 - (b) is not directly connected with or necessary to the management of that site,must make an appropriate assessment of the implications for that site in view of that site's conservation objectives —
2. **Regulation 61.(3)** The competent authority must for the purposes of the assessment consult the appropriate nature conservation body and have regard to any representations made by that body within such reasonable time as the authority specify.
3. **Regulation 61.(5)** In the light of the conclusions of the assessment, and subject to regulation 62 (considerations of overriding public interest), the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be).

Given the highly sensitive nature of the area the Trust considers that it is likely that the proposals will have a significant effect on the European designated site. Therefore before making a decision on this application, we urge the council, as the competent authority, to consult with Natural England (as the appropriate nature conservation body) and your own ecology advisors in order to clarify the situation, and to ensure that you do not grant permission to what amounts to an illegal act and in breach of the Habitat Regulations.

The above advice is given based on the information made available at this time and may change should further or amended details be submitted. If you wish to discuss these matters further, then please do not hesitate to do so. I also ask that you keep the Trust informed of the progress and outcome of this application.

Yours sincerely



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