

APPENDIX A

Appropriate Assessment by Fareham Borough Council pursuant to the Habitats Regulations 2017

The Habitats Regulation Assessment Process

Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) are European designations (formerly known as Natura 2000 sites and which have now been replaced by the 'national site network' under the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019) and are notified in the UK through the Conservation of Habitats and Species Regulations 2017 (The Habitats Regulations) which is the UK implementation of the European Habitats Directive.

Ramsar sites are not European sites subject to the Habitats Directive, the Wild Birds Directive or the Habitats Regulations, they are designated as wetlands of international importance. Government policy statements have however been issued which extend the same protection afforded to SPAs and SACs to Ramsar sites. A similar assessment of the Ramsar sites has therefore been undertaken in light of the requirements of the Ramsar Convention, the NPPF and policy DSP13.

Under the Habitats Regulations, before deciding whether to grant planning permission for the scheme, which is likely to have significant effect on a designated site and is not directly connected with or necessary to the management of that site, the LPA must make an appropriate assessment of the implications of the scheme for that site in view of that site's conservation objectives. A similar approach applies as a matter of policy to potential SPAs, SPA or and Ramsar sites. In light of the conclusions of the appropriate assessment, the LPA may grant planning permission only after having ascertained that it will not adversely affect the integrity of the designated site.

The EU Commission "Assessment of plans and projects significantly affecting Natura 2000 sites Methodological Guidance" 2001 recommends a staged approach to the assessment process when undertaking assessment of plans or projects that may impact upon designated European sites, which is set out below. Further interpretative guidance is provided by the EU Commission's notice "Managing Natura 2000 Sites" 2018.

Screening (Stage 1):

The process of identifying potentially relevant European sites and the likely impacts of a project upon the designated features of a European site, either alone or in combination with other plans and projects and considering whether the impacts are likely to be significant.

Appropriate Assessment (Stage 2):

Assessment of the impacts, taking into account proposed mitigation measures, on the integrity of the European site, either alone or in combination with other plans and projects, about the site's structure and function and its conservation objectives.

The Habitat Regulations require Fareham Borough Council as the Competent Authority to carry out the Appropriate Assessment. To aid the Council in carrying out the Appropriate Assessment, the applicant provided a Report (AECOM, February 2017) to Inform the Appropriate Assessment. This was superseded by a Shadow Appropriate Assessment (Holbury Consultancy Service Ltd, November 2020).

Natural England and the Council's Ecologist have reviewed both reports and have confirmed that they concur with the conclusions reached and that the Shadow Appropriate Assessment can be incorporated by the Council into this document as their Appropriate Assessment subject to the terms of this document.

Summary of Screening (Stage 1):

The Report to Inform the Appropriate Assessment concluded that there would be no likely significant effect on the following Natura 2000 sites (which have now been replaced by the 'national site network' under the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019)) without the need for further analysis:

Butser Hill SAC
River Itchen SAC
Solent & Isle of Wight Lagoons SAC
Chichester & Langstone Harbour SPA/Ramsar site

A more detailed summary of which national site network sites were screened in/out is provided in section 5 of the Report to Inform the Appropriate Assessment.

The Shadow Appropriate Assessment identified that the proposed development could have a likely significant effect (alone or in combination with other plans or projects) on the following 'national site network' sites:

Solent and Southampton Water SPA
Portsmouth Harbour SPA
Solent and Dorset Coast SPA
Solent Maritime SAC
Solent and Southampton Water Ramsar
Portsmouth Harbour Ramsar

The impact of the proposed development on these sites need to be taken through to Stage 2, the Appropriate Assessment, which will consider the potential impact in more detail.

The proposed development is not connected with fulfilling the management objectives of any of the "national site network" (formerly Natura 2000 sites).

Summary of Appropriate Assessment (Stage 2)

As described previously the applicant submitted, as part of the application documents, a shadow appropriate assessment to inform the Council 's Habitats Regulations Assessment. The Local Planning Authority (as the Competent Authority)

has considered the applicant's report together with all the species and habitats listed as interest features of the designated sites. Expert advice received from Natural England (including recommended mitigation measures) and the Council's own Ecologist has been reviewed. Representations received as a result of publicising the application have also been taken into consideration.

The Local Planning Authority must be satisfied to a high degree before it can conclude that there will be no adverse effect on the integrity of the European Site: it must be sure beyond reasonable scientific doubt that there will be no such adverse effect and, when considering any mitigation or other measures, these must be certain in their effect.

In the light of the information provided, and the assessment undertaken, the Local Planning Authority is satisfied beyond reasonable scientific doubt that, provided the mitigation measures contained within both the applicant's Shadow Appropriate Assessment and the recommendations contained within Natural England's advice are strictly adhered to, the potential impacts of the proposed development both alone and in combination with other proposals would be negligible. It is therefore considered to the requisite high standard that the proposed development would not have an adverse effect on the integrity of the sites.

Conclusion

It is recommended that the Local Planning Authority incorporates in and as part of its Appropriate Assessment the applicant's Shadow Appropriate Assessment together with the recommended conditions contained within Natural England's consultation responses to the Welborne planning application dated 1st February 2019, 19th September 2019, 7th October 2019 and 19th January 2021 as the Borough Council's Assessment under the Habitat Regulations subject to the matters appearing above.

Associated documents

Shadow Appropriate Assessment UPDATE November 2020 (Holbury Consultancy Service Ltd)

Report to Inform a Habitat Regulations Assessment February 2017 (Aecom)

Natural England's consultation response dated 1st February 2019, 19th September 2019, 7th October 2019 and 19th January 2021

Fareham Borough Council's Ecology consultation response dated 18th January 2019 and 12th January 2021.