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From: Nigel Mundy [REDACTED]
Sent: 13 March 2023 09:37
To: Planning <Planning@arun.gov.uk>; AJP [REDACTED] Jim weston
[REDACTED]
Subject: This email has been sent to Natural England and I wish to enter it as my comments on these applications.

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P/140/16/out. Now as
P/188/22/doc
P155/21/res
P/158/21/res

A complaint about your input on Pagham Harbour and the surrounding environment.
To: Nigel Mundy

Dear Sirs

To whom it may concern.

I have no wish to introduce this email as a complaint, but find I have no other alternative, as every other attempt to highlight the situation has failed, simply because, it seems that nobody is prepared to take the matter I'm about to write about seriously.

Well I and many others do take it seriously.

And as a organisation that is duty bound to protect Natural England, you also should take it seriously.

My issue is as follows, I live in a small village called Pagham in West Sussex. This little village is host to the nature reserve known as Pagham Harbour. This reserve has the following accreditations

SPA A special protection area
EC, directive.
SSSI local nature reserve,
Ramsar site No 396
National legal designation
INR
NCR
SSSI

Now the reason for writing this to you is because it's your directive to protect this place.

But other than a meek response several years ago you have not shown any interest in this area nor in the environment that surrounds it.

As you are no doubt aware. Thousands of wintering birds fly South from places like Russia and Iceland (most predominantly Brent Geese)

These birds then settle along our South Coast to see out the winter months until spring sees them fly back to their breeding grounds.

Pagham is host to one of these flocks and has been for many years.

That was until several years ago the land that the geese graze on after eating the eel grass in the harbour, which had flourished during the summer months, was bought at auction by a large landowner who purchased it on the pretext of farming it, which he did for several years.

This would have been an asset to the village as the main stay of this village is agricultural and produce, this area having extremely high light levels as well as good irrigation to hold the water more efficiently, these fields capable of producing 3 salad crops in the Summer WITHOUT using cloches i.e. under polythene, very rare, but the landowner (a farmer) had other ideas and offered it to ADC as maybe being usable as a development site for housing even though it is on the edge of Pagham Reserve.

Which is what they did. The fields came under the reference of P/140/16/OUT on Arun District Council's (ADC) planning portal,

This was then taken on board by ADC and entered within the emerging Local Plan (approved 18/7/2018) which was being examined by a Government Planning Inspector as one of several strategic sites in Pagham. However these particular fields are the preferred grazing area for the Brent geese, the lapwings, the curlews, and many other species, and have been historically for many many years.

(I myself have witnessed thousands of the birds frequent these fields every year for the past 17 years as I keep horses on an adjacent field and see them every day) whilst professional bird watchers monitor the bird populations all through the year as well.

That was until now.

The land was submitted for development, in 2018. It was granted access only.

There were 805 objections to this proposal from the local community, as well as Sussex Ornithological Society, and The RSPB.

And so conditions were set when P/140/16 OUT was approved as a Strategic Site on 22/11/2018 as per the Local Plan.

One condition was the full mitigation of the geese to a site at no greater distance than this that would be suitable to their needs, certainly 1 for 1 equivalence RE; Area, position and calorific sufficiency.

The developer, on behalf of the landowner had to provide this mitigation, and so the developers ecologists were bequeathed 2 large mitigation fields and 1 smaller one further across the land mass on the very edge of the Pagham Rife, itself running through the Pagham Valley which runs lower than the surrounding farmland.

This area was measured by a monitor from the village and was found to be an inadequate and unsuitable solution, and many photos and a report was submitted contesting such a poor choice.

The area is insufficient in area, and has very poor unsuitable sight lines which Brent geese are very aware of, which I believe that you also are aware of.

And in the winter months it is always (without exception) flooded, again with time and dated drone footage showing this, a quick look at Pagham Parish Councils objection P/188/22/DOC on the ADC Planning Portal would certainly convince ANY ecologist as it too shows detailed photography illustrating the problems associated with these 3 fields.

In the meantime various devices were used on the proposed development site to scare the geese from it. From explosives to even an inflatable man that scared the dog walkers more than the geese (that is reality and reported in local newspapers)

They were told to desist from these methods. And so to stop the geese they simply left the fields fallow. But that still didn't enable the geese to mitigate to the totally unsuitable mitigation fields they had been presented with

Another incident that took place too that you will be totally unaware of is, last year winter wheat was sown on a field adjacent to the proposed development site.

It had grown to a perfectly suitable height when the geese arrived for winter. And so the geese would come every day and graze. They slowly made their way across while grazing, getting ever closer to the proposed development site, when for no apparent reason a large sprayer appeared one morning and sprayed the whole 20 odd acres overall which is not an unusual sight. One would think just fertilizer.

