

Date: 07 January 2020  
Our ref: 301132  
Your ref: P/19/1193/OA



Richard Wright  
Fareham Borough Council  
**BY EMAIL ONLY**

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

T 0300 060 3900

Dear Richard,

**Planning consultation:** Outline Planning Application For The Erection Of Up To 57 Dwellings, Together With Associated Parking, Landscaping And Access From Posbrook Lane  
**Location:** Land East Of Posbrook Lane Titchfield Fareham

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development. Thank you for your consultation dated 15 November 2019.

### **Further Information Required**

The application site is within 1km of the Solent and Southampton Water Special Protection Area (SPA) and Ramsar and within the catchment of the Solent Maritime Special Area of Conservation (SAC). It is also a component of the Solent Wader and Brent Goose network. Further information is required to determine the impact of the proposal on the SAC and SPA functional land.

### **Solent Wader Brent Goose network – further information required**

The proposals will result in a loss of SPA functional land, which forms part of a network of terrestrial sites located outside of the Solent SPAs boundaries. The site is used by SPA species (including qualifying features and assemblage species) as alternative areas for roosting and foraging. These sites support the functionality of the designated sites and are therefore protected in this context. The site affected, site F48B, is classed as a Primary use site and supports significant numbers of Black-tailed Godwit as well as lower numbers of Curlew, Lapwing and Snipe.

Natural England welcomes the proposal for a Bird Conservation Area (BCA) on the eastern part of the land ownership, bordering Hollan Hill Farm Meadows SINC. However the application presents a number of points to be addressed in relation to the impact on the SPA functional land.

The information submitted shows conflicting plans relating to the proposed BCA. Plan 1 in the 'Outline Proposal for BCA' shows a differing extent of the BCA to the submitted location plan and planning statement. As currently orientated, the features proposed for the BCA in Plan 1 would not be compatible with the plans presented in the Design & Access Statement and the Location Plan. The proposed area totals for the BCA also differ within these documents, approx. 8.4ha in the Planning Statement compared to 5.79ha in the outline proposal for BCA. These inconsistencies should be addressed by the applicant and revised plans provided which show synchronisation between the submitted plans and documents.

Natural England recommends that the BCA secures the continued ecological function of the site and is managed in such a way as to provide the optimal conditions for the qualifying SPA features present.

If the confirmed plan is that which is shown in the Design & Access Statement and the Location Plan, Natural England would like to understand the rationale and function of the east-west corridor which splits the BCA into two parcels and how this may impact the ecological function of the BCA. It is Natural England's view that the BCA should be a sanctuary area with access limited to management. There is a risk that the creation of a gated access could be more likely to lead to trespass and disturbance on the long term. Further clarification is therefore requested.

Natural England would be happy to provide detailed advice on the mitigation strategy through our Discretionary Advice Service (DAS): <https://www.gov.uk/guidance/developers-get-environmental-advice-on-your-planning-proposals>

Natural England welcomes the following aspects of the application and have specific advice on these aspects:

- Provision of a V defensive ditch to border the BCA to deter access. We recommend that this be planted with a mix of native species, including thorny species such as Blackthorn and Hawthorn. Once established, the vegetation in the ditch should be allowed to naturally seed and regenerate with removal of non-native and invasive species on a regular basis.
- Provision of water features. We recommend that the potential for enhancement of the site through the creation of wetland scrapes is fully explored and would be happy to provide further advice on options. RSPB has published advice on the creation of scrapes on farmland which may be of interest to the applicant: [https://www.rspb.org.uk/globalassets/downloads/documents/farming-advice/scrapecreationforwildlife\\_tcm9-255102.pdf](https://www.rspb.org.uk/globalassets/downloads/documents/farming-advice/scrapecreationforwildlife_tcm9-255102.pdf)
- Proposal for management of the BCA to be handed over to an appropriate organisation. Details of this organisation and of monitoring the ongoing delivery of the agreed management should be provided to ensure certainty in the mitigation strategy. Confirmation of the agreement of the identified organisation to manage the BCA and adhere to the monitoring required should accompany the application.
- Details of the costed management and monitoring requirements for the BCA. These details should be agreed by the identified management organisation to ensure they are appropriate. Confirmation of this agreement should accompany the application, as this will be needed to inform the Appropriate Assessment.
- Proposal to agree 'step-in' rights for Fareham Borough Council to take over management of the BCA, should it be required.

Wherever possible, percussive piling or works with heavy machinery (i.e. plant resulting in a noise level in excess of 69dbAmax – measured at the sensitive receptor) should be avoided during the bird overwintering period (i.e. October to March inclusive). If such a condition is problematic to the applicant than Natural England will consider any implications of the proposals on the SPA bird interests on a case by case basis through our Discretionary Advice Service.

Note: The sensitive receptor is the nearest point of the SPA or any SPA supporting habitat (e.g. high tide roosting site).

#### **Deterioration of the water environment – further information required**

With regard to the integrity of the designated sites, we advise that there is currently uncertainty as to whether the increase in waste water from new housing in the Solent catchment will have an adverse effect on the international sites.

