

David Eaves
Senior Planning Officer
Development Control
Havant Borough Council

By email only:
planning.development@havant.gov.uk

cc
Simon Thompson, Natural England:
simon.thompson@naturalengland.org.uk
Carrie Temple, RSPB:
carrie.temple@rspb.org.uk

Hampshire & Isle of Wight
Wildlife Trust
Protecting wildlife. Inspiring people.



Beechcroft House
Vicarage Lane
Curdrige
Hampshire
SO32 2DP

e feedback@hiwwt.org.uk
t 01489 774400
www.hiwwt.org.uk

13th December 2013

Your Ref: 13/00749
Our Ref: 13.08.20 Verner Common, Hayling Island

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)

Thank you for your letter of 3rd December 2013 and also for the link to the legal opinion in relation to a separate case (the River Mease SAC).

Given the complexity of this issue we have also sought external legal advice and unfortunately have no alternative but to agree with yourselves and David Elvin QC's legal advice. Our advisors have confirmed that this opinion is consistent with more recent case law and also how they have interpreted the term 'plan or project' in other situations. We would like to add that this advice is contrary to other information we were provided with prior to our initial response.

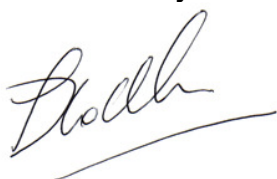
The Wildlife Trust is extremely disappointed and concerned by this outcome and the legal opinions, which would appear to identify a significant flaw in our planning system, and how the Habitats Directive has been transposed into UK law. It is extremely concerning that such a disturbing activity can be carried out on a site which is protected under European law and forms part of an important network of sites (Natura 2000). As you will be aware Verner Common itself forms part of the Chichester and Langstone Harbours Ramsar/SPA due to the internationally important numbers of waterfowl which use the site for feeding and roosting during the winter months. Two of these species, brent goose *Branta bernicla* and black-tailed godwit *Limosa limosa*, are component features of the SPA and are significantly impacted by the act of flying model helicopters over the site. We consider this to be an unacceptable level of disturbance on such a highly designated site and contrary to the reasons why the site was initially designated. We would also like to draw your attention to the extensive work that has been carried out in relation to disturbance issues along the length of The

Solent, and the proposals aimed at trying to mitigate these impacts¹. The granting this certificate would be yet another example of unreasonable levels disturbance on the SPA which is exactly what the SDMP seeks to mitigate.

In this instance we unfortunately have no choice but to accept this decision, but we have been advised that should the Local Planning Authority be minded to issue a Lawful Development Certificate, an informative will be required to inform the applicant that the Lawful Development Certificate does not confer consent under the Wildlife and Countryside Act 1981 (as amended). This will need to be sought from Natural England. We trust that this informative will be provided.

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



Trevor Codlin
Senior Planning Ecologist
My Direct Dial: 01489 774457
Fax: 01489 774401
Main Switchboard: 01489 774400
Email: Trevor.Codlin@hiwwt.org.uk

¹ Solent Disturbance and Mitigation Project: Phases 1, 2 and 3