

REPORT UPDATE

Application No: P/64/13/

Reason for the Update / Changes

Reason for Update/Changes: To amend the list of relevant policies under "Development Plan Policies" section of the report.

Officers Comment:

The "Development Plan Policies" section of the report refers to Arun Local Plan 2003 policies that were not saved by the Secretary of State in 2007.

Policies GEN17 and GEN30 were not saved. Members should not take these policies as a material consideration in the determination of this application.

Notes: Changes to recommendations, conditions and / or reasons for refusal will always be reflected in the recommendation section of the attached Officer's Report/Recommendation.

P/64/13/

Recommendation Report for Planning Permission

REF NO: P/64/13/

LOCATION: Foreshore
West Front Road
Pagham

PROPOSAL: Construction of rock revetment as a coastal scour mitigation measure.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The proposal will involve the placement of a rock revetment along the frontage to protect the residential properties to the north from coastal erosion.
SITE AREA	0.26ha
RESIDENTIAL DEVELOPMENT DEN	N/A
TOPOGRAPHY	Beach slopes gently from residential properties for approximately 40 metres after which there is a steep drop in the level of the shingle due to scour.
TREES	None affected by the proposed development.
BOUNDARY TREATMENT	n/a
SITE CHARACTERISTICS	The site is an existing shingle public beach.
CHARACTER OF LOCALITY	Public beach with private residential properties to the

report

north, part of site with numerous environmental designations.

RELEVANT SITE HISTORY

No comments

REPRESENTATIONS

Representations received:

Pagham Parish Council

Pagham Parish Council - no objection

Pagham Beach Holdings Ltd - support for the work which it is hoped will stabilise and protect this section of the foreshore, which is currently experiencing localised erosion.

Comments on Representations received:

No comments

CONSULTATIONS

Engineering Services Manager

Engineers (Fluvial Flooding)

Environment Agency

WSSC Strategic Planning

Natural England

Consultations responses received:

Natural England-

Natura 2000 Site- no objection

- If undertaken in strict accordance with the details submitted, is not likely to have a significant effect on the interest features for which Pagham Harbour SPA and Ramsar site has been classified.

- Authority is not required to undertake an Appropriate Assessment to assess the implications of this proposal on the site's conservation objectives.

- As stated in the Environmental Report (ER) (sections 6.8 and 12) the proposed works avoids any significant impact on the SPA and Ramsar qualifying bird species due to the timing of the work taking place during September and October for a period of 6 weeks (section 2.1).

- In the ER consideration is given to the breeding population of little terns (section 6.8) and the over wintering bird populations. The breeding season is now over for this year however, there remains the potential for significant impacts on the over wintering bird populations if the works over run the suggested work period (section 12.3).

- If the proposed works are likely to occur beyond the proposed September / October period, in this particular case, Natural England is comfortable with the work continuing through November as it is unlikely to cause a significant impact, however work should not extend beyond 1st December, as the risk of impacting wintering SPA / Ramsar birds would increase. This is because the majority of the SPA and Ramsar over wintering bird species will be arriving on site at this time and these works may cause a significant impact through disturbance if continued.

- Further consultation with Natural England will be required if works are required that deviate from these timing restrictions.

SSSI - No objection, with conditions

- Application is in close proximity to Pagham Harbour (SSSI).
- Natural England is satisfied that there is not likely to be an adverse effect on this site as a result of the proposal being carried out in strict accordance with the details of the application as submitted in the Environmental Report and providing the conditions below are met.
- The SSSI does not represent a constraint in determining this application.

Environment Agency

- No objection in relation to flood risk.

West Sussex County Council Ecology

- There is no ecological objection to the proposed works subject to the imposition of suitably worded conditions.

Notably, given the potential for impact on a nationally and internationally protected site Natural England has not objected subject to conditions. I support these conditions and have nothing additional to recommend.