There is existing evidence of high levels of nitrogen and phosphorus in the Solent water environment with evidence of eutrophication at some designated sites. The Partnership for Urban South Hampshire (PUSH), Natural England (NE), and Environment Agency (EA) have been jointly working to develop an Integrated Water Management Strategy (IWMS). This examines the potential for the PUSH region to accommodate future housing growth without having a detrimental effect upon the water environment. A Water Quality Working Group has been set up to identify and analyse the existing evidence gaps and evaluate the need for strategic mitigation measures. However, there is currently uncertainty as to whether there is

sufficient capacity to accommodate the new housing growth.

The proposal comprises new housing development and has inevitable waste water implications. It is Natural England's view that these implications, and all other matters capable of having a significant effect on designated sites in the Solent, must be addressed in the ways required by Regulation 63 of the Conservation of Habitats and Species Regulations 2017.

It is Natural England's view that there is a likely significant effect on the internationally designated sites (SPA, SAC, pSPA) due to the increase in waste water from the new housing. As you are aware, where there is a likelihood of significant effects (excluding any measures intended to avoid or reduce harmful effects on the European site), or there are uncertainties, a competent authority should fully assess (by way of an "appropriate assessment") the implications of the proposal in view of the conservation objectives for the European site(s) in question. Appropriate assessments cannot have lacunae and must contain complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the works proposed on the protected site concerned. Complete information is required to ensure that the proposal will not affect the integrity of the international sites.

Natural England advises that the waste water issue is examined within the appropriate assessment and that the existing nutrient and conservation status of the receiving waters be taken into account. LPAs will be aware of recent CJEU decisions regarding the assessment of elements of a proposal aimed toward mitigating adverse effects on designated sites and the need for certainty that mitigating measures will achieve their aims. The achievement of nutrient neutrality, if scientifically and practically effective, is a means of ensuring that development does not add to existing nutrient burdens. Natural England has prepared a methodology setting out how this can be achieved and this is attached for your information. It is appreciated that this may be difficult for smaller developments or developments on brownfield land. Natural England has advised that your authority set up an interim approach that developments can contribute to thereby ensuring that this uncertainty is fully addressed by all applications. Natural England is working closely with affected local planning authorities to help address this issue. Natural England can also provide further advice to the applicant on mitigation options under our [Discretionary Advice Service](#).

Please note we advise that the competent authorities to whom Natural England gives its statutory advice on the environment will need to seek and rely upon their own legal advice on the interpretation of the Habitats Regulations and case law.

### **Solent Recreation Management Strategy – no objection subject to condition**

This application is within 5.6km of Solent and Southampton Water SPA and will lead to a net increase in residential accommodation. Natural England is aware that Fareham Borough Council has adopted a planning policy to mitigate against adverse effects from recreational disturbance on the Solent SPA sites, as agreed by the Solent Recreation Mitigation Partnership (SRMP).

Provided that the applicant is complying with the policy and the requirement for Appropriate Assessment under The Conservation of Habitats and Species Regulations (as amended 2017), Natural England is satisfied that the applicant has mitigated against the potential adverse effects of the development on the integrity of the European site(s), and has no objection to this aspect of the application.

### **Biodiversity Enhancement – no objection subject to condition**

In order for your authority to be assured that the proposal meets the requirements of Natural England's standing advice and the additional requirements for biodiversity enhancement and net gain as set out in National Planning Policy Framework paragraphs 8, 118, 170, 174 and 175d, Natural England recommends that the application is supported by a Biodiversity Mitigation and Enhancement Plan (BMEP), or equivalent, that has been agreed by a Hampshire County Council (HCC) Ecologist.

The submission of an HCC approved BMEP will help ensure your authority meets the requirements

of Section 40 of the Natural Environment and Rural Communities Act (2006), which states that 'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. Section 40(3) also states that 'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'. Biodiversity 2020: A strategy for England's wildlife and ecosystem services and Making Space for Nature (2010) also provide strong drivers for the inclusion of biodiversity enhancements through the planning process.

Please note that provided the HCC Ecologist is satisfied with the submitted biodiversity mitigation and enhancement measures and the measures are secured by any permission then no further consultation with Natural England on this aspect of the proposal is required.

### **Sustainable Urban Drainage System**

Best practice SuDS should be designed and installed in accordance with the requirements in the CIRIA SuDS Manual (C753).

The pollution hazard indices in the CIRIA SuDS Manual (C753) relate to 'protected waters' with regards to drinking water supply. Step 3 under Section 26.7.1 of the SuDS manual outlines that the requirement for extra treatment should be considered in relation to discharge to environmentally protected sites. It states that 'an additional treatment component (i.e. over and above that required for standard discharges), or other equivalent protection, is required that provides environmental protection in the event of an unexpected pollution event or poor system performance'.

Due to the close proximity of the designated sites, this should be confirmed for consideration within the Habitat Regulations Assessment.

