

DECISION NOTICE

Application Ref: P/93/21/PL

1 To Addressee

Rosebay Services
85 Moor Road North
Gosforth
Newcastle upon Tyne
NE3 1RJ

2 Site Address

Church Norton Spit
Pagham Beach
Pagham
PO21 4TD

3 Description of Development

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. This application is the subject of an Environmental Statement & is in CIL Zone 5 (Zero Rated) as other development.

4 In pursuance of their powers under this Act and related Orders and Regulations the Council **PERMIT** this development to be carried out in accordance with the application and plans and subject to the following conditions.

- 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 and documents:

"Location Plan" Drawing G.

"PHOC - Realignment" Drawing A.

Drawing B Tern Island Location & Details.

"Water Framework Directive" (February 2017) - within Volume 2, Appendix H of the Environmental Statement.

"Managed Breach of Shingle Spit at Pagham Further Information and Marine Licence" (June 2021).

"Managed Breach of Shingle Spit at Pagham Further Information and Marine Licence" (May

2016).

"Pagham Adaptive Management Report No. 1" (May 2021)".

"Construction and Environmental Management Plan for Cutting the Church Norton Spit" Rev B (October 2021).

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policies QE SP1, ENV DM1, ENV DM2 and W DM4 of the Arun Local Plan.

- 3 The development must be carried out in full accordance with the approved Water Framework Directive as dated February 2017 and which forms part of the submitted Environmental Statement (Volume 2, Appendix H).

Reason: In the interests of water quality in accordance with the National Planning Policy Framework and Policy W SP1 of the Arun Local Plan.

- 4 No work is to take place within the site between the 15th of March and 31st of August in any given year or until the last Little Tern has fledged whichever is the later.

In addition, all works should be completed before the sensitive over wintering season which occurs between the 1st of November and the 31st of March the following year. However, if it is necessary that works continue after the 1st of November (or between the end of February and to the 15th of March) then such works shall be in full accordance with Natural England's advice regarding severe/freezing weather working restrictions.

These state that if there has been a continuous period of 7 days of severe or freezing weather as recorded by the nearest meteorological station to the site then all work shall be suspended for 14 days unless the Local Planning Authority in consultation with Natural England/the RSPB decide that temperatures have increased (or that evidence is supplied that demonstrates to the satisfaction of the Local Planning Authority that there is a low risk to waterbirds during the period of severe/freezing weather) to the extent that the suspension can be lifted.

Reason: In the interests of protecting the interest features of the Pagham Harbour Special Protection Area, Site of Special Scientific Interest and Marine Conservation Zone in accordance with the National Planning Policy Framework and Arun Local Plan policies ENV DM1, ENV DM2 & ENV DM5.

- 5 The compensation Tern Island shall be implemented in accordance with the approved details and will commence construction at the same time as the cutting of the Church Norton spit and must be completed prior to the first nesting season following the breaching of the Spit in order to ensure that it is available for use by Little Terns before the following overwintering season.

The compensation Tern Island and the remaining Little Tern habitat on the Spit including the severed section shall then be continuously monitored in accordance with the measures in the application namely through the Southeast Strategic Regional Coastal Monitoring programme, community smartphone surveys, satellite observations and the RSPB (with review of the data by the Pagham Coastal Issues Advisory Group).

If the compensation Tern Island begins to erode such that it cannot support the little terns and the spit has not sufficiently regrown to support the little terns, then it must be recharged prior to the next nesting season using shingle from outside of the area of the Pagham Harbour SSSI and SPA. This is required in-perpetuity if the spit does not regrow.

Reason: In the interests of protecting the interest features of the Pagham Harbour Special Protection Area, Site of Special Scientific Interest and Marine Conservation Zone in accordance with the National Planning Policy Framework, the conclusions of the Habitat Regulations

Assessment and Arun Local Plan policies ENV DM1, ENV DM2 & ENV DM5.

- 6 Following completion of the planned works to the Spit for this one-time breach, the remaining sections of the Spit shall be continuously and permanently managed for the Little Tern SPA population in accordance with the details approved by Arun District Council under ref P/12/20/DOC on 22/04/20 (namely the RSBP report "Pagham Harbour little tern nesting islands and shingle spits as compensatory nesting habitat" dated 28.10.2019).

