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From: Musgrove-Ward, Ruby [REDACTED]
Sent: 24 September 2020 15:42
To: Planning.Responses <Planning.Responses@arun.gov.uk>
Subject: BE/99/20/EIS Natural England Response

Your ref: BE/99/20/EIS
Our ref: 327343

Dear James Cross,

I hope this email finds you well.

Thank you for consulting with Natural England regarding this '*Scoping opinion request relating to 2500 new homes, up to 3.52ha of employment land, a 3 Form Entry primary school, 2 local centres and associated infrastructure across approximately 141 ha of land.*' Please find attached our full comments:

Should you have any questions regarding this matter, please do not hesitate to contact me.

Yours Sincerely,

Ruby Musgrove-Ward
Adviser | Sustainable Development | Sussex & Kent – Area Team 14



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Date: 24 September 2020
Our ref: 327343
Your ref: BE/99/20/EIS



James Cross
Planning Case Officer
Arun District Council

planning.responses@arun.gov.uk

Customer Services
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CW1 6GJ

BY EMAIL ONLY

Dear James Cross,

Environmental Impact Assessment Scoping consultation (Regulation 15 (4) of the EIA Regulations 2017): Scoping opinion request relating to 2500 new homes, up to 3.52ha of employment land, a 3 Form Entry primary school, 2 local centres and associated infrastructure across approximately 141 ha of land.

Location: Land West of Bersted

Thank you for seeking our advice on the scope of the Environmental Statement (ES) in your consultation dated 07 September 2020 which we received on the same day.

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.

Case law¹ and guidance² has stressed the need for a full set of environmental information to be available for consideration prior to a decision being taken on whether or not to grant planning permission. Annex A to this letter provides Natural England's advice on the scope of the Environmental Impact Assessment (EIA) for this development.

Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again.

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 us. For any queries relating to the specific advice in this letter only please contact Ruby Musgrove-Ward on [REDACTED] For any new consultations, or to provide further information on this consultation please send your correspondences to [REDACTED]

Yours sincerely,

Ruby Musgrove-Ward
Sustainable Development Adviser – Sussex and Kent

¹ Harrison, J in *R. v. Cornwall County Council ex parte Hardy* (2001)

² *Note on Environmental Impact Assessment Directive for Local Planning Authorities* Office of the Deputy Prime Minister (April 2004) available from

<http://webarchive.nationalarchives.gov.uk/+/http://www.communities.gov.uk/planningandbuilding/planning/sustainableenvironmental/environmentalimpactassessment/noteenvironmental/>

Annex A – Advice related to EIA Scoping Requirements

1. General Principles

Schedule 4 of the Town & Country Planning (Environmental Impact Assessment) Regulations 2017, sets out the necessary information to assess impacts on the natural environment to be included in an ES, specifically:

- A description of the development – including physical characteristics and the full land use requirements of the site during construction and operational phases.
- Expected residues and emissions (water, air and soil pollution, noise, vibration, light, heat, radiation, etc.) resulting from the operation of the proposed development.
- An assessment of alternatives and clear reasoning as to why the preferred option has been chosen.
- A description of the aspects of the environment likely to be significantly affected by the development, including, in particular, population, fauna, flora, soil, water, air, climatic factors, material assets, including the architectural and archaeological heritage, landscape and the interrelationship between the above factors.
- A description of the likely significant effects of the development on the environment – this should cover direct effects but also any indirect, secondary, cumulative, short, medium and long term, permanent and temporary, positive and negative effects. Effects should relate to the existence of the development, the use of natural resources and the emissions from pollutants. This should also include a description of the forecasting methods to predict the likely effects on the environment.
- A description of the measures envisaged to prevent, reduce and where possible offset any significant adverse effects on the environment.
- A non-technical summary of the information.
- An indication of any difficulties (technical deficiencies or lack of know-how) encountered by the applicant in compiling the required information.

It will be important for any assessment to consider the potential cumulative effects of this proposal, including all supporting infrastructure, with other similar proposals and a thorough assessment of the 'in combination' effects of the proposed development with any existing developments and current applications. A full consideration of the implications of the whole scheme should be included in the ES. All supporting infrastructure should be included within the assessment.

