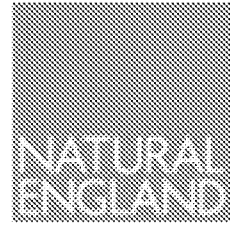


Date: 05 July 2021  
Our ref: 357783  
Your ref: BR/129/21/OUT



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

Mr S Davis  
Arun District Council  
First Floor  
Arun Civic Centre  
Maltravers Road  
Littlehampton  
BN17 5LF

**BY EMAIL ONLY**

Dear Mr Davis

**Planning consultation:** HRA & Appropriate Assessment - Outline application with all matters reserved for up to 10 No. new dwellings with associated services, landscaping, car parking & amenity (resubmission following BR/190/20/OUT)

**Location:** 26 Burnham Avenue, Bognor Regis PO21 2JU

Thank you for your consultation on the above dated and received by Natural England on 22 June 2021.

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.

**DESIGNATED SITES [EUROPEAN] – NO OBJECTION SUBJECT TO SECURING APPROPRIATE MITIGATION**

This advice should be taken as Natural England's formal **representation on appropriate assessment** given under regulation 63(3) of the Conservation of Habitats and Species Regulations 2017 (as amended). You are entitled to have regard to this representation.

**With regard to European Sites, Natural England does not object to the granting of this permission subject to the advice given below.**

Natural England advises that the specific measures previously identified and analysed by your Authority to prevent harmful effects on coastal European Sites from increased recreational pressure should be applied to this proposed development at appropriate assessment.

Your authority has measures in place to manage these potential impacts through the agreed strategic solution which we consider to be ecologically sound. Natural England is of the view that if these measures, including contributions to them, are implemented, they will be effective and reliable in preventing harmful effects on the European Site(s) for the duration of the proposed development.

Providing that the appropriate assessment concludes that these measures must be secured as planning conditions or obligations by your authority to ensure their strict implementation for the full duration of the development, and providing that there are no other adverse impacts identified by your authority's appropriate assessment, Natural England is satisfied that this appropriate

assessment can ascertain that there will be no adverse effect on the integrity of the European Site in view of its conservation objectives.

If your authority's appropriate assessment has identified any other adverse impacts from the proposed development in addition to those that may be caused by increased recreational pressure and which have not been addressed by your Authority, you must consult Natural England for further advice on this appropriate assessment. Permission should not be granted until such time as Natural England has been able to consider these additional impacts and respond.

For any queries regarding this letter, for new consultations, or to provide further information on this consultation please send your correspondences to 

Yours sincerely

Sally Wintle  
Consultations Team

## **Annex - Generic advice on natural environment impacts and opportunities**

### **Sites of Special Scientific Interest (SSSIs)**

Local authorities have responsibilities for the conservation of SSSIs under s28G of the Wildlife & Countryside Act 1981 (as amended). The National Planning Policy Framework (paragraph 175c) states that development likely to have an adverse effect on SSSIs should not normally be permitted. Natural England's SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI. The dataset and user guidance can be accessed from the Natural England Open Data Geoportal.

### **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.

### **Protected Species**

Natural England has produced standing advice<sup>1</sup> to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice. Natural England will only provide bespoke advice on protected species where they form part of a SSSI or in exceptional circumstances.

### **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. The list of priority habitats and species can be found here<sup>2</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.

### **Ancient woodland, ancient and veteran trees**

You should consider any impacts on ancient woodland and ancient and veteran trees in line with paragraph 175 of the NPPF. Natural England maintains the Ancient Woodland Inventory which can help identify ancient woodland. Natural England and the Forestry Commission have produced standing advice for planning authorities in relation to ancient woodland and ancient and veteran trees. It should be taken into account by planning authorities when determining relevant planning applications. Natural England will only provide bespoke advice on ancient woodland, ancient and veteran trees where they form part of a SSSI or in exceptional circumstances.

### **Protected landscapes**

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<sup>1</sup> <https://www.gov.uk/protected-species-and-sites-how-to-review-planning-proposals>

<sup>2</sup> <http://webarchive.nationalarchives.gov.uk/20140711133551/http://www.naturalengland.org.uk/ourwork/conservation/biodiversity/protectandmanage/habsandspeciesimportance.aspx>

For developments within or within the setting of a National Park or Area of Outstanding Natural Beauty (AONB), we advise you to apply national and local policies, together with local landscape expertise and information to determine the proposal. The National Planning Policy Framework (NPPF) (paragraph 172) provides the highest status of protection for the landscape and scenic beauty of National Parks and AONBs. It also sets out a 'major developments test' to determine whether major developments should be exceptionally be permitted within the designated landscape. We advise you to consult the relevant AONB Partnership or Conservation Board or relevant National Park landscape or other advisor who will have local knowledge and information to assist in the determination of the proposal. The statutory management plan and any local landscape character assessments may also provide valuable information.