### **Construction Environment Management Plan**

Natural England advises a Construction Environmental Management Plan (CEMP) should be submitted to and approved in writing by the district ecologist/biodiversity officer that identifies the steps and procedures that will be implemented to avoid or mitigate constructional impacts on species and habitats. The CEMP should address the following impacts:

- Storage of construction materials/chemicals and equipment;
- Dust suppression
- Chemical and/or fuel run-off from construction into nearby watercourse(s)
- Waste disposal
- Noise/visual/vibrational impacts
- Visual screening (for SPA birds)

The approved CEMP should be secured via an appropriately worded condition attached to any planning consent and shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.

Please note the construction mitigation measures that are required to address any likely significant effects to the qualifying features and nearby designated sites would be confirmed for consideration within the Habitat Regulations Assessment.

Further advice on aspects of the natural environment which may be relevant to this application can be found in Annex A.

I trust this advice will assist you and the authority in considering the application further. Please contact me if you have any queries relating to this advice.

Yours sincerely

Rachel Jones

**Natural England – Thames Solent Team**

## Annex A

Natural England offers the following additional advice:

### Landscape

Paragraph 170 of the National Planning Policy Framework (NPPF) highlights the need to protect and enhance valued landscapes through the planning system. This application may present opportunities to protect and enhance locally valued landscapes, including any local landscape designations. You may want to consider whether any local landscape features or characteristics (such as ponds, woodland or dry stone walls) could be incorporated into the development in order to respect and enhance local landscape character and distinctiveness, in line with any local landscape character assessments. Where the impacts of development are likely to be significant, a Landscape & Visual Impact Assessment should be provided with the proposal to inform decision making. We refer you to the [Landscape Institute Guidelines for Landscape and Visual Impact Assessment](#) for further guidance.

### Best and most versatile agricultural land and soils

Local planning authorities are responsible for ensuring that they have sufficient detailed agricultural land classification (ALC) information to apply NPPF policies (Paragraphs 170 and 171). This is the case regardless of whether the proposed development is sufficiently large to consult Natural England. Further information is contained in [GOV.UK guidance](#). Agricultural Land Classification information is available on the [Magic](#) website on the [Data.Gov.uk](#) website. If you consider the proposal has significant implications for further loss of 'best and most versatile' agricultural land, we would be pleased to discuss the matter further.

Guidance on soil protection is available in the Defra [Construction Code of Practice for the Sustainable Use of Soils on Construction Sites](#), and we recommend its use in the design and construction of development, including any planning conditions. Should the development proceed, we advise that the developer uses an appropriately experienced soil specialist to advise on, and supervise soil handling, including identifying when soils are dry enough to be handled and how to make the best use of soils on site.

### Local sites and priority habitats and species

You should consider the impacts of the proposed development on any local wildlife or geodiversity sites, in line with paragraphs 171 and 174 of the NPPF and any relevant development plan policy. There may also be opportunities to enhance local sites and improve their connectivity. Natural England does not hold locally specific information on local sites and recommends further information is obtained from appropriate bodies such as the local records centre, wildlife trust, geoconservation groups or recording societies.

Priority habitats and Species are of particular importance for nature conservation and included in the England Biodiversity List published under section 41 of the Natural Environment and Rural Communities Act 2006. Most priority habitats will be mapped either as Sites of Special Scientific Interest, on the Magic website or as Local Wildlife Sites. List of priority habitats and species can be found [here](#)<sup>1</sup>. Natural England does not routinely hold species data, such data should be collected when impacts on priority habitats or species are considered likely. Consideration should also be given to the potential environmental value of brownfield sites, often found in urban areas and former industrial land, further information including links to the open mosaic habitats inventory can be found [here](#).

### Access and Recreation

Natural England encourages any proposal to incorporate measures to help improve people's access to the natural environment. Measures such as reinstating existing footpaths together with the creation of new footpaths and bridleways should be considered. Links to other green networks and, where appropriate, urban fringe areas should also be explored to help promote the creation of wider green infrastructure. Relevant aspects of local authority green infrastructure strategies should be delivered where appropriate.

---

<sup>1</sup><http://webarchive.nationalarchives.gov.uk/20140711133551/http://www.naturalengland.org.uk/ourwork/conservation/biodiversity/protectandmanage/habsandspeciesimportance.aspx>

**Rights of Way, Access land, Coastal access and National Trails**

Paragraphs 98 and 170 of the NPPF highlights the important of public rights of way and access. Development should consider potential impacts on access land, common land, rights of way, coastal access routes and coastal margin in the vicinity of the development and the scope to mitigate any adverse impacts. Consideration should also be given to the potential impacts on any nearby National Trails, including the England Coast Path. The National Trails website [www.nationaltrail.co.uk](http://www.nationaltrail.co.uk) provides information including contact details for the National Trail Officer.

**Biodiversity duty**

Your authority has a [duty](#) to have regard to conserving biodiversity as part of your decision making. Conserving biodiversity can also include restoration or enhancement to a population or habitat. Further information is available [here](#).