West Sussex County Council Strategic Planning

- No objection

Comments on Consultation responses:

The comments from Natural England that the proposed development is not likely to have a negative effect on the various environmental designs applying to the site are noted.

POLICY CONTEXT

Designation applicable to site:

- Pagham Special Protection Area
- Pagham Harbour SSSI
- Bognor Reef SSSI
- Pagham harbour Local Nature Reserve
- Pagham Harbour RSPB Reserve
- Pagham Harbour Geological Conservation Review
- Pagham Harbour National Conservation Review

DEVELOPMENT PLAN POLICIES

Arun District Local Plan:	GEN10	Tidal Flooding and Coastal Defence
	GEN29	Nature and Conservation Across the District
	GEN11	Inland Flooding
	GEN13	Public Access to the Coast
	GEN19	Coast Protection and Sea Defence Works
	GEN23	The Water Environment
	GEN3	Protection of the Countryside
	GEN9	Foul and Surface Water Drainage

PLANNING POLICY GUIDANCE

NPPF

National Planning Policy Framework

POLICY COMMENTARY

The Development Plan consists of the Arun District Local Plan 2003.

Paragraph 214 of the NPPF ensures that specific policies in Arun District Local Plan 2003 can carry weight. The weight afforded to the policies with Local Plan policies can be assessed according to their level of consistency of the various policies with the National Planning Policy Framework. It should be noted that the NPPF states that weight is given to individual policies and not to the plan as a whole.

NPPF Paragraph 216 confirms that weight can be given to policies in emerging plans following publication. The Council published the Draft Arun Local Plan in July 2012 and this is a material consideration in the determination of this planning application. A pre-submission Plan has yet to be endorsed and published. Following publication of a pre-submission draft, there is required to be a formal public consultation, resolution of objections, examination and formal adoption. At this time, the emerging Local Plan is afforded very limited weight in terms of the decision making process.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

The proposal is considered to comply with relevant Development Plan policies in that it would have no materially adverse effect on the visual amenities of the locality or the residential amenities of the adjoining properties, nor would it have an adverse impact upon the established character of the surrounding area.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

The proposed development is for the placement of rock revetments to offer scour protection to the shingle beach. The area lies approximately 40metres south of a number of residential properties and will afford these properties protection from coastal erosion.

Character and Appearance

The structure is entirely on the coast and will not be visible from nearby roads. The top of the structure is intended to have a crest height at a similar height to the adjacent beach crest and as such there will be minimal visual impact when viewed from nearby property.

The structure will be composed of large rock, each piece being between 4 and 8 tonne each (cubes of an average 1.3m on each side).

It is considered that the rock revetment is a common feature which is not out of place in a coastal location. The character and appearance is therefore considered acceptable.

Impact on Residential Amenity

The proposed development is not likely to have an impact on residential amenity save for the construction phase. The proposed rocks are to be delivered by barge and the building period is expected to be short.

The applicant has emphasised the urgency of the works to offer immediate protection to the adjacent residences. The work needs to take place outside of the breeding period of protected birds. Natural England have responded that the work will need to be completed by 1st December 2013. Deliveries will be by barge but will require 24 hour working, all other operations will be limited to the hours of 7.00 am to 7.00 pm. However, this intensive build period will be for a short time period.

While the working hours have potential to impact on the amenity of neighbouring properties, it is considered that the short construction period and urgent need for the works necessitate this disturbance.

Flood Risk

The works are intended to provide a decreased erosion risk. The 15 properties at risk are outside of the Environment Agency's Flood Zones 2 and 3. There is therefore no direct flood risk at present and the proposals will not change that. However, if the erosion were allowed to continue unchecked then properties landward of those currently at (erosion) risk would be at greater risk of tidal flooding.

The Environment Agencies consultation response does not offer an objection on the grounds of flood risk.