Public bodies have a duty to have regard to the statutory purposes of designation in carrying out their functions (under (section 11 A(2) of the National Parks and Access to the Countryside Act 1949 (as amended) for National Parks and S85 of the Countryside and Rights of Way Act, 2000 for AONBs). The Planning Practice Guidance confirms that this duty also applies to proposals outside the designated area but impacting on its natural beauty.

Heritage Coasts are protected under paragraph 173 of the NPPF. Development should be consistent the special character of Heritage Coasts and the importance of its conservation.

### **Landscape**

Paragraph 170 of the 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.

### **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.

## **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.

## **Environmental enhancement**

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). 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 or what new features could be incorporated into the development proposal. Where onsite measures are not possible, you should consider off site measures. Opportunities for enhancement might include:

- Providing a new footpath through the new development to link into existing rights of way.
- Restoring a neglected hedgerow.
- Creating a new pond as an attractive feature on the site.
- Planting trees characteristic to the local area to make a positive contribution to the local landscape.
- Using native plants in landscaping schemes for better nectar and seed sources for bees and birds.
- Incorporating swift boxes or bat boxes into the design of new buildings.
- Designing lighting to encourage wildlife.
- Adding a green roof to new buildings.

You could also consider how the proposed development can contribute to the wider environment and help implement elements of any Landscape, Green Infrastructure or Biodiversity Strategy in place in your area. For example:

- Links to existing greenspace and/or opportunities to enhance and improve access.
- Identifying opportunities for new greenspace and managing existing (and new) public spaces to be more wildlife friendly (e.g. by sowing wild flower strips)
- Planting additional street trees.
- Identifying any improvements to the existing public right of way network or using the opportunity of new development to extend the network to create missing links.

Restoring neglected environmental features (e.g. coppicing a prominent hedge that is in poor condition or clearing away an eyesore).

## Habitat Regulation Assessment (HRA) Screening Matrix and Appropriate Assessment Statement

**PLEASE NOTE:** Undertaking the HRA process is the responsibility of Arun District Council as the Competent Authority for the purpose of the Habitats Regulations, however, it is the responsibility of the applicant to provide the Council with the information that we require for this purpose. This template is to be used only for potential impacts on the Pagham Harbour SPA/Ramsar site.

This template is for use where an application will result in additional overnight accommodation being created and/or a net increase in the population served by a wastewater system, including new homes, student accommodation, tourism attractions and tourist accommodation

|                                                       |                                                                                                                                                                                   |
|-------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Application reference:                                | BR/129/21/OUT                                                                                                                                                                     |
| Application address:                                  | 26 Burnham Avenue, Bognor Regis, PO21 2JU                                                                                                                                         |
| Application description:                              | Outline application with all matters reserved for up to 10 No. new dwellings with associated services, landscaping, car parking & amenity (resubmission following BR/190/20/OUT). |
| Status of Application:                                | Undecided                                                                                                                                                                         |
| Proximity to SPA/SAC/Ramsar. Is the application site: | <b>Is</b> within the 5km Zone of influence for Pagham Harbour SPA / Ramsar site                                                                                                   |
| Grid Ref. (if no address)                             | Not known                                                                                                                                                                         |
| Planning Officer: Simon Davis                         |                                                                                                                                                                                   |

| Stage 1 - details of the plan or project                                                                                                                                                                                       |                                            |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|
| 1a) European site potentially impacted by planning application, plan or project: [if no, then record the evidence submitted as to why there is no mechanism of impact]                                                         | <b>YES - recreational disturbance only</b> |
| 1b) If YES to question (1a) then is the planning application, project or plan directly connected with or necessary to the management of the site? [if yes, then the applicant should have provided evidence and justification] | <b>NO</b>                                  |
| 1c) If NO to question (1b) then other than for applications where recreational disturbance is the only mechanism of impact (where the impact is always in combination with other residential                                   | <b>NO - recreational disturbance only</b>  |

developments), are there any other projects or plans that together with the planning application being assessed could affect the site? [Applicant to provide the information sufficient to allow an 'in combination' effect to be assessed]

## Stage 2 - HRA screening assessment

**Test 1: the significance test** – The Applicant is to provide evidence so that a judgement can be made as to whether there could be any potential significant impacts of the development on the integrity of the SPA/Ramsar.

Following a recent CJEU ruling, we can no longer consider any avoidance and mitigation measures as part of the application at this stage of HRA. For applications where recreational disturbance is the only mechanism of impact, Natural England's advice is that such applications without mitigation will have a likely significant effect on the SPA(s) in combination with other residential development in the zones of influence. Therefore, such applications, even where a payment to a scheme of mitigation is proposed, will progress directly to Stage 3.

For other applications does the evidence submitted show a likely significant effect, without mitigation measures (either alone or in-combination with other plans or projects) **NO**

## Stage 3 - HRA – Appropriate Assessment

**Test 2: the integrity test** – If there are any potential significant impacts, the applicant must provide evidence showing avoidance and/or mitigation measures to allow an Assessment to be made. Other than for the Pagham Joint Scheme of Mitigation, the Applicant must also provide details which demonstrate any long-term management, maintenance and funding of any solution.

