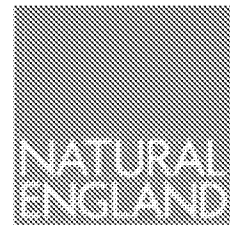


Date: 07 October 2021
Our ref: 369566
Your ref: 21/01921/FULEIA HRA



Chichester District Council
Development Control
East Pallant House
East Pallant
Chichester
West Sussex
PO19 1TY

Customer Services
Hornbeam House
Crewe Business Park
Electra Way
Crewe
Cheshire
CW1 6GJ

BY EMAIL ONLY

Dear Mr Day,

Planning consultation: HRA - Cut through spit at the mouth of Pagham Harbour creating a temporary alternative outflow channel to reduce/avoid flood and erosion risk to properties and businesses at Pagham Beach and Haven Church Farm over the autumn 2021.

Location: Managed Breach Pagham Harbour Selsey West Sussex PO21 4TD

Thank you for your consultation on the above dated 29 September 2021 which was received by Natural England on the same date.

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.

SUMMARY OF NATURAL ENGLAND'S ADVICE

NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

We consider that without appropriate mitigation the application would:

- have an adverse effect on the integrity of Pagham Harbour Special Protection Area (SPA) and Ramsar Site. As well as Dorset and Solent Coast SPA
<https://designatedsites.naturalengland.org.uk/>
- damage or destroy the interest features for which Pagham Harbour Site of Special Scientific Interest (SSSI) has been notified.
- damage or destroy the interest features for which Pagham Harbour Marine Conservation Zone (MCZ) has been notified.

In order to mitigate these adverse effects and make the development acceptable, compensation and mitigation measures detailed within the Appropriate Assessment should be secured.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

Further advice on the Appropriate Assessment

Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal, in accordance with regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process, and a competent authority should have regard to Natural England's advice.

Your appropriate assessment concludes that your authority is not able to ascertain that the proposal will not result in adverse effects on the integrity of any of the European sites in question. Having considered the assessment, and the measures proposed to mitigate for any adverse effects, Natural England concurs with the conclusion you have drawn that it is not possible to ascertain that the proposal will not result in adverse effects on site integrity. Natural England advises that the proposal does not provide enough information and/or certainty to enable adverse effects on site integrity to be ruled out.

Regulation 63 states that a competent authority may agree to a plan or project only after having ascertained that it will not adversely affect the integrity of the European site, subject to the exceptional tests set out in regulation 64 of the Conservation of Habitats and Species Regulations 2017 (as amended). As the conclusion of your Habitats Regulations Assessment states that it **cannot** be ascertained that the proposal will not adversely affect the integrity of the European site, your authority cannot permit the proposal unless it passes the tests of regulation 64; that is that there are no alternatives **and** the proposal must be carried out for imperative reasons of overriding public interest.

Your authority may now wish to consider the exceptional tests set out within regulation 64. Specific guidance about these tests can be found at: <https://www.gov.uk/government/publications/habitats-and-wild-birds-directives-guidance-on-the-application-of-article-6-4>

Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 281 (6) of the Wildlife and Countryside Act 1981 (as amended) to notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, your authority has taken account of Natural England's advice. You must also allow a further period of 21 days before the operation can commence.

If you have any queries relating to the advice in this letter please contact me at [REDACTED]
[REDACTED]

Should the proposal change, please consult us again.

Yours sincerely

Thomas Scott-Heagerty
Sussex and Kent Area Team