
From: Norton, Tristan

Sent: 13 June 2013 15:14

To: 'Stephen Cantwell'

Subject: APP/13/00317 Yacht Haven Development Site, Copse Lane, Hayling Island 13.0591

Dear Stephen,

APP/13/00317 Construction of 6No. 5 bed detached houses, 1No. detached residential boat store and ancillary office building , 1No. detached boat store for sailing charity use with hardstanding, pontoon restricted to 12 berths (6 for house residents and 6 for non residents), improvements to slipway, beach, reposition concrete sea defence to side of slipway, coastal footpath and the creation of one area of coastal meadow and one area of conservation grassland. Revised application.) Yacht Haven Development Site, Copse Lane, Hayling Island 13.0591

Thank you for consulting me on this application. Clearly there is a large amount of detailed information presented with this application and I hope that I have been able to identify the key ecological issues sufficiently within the timeframe provided. I appreciate that many of the issues below will have already been covered by other consultees and within discussions between yourself and other parties, but I feel that due to the range of potentially significant issues involved this application is worthy of a detailed response from me. In short, there are two areas on which I would like to comment: on-site ecology (chiefly the terrestrial habitats and associated species within the bulk of the application site - these are relatively straightforward) and 'off-site' ecology (the coastal/intertidal habitats and species within and adjacent to the application site - these are more nebulous).

On-site Ecology

The application is accompanied by detailed terrestrial ecology survey reports (GPM Ecology, 2010 and 2011 and EcoSupport, 2012) which provide a robust assessment of the current ecological value of the application site. In summary, much of the site comprises 'derelict' ground supporting a mosaic of grassland types (from species-poor to species-rich), developing scrub, hardstanding, defunct buildings and occasional hedgerows and trees.

Yacht Haven Nature Reserve

I am content that the applicant has demonstrated a detailed understanding of the existing vegetation communities and their conservation significance - it is apparent that the habitats of most ecological value lie outside the proposed development zone and thus will be retained. I particularly welcome the measures to ensure the protection and management of the most important grassland habitat within the proposed Yacht Haven Nature Reserve, incorporating two areas of coastal grassland/scrub either side of the development, one of which already forms part of the non-statutory 'Fields &

Saltmarsh South of Copse Lane' SINC. Broad details of management are provided within the 2012 Environmental Statement (EcoSupport, 2012), with a recommendation to formulate a Management Plan for these two areas.

In light of the obvious importance of the proposed nature reserve in terms of protecting and managing areas of biodiverse coastal habitat, could I recommend that, were you minded to grant permission, measures to safeguard and manage these areas in perpetuity are secured via a suitably-worded planning condition:

Prior to commencement, a detailed Management Plan for the proposed Yacht Haven Nature Reserve (incorporating Yacht Haven Coastal Grassland and Yacht Haven Coastal Meadow and Wetland) shall be submitted for written approval to the Local Planning Authority. The Management Plan should include details of (but not necessarily be restricted to): ongoing botanical and protected species monitoring, timing and extent of landscaping works, timing and extent of habitat management, measures to protect and enhance habitat for legally-protected species, details of long-term commitment to ongoing management works, security and access infrastructure. Development shall subsequently proceed in accordance with any such approved details. Reason: to protect and enhance biodiversity in accordance with NPPF, the Natural Environment and Rural Communities Act 2006 and Policy CS11 of the Havant Borough Local Plan (Core Strategy).

It is important to note that the effectiveness of the proposed nature reserve will be entirely dependent upon a commitment to its long-term management as wildlife habitat.

Legally-protected species

The surveys undertaken at the site have identified the presence/potential presence of legally-protected species within habitat to be directly impacted by the proposals. Small populations of both slow-worm and common lizard occur within the site and the site supports good habitat for a range of breeding bird species (e.g. old buildings, scrub, hedgerows and tall grassland/herbage). It is unfortunate that no breeding bird surveys have been undertaken to date - there are records of black redstart (listed on Schedule 1 of the Wildlife & Countryside Act) from within close proximity and, given the presence of dilapidated buildings, it would have been useful to provide information of the likelihood of this rare breeding species occurring (and also during winter). Similarly, scrubby coastal grassland may provide suitable habitat for another rare breeding species, the Dartford warbler (also Schedule 1), which does occur on Hayling. I do recognise that an assessment has been made of the suitability of the site to support breeding birds (e.g. barn owl) but I consider this to be very basic.