But no it was a substance called Roundup which as you will well know is a very potent weed killer and so 20 odd acres of prime wheat was destroyed, the reason ??? To further deter the geese from that area.

I am present every day there and I see everything that goes on.

The geese have simply not been drawn to the 3 mitigation fields at all and never have been, instead the geese flew further inland to find more suitable areas. The problem with that is they then have to fly back to roost in the harbour. Which results in the burning off of essential energy storage that will sustain them when they fly back in the spring. This will eventually be the demise of many of them.

Your organisation was asked back in 2018 at the Local Plan inquiry if you had done a survey of the area.

The answer was Yes. The next question then was what time of year.

The answer was July.

There are no geese present in July so a survey of them then was a pointless and totally unessential thing to carry out.

However despite the so called mitigation fields being in place for four years, they have proved to have failed completely, and there is over whelming evidence to substantiate that statement.

Arun District Council employed an Ecology company to do a survey of the area for the application P/188/22/DOC in 2022, bearing in mind that this company is based in Essex, called Place Solutions, a subset company wholly owned by Essex County Council (based in Chelmsford, Essex). They are claiming to have completed a survey of the area and have recommended that the condition be discharged. But their survey wasn't carried out on site. More just from behind a desk in Essex somewhere. But it seems that this council (Arun D C) is inclined to accept their word for this rather than the report by the RSPB or Sussex Ornithological Society who are on site and know far more than people from Essex.

However the first company to do the Brent Goose Mitigation Scheme were called Ecology Solutions, their survey and subsequent document took place and appeared on the Planning Portal when the proposed development was called P/140/16/OUT, this survey concerned not only geese but other inhabitants of the proposed area. Of which there are many many diverse species, some unique to the area, with certain species red and yellow listed as of concern.

My concern has increased as of late, since I observe the geese rising from the harbour every dawn as that is the time I'm attending to the horses.

They take off in several large flocks, and their flight path is almost always over the proposed development site (P/140/16/OUT), sometimes they circle as if checking, sometimes they turn and head NW away from Pagham.

Every year I've also observed them returning to roost, which is usually as dusk settles in.

But this winter their habits have taken a different turn, (not for the better I believe), every day this winter I've seen them take off as usual and head away to graze.

But this year uniquely, they are returning to the harbour before midday, which is definitely not usual, They circle the area that is the proposed mitigation fields, but find no interest there as it is totally unacceptable to them and always flooded anyway.

Some will settle into the water reservoir that is at the bottom of the field that was sprayed off.

But most will fly back to the harbour at this early hour I believe in the hope of finding food, as all the farms in the surrounding area have bird deterrents in place so they are forced to fly back early.

Now I believe that the developers and indeed the planners have no interest in the welfare of these birds nor in any of the other wildlife that inhabit this area.

This area is an amazing place for many types of wildlife. Too much to list.

Which brings me to another point.

The area of proposed development P/140/16/OUT consists of three fields. And since this area gained access only, the centre field has not been touched so effectively it has re-wilded. But I'm convinced that neither the developers nor the planners will apply a new ecology survey on this centre field (P/155/21/RES and the alternative P/158/21/RES), but simply just cut it down in total disregard for anything living there as they have done on other areas previously.

Having read thoroughly the information that you publish on your site. I strongly believe you have a duty to protect these fields from development.

The geese are an integral part of the harbours eco system, and without their presence every year the reserve will suffer.

They clear the excessive amounts of eel grass (a staple dietary component for Brent Geese) that grows during the summer months. By doing this it allows other life to flourish and prevents overgrowth blocking essential channels within the harbour.

But when that is reduced they fly out of the harbour confines to graze on grass fields or winter wheat fields. This has been the norm for hundreds of years. And there is a multitude of evidence to support it, reiterating the point I've made about the substantial amount of data (photos or collective statistics) from bird counters et al that is being conveniently ignored sometimes patronisingly as unprofessional, BUT ground level data and involvement is far more powerful than having letters after your name, my passion comes from being adjacent to these fields 7 days a week for the last 17 years NO ecologist ever gets involved to that level. But the developers and the planners have no interest in the evidence. Their only interest is to make more money and it matters not a bit who or what lives it affects.

If the geese cannot find enough sustenance close to the harbour as they have always done, there will only two conclusions for them

ONE

Leave the harbour and flock to another location, possibly join another flock. But this will in turn cause them even more problems as food will become even scarcer. This will be due to over population of the flock and many will succumb to starvation or lack of energy to return to their breeding grounds in spring so many thousands of miles away in the far North.

