

Date: 20 December 2017
Our ref: DAS/10802/232857
Your ref: Land S of Summer Lane, Pagham



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BY EMAIL ONLY

Dear Karl

Discretionary Advice Service (Charged Advice)

DAS/10802/232857

Development proposal and location: Housing development on land south of Summer Lane, Pagham, West Sussex

Thank you for your consultation on the above dated 01 December 2017, which was received on the same date.

This advice is being provided as part of Natural England's Discretionary Advice Service. Ecology Solutions Ltd has asked Natural England to provide advice upon:

- The Brent Goose Mitigation Plan produced to support the planning application (Ref: P140/16/OUT) for housing development on land south of Summer Lane, Pagham

This advice is provided in accordance with the Quotation and Agreement dated 20 December 2017.

The following advice is based upon a review of the Pagham South Brent Goose Mitigation Plan, December 2017 (ref. 5633.BGMP.vf1). This advice builds on that contained in the letter dated 29 June 2016 (DAS/10802/187760), and that dated 23 November 2017 (DAS/10802/230714).

I confirm that the Brent Goose Mitigation Plan (BGMP) follows the principles for mitigation set out in the letter dated 23 November 2017.

Proposed mitigation strategy

Paragraphs 2.1 to 2.4 of the BGMP set out the strategy designed to mitigate any potential impacts on dark-bellied brent geese, which are a feature of the Pagham Harbour Special Protection Area (SPA) and Ramsar site. The strategy is a combination of measures that address disturbance to brent geese foraging in fields adjacent to the proposal, and measures to replace lost foraging habitat. This is appropriate and welcomed, given the survey records of brent geese using the adjacent fields, and reports from local people of geese using the application site.

Measures to minimise disturbance

Measures to minimise disturbance to brent geese foraging in adjacent fields have already been defined in the documents submitted to Arun District Council in support of application P140/16/OUT. Dense new tree planting along the western boundary of the application site will avoid visual disturbance from people. I recommend that this is planted as soon as works start, so that it has the maximum time to mature before first occupation.

Open space is planned along the western boundary of the site. This is welcomed as it will provide a recreational resource for people and will provide a buffer between the proposed housing and adjacent fields. I recommend that additional fencing along the boundary line is put in place to stop

dogs escaping onto adjacent fields. This is particularly important along the parts of the boundary where there is no current hedgerow.

Potential disturbance from people using existing footpaths which run from the application site towards the SPA will be addressed by the strategic approach to recreational disturbance. The wardening that this comprises can be targeted towards these footpaths as necessary. The officer employed by the project can also target new residents, for example by giving talks/guided walks explaining the importance of the SPA, which will be agreed by the steering group (made up of Arun and Chichester Councils, Natural England and the RSPB).

In addition, the application set out the provision of open space. As stated in our letter to Arun DC dated 13 February 2017, Natural England's formal view on the planning application is that the 3.92ha of semi-natural greenspace, which allows dog owners to let their dogs off leads, may take some of the short daily dog walks away from the harbour. Consequently, it may also reduce disturbance to brent geese using fields adjacent to the footpaths between the application site and the SPA.

Measures to replace lost habitat

The measures to replace, on a precautionary basis, the area of potential brent goose foraging habitat lost to the proposals, are set out in paragraph 2.4 of the BGMP. These broad measures follow the principles I set out in my advice to you (letter dated 23 November 2017).

Location of replacement habitat:

I can confirm that the location of the proposed mitigation land (shown at Plan ECO1) is acceptable as it is closer to Pagham Harbour than the application site. This means it will be favoured from an energetics point of view, as the geese will expend less energy flying to the mitigation land from their roost site than to the application site. In addition, the location adjacent to the SPA, but away from existing footpaths (and roads) is beneficial.

Area of replacement habitat:

Details of the crop rotation have been helpfully provided, which have been used to calculate the area that could potentially be used by foraging brent geese. This calculation has followed the advice set out in my letter dated 23 November 2017, and gives a maximum requirement of 18.7ha (paragraph 2.23). The BGMP goes on to state that this will be provided through approximately 5ha of permanent habitat managed for brent geese, and a total of 18.5ha where bird scaring to reduce crop damage will no longer occur (shown on Plan ECO1). As this is secured in perpetuity, it represents an improvement over the current situation, and my view is that it is sufficient.

Habitat management:

The combination of permanent winter cereal/clover cropping, and permanent wet grassland creation described in paragraphs 3.5 – 3.10, follows the advice set out in my letter of 23 November 2017. The land that has recently been left fallow is currently made up of rank vegetation with a high proportion of rushes and reeds. Whilst the frequently flooded part of the site has value for passage and wintering waders and wildfowl, and possibly breeding lapwing, the grassland is not suitable for brent geese. Therefore, the proposed grassland management regime, and creation of permanent scrapes, represents a benefit for brent geese, without compromising the interest for waders and other wildfowl. However, Natural England will comment on the detailed Management Plan for the site, when it is consulted on at reserved matters stage.

