



Habitat Regulation Assessment (HRA)

Appropriate Assessment Statement Addendum for Reserved Matters Applications or Discharge of Condition applications

Undertaking the HRA process is the responsibility of the decision maker as the Competent Authority for the purpose of the Habitats Regulations, however, it is the responsibility of the Applicant to provide the Competent Authority with the information that they require for this purpose.

As part of its duty under the Conservation of Habitats and Species Regulations 2017 (as amended) (Habitats Regulations), Arun District Council has produced this document as an addendum to the appropriate assessment undertaken at outline stage. This is to ensure that the reserved matters application meets the measures and mitigations identified in the original Appropriate Assessment.

Details of proposed development

Outline Application Ref:	P/140/16/OUT (Appropriate Assessment undertaken by EPR Ltd, 18 th October 2018, ref: 18/23-2C)
Current Reserved Matters Application ref:	P/153/21/RES
Application address:	Land South of Summer Lane and West of Pagham Road
Application description:	Approval of reserved matters (appearance, layout, landscaping and scale) following outline planning Permission P/140/16/OUT for the erection of 350 No. dwellings, together with public open space, play space, drainage, parking and associated infrastructure, landscape, ancillary and site preparation works, with access off Pagham Road. This site may affect a Public Right of Way.
Status of Reserved Matters Application:	Undecided
Proximity to SPA/SAC/RAMSAR.	Is within Zone B of the Pagham Harbour SPA as identified within Policy ENV DM2 (i.e. within 0-500km from the boundary).
Planning Officer undertaking AA:	Jessica Riches

Habitat Regulation Assessment (HRA) Process

The competent authority (in this case Arun District Council) must be satisfied that based upon the best available scientific information and in light of any suitable mitigation measures, the proposed scheme will result in no likely significant adverse effects upon the integrity of the European site through appropriate measures being established, either alone or in combination with other plans or projects in the area.

Where a loss of site integrity cannot be ruled out (i.e., a 'significant impact' is likely to occur), the proposals may only be authorised under very exceptional circumstances (such as overriding public interest and with no viable alternative, as detailed in full under Article 6(4)).

This assessment seeks to supplement the existing appropriate assessment undertaken by ADC on the outline consent.

Introduction: Pagham Harbour SPA/RAMSAR

Pagham Harbour is an estuarine site which includes intertidal mudflats, saltmarsh, lagoons, shingle, open water, reed, swamp and wet grassland.

Pagham Harbour is a SPA as it supports important populations of rare birds for a large proportion of the year. It is an important breeding and wintering ground for wildfowl. Pagham Harbour regularly supports western European populations of Dark-bellied Brent Goose *Branta bernicla bernicla*, and Black-tailed Godwit *Limosa limosa islandica*.

Population growth associated with residential development brings with it the prospect of additional visitor pressure on European sites.

Impacts associated with disturbance of birds from recreation can lead to behavioural or physiological responses, with possible effects on survival and breeding success due to reduced feeding time and additional flights. Disturbance can be caused by a variety of activities, including walkers, dogs, boats, bait diggers, and the distance and scale will influence the response.

STAGE 1: SCREENING

Stage 1: Screening – the ‘Likely Significant Effects test’.

Screening under Regulation 63(1)(a) of the Habitats Regulations – Could there be likely significant effects, alone or in combination with other plans or projects? The assessment must exclude the consideration of mitigation measures following the ‘Sweetman II’¹ judgement.

Arun District Council have undertaken a screening assessment under the outline application P/140/16/OUT and determined the application could not rule out likely significant effects on Pagham Harbour SPA / RAMSAR. The below summarises the areas of screening undertaken and where an Appropriate Assessment (AA) was required.