I recognise that the built structures on site have been assessed for their potential to support roosting bats and that the only building deemed suitable has been destroyed through vandalism. Mention is made of an important maternity colony of soprano pipistrelle bats within close proximity to the application site - clearly the local area is important to bats and I would expect

that an updating assessment be made should the development works be delayed for any length of time e.g. the last bat assessment was carried out in 2010 and it would be prudent to reassess the buildings on site in 2014: bat roosts are often transient in nature and previously-unoccupied structures can be used at any time. In addition, with a significant bat roost present nearby it is reasonable to infer that the local landscape is likely to be of importance to foraging and commuting bats and that potential impacts may occur through inappropriate lighting of vegetation.

I also note that correspondence has been received from Mrs Gill Goulding (email to Rachael Hebden of Havant BC dated 2nd April 2013) with reference to possible water voles inhabiting ditch habitat close to the application site. HBIC do not hold any records of this species for Hayling Island, although I should stress that HBIC only hold known records of protected species and thus by no means a definitive catalogue of species distributions. I would think it unlikely that this species is present on the Island, although I have personally seen them at a pond at the northern end of the Langstone Bridge (i.e. on the mainland). I would strongly recommend that the applicant seeks the advice of their ecological consultant to address this issue.

In summary, there are protected species issues on site although I consider that these are perfectly manageable provided that appropriate mitigation measures are in place. Whilst recognising that the various ecological reports/statements do provide measures/recommendations for managing impacts to protected species, I consider that the site would benefit greatly from a single, site-wide ecological management plan (distinct from, but complimentary to, the management plan for the Yacht Haven Nature Reserve), stating clearly how legally-protected species will be protected and habitat for them enhanced during and after development works. Should you be minded to grant permission, could I suggest that such a plan be secured via a suitably-worded planning condition:

Prior to commencement, a detailed site-wide Ecological Management Plan shall be submitted for written approval to the Local Planning Authority. The Ecological Management Plan should include details of mitigation and enhancement measures designed to protect and enhance populations of legally-protected species throughout the development process and should include (but not necessarily be restricted to): species capture and translocation measures, timing and methods of habitat clearance, habitat creation and planting, details of the site lighting scheme and proposed enhancements such as bat and bird boxes.. Development shall subsequently proceed in accordance with any such approved details.

Reason: to protect and enhance biodiversity in accordance with NPPF, the Wildlife & Countryside Act 1981, the Natural Environment and Rural Communities Act 2006 and Policy CS11 of the Havant Borough Local Plan (Core Strategy).

Off-site Ecology

I note that you have received detailed consultation responses from key third-parties such as Natural England (NE), The Hampshire & Isle of Wight Wildlife

Trust (HWT) and the Royal Society for the Protection of Birds (RSPB). In summary, these consultees have raised concerns (for this application and/or for the previous iteration) in respect to potential impacts to adjacent internationally- and nationally-designated nature conservation sites and the flora and fauna supported by them.

Given the detailed responses from these consultees in respect to designated sites, I will not repeat at length their concerns but suffice it to say that I am in general agreement as to the potential for this development as proposed (and in the absence of sufficient mitigation) to result in impacts to the adjacent sites such that a 'likely significant effect' is highly probable. In summary, these concerns are:

- Potential for direct impacts (habitat loss/damage) to intertidal habitat - through construction of the pontoon and via boat mooring;
- High likelihood of disturbance to over-wintering bird species during construction and operation - e.g. via noise/visual disturbance;
- Potential for recreational pressure on nearby important bird roost sites - increased access to/presence on foreshore.

I recognise that NE provided a response dated 17th October 2012 in relation to the previous iteration of this application (APP-11-00955). Within this response, NE stated that provided that any permission is subject to certain conditions, they were content that the proposals were not likely to result in unacceptable impacts to European designated sites and could be permitted. As the key statutory consultee, NE's opinion is essentially the definitive statement on whether there are or are not likely to be impacts to these designated sites and I shall therefore defer to their judgement, albeit with some reservations. I understand that you are awaiting further information from NE in relation to this latest application and that the current application has been moulded through regular consultation with NE over a considerable time period.