Sight lines for brent geese:

Scrub clearance is proposed on the boundaries of the habitat creation area. In principle, this is welcomed as it will open up sight lines for brent geese and increase the likelihood that they will use the habitat created. However, as discussed with you by telephone, the Natural England land management adviser for Pagham Harbour has some concerns over the impacts of this on wider biodiversity interests. Therefore, as described in paragraph 3.15 of the BGMP, we would welcome further discussion over this point as the detailed Management Plan is developed.

Cessation of bird scaring:

The cessation of bird scaring measures over the area described in Plan ECO1 is essential for the successful implementation of the measures described above, and would be an improvement over the current situation. Therefore, the commitment to cessation of bird scaring in perpetuity is welcomed.

In conclusion, I agree that the package of measures described above and set out in the BGMP are sufficient to avoid a likely significant effect on the SPA from loss of brent goose foraging habitat.

Approach to consenting

I understand from discussions with Sussex Ornithological Society that they and the RSPB are planning brent geese surveys to create usage maps. This may lead to a strategic approach to mitigation, and identification of alternative brent goose reserves, which would have to be agreed by Arun and Chichester District Councils. Therefore, the approach set out in paragraph 2.6 of the BGMP is welcomed – namely that in the future, the applicant may, in agreement with Arun DC, make financial contributions to any strategic mitigation package, in lieu of the measures set out in the BGMP. However, I agree that there is no need to wait for such a strategic mitigation package, as the measures in the BGMP are sufficient to avoid a likely significant effect.

It will be for Arun District Council to advise on the appropriate methods of securing the mitigation measures set out in the BGMP. However, in principle, a Grampian Condition, as described in paragraph 4.6.2 would be acceptable. I agree with the statement in 4.6.4 that a Grampian Condition and the conditioning of the management plan would give sufficient comfort to Arun DC that a likely significant effect could be avoided and hence no adverse effect on the integrity of the SPA would arise.

Timing of works

The provision of the mitigation measures set out in paragraphs 4.3 to 4.6 of the BGMP in advance of commencement of development is welcomed, and compliant with the Habitats Regulations, as it ensures that the mitigation habitat will be available before the loss occurs.

For clarification of any points in this letter, please contact Alison Giacomelli on 0208 225 7693.

This letter concludes Natural England's Advice within the Quotation and Agreement dated 20 December 2017.

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As the Discretionary Advice Service is a new service, we would appreciate your feedback to help shape this service. We have attached a feedback form to this letter and would welcome any comments you might have about our service.

☒ The advice provided in this letter has been through Natural England's Quality Assurance process

The advice provided within the Discretionary Advice Service is the professional advice of the Natural England adviser named below. It is the best advice that can be given based on the information provided so far. Its quality and detail is dependent upon the quality and depth of the information which has been provided. It does not constitute a statutory response or decision, which will be made by Natural England acting corporately in its role as statutory consultee to the competent authority after an application has been submitted. The advice given is therefore not binding in any way and is provided without prejudice to the consideration of any statutory consultation response or decision which may be made by Natural England in due course. The final judgement on any proposals by Natural England is reserved until an application is made and will be made on the information then available, including any modifications to the proposal made after receipt of discretionary advice. All pre-application advice is subject to review and revision in the light of changes in relevant considerations, including changes in relation to the facts, scientific knowledge/evidence, policy, guidance or law. Natural England will not accept any liability for the accuracy, adequacy or

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Yours sincerely

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Annex 1

European Protected Species

A licence is required in order to carry out any works that involve certain activities such as capturing the animals, disturbance, or damaging or destroying their resting or breeding places. Note that damage or destruction of a breeding site or resting place is an absolute offence and unless the offences can be avoided (e.g. by timing the works appropriately), it should be licensed. In the first instance it is for the developer to decide whether a species licence will be needed. The developer may need to engage specialist advice in making this decision. A licence may be needed to carry out mitigation work as well as for impacts directly connected with a development. Further information can be found in Natural England's ['How to get a licence'](#) publication.

If the application requires planning permission, it is for the local planning authority to consider whether the permission would offend against Article 12(1) of the Habitats Directive, and if so, whether the application would be likely to receive a licence. This should be based on the advice Natural England provides at formal consultation on the likely impacts on favourable conservation status and Natural England's [guidance](#) on how the three tests (no alternative solutions, imperative reasons of overriding public interest and maintenance of favourable conservation status) are applied when considering licence applications.

Natural England's pre-submission Screening Service can screen application drafts prior to formal submission, whether or not the relevant planning permission is already in place. Screening will help applicants by making an assessment of whether the draft application is likely to meet licensing requirements, and, if necessary, provide specific guidance on how to address any shortfalls. The advice should help developers and ecological consultants to better manage the risks or costs they may face in having to wait until the formal submission stage after planning permission is secured, or in responding to requests for further information following an initial formal application.

The service will be available for new applications, resubmissions or modifications – depending on customer requirements. More information can be found on [Natural England's website](#).