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Your ref: P/140/16/OUT



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BY EMAIL ONLY

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Dear Claire

Planning consultation: Outline application for access only - mixed use development comprising of up to 400 dwellings, a care home with up to 70 beds, a Local Centre comprising up to 2000sqm of A1/A2/A3/D1/sui generis floorspace, provision of land for a 1FE primary school (with sufficient space to ensure that it is expandable to 2FE), provision of land for a scout hut, safeguarding of land to help link the site to the Pagham Harbour Cycle Route & other community uses including public open space & allotments with some matters reserved.

Location: Land South of Summer Lane & West of Pagham Road Pagham

Thank you for your consultation on the above dated 06 January 2017 which was received by Natural England on the same date. Apologies for missing your deadline for consultation responses, but I hope the comments below will still prove useful.

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.

Town and Country Planning (Development Management Procedure) (England) Order 2010
The Conservation of Habitats and Species Regulations 2010 (as amended)
The Wildlife and Countryside Act 1981 (as amended)¹

Internationally and nationally designated sites – no objection

The application site is in close proximity to a European designated site, and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations'). The application site is in close proximity to the Pagham Harbour Special Protection Area (SPA) which is a European site. The site is also listed as Pagham Harbour Ramsar site² and also notified at a national level as Pagham Harbour Site of Special Scientific Interest (SSSI). Please see the subsequent sections of this letter for our advice relating to SSSI features.

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential

¹ This reply comprises our statutory consultation response under provisions of Article 20 of the Town and Country Planning (Development Management Procedure) (England) Order 2010, Regulation 61 (3) of the *Conservation of Habitats and Species Regulations 2010 (as amended)*, and Section 28(l) of the *Wildlife and Countryside Act 1981 (as amended)*.

² Listed or proposed Wetlands of International Importance under the Ramsar Convention (Ramsar) sites are protected as a matter of Government policy. Paragraph 118 of the National Planning Policy Framework applies the same protection measures as those in place for European sites.

impacts that a plan or project may have³. The [Conservation objectives](#) for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

In advising your authority on the requirements relating to the Habitats Regulations Assessment, and to assist you in screening for the likelihood of significant effects, based upon the information provided, Natural England offers the following advice:

- The proposals are not necessary for the management of the European site;
- Subject to appropriate financial contributions being secured for strategic mitigation, the proposals are unlikely to have a significant effect on Pagham Harbour SPA/Ramsar, and can therefore be screened out from any requirement for further assessment

When recording your Habitats Regulations Assessment, we recommend you refer to the following information to justify your conclusions regarding the likelihood of significant effects:

Mitigation measures for recreational disturbance to SPA birds

Appropriate financial contributions should be made to the Pagham Harbour strategic access management and monitoring project. This strategic approach to mitigating recreational disturbance resulting from new residential development around Pagham Harbour takes the form of a package of measures comprising wardening in perpetuity to encourage responsible use of the harbour; a dog project including website and events; contribution to signage and interpretation; and monitoring.

Additional housing to meet the district's objectively assessed need is being considered through the Local Plan process, and is assessed in Arun District Council's Stage 2 Report: Screening for Likely Significant Effects document dated April 2016. The level of mitigation to address these increased housing numbers (including the housing proposed at the site south of Summer Lane), is currently being finalised. However, Natural England is satisfied that provided contributions are made to the new, scaled-up level of mitigation, a likely significant effect from increased recreational disturbance can be ruled out.

Natural England notes that 3.92ha of semi-natural greenspace is provided, with a walking route around the development. Our view is that green infrastructure measures on their own are insufficient to avoid a likely significant effect from recreational disturbance to Pagham Harbour SPA/Ramsar site. However, attractive greenspace within the development site, which allows dog owners to let their dogs off leads, may take some of the short daily dog walks away from the harbour. It would also allow the development to comply with policy ENV DM2 in the emerging Arun Local Plan, which requires measures on- and off- the SPA.

Natural England welcomes the commitment, in paragraph 6.10 of the Report to Inform an HRA, to provide signage on the application site and homeowner information packs, to encourage residents to use the recreation space on site and recognise the sensitivities of Pagham Harbour. We would be happy to help with wording of any information to be provided.

Potential loss of functionally linked habitat

Dark-bellied brent geese forage within, and on land near to, Pagham Harbour SPA/Ramsar site⁴. Where the geese regularly 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.

The Report to Inform an HRA states that the application site could be used by brent geese on occasion, though surveys carried out in support of the application, and a data search for records

³ Requirements are set out within Regulations 61 and 62 of the Habitats Regulations, where a series of steps and tests are followed for plans or projects that could potentially affect a European site. The steps and tests set out within Regulations 61 and 62 are commonly referred to as the 'Habitats Regulations Assessment' process.

⁴ See Annex 1 for comments regarding the status of dark-bellied brent geese within Pagham Harbour SPA.

submitted to the Sussex Biological Records Centre, did not record any use by brent geese. The Report to Inform an HRA concludes that the fields to the west of the application site are more important for brent geese, and suggests mitigation in the form of planted screening to reduce visual disturbance which may arise from the application site.