2. Biodiversity and Geology

2.1 Ecological Aspects of an Environmental Statement

Natural England advises that the potential impact of the proposal upon features of nature conservation interest and opportunities for habitat creation/enhancement should be included within this assessment in accordance with appropriate guidance on such matters. Guidelines for Ecological Impact Assessment (EclA) have been developed by the Chartered Institute of Ecology and Environmental Management (CIEEM) and are available on their website.

EclA is the process of identifying, quantifying and evaluating the potential impacts of defined actions on ecosystems or their components. EclA may be carried out as part of the EIA process or to support other forms of environmental assessment or appraisal.

The National Planning Policy Framework sets out guidance in S.174-177 on how to take account of biodiversity interests in planning decisions and the framework that local authorities should provide to assist developers.

2.2 Internationally and Nationally Designated Sites

The ES should thoroughly assess the potential for the proposal to affect designated sites. European sites (e.g. designated Special Areas of Conservation and Special Protection Areas) fall within the scope of the Conservation of Habitats and Species Regulations 2017 (as amended). In

addition, paragraph 176 of the National Planning Policy Framework requires that potential Special Protection Areas, possible Special Areas of Conservation, listed or proposed Ramsar sites, and any site identified as being necessary to compensate for adverse impacts on classified, potential or possible SPAs, SACs and Ramsar sites be treated in the same way as classified sites.

Under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) an appropriate assessment needs to be undertaken in respect of any plan or 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.

Should a Likely Significant Effect on a European/Internationally designated site be identified or be uncertain, the competent authority (in this case the Local Planning Authority) may need to prepare an Appropriate Assessment, in addition to consideration of impacts through the EIA process.

Sites of Special Scientific Interest (SSSIs) and sites of European or international importance (Special Areas of Conservation, Special Protection Areas and Ramsar sites)

The development site is near to the following designated nature conservation sites:

- Pagham Harbour Special Protection Area (SPA), Ramsar site, Marine Conservation Zone (MCZ) and SSSI.
- Further information on the SSSI and its special interest features can be found at www.magic.gov.uk. The Environmental Statement should include a full assessment of the direct and indirect effects of the development on the features of special interest within Pagham Harbour and should identify such mitigation measures as may be required in order to avoid, minimise or reduce any adverse significant effects.
- Natura 2000 network site conservation objectives are available on our internet site <http://publications.naturalengland.org.uk/category/6490068894089216>

Habitats Regulations Assessment

Natural England advises that as the proposal for up to 2500 dwellings on land West of Bersted is within 5km of Pagham Harbour SPA/Ramsar, it has the potential to have a likely significant effect through recreational disturbance in combination with other residential development in the area. The site lies within the zone of influence identified through the Habitats Regulation Assessment of the Arun Local Plan 2011-2031.

Natural England therefore advises that information on the following areas of potential impact should be provided in a report to inform a Habitats Regulations Assessment, which should be submitted with any planning application for the site:

1. Mitigation measures for recreational disturbance to SPA/Ramsar birds

A strategic approach to mitigating recreational disturbance resulting from new residential development around Pagham Harbour has been put in place by Arun and Chichester District Councils, in consultation with Natural England and the RSPB. This strategic approach takes the form of a package of measures comprising:

- provision of year-round wardening in perpetuity, to encourage responsible use of the harbour;
- a dog project including website and events;
- contribution to signage and interpretation;
- monitoring.

In order to meet the requirements of policy ENV DM2 in the emerging Arun Local Plan, which requires measures on- and off- the SPA, greenspace should be provided on the development site. Design of the greenspace should make it attractive to dog walkers. For example, fencing so that dogs can be let off leads, and provision of dog bins. It would also be helpful to provide information on the lengths of walks available through the greenspace. Signage and interpretation should be

used to encourage use of the greenspace for dog walking. Development/provision of the greenspace should be phased so that it is provided alongside the phasing for housing.