NE's opinion aside, I feel it necessary to provide additional comment on these complex issues (although these may be moot given NE's response), particularly in light of the well-reasoned objections from both Mr Trevor Codlin of HWT and Ms Carrie Temple of the RSPB. Both these consultees recognise that the application is supported by extensive survey effort but do consider that further clarification/justification is provided to account for the assessment of no 'likely significant effect' on the European sites - it is fair to say that the RSPB in particular are unconvinced that the proposals will not result in significant harm to the European sites. I am minded to agree with both Mr Codlin and Ms Temple in that I consider that there are outstanding queries in respect to a) the deliverability and efficacy of the proposed mitigation measures, b) the extent to which intertidal habitat will be directly impacted and c) the assessment of impacts to birds using Yacht Haven creek and nearby areas. These issues are closely interrelated. I recognise that effort has been made on the part of the applicant's ecological consultant to address

specifically some of these issues (letter to Mr Stephen Cantwell from Mr Dean Swensonn (EcoSupport) dated 4th June 2013).

Moorings

A key thread of the proposed mitigation for potential impacts to the European sites is the restriction of boat numbers and mooring types within the locality. From a potential 26 moorings current available, the proposal is to limit this to 12 (reduced from 19 previously) and for these to be 'fixed' pontoon moorings rather than the more typical swing moorings presently used at the site. This apparent reduction in moorings (and thus boat movements through the channel and over the intertidal) is promoted as a significant positive step in minimising impacts to both the intertidal habitat and roosting birds. However, as Ms Temple points out, the actual number of moorings in use during summer 2011 was four: an increase to 12 would therefore represent a *de facto* three-fold increase in the number of in-use moorings, assuming that the proposed mooring improvements and regeneration of the application site has the aim of attracting more use. I do not consider that this issue has been addressed in sufficient depth within the latest application - the potential for an increase in boats at the site is judged throughout to be 'unlikely', contrary to the evidence presented.

Bottom Levelling

Another issue raised by Ms Temple is the contradiction between the Design & Access Statement and the latest ES in relation to bottom levelling. The ES states that none will be required but this is contrary to the D&A. Again, this issue has not been addressed in the latest application. Bottom levelling clearly has the potential to result in major impacts to intertidal habitat and the plants and animals present therein.

Disturbance to Birds

Again, I find myself in agreement with Ms Temple in considering the assessment of likely disturbance impacts from boat movements unconvincing. The assessment that boat movements will not cause significant (any?) disturbance is based upon just four passes in a RIB undertaken over one hour on one day in March 2011 and thus cannot in any sense be viewed as representative of the potential level of boat usage or disturbance arising from this proposal. No detail is provided of the general level of bird presence/activity in the wider locality on that date (many waders and brent geese will have started to move north by March) and whether other factors may have influenced the apparent lack of noticeable stress caused to birds within the creek channel and adjacent high-tide roosts (disturbance is not simply when birds fly away). The application is designed in large part to encourage more use of the site as a boating resource (new pontoon, improved moorings) and therefore it is reasonable to infer that there is likely to be more than a single boat navigating the creek at any one time (or if not, will there be queuing of boats? Attempts to squeeze by closer to shore? Attempts to set anchor?). In addition, it is likely that the boats using the moorings will be significantly more sizeable than a small RIB and thus perhaps more likely to cause alarm. These matters are of crucial importance in determining the likelihood of disturbance to roosting birds.

The issue of bird use of the Yacht Haven creek and adjacent areas (especially the important high-tide roosts at Verner Common and Gutner Point) is also of interest. It is recognised within the 2011 ES (Section 5.2.3, e.g. p. 28) that bird surveys were not undertaken during the peak winter months and that both the WeBS data and consultation with Chichester Harbour Conservancy would indicate that bird use of the local area is greater than that recorded for this application. This is a significant limitation upon which to base an assessment of impacts - if surveys have not been undertaken during the most important months then it is clearly not possible to ascertain how birds such as brent geese are utilising the habitats adjacent to the site and thus not possible to assess impacts robustly. I recognise that it is more likely than not that recreational boat movements will be greater during the summer months when bird issues are minimal, but nevertheless given the likely real-term increase in boat movements arising from the proposals it is inconceivable that there will be no disturbance to birds arising from boat movements during the period October to March. In addition, both Verner and Gutner are recognised as being of importance to birds throughout the year, not just in winter. Another important point when assessing bird disturbance is behaviour - the assumption is that disturbance occurs when birds are either feeding or when at high-tide roosts, yet species such as brent goose may occur (and be susceptible to disturbance) when simply resting, loafing or bathing on open water or channel banks between bouts of feeding. In other words, the value of the intertidal is not simply due to either feeding or roosting.

