

Date: 5 November 2012
Our ref: 65960
Your ref: APP/12/00966



Mrs H Lealan
Havant Borough Council
Civic Offices
Havant
PO9 2AX

Customer Services
Hornbeam House
Crewe Business Park
Electra Way
Crewe
Cheshire
CW1 6GJ

T 0300 060 3900

By email only, no hard copy to follow

Dear Mrs Lealan,

**CHICHESTER HARBOUR SITE OF SPECIAL SCIENTIFIC INTEREST (SSSI)
SOLENT MARITIME SPECIAL AREA OF CONSERVATION (SAC)
CHICHESTER AND LANGSTONE HARBOURS SPECIAL PROTECTION AREA (SPA)/Ramsar**

Proposal: Outline application for 131 open market and affordable dwellings comprising 10No 1bed flats, 4No 2bed flats, 48No 2bed houses, 49No 3bed houses, 20No 4 bed houses; public open space; car parking; new vehicular access from Beech Grove/Hawthorn Grove including demolition of 1 Hawthorne Grove; new pedestrian and cycle access from St Margarets Road including demolition of 23 St Margarets Road.

Location: Land North of Goldring Close and My Lords Lane, East of St Margarets Road and South of Beech Grove and Hawthorne Grove, Hayling Island

Thank you for your email dated 1 October 2012 requesting Natural England's comments on the above proposal.

The Conservation of Habitats and Species (Amendment) Regulations 2012

The application site is close to habitats which form part of the Chichester Harbour Site of Special Scientific Interest (SSSI). This SSSI is part of the Solent Maritime Special Area of Conservation (SAC) and the Chichester and Langstone Harbours Special Protection Area (SPA) and is a Wetland of International Importance under the Ramsar Convention (Ramsar Site). This letter and annex 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 (Amendment) Regulations 2012.

Natura 2000 site – Objection due to lack of information

Natural England **objects to the above proposal** on the following grounds:

- Insufficient information provided to determine the effect on Chichester Harbour SSSI, and Chichester and Langstone Harbours SPA/Ramsar sites and we therefore cannot currently agree with the conclusion of No Likely Significant Effect reached by the Brent Goose and Wader Survey Report and Impact Assessment. We recommend the planning authority request further information from the applicant as follows:
 - Further evidence to support the conclusion that residents of the proposed new development would not be likely to use the nearby coastal path, or other nearby areas of the coastline which are designated as SPA.
 - Evidence to support the assumption that residents of the proposed development would make use of the alternative dog exercise area rather than using the coast.

Natural England's detailed comments in relation this proposal and the relevant legislative background are listed in Annex One appended to this letter.

Under S28I 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 06/2005¹.

Policy Considerations

Natural England raised concerns about the inclusion of site UE16 during the consultation exercise in summer 2012. We therefore advise that considering an application on the site ahead of the approval of the Local Plan (allocations) Policy being formally adopted would be inappropriate.

AONB

Due to the location of the proposed development in a countryside area which currently serves to soften the urban edge of Mengham, it is likely that the proposals will erode the setting of the Chichester Harbour AONB.

Any development taking place within a nationally designated landscape or within its' setting, is expected to be of the highest quality, which should conserve and enhance local landscape character or distinctiveness. Section 85 of the Countryside and Rights of Way (CROW) Act 2000 places a duty on local authorities to "have regard to" the purpose of conserving and enhancing the natural beauty of protected landscapes when making planning decisions that are likely to affect such landscapes. The Government has confirmed that AONBs have equal planning status to National Parks with regard to landscape and scenic beauty. Natural England advises that Chichester Harbour Conservancy is consulted, as the Joint Advisory Committee for the AONB, to ensure that the proposed development is in accordance with the purpose of the AONB designation and the aims of the AONB Management Plan.

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 at the above address, by telephone on 0300 060 4625 or by email to simon.thompson@naturalengland.org.uk

Yours sincerely



Simon Thompson
Lead Adviser
Land Use Operations Team

¹ 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>

Chichester & Langstone Harbours SPA/Ramsar Solent Maritime SAC

INSUFFICIENT INFORMATION

This reply gives our advice on the requirements of Regulation 61 of the Conservation of Habitats and Species (Amendment) Regulations 2012.

The proposal is close to the above European designated sites which are protected under the Conservation of Habitats and Species (Amendment) Regulations 2012. As a matter of Government Policy, contained within paragraph 5 of ODPM Circular 06/2005, Ramsar sites are treated as a European site, even though they are not such sites as a matter of law.

Regulation 61 requires your authority, before deciding to give any consent to a project which is (a) likely to have a significant effect on a European site (either alone or in combination with other plans or projects), and (b) not directly connected with or necessary to the management of the site, to make an appropriate assessment of the implications for the site in view of its conservation objectives.

In this case the proposal is not directly connected with or necessary to the management of site but to advise whether it is likely to have a significant affect on a European site the applicant should provide the previously requested information.

On receipt of this additional information Natural England must be consulted on any assessment made under the Habitats Regulations. Pending this, any approval of planning permission would be contrary to the Conservation of Habitats and Species Regulations.

Pending the submission of the further information requested above Natural England objects to the above application.

Chichester Harbour Site of Special Scientific Interest

As mentioned above, our records show that the application site is partly within and partly adjacent to Chichester Harbour SSSI. As you are aware, where SSSIs are involved, Section 28G of the Wildlife and Countryside Act 1981 (as amended) includes a duty on public bodies, including local planning authorities, to "take reasonable steps, consistent with the proper exercise of the authority's functions, to further conservation and enhancement of the flora, fauna or geological or physiographical features by reason of which the site is of special scientific interest". In addition, public bodies are required under the Act to give notice to Natural England before carrying out (S28H), or authorising others to carry out (S28I), any operation likely to damage any of the features by reason of which the site is of special scientific interest.

DAMAGE TO SSSI

Natural England objects to the proposed development. We recommend that as submitted the local planning authority refuse planning permission on the grounds that there is currently insufficient information to determine whether the proposal, if allowed and carried out is likely to damage the special interest features of the SSSI as set out below.

- Disturbance to birds through increased recreational activities

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