If the above mitigation measures are secured, Natural England's view is that this will address recreational disturbance to SPA/Ramsar birds.

2. Potential loss of functionally linked habitat

Dark-bellied brent geese forage within, and on land near to, Pagham Harbour SPA/Ramsar site. Where the geese forage on land outside the SPA/Ramsar site, this land may be considered functionally linked to the SPA/Ramsar by providing supporting habitat. Its loss should, therefore, be considered in any in combination assessment of impacts under the Habitats Regulations.

Given the distance of the development site from Pagham Harbour, it is unlikely that it is regularly used by brent geese for feeding. However, they may make occasional use of it. Therefore, an assessment should be made of the potential impact of the loss of the site to feeding brent geese.

It is recognised that extensive wintering bird surveys have been undertaken and that no brent geese have been recorded over this time. This reinforces the unlikelihood that this site is used by this species. However, the details of these surveys do not appear to be included within the scoping report. Utilising the precautionary principle and recognising the importance of information that demonstrates no impact, the potential for loss of functionally linked land is still worth noting here and should be included in the environmental information for this application.

2.3 Biodiversity Net Gain

Net gain through development is a key principle in the government's [25 Year Environment Plan](#). The Government consultation on mandating net gain closed in February 2019 and the Spring Statement confirmed that mandatory net gain would be taken forward. Further detail on the implementation of mandatory net gain is set out in the [Government's response](#) to the consultation issued in July 2019. Further information on the relationship between mandatory net gain and the planning system will be provided once a mandatory system is introduced.

Development provides opportunities to secure net gains for biodiversity and wider environmental gains, as outlined in the NPPF (paragraphs 8, 72, 102, 118, 170, 171, 174 and 175). The recent draft Environment Bill (2019-21) calls for at least a 10% biodiversity gain attributable to the development compared to pre-development. This is the minimum acceptable level. However, Natural England are advocating for Local Planning Authorities and developers to go beyond this mandatory minimum wherever possible. On a development of this size with the amount of proposed green/blue space, we believe this would certainly be possible and therefore advocate going beyond the 10% minimum. We advise you to follow the mitigation hierarchy as set out in paragraph 175 of the NPPF and firstly consider what existing environmental features on and around the site can be retained or enhanced and then what new features could be incorporated into the development proposal.

Whilst details on the mandatory approach are being finalised, it is indicated that use of the Biodiversity Metric will likely be mandated. Further information on the current realisation of the metric [can be found here](#). The biodiversity metric is a useful tool to help developers calculate net gain and we advise use of this metric to inform proposals for this development.

We refer to the [Good Practice Guide](#) jointly produced by CIEEM CIRIA and IEMA, which includes advice to support local authorities' with evidence gathering and provides further detail on good practice principles for securing measurable net gains. In particular we highlight the 10 good practice principles which are contained within this document. Industry standards are also being developed including biodiversity British Standards and a BREEAM approach to environmental credentials including use of the metric.

2.4 Regionally and Locally Important Sites

The EIA will need to consider any impacts upon local wildlife and geological sites. Local Sites are

identified by the local wildlife trust, geoconservation group or a local forum established for the purposes of identifying and selecting local sites. They are of county importance for wildlife or geodiversity. The Environmental Statement should therefore include an assessment of the likely impacts on the wildlife and geodiversity interests of such sites. The assessment should include proposals for mitigation of any impacts and if appropriate, compensation measures. Contact the local wildlife trust, geoconservation group or local sites body in this area for further information.

2.5 Protected Species - Species protected by the Wildlife and Countryside Act 1981 (as amended) and by the Conservation of Habitats and Species Regulations 2017 (as amended)

The ES should assess the impact of all phases of the proposal on protected species (including, for example, great crested newts, reptiles, birds, water voles, badgers and bats). Natural England does not hold comprehensive information regarding the locations of species protected by law but advises on the procedures and legislation relevant to such species. Records of protected species should be sought from appropriate local biological record centres, nature conservation organisations, groups and individuals; and consideration should be given to the wider context of the site for example in terms of habitat linkages and protected species populations in the wider area, to assist in the impact assessment.

