

Date: 17 June 2014
Our ref: 122878
Your ref: APP/14/00510



Mrs R McMurray
Planning Officer
Havant Borough Council

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BY EMAIL ONLY

Dear Mrs McMurray,

**CHICHESTER HARBOUR SITE OF SPECIAL SCIENTIFIC INTEREST (SSSI)
CHICHESTER & LANGSTONE HARBOURS SPECIAL PROTECTION AREA (SPA)/Ramsar**

Proposal: Demolition of the single storey shop, two storey office building and associated outbuildings with the boatyard. Erection of 1No. 3 storey building containing 3No. 3 bed apartments and 1No. 3 bed and 4No. 2 bed apartments and undercroft parking.

Location: Dolphin Quay, Queen Street, Emsworth.

Thank you for your letter dated 4 June 2014, requesting Natural England's comments on the above proposal.

The Conservation of Habitats and Species Regulations 2010 (as amended)

The application site is within approximately 207m of habitats which form part of the Chichester Harbour Site of Special Scientific Interest (SSSI). This SSSI is part of the Chichester and Langstone Harbours Special Protection Area (SPA) and is a Wetland of International Importance under the Ramsar Convention (Ramsar Site). This letter comprises our statutory consultation response under provisions of Article 10 of the Town and Country Planning (General Development Procedure) Order 1995 and Section 28 of the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2010 (as amended).

Recreational Disturbance

Following the South East Plan allocation of around 82,000 houses between 2006 and 2026, across the Solent, with many large allocations having been carried forward into adopted Local Authority LDFs, concerns were raised about the potential impact of recreational disturbance on bird populations in the three SPAs that cover the majority of the Solent coast. In response to this, the Solent Forum commissioned Footprint Ecology to undertake the Solent Disturbance and Mitigation Project (SDMP), to assess the current and future levels of recreational activity in the Solent and to model the predicted impacts on bird populations. Natural England is on the project Steering Group for this project and also has a statutory role in advising on the potential effects of development on the conservation of SPAs. In February 2012, Phase 2 of the SDMP, which specifically assessed and modelled bird disturbance and visitor data, was concluded and presented to the Solent Forum and Natural England.

In summary, this work concluded the following:

- There are a high number of current recreational visits to the three SPAs and modelled future increase in visits is also high.

- Lower bird densities were observed at sites that have greater recreational disturbance events.
- The model estimated a high percentage area of intertidal subject to recreational disturbance.
- There was a significant correlation between visitor numbers and housing numbers near the coast.
- In Southampton Water, the model suggested that current levels of disturbance had a depressing effect on the populations of four SPA species and that future housing scenarios would exacerbate this effect for two of these species.

Taking into account this evidence, Natural England's advice is that an increase in the number of dwellings (within the 5.6km zone as defined by the SDMP) would be likely to have a significant effect.

Natura 2000 site – Likely Significant Effect

It appears that this development would increase the number of dwellings within the 5.6km zone. No information appears to have been put forward by the applicant to assess or guard against there being a significant effect on the SPA(s). Thus our advice at this stage is that it is likely to have a significant effect on the SPA(s).

If your authority accepts this advice, then other than in the exceptional circumstances prescribed by the Habitats Regulations¹, it is obliged before granting permission to either:

- undertake an Appropriate Assessment and ascertain that there will not be an Adverse Effect on the Integrity of the aforementioned designated site(s);
- put in place measures which remove the likelihood of significant effect.

A strategic impact avoidance scheme

Natural England has advised the planning authorities around the Solent that it would be possible to establish a scheme of access management measures that would prevent an increase in the population close to the SPA from having any significant effect on the SPA. It should be possible to introduce such a scheme in a phased way such that an interim suite of measures could be made certain within a small number of months. We are hopeful that this will provide a streamlined approach by which permissions for development proposals, such as this, can proceed.

Under S281 of the Wildlife and Countryside Act 1981 your authority must take Natural England's advice into account in deciding whether or not to grant permission. If your authority resolves not to follow this advice then it must notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, it has taken our advice into account. You must then allow a further period of 21 days before the development can commence to allow us to consider any further action. For further details of these requirements, and a summary of the legislations protecting SSSI's and the duties which apply to planning authority, please refer to Part II of Circular 06/2005².

Protected Species

We have not assessed this application and associated documents for impacts on protected species.

Natural England has published [Standing Advice](#) on protected species. The Standing Advice includes a habitat decision tree which provides advice to planners on deciding if there is a 'reasonable likelihood' of protected species being present. It also provides detailed advice on the protected species most often affected by development, including flow charts for individual species to enable an assessment to be made of a protected species survey and mitigation strategy.

You should apply our Standing Advice to this application as it is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation.

¹ Habitats Regulations, Regulation 62: imperative reasons of overriding public interest and an absence of alternatives

² Government Circular: Biodiversity and Geological Conservation – Statutory obligations and their impact within the planning system ODPM Circular 06/2005/Defra Circular 01/2005

<http://www.communities.gov.uk/publications/planningandbuilding/circularbiodiversity>

The Standing Advice should not be treated as giving any indication or providing any assurance in respect of European Protected Species (EPS) that the proposed development is unlikely to affect the EPS present on the site; nor should it be interpreted as meaning that Natural England has reached any views as to whether a licence may be granted.

If you have any specific questions on aspects that are not covered by our Standing Advice for European Protected Species or have difficulty in applying it to this application please contact us at with details at consultations@naturalengland.org.uk

We would be happy to comment further should the need arise but if in the meantime you have any queries, please do not hesitate to contact Simon Thompson by telephone on 0300 060 4625 or by email to simon.thompson@naturalengland.org.uk

We really value your feedback to help us improve the service we offer. We have attached a feedback form to this letter and welcome any comments you might have about our service.

We also welcome your feedback on Natural England's revised standing advice in terms of its usability (ease of access, presentation), quality of content and, its clarity and effectiveness as a tool in guiding decision-making. Please provide this, with any suggested improvements, by filling in the attached customer feedback form or by emailing your feedback direct to consultations@naturalengland.org.uk.

Yours sincerely,

Rebecca Bishop

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