

From: Simon Davis

Sent: 06 July 2022 15:50

Subject: ADC App ref BR/38/22/PL - Appropriate Assessment (Your Ref 390036)

Dear Sir/Madam,

In your consultation response dated 10/05/22, you advise that it is a matter for us to decide whether an appropriate assessment of this proposal is necessary in light of the People Over Wind Ruling and that in accordance with the Conservation of Habitats & Species Regulations 2017 (as amended), Natural England must be consulted on any appropriate assessment that ADC may decide to make.

In accordance with your consultation response, this appropriate assessment is being sent to NE for your comment. Please provide a response within 10 days or advise if longer is required.

Kind Regards

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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/48/22/PL
Application address:	13-17 Richmond Avenue, Bognor Regis, PO21 2YE
Application description:	Conversion of existing loft space into 2 No. flats.
Status of Application:	Undecided
Proximity to SPA/SAC/Ramsar. Is the application site:	Is within the 5km Zone of influence for Pagham Harbour SPA / Ramsar site
Grid Ref: (if no address)	
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]	YES - recreational disturbance only
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]	NO
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 developments), are there any other projects or plans that together with the planning application	NO - recreational disturbance only

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 will be subject to a Deed of Variation in respect of a previously completed s106 Agreement associated with BR/114/20/PL (Conversion of existing vacant residential care home into 10 No. flats) to enable an additional £871 contribution to be secured. This is on the basis that one flat had already been permitted in the loft, so the net gain is 1 flat.

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. Maintain or restore the distribution of the qualifying feature within the site.	All for Pagham Harbour SPA and Pagham Harbour Ramsar Site	Yes. 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 The scheme includes: • 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.

				• 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. • 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:

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Version	Date completed	Delegated sign off / Committee approval
Draft AA issued for NE comment	06/07/22	n/a
Evidence of Payment provided		
Final Assessment signed off		