The conservation of species protected by law is explained in Part IV and Annex A of Government Circular 06/2005 *Biodiversity and Geological Conservation: Statutory Obligations and their Impact within the Planning System*. The area likely to be affected by the proposal should be thoroughly surveyed by competent ecologists at appropriate times of year for relevant species and the survey results, impact assessments and appropriate accompanying mitigation strategies included as part of the ES.

In order to provide this information, there may be a requirement for a survey at a particular time of year. Surveys should always be carried out in optimal survey time periods and to current guidance by suitably qualified and where necessary, licensed, consultants. Natural England has adopted standing advice for protected species which includes links to guidance on survey and mitigation.

2.6 Habitats and Species of Principal Importance

The ES should thoroughly assess the impact of the proposals on habitats and/or species listed as 'Habitats and Species of Principal Importance' within the England Biodiversity List, published under the requirements of S41 of the Natural Environment and Rural Communities (NERC) Act 2006. Section 40 of the NERC Act 2006 places a general duty on all public authorities, including local planning authorities, to conserve and enhance biodiversity. Further information on this duty is available here <https://www.gov.uk/guidance/biodiversity-duty-public-authority-duty-to-have-regard-to-conserving-biodiversity>.

Government Circular 06/2005 states that Biodiversity Action Plan (BAP) species and habitats, 'are capable of being a material consideration...in the making of planning decisions'. Natural England therefore advises that survey, impact assessment and mitigation proposals for Habitats and Species of Principal Importance should be included in the ES. Consideration should also be given to those species and habitats included in the relevant Local BAP.

Natural England advises that a habitat survey (equivalent to Phase 2) is carried out on the site in order to identify any important habitats present. In addition, ornithological, botanical and invertebrate surveys should be carried out at appropriate times in the year, to establish whether any scarce or priority species are present. The Environmental Statement should include details of:

- Any historical data for the site affected by the proposal (e.g. from previous surveys);
- Additional surveys carried out as part of this proposal;
- The habitats and species present;
- The status of these habitats and species (e.g. whether priority species or habitat);
- The direct and indirect effects of the development upon those habitats and species;
- Full details of any mitigation or compensation that might be required.

The development should seek if possible to avoid adverse impact on sensitive areas for wildlife within the site, and if possible provide opportunities for overall wildlife gain.

The record centre for the relevant Local Authorities should be able to provide the relevant information on the location and type of priority habitat for the area under consideration.

2.7 Contacts for Local Records

Natural England does not hold local information on local sites, local landscape character and local or national biodiversity priority habitats and species. We recommend that you seek further information from the Sussex Biological Records Centre.

3. Designated Landscapes and Landscape Character

Landscape and visual impacts

Natural England would wish to see details of local landscape character areas mapped at a scale appropriate to the development site as well as any relevant management plans or strategies pertaining to the area. The EIA should include assessments of visual effects on the surrounding area and landscape together with any physical effects of the development, such as changes in topography. The European Landscape Convention places a duty on Local Planning Authorities to consider the impacts of landscape when exercising their functions.

The EIA should include a full assessment of the potential impacts of the development on local landscape character using landscape assessment methodologies. We encourage the use of Landscape Character Assessment (LCA), based on the good practice guidelines produced jointly by the Landscape Institute and Institute of Environmental Assessment in 2013. LCA provides a sound basis for guiding, informing and understanding the ability of any location to accommodate change and to make positive proposals for conserving, enhancing or regenerating character, as detailed proposals are developed.

Natural England supports the publication *Guidelines for Landscape and Visual Impact Assessment*, produced by the Landscape Institute and the Institute of Environmental Assessment and Management in 2013 (3rd edition). The methodology set out is almost universally used for landscape and visual impact assessment.

In order to foster high quality development that respects, maintains, or enhances, local landscape character and distinctiveness, Natural England encourages all new development to consider the character and distinctiveness of the area, with the siting and design of the proposed development reflecting local design characteristics and, wherever possible, using local materials. The Environmental Impact Assessment process should detail the measures to be taken to ensure the building design will be of a high standard, as well as detail of layout alternatives together with justification of the selected option in terms of landscape impact and benefit.