TWO

The possible extinction of the species (albeit over many years) because man chooses to ignore their needs to better their own and to hell with the consequences. The same has happened for countless generations. And as a result so many creatures are no longer in existence because of human greed

You as a body have the ability to help stop this, as I believe it is your mission (according to your own admission) to protect Natural England
It doesn't get any more natural than this.

Further more as a footnote. A much smaller development within Pagham (P/111/22/PL) was refused on wildlife grounds and there were actually no wildlife issues raised here
But Natural England raised an objection on this site and it is nowhere near the harbour rather it's in the middle of the village and consist of only 40 homes whereas the site P/140/16/OUT is VERY close to the harbour and teeming with wildlife and yet is proposing 400 homes.

Another point to consider is Chichester Harbour under the jurisdiction of Chichester District Council which is held in such high esteem by NE, whose latest report on that harbour concludes that its condition overall is in serious decline which has been considered to require urgent attention re sewage, nitrates, phosphates etc., and urgent investigations are ongoing as we speak, AND it discharges into the Solent area which I must now point out shows a disparity over NE's approach to this important planning application. Pagham Harbour, just a short distance from Chichester Harbour apparently fails to discharge into the Solent but instead the English Channel, yet it is the last TRUE harbour that encompasses huge mudflats as you move East which in Tony Junipers view, as iterated to a Government Commons Select Committee along with the Head of the Climate Change Committee stated that mudflats had the capacity to absorb as much carbon as the Amazon rain forests and he is the supreme head of NE, yet because Pagham Harbour supposedly discharges into the English Channel and is not part of the Solent Pact, does therefore not afford the protection that Chichester Harbour has and this a point that the developers Ecologists jump upon with much tenacity in the Pagham area. Yet in reality it is NO different from Chichester Harbour and under infinitely more pressure from development being closer than Chichester D C would ever allow development to take place, HENCE my comment about dual standards, there are thousands of new homes cumulatively being planned within a small radius of Pagham Harbour which will increase the dangers of eutrophication a hundred fold or more, so why is Pagham Harbour excluded from the powerful group that encompasses the Solent ?

I might add that when Chichester District Council commissioned a study with respect to Pagham Harbour in the past by other leading Ecologists their comments were far more robust with respect to protecting Pagham Harbour but this was done on behalf of the Council, not on behalf of Developers there should be no such disparity's.

I make no excuses for including the following text showing how the High Court endorsed a judgement IN NE'S FAVOUR with respect to the concept of development in the South and for those that do not have privilege to such information here is a short transcript re iterating the judgement which Pagham Harbour should be protected by ... and I quote unreservedly

HIGH COURT JUDGEMENT 28TH. MAY 2021 OVER JUDICIAL REVIEW INTO SOLENT NITRATES WHICH SAW NE'S ADVICE UPHOLD

On 28 May 2021, two important High Court Judgments were handed down. These were the first such cases to consider the robustness of Natural England's Solent nitrates advice. These linked cases concerned a site in Fareham Borough, but the Judge's findings have great relevance across the wider Solent area and indeed in other parts of the country where nitrate or phosphate discharges caused by development are considered to be harming protected ecological sites.

In this piece, we look at the key findings of the High Court that are relevant to the Solent nitrates issue and consider the longer term implications for developers in the area.

Background

For the past two years Natural England's advice within the Solent area has been that all new development which provides for 'overnight stays' must be 'nitrogen neutral' in order to prevent further harm to the ecologically important protected marine sites on the Solent coastline.

This advice has caused a great deal of frustration for developers in the region, and a significant backlog of housing delivery in particular. Only now are we beginning to see the first effective strategic mitigation solutions emerge that have enabled development to proceed.

Key findings of the High Court

The allegation with the potentially greatest consequences was that the Natural England advice was fundamentally flawed, as it only sought to ensure that developments would be nitrogen neutral, rather than seeking to address the existing deteriorating condition of the protected marine sites. The case was made that Article 6(2) of the EU Habitats Directive (which still applies through UK legislation) requires 'appropriate steps' to be taken to avoid harm to the protected sites.

However, the Judge ruled that this allegation missed the point of the Natural England advice, as decision makers in planning applications are precluded by the Habitat Regulations from permitting development which is environmentally harmful to the protected sites. This confirms that it is not the duty of local planning authorities, or indeed of the development industry, to address existing harm; that is clearly the responsibility of other authorities, including Natural England itself.