Extract of table “4.1: Summary of HRA Screening”, taken from ADC’s HRA Assessment 18/32-2C, By EPR, 18th October 2018 available online under planning reference P/140/16/OUT

Receptor	Unmitigated Impact	LSE Alone	LSE Combination	AA Required
Pagham Harbour SPA/ Ramsar (qualifying features)	Disturbance of birds	No	Yes	Yes
	Effects on supporting habitat	Yes	Yes	Yes
	Water Pollution	No	Yes	Yes

As part of the AA process it was found that with avoidance and mitigation the development could proceed without causing a likely significant adverse impact on the Pagham Harbour SPA.

¹ The Court of Justice of the European Union (CJEU) judgement in the case of ‘People over Wind and Peter Sweetman v Coillte Teoranta’ (Sweetman II) determined that mitigation (i.e., measures that are specifically introduced to avoid or reduce the harmful effects of a plan or project on European sites) should not be taken into account when forming a view on likely significant effects (i.e. at the screening stage). Mitigation should instead only be considered at the appropriate assessment stage. Appropriate Assessment is not a technical term: it simply means ‘an assessment that is appropriate’ for the plan or project in question’. As such the law purposely does not prescribe what it should consist of or how it should be presented.

STAGE 2: APPROPRIATE ASSESSMENT

Stage 2: Appropriate Assessment – the ‘Integrity Test’

Appropriate Assessment under Regulation 63(1) - 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 as to whether there could be ‘adverse effects on the integrity of the relevant European site(s), alone or in combination with other plans or projects. The Applicant must also provide details which demonstrate any long-term management, maintenance and funding of any solution.

The applicant proposed mitigation measures at the outline stage which were agreed with ADC to be robust enough to ensure the development would avoid or mitigate an adverse effect on the integrity of Pagham Harbour SPA/Ramsar, alone and in-combination with other plans and projects.

The reserved matters application relates to Access, Appearance, Layout Landscaping and Scale and therefore this AA addendum deals with assessing the mitigation for disturbance of birds. Water Pollution will be dealt with by condition, and the mitigation for supporting habitat have been dealt with through the Section 106 legal agreement.

The agreed “bird disturbance mitigation measures” which relate specifically to the reserved matters application are as follows:

- Provide a total of **5.36ha of Public Open Space (POS)** and landscape planting (excluding small pockets and strips of grassland), of this 3.29ha was to be provided as semi-natural greenspace, with 0.15ha to be provided as equipped play space.
- The Public Open Space should **encourage users to remain within the site**, by ensuring adequate joined up footpaths, providing a range of lengths of circular walks, through a range of habitat types to reflect the offer of footpaths through the Pagham Harbour.
- The **site boundaries** of the development would be strengthened with extensive new **dense tree and hedgerow planting** to screen proposed built form, movement of vehicles and people/dogs within the development to reduce visual and noise disturbance.
- Provide **fencing** along the western and southern boundaries to prevent dogs accessing the land to the south and west when run off their leads.
- Suitable **signage** and **homeowner information packs** to ensure that occupants of the site are aware of the importance of the Pagham Harbour and are requested to utilise the onsite POS.

PROPOSED MITIGATION

Proposed Mitigation – Assessment against the Appropriate Assessment

Following the Appropriate Assessment undertaken, the following seeks to ensure that the details submitted as part of the development proposal (i.e. the Reserved Matters) comply with the objectives for the AA.

The below identifies the mitigation measures proposed as part of P/153/21/RES of the development and assesses their acceptability.

Public Open Space (POS)

POS: Quantum

The development proposes 5.37ha of Public Open space (POS), excluding allotment land, equipped play areas and areas of an incidental nature. The provision of the 5.37ha of POS includes 3.29ha of semi-natural green space.

The details proposed meet the requirements of the AA and are therefore acceptable.

POS: Useability and Quality

Footpaths have been shown around the site to provide joined up footpaths, providing a variety of short and longer circular walks within and around the perimeter of the site. The footpaths largely remain within the open landscaping and habitats, and lead to various pockets and areas of public open space throughout the site.