The likely effectiveness and long-term financial robustness of the Pagham Joint Scheme of Mitigation has already been examined by Natural England, so the applicant does not need to provide their own evidence base on these aspects.

Instead, evidence should be submitted that a mitigation contribution payment has either:

- been made to the appropriate scheme through a Unilateral Undertaking
- or will be made through a s106 agreement where Heads of Terms have been agreed and the agreement will be signed prior to any permission being granted.

This application if approved will be subject to a S.106 Agreement to secure a contribution of £871 per new dwelling created (so a max of £7,839 based on 9 net dwellings) towards the Pagham Access Management measures.

Recreational Disturbance

Conservation objectives for the SPA site(s)

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;

- The extent and distribution of the habitats of the qualifying features
- The structure and function of the habitats of the qualifying features
- The supporting processes on which the habitats of the qualifying features rely
- The population of each of the qualifying features, and,
- The distribution of the qualifying features within the site

#### Qualifying Features (Pagham Harbour SPA)

A046a *Branta bernicla bernicla*; Dark-bellied brent goose (Non-breeding)

A151 *Philomachus pugnax*; Ruff (Non-breeding)

A193 *Sterna hirundo*; Common tern (Breeding)

A195 *Sterna albifrons*; Little tern (Breeding)

#### Qualifying Features (Pagham Harbour Ramsar Site)

- *Branta bernicla bernicla* Dark-bellied brent goose

#### Section 2 Assessment of Effects on Site Integrity

#### Assessment Matrix (Pagham Harbour SPA/Ramsar site and Medmerry Compensatory Habitat – Recreational Disturbance)

| Potential Effect                                                                                                                                                                                      | Site Conservation Objective(s)                                                                                                                                | Qualifying features                                       | Potential for Impact?                                                                                                                                                   | Relevant Mitigation Measures                                                                                                                                                                                                                                                                                                                                          |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Decrease in survival rates and populations of over-wintering and breeding birds due to increase in disturbance, caused by increasing human population ( in combination with other plans and projects) | Maintain or restore the population of each of the qualifying features.<br><br>Maintain or restore the distribution of the qualifying feature within the site. | All for Pagham Harbour SPA and Pagham Harbour Ramsar Site | Yes.<br>Indirect impact. Without mitigation, bird populations would be reduced and/or re-distributed by increased numbers of visitors leading to increased disturbance. | Pagham Joint Scheme of Mitigation<br><br>The scheme includes:<br>• Provision of 1.5FTE Visitor Experience officer (VEO) post at RSPB Pagham. The role of the VEO will be to educate and inform visitors and the surrounding community about recreational disturbance, its impacts on birds and wildlife-friendly ways to behave when visiting the coast and Pagham in |

|                        |                                                                                             |                                                                                                           |                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                        |
|------------------------|---------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                        |                                                                                             |                                                                                                           |                                                                                                                                                                                             | particular.<br>•Provision of general 'Dog Initiatives' – a broad range of measures (jointly with Bird Aware Solent) to encourage responsible dog ownership at the coast and visits to alternative dog –friendly sites.<br>• Independent monitoring surveys (every two or three years). |
| Direct loss of habitat | Maintain or restore the extent and distribution of the habitats of the qualifying features. | All for Pagham Harbour SPA, Pagham Harbour Ramsar site and all habitats at Medmerry Compensatory Habitat. | No. Direct effect, however development within the zone of influence but outside the SPA or compensatory habitat boundaries will not lead to loss of habitat, either alone or in combination | N/A. No impact so no mitigation can be provided.                                                                                                                                                                                                                                       |
|                        |                                                                                             |                                                                                                           |                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                        |

**Stage 4 – Summary of the Appropriate Assessment (To be carried out by the Competent Authority (Arun District Council) in consultation with Natural England)**

**Conclusion**

Having considered the proposed mitigation and avoidance measures to be provided in-perpetuity through the secured contribution to the Pagham Joint Scheme of Mitigation, Arun District Council concludes that with mitigation the plan or project will not have an Adverse Effect on the Integrity of the European protected site(s).

Having made this appropriate assessment of the implications of the plan or project for the site(s) in view of that (those) site(s)'s conservation objectives and having consulted Natural England and fully considered any representation received (see below), the authority may now agree to the plan or project under regulation 63 of the Conservation of Habitats and Species Regulations 2017.

Natural England Officer:

Summary of Natural England's comments:

TBC

| Version                        | Date completed | Delegated sign off /<br>Committee approval |
|--------------------------------|----------------|--------------------------------------------|
| Draft AA issued for NE comment | 22/06/21       |                                            |
| Evidence of Payment provided   |                |                                            |
| Final Assessment signed off    |                |                                            |