A related allegation centred on the 'precautionary principle' which seeks to ensure that any scheme for neutralising nitrogen must be certain, so that no reasonable scientific doubt remains as to the effects of the development on the protected sites. It was alleged that this effectively precluded any new development in the Solent area, as it was not possible to be completely certain that no harm would be caused. Thankfully, the Judge rejected this argument robustly, stating that the precautionary principle was devised specifically to allow processes (such as planning) to be followed in the context where scientific doubt was inevitable. In this regard, the Judge found that Natural England's advice was "impeccable".

One of the more specific allegations was that the 20% buffer, required by Natural England on all nitrates budget assessments, was irrational and not based on evidence. This point has been raised many times before in the context of individual applications and so it is important to note that Natural England was able to provide a robust defence of the 20% buffer, based on previous scientific research and accepted practice, such that the Judge could only conclude that it was certainly not irrational to rely on it.

In relation to the existing use of land that is proposed to off-set the nitrogen discharges of development schemes, the Judgments provide a reminder that the key test in the Natural England advice is the use that the land 'would' be put to if planning permission was refused and not what use it 'could' be put to. 'Would' is a more stringent test, although it remains the duty of the decision maker to apply professional judgement based on available evidence. Therefore, it is important that developers provide evidence, wherever possible, to support assertions about the land use that would result from a refusal of planning permission.

Finally, a case was made by the claimant that the figure used by the Natural England advice as the starting point for consideration of average household occupancy was irrational and not consistent with the precautionary principle. This figure of 2.4 persons per household is based on the ONS data for average occupancies across England and Wales. The Judge noted that the Natural England advice does allow for bespoke calculations, departing from this figure, but that the language appeared to envisage only reductions and not increases to the average figure. Therefore, whilst accepting that the 2.4 figure was sufficiently robust and precautionary for the case being considered, he advised that Natural England should review the evidence and consider revising the approach to allow at least for specific average figures for different sized dwellings from one to five bedrooms.

Overall, each of the claimants' grounds relating to nitrates were rejected by the High Court. Nevertheless, the planning permission under review in the 'Save Warsash' case was quashed, although this was due to specific failings in the conduct of the Fareham Planning Committee and not for any reason related to nitrates.

What this means for developers in the Solent area

Although these Judgments upheld the status quo from a nitrates perspective and therefore take us no further to solving the problem, they should be positively received as they do confirm that, in areas where nutrient deposition is harming ecological sites, development may nevertheless proceed as long as it can demonstrate that it will not make the environmental harm any worse.

Although the Natural England advice is far from perfect, it is at least the application of a pragmatic response to the deterioration of the important protected marine sites that still enables development requiring overnight stays to proceed. It is important and welcome therefore, that the High Court has confirmed that the advice is correctly applying the legislation to facilitate much-needed development, where this is nitrogen neutral or better.

In relation to the average household occupancy figure cited in the Natural England advice, the Judgments provide a clear signpost for Natural England to review this for the next version of the advice. We understand that work is already underway on this and whilst a graduated approach may be applied by dwelling size, it is critical that the evidence on water usage by households of different sizes is factored into the review. This will ensure that developers of larger family homes, where there are economies of scale in water usage, are not disproportionately penalised by the new guidance. We expect that the ability to make a case for different household occupancy rates (departing from the guidance figure) will continue to be allowed, but evidence to justify this will be necessary.

Some double standards somewhere I think, would you not respectively agree ?

On a final note. I have a video of a large quantity of polythene blowing over the fields here. It was too high for me to catch but it came from a development just a few hundred metres from the P/188/22/DOC Proposed development.

It's course took it directly over the reserve where it disappeared from view.

I immediately sent a message to the compliance officer at ADC and told him.

When he replied,he told me he had spoken to the developers involved with this site and that they had assured him that they had taken all necessary steps to retrieve the waste product and had successfully done so.

But this was a total fabrication on Thier part. As I was present with the horses when this object flew over. And at no time did anybody leave the site in pursuit. That plastic ended up either in the reserve or in the sea beyond. Therefore becoming a danger to either wildlife or marine life. And the developers were not taken to task. Nor were they fased by it at all.

My point for this is. That was the one I saw there may well be many more. And almost certainly will be if these other developments are allowed to progress.

This government is always going on about levelling up.

This is not levelling up. It's levelling off and destroying a once beautiful part of the country. If they don't want to farm it then they should be encouraged to allow it to flourish back into nature instead of destroying it and it's purpose.

I'm unable to attach the video to this email but I have it logged in my file should you wish to see it.

My name is

Nigel Mundy.

I will be presenting this to the parish council. It's my belief that they will agree wholeheartedly. But but they tend to be ignored too.