Natural England's view is that the size of the fields within the application site, and their location within 500m of the SPA, means that brent geese may use them when they are planted with a suitable crop. However, as surveys have not recorded any use, and given the availability of alternative foraging habitat around the SPA, we are satisfied that the loss of the application site as foraging habitat is not likely to have a significant effect on brent geese, alone, or in combination with other housing developments currently going through the planning process. Furthermore, we welcome the mitigation measure, in the form of screening, proposed to minimise disturbance to geese foraging in adjacent fields.

Water quality

The Report to Inform an HRA submitted with this application states that there is no direct hydrological link between the application site and Pagham Harbour (paragraph 5.7.16), and that a Sustainable Urban Drainage System will address surface water run-off (paragraph 5.7.21). For these reasons, Natural England is satisfied that there will be no likely significant effect from hydrological impacts during construction, or from surface water run-off during operation.

Your authority's HRA *Stage 2 report: Screening for likely significant effects*, regarding the emerging Arun Local Plan, identifies that developments in this location have the potential to impact the water quality of Pagham Harbour SPA/Ramsar site. Pagham waste water treatment works (WwTW) serves the Pagham area, and discharges to Pagham Rife, which feeds into the SPA/Ramsar site. Paragraph 5.7.23 of the Report to Inform an HRA states that Southern Water have indicated that there is sufficient capacity at Pagham WwTW and that discharge rates would not be adversely affected. If there is sufficient capacity, in combination with the other new developments currently being considered through the planning process, then Natural England is satisfied that there will be no likely significant effect from water quality impacts.

SSSIs

Pagham Harbour SSSI is notified for both its breeding birds of wet grassland and aggregations of certain non-breeding birds. As the application site is arable farmland rather than wet grassland, it is not used by significant numbers of breeding birds of wet grassland. The wintering bird surveys carried out in 2014/15 recorded small numbers of lapwings and curlews using the application site. However, these species are not notified features of the SSSI. Therefore, the loss of the application site as foraging habitat for these species will not adversely affect the SSSI.

For these reasons, Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, and subject to the comments above, will not damage or destroy the interest features for which the Pagham Harbour SSSI has been notified. We therefore advise your authority that this SSSI does not represent a constraint in determining this application. Should the details change, Natural England draws your attention to Section 28(I) of the *Wildlife and Countryside Act 1981* (as amended), requiring your authority to re-consult Natural England

Protected Species

We have not assessed this application and associated documents for impacts on protected species.

Natural England has published Standing Advice on protected species. The Standing Advice includes a habitat decision tree which provides advice to planners on deciding if there is a 'reasonable likelihood' of protected species being present. It also provides detailed advice on the protected species most often affected by development, including flow charts for individual species to enable an assessment to be made of a protected species survey and mitigation strategy.

You should apply our Standing Advice to this application as it is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation.

The Standing Advice should not be treated as giving any indication or providing any assurance in respect of European Protected Species (EPS) that the proposed developments are unlikely to affect the EPS present on the sites; nor should it be interpreted as meaning that Natural England has reached any views as to whether a licence may be granted.

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 Alison Giacomelli on 0208 225 7693. For any new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

We really value your feedback to help us improve the service we offer. We have attached a feedback form to this letter and welcome any comments you might have about our service.

Yours sincerely

Alison Giacomelli
Sussex and Kent Area Team

Annex 1 – Status of dark-bellied brent geese within Pagham Harbour SPA

The Report to Inform an HRA submitted with the application states that dark bellied brent geese (and common tern) are no longer considered to be qualifying features of the SPA, following reviews of the SPA network published in 2001 and 2016. It goes on to state that in relation to the weight to be applied to the potential for impacts on the species, the report is mindful that it is no longer cited as a qualifying feature (paragraph 5.7.41).

Natural England would like to clarify that the features set out in the citation for Pagham Harbour SPA, and its associated Conservation Objectives, provide the legal basis for the HRA of the application. That is to say, the designated features, against which impacts should be assessed, are common tern, little tern, ruff and dark-bellied brent goose.

In the mid-1990s, JNCC carried out a review of SPAs, published in 2001⁵, and at this time, brent geese had dipped below the qualifying threshold at Pagham Harbour. Since then, in the early 2000s, brent geese numbers at Pagham recovered to qualifying levels, until the last 5 year period available (2010/11 – 14/15), when numbers again slipped below qualifying levels.

The intention at the time was that the 2001 SPA Review would lead to updated citations, but this did not happen. Given the fact that the 2001 SPA Review was based on, by then out-of-date data, JNCC and partners agreed that a third SPA Review should be undertaken. The first phase of this was published at the end of 2016. This looked at each Annex 1 or migratory species and assessed whether the current SPA network protected 'enough' of the population to achieve favourable conservation status. The intention of the 2016 report was not to recommend where new sites should be situated (this will be for later phases), and the intention of the 3rd SPA Review is not to change the qualifying features of existing sites. Therefore, the lack of brent geese featuring against Pagham Harbour in the 2001 or 2016 reviews should not be taken as any intention to remove the species as a qualifying feature.

⁵ See <http://jncc.defra.gov.uk/page-7307>