The open spaces within the residential areas are of a shape and size individually that allow useable open areas for people and dog walking, along with off lead activities. The open spaces are located in close proximity to residential dwellings as to allow quick access.

There is allotment provision located on the southern part of the site within the POS, however given the fence and landscaping arrangements, these uses can co-exist and still allow for suitable off lead activities within this POS.

The surfacing of footpaths is proposed to be hard surfaced, using tarmac and self-binding gravel. This provides suitable all-weather routes that would encourage users to remain within the site throughout the year.

The details proposed meet the requirements of the AA and are therefore acceptable.

POS: Delivery

Condition 4 of the outline permission P/140/16/OUT secures a detailed scheme of phasing for the highways, residential dwellings and public areas. Therefore, the delivery of POS in line with the occupation of the site will be secured through this detail. A further separate AA addendum will be required for this condition and therefore at this stage is acceptable.

Site Boundaries

Boundaries: Proposed Planting

The majority of the western boundary of the development site would be planted with triple-staggered native hedgerow, except for small gaps where there are services (drainage, overhead lines) required and where development is shielded due to the adjacent development site, Church Barton, this is double staggered native hedgerow.

The density, extent and planting chosen would form a strong visual and physical barrier for the site. The planting chosen is largely native, with species that provide thick thorn like hedging, suitable to provide a physical deterrent. The planting would therefore ensure dogs are not able to freely access the Pagham Harbour off lead, and would meet the objectives of the AA.

The details proposed meet the requirements of the AA and are therefore acceptable.

Boundaries: Maturity

The proposed planting of the site boundaries would be in the form of whips, which would require time to establish and provide the required visual and physical screening. The developer has not proposed any details regarding the delivery of the planting at this stage in order to ensure that this is established prior to the occupation of dwellings.

Alternatively, they propose a Landscape Phasing Plan is conditioned to the reserved matters permission. This is proposed as a pre-commencement condition requiring full details of the timing of the mitigation planting and fencing along the entire western boundary. This would allow the mitigation to be established prior to any works or activity on site, and ensure that it would be protected throughout construction and delivery of the development, particularly the drainage infrastructure.

The condition would allow the Authority to have adequate control of the development to ensure that the planting provides maximum mitigation during construction and occupation of any dwellings. The condition would require a separate AA addendum and therefore the Council are satisfied with this approach.

Boundaries: Fencing

The Hard Landscaping Plans show a timber post and rail fence of 1.1m high would be provided on site, which would have a dog proof mesh of 150mmx150mm. This would provide sufficient resistance for off-lead dogs to be deterred whilst maintain an ecological corridor for wildlife such as hedgehogs.

The fencing would extend from the most northeastern corner of the site, and extend the entire length of the western boundary, including the southern POS space. The extent of fencing would ensure the POS spaces on site are more secure for off-lead dogs so as to encourage users to remain on site.

The proposed fencing meets the requirements of the AA and is therefore acceptable.

Pagham Harbour Awareness and Education

Signage and Homeowner Leaflets

The plans do not provide any locations or details of signage, however it is agreed that this can be secured via planning condition. The condition would require that advice from SAMM is provided to ensure consistent messaging in the area. A separate AA addendum would be required on receipt of the discharge application and therefore the Council are satisfied with this approach.

CONCLUSION

Arun District Council can conclude that, the avoidance and mitigation measures described above are appropriate to ensure no likely significant adverse effect upon the Pagham Harbour. The measures are sufficiently secured as part of the approved development. The proposals accord with the impact avoidance and mitigation strategy set out in the Arun Local Plan Policy ENV DM2 and so there will be no adverse effect on the integrity of Pagham Harbour SPA/Ramsar.

This Appropriate Assessment Addendum concludes that the mitigation proposed will ensure that there **will not be a likely significant adverse effect** upon the Pagham Harbour SPA, and the development therefore passes the HRA screening and AA tests and can proceed.