Impact on the Environment

The application site is located in an area subject to a number of environmental designations including Special Protection Area for birds and a Site of Special Scientific Interest. The application has been assessed by Natural England and West Sussex County Council Ecologist who have not objected to the proposal subject to the inclusion of suitable conditions. It is therefore considered that the proposal is not likely to have a deleterious effect on habitats or species and no objection is raised.

Conclusions

The proposed rock revetment is considered necessary for the protection of a number of homes close to the application site. The proposal is not likely to have a negative effect in terms of the character and appearance of the area, flood risk or impact on the environment. It is therefore considered that the proposal should be approved subject to the conditions set out below.

HUMAN RIGHTS ACT

The Council in making a decision should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal has a neutral impact on those those people with the following protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

As a neutral impact has been identified, no mitigation is proposed.

RECOMMENDATION

APPROVE CONDITIONALLY

- 1 The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby approved shall be carried out in accordance with the following approved plans:

Location Plan Showing Access and Recycling (source area) 50/01/10/04
General Arrangement 50/01/10/06
Sections (Sheet 1) 50/1/10/2

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with the Arun District Local Plan.

- 3 The works hereby approved should comply with the proposed build period as set out in the Environment Report (section 12). Should the works be required to extend beyond this period the work can continue through November but should not extend beyond 1st December when the majority of the overwintering birds will be arriving / present.

Reason: To comply with the Submitted Environmental Report section 12 in the interest of protection of species.

- 4 No works/machinery/storage/removal of shingle is to take place from the Church Norton Spit or it's ebb tidal delta.

Reason: To comply with the proposed Environmental Report (section 6.5.1 and 7.2.1) and to ensure no adverse impact occurs on the spit's geomorphology.

- 5 Any tracking of machinery or storage of vehicles or materials should minimise their impact on the intertidal areas and vegetative shingle both when transferring rock and shingle. The routes to be used are described in the ER and a map of the access routes is provided. Vehicles must remain on these designated routes to avoid sensitive areas and extensive tracking.

Reason: In the interest of protecting and conserving the ecological quality of the area in accordance with the NPPF paragraph 118.

- 6 As stated in the ER (section 9.5) contractors should be made aware of the sensitivity of the site, good working practices should be maintained to avoid any pollution incidents (section 8.7) on site and after the works are completed the 'haul-route' area should be restored (section 2.2.4).

Reason: In the interest of protecting and conserving the ecological quality of the area in accordance with the NPPF paragraph 118.

- 7 The applicant should submit to the local planning authority for written approval details of the measures to be taken to comply with section 9.6 of the Environment Report to restore the area of vegetative shingle that is located behind the proposed revetment. Measures should be taken in consultation with Natural England to restore this area of vegetative shingle by the removal of invasive plant species, possible reseeding, education and information provision about the sensitivity of the habitat etc.

Reason: In the interest of protecting and conserving the ecological quality of the area in accordance with the NPPF paragraph 118.

- 8 Due to the sensitivity of the designated site and the desire to maintain natural coastal process within Pagham Harbour, consideration has been given to the removal of the rock revetment in the ER (section 2.3). The exact details of when and how have not been specified however, this issue should be part of a periodic review process between all parties involved and details of how this will be reviewed should be confirmed. A plan should be submitted to the local planning authority for approval within 6 months of the commencement of the works for written approval.

Reason: In the interest of protecting and conserving the ecological quality of the area in accordance with the NPPF paragraph 118.

- 9 No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. The Plan shall provide details as appropriate but not necessarily be restricted to the following matters:

- the anticipated number, frequency and types of vehicles used during construction,
- the method of access and routing of vehicles during construction,
- the parking of vehicles by site operatives and visitors,
- the loading and unloading of plant, materials and waste,

- the storage of plant and materials used in construction of the development,

Reason: In the interests of highway safety and the amenities of the area.

- 10 INFORMATIVE: Statement pursuant to Article 31 of the Town and Country Planning (Development Management Procedure)(England) (Amendment No. 2) Order 2012. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.