The assessment should also include the cumulative effect of the development with other relevant existing or proposed developments in the area. In this context Natural England advises that the cumulative impact assessment should include other proposals currently at Scoping stage. Due to the overlapping timescale of their progress through the planning system, cumulative impact of the proposed development with those proposals currently at Scoping stage would be likely to be a material consideration at the time of determination of the planning application.

The assessment should refer to the relevant National Character Areas which can be found on our website. Links for Landscape Character Assessment at a local level are also available on the same page.

4. Access and Recreation

Natural England encourages any proposal to incorporate measures to help encourage people to

access the countryside for quiet enjoyment. Measures such as reinstating existing footpaths together with the creation of new footpaths and bridleways are to be encouraged. 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 incorporated where appropriate.

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

The EIA should consider potential impacts on access land, public open land, rights of way and coastal access routes in the vicinity of the development. Appropriate mitigation measures should be incorporated for any adverse impacts. We also recommend reference to the relevant Right of Way Improvement Plans (ROWIP) to identify public rights of way within or adjacent to the proposed site that should be maintained or enhanced.

5. Soil and Agricultural Land Quality

Impacts from the development should be considered in light of the Government's policy for the protection of the best and most versatile (BMV) agricultural land as set out in paragraph 170 of the NPPF. We also recommend that soils should be considered in the context of the sustainable use of land and the ecosystem services they provide as a natural resource, as also highlighted in paragraph 170 of the NPPF.

Soil is a finite resource that fulfils many important functions and services (ecosystem services) for society, for example as a growing medium for food, timber and other crops, as a store for carbon and water, as a reservoir of biodiversity and as a buffer against pollution. It is therefore important that the soil resources are protected and used sustainably.

The applicant should consider the following issues as part of the Environmental Statement:

1. The degree to which soils are going to be disturbed/harmed as part of this development and whether 'best and most versatile' agricultural land is involved.

This may require a detailed survey if one is not already available. For further information on the availability of existing agricultural land classification (ALC) information see www.magic.gov.uk. Natural England Technical Information Note 049 - [Agricultural Land Classification: protecting the best and most versatile agricultural land](#) also contains useful background information.

2. If required, an agricultural land classification and soil survey of the land should be undertaken. This should normally be at a detailed level, e.g. one auger boring per hectare, (or more detailed for a small site) supported by pits dug in each main soil type to confirm the physical characteristics of the full depth of the soil resource, i.e. 1.2 metres.

3. The Environmental Statement should provide details of how any adverse impacts on soils can be minimised. Further guidance is contained in the [Defra Construction Code of Practice for the Sustainable Use of Soil on Development Sites](#).

6. Climate Change Adaptation

The [England Biodiversity Strategy](#) published by Defra establishes principles for the consideration of biodiversity and the effects of climate change. The ES should reflect these principles and identify how the development's effects on the natural environment will be influenced by climate change, and how ecological networks will be maintained. The NPPF requires that the planning system should contribute to the enhancement of the natural environment 'by establishing coherent ecological networks that are more resilient to current and future pressures' (NPPF Para 174), which should be demonstrated through the ES.

7. Cumulative and in-combination effects

A full consideration of the implications of the whole scheme should be included in the ES. All supporting infrastructure should be included within the assessment.

The ES should include an impact assessment to identify, describe and evaluate the effects that are likely to result from the project in combination with other projects and activities that are being, have been or will be carried out. The following types of projects should be included in such an assessment, (subject to available information):

- a. existing completed projects;
- b. approved but uncompleted projects;
- c. ongoing activities;
- d. plans or projects for which an application has been made and which are under consideration by the consenting authorities; and
- e. plans and projects which are reasonably foreseeable, i.e. projects for which an application has not yet been submitted, but which are likely to progress before completion of the development and for which sufficient information is available to assess the likelihood of cumulative and in-combination effects.