There are also inherent issues with a reliance on bird survey data arising from the Solent Waders & Brent Goose Strategy (SWBGS). Many potentially-important sites for overwintering birds are classified as 'uncertain' within the 2010 strategy, leading to a misunderstanding of these sites' values. The 'uncertain' category merely reflects the fact that either too few surveys were undertaken or the surveys were not spread appropriately through the recognised survey season: it is perfectly possible for a site supporting large numbers of birds (and thus clearly of importance) on one or a few occasions to be placed in the 'uncertain' category e.g. Site H78 'saltmarsh areas on Gutner peninsular' had 1300 brent geese on one survey date yet is 'uncertain'.

Impacts to Intertidal Habitats

The accompanying ecological reports/statements provide detailed survey data on the composition and extent of intertidal flora. Detailed mapping has been undertaken of the key food resource for brent geese; eel grass beds. These beds are present within Yacht Haven creek but are situated to the east and south of the proposed pontoon location. It is stated that the pontoon construction will result in direct impacts to intertidal mud dominated by common and widespread seaweeds. It is estimated that a total of 651.5m² of intertidal habitat will be impacted either through direct loss or shading (pontoon plus moored boats), though none of this habitat supports eel grass beds.

Whilst it is encouraging that measures have been taken to avoid direct impacts to eel grass beds in relation to the pontoon, the issue of impacts

arising from boat movements is largely ignored or assessed as not significant: assuming (based on an alternative interpretation of the evidence presented) that there will be a net increase in moored boats and boat movements within the creek, there is a definite risk of lasting damage to this protected habitat. Damage from bilge discharge etc is not addressed.

It is proposed that an 'Eel Grass Code of Conduct', similar to that adopted in Dorset and Devon, is initiated. Measures such as this rely entirely on the cooperation and goodwill of boat users and are thus in the main unenforceable - it is difficult to propose any alternative solution although I would note Ms Temple's comments in relation to the RSPB's experiences with voluntary codes of conduct within Langstone Harbour. Is there any evidence that the Dorset and Devon initiatives have worked?

There is generally an overall reliance on entirely voluntary measures with no indication of how the efficacy of such will be monitored and how any issues will be addressed - what mechanism is available for dealing effectively with any issues which do in fact impact on the integrity of the designated sites?

I also note Mr Codlin's comments in relation to the recommendation for a restriction on further swing moorings in the area - again, this proposal relies entirely on third-party action (in this case Chichester Harbour Conservancy) and is thus not under the applicant's control and therefore not deliverable as a key element of mitigation.

Summary of Off-site Issues

It is clear from this application that there are potentially-significant issues in relation to impacts to European and nationally-designated sites and their associated flora and fauna. My opinion is that the assessment of impacts and the efficacy of mitigation is based to a large extent on incomplete data and an over-reliance on third-party action.

Whilst acknowledging the response from NE and their primacy in respect to designated sites, I consider that there are several issues which require further clarification before it can be conclusively determined that there will be no 'likely significant effect' on the integrity of these sites:

- The realistic likelihood (based on a *de facto* three-fold increase in active moorings) of increased boat movements and the impact on birds and intertidal habitats.
- Clarification of the need for bottom levelling.
- Justification of how limitations in bird survey methodology, and thus assessment of impacts, have been addressed - is the assessment based on good science?
- Clarification of how proposed 'voluntary' mitigation measures will be monitored and enforced where necessary.

Given NE's stance, you may wish to determine this application based upon their recommendation to 'permit subject to conditions'. The list of suggested pre-commencement conditions provided by NE would appear to provide them with a suitable level of confidence that the proposals will not result in 'likely significant effect'. I should add that on the whole I consider these conditions to be acceptable and pragmatic (if followed they will in effect 'capture' all of my points raised above, although normally such issues should be dealt with prior to determination) and they should provide a robust framework for ensuring that the proposed works are undertaken in such a way that does not, either alone or in combination, result in damage to the designated sites.

Should you wish I would be happy to provide additional comments, and assist in formulating appropriate condition wording, once you have received further advice from NE.

I trust that the above provides you with useful detail in relation to my concerns in respect to this application proposal - as ever, if you have any queries please don't hesitate to contact me.

Kind regards,

Tristan

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