Reason: In the interests of protecting the interest features of the Pagham Harbour Special Protection Area, Site of Special Scientific Interest and Marine Conservation Zone in accordance with the National Planning Policy Framework and Arun Local Plan policies ENV DM1, ENV DM2 & ENV DM5.

- 7 Following completion of the Little Tern Island compensation measure, it shall be continuously and permanently managed for the Little Tern SPA population in accordance with the details approved by Arun District Council under ref P/12/20/DOC on 22/04/20 (namely the RSBP report "Pagham Harbour little tern nesting islands and shingle spits as compensatory nesting habitat" dated 28.10.2019).

Reason: In the interests of protecting the interest features of the Pagham Harbour Special Protection Area, Site of Special Scientific Interest and Marine Conservation Zone in accordance with the National Planning Policy Framework and Arun Local Plan policies ENV DM1, ENV DM2 & ENV DM5.

- 8 Once the spit has been breached in accordance with the approved details, it shall be left to evolve naturally without any further intervention. Continuous monitoring of the harbour mouth should be conducted by the Stakeholder Group, in line with the adaptive management plan. The adaptive 'Traffic Light System' approach (set out in the ABPmer further information report, May 2016) should be used to determine when action should be taken to prevent the harbour mouth closing.

Should the Harbour mouth close within 5 years of the date of the commencement of this planning permission as a direct result of the cutting of the artificial breach then the Local Planning Authority will seek the advice of the Stakeholder Group on a scheme that may need to be prepared in respect of reopening the harbour inlet/outlet. The Stakeholder Group shall then submit this scheme within 2 months of the particular harbour closure for consideration by the Local Planning Authority. No works shall be carried out unless and until written approval of the works has been received. This reopening of the harbour mouth is to be funded by the applicants as agreed in the Habitat Regulation Assessment.

Subject to agreement by the Local Planning Authority in consultation with the Stakeholders Group, any maintenance of this nature should not utilise any newly accreted shingle considered as the spit geomorphology feature as this shingle will be re-establishing the geomorphological. Subject to agreement by the Local Planning Authority in consultation with the Stakeholders Group, there shall be no further follow up invention of the harbour opening beyond 5 years from the date of the commencement of this planning permission.

Reason: In the interests of protecting the interest features of the Pagham Harbour Special Protection Area, Site of Special Scientific Interest and Marine Conservation Zone in accordance with the National Planning Policy Framework and Arun Local Plan policies ENV DM1, ENV DM2 & ENV DM5.

- 9 The site and the construction activities shall be continuously monitored in accordance with the Watching Brief by APB Mer (within the letter dated 13/09/17) as approved by Arun District Council under ref P/98/17/DOC on the 4th of December 2017. Should it be necessary to deviate from this watching brief then the applicant/developer must seek permission in writing from the Local

Planning Authority, in consultation with Natural England.

Reason: In the interests of protecting the interest features of the Pagham Harbour Special Protection Area, Site of Special Scientific Interest and Marine Conservation Zone in accordance with the National Planning Policy Framework and Arun Local Plan policies ENV DM1, ENV DM2 & ENV DM5.

- 10 Tidal heights and tidal behaviour before, during and up to 1 month after the construction phase within the middle of the Harbour shall be monitored using the existing tidal gauge within the harbour (as referred to by the submitted Construction Environmental Management Plan) to monitor the local tide levels and conditions. The tidal gauge is fixed to the sheet piling of the existing harbour training wall.

Reason: In the interests of coastal defence in accordance with the National Planning Policy Framework and policy W DM4 of the Arun Local Plan.

- 11 The Local Planning Authority shall be informed in writing immediately of any items known or suspected to be of archaeological interest unearthed during the Spit breaching operations and given a reasonable opportunity subject to the timed restrictions on the development for an examination of the artefact/s and the precise site where it was found. Should the Local Planning Authority advise in writing of the need for further investigation then the applicant/developer shall make appropriate and satisfactory provision for the excavation and recording of remains, and subsequent publication of the results.

Reason: In the interests of archaeology and heritage in accordance with the National Planning Policy Framework and policy HER DM6 of the Arun Local Plan.

INFORMATIVE: Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015. 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.

INFORMATIVE: The applicant should note that under Part 1 of the Wildlife and Countryside Act 1981, with only a few exceptions, it is an offence for any person to intentionally take, damage or destroy the nest of any wild birds while the nest is in use or being built. Birds generally nest between March and September but the SSSI breeding species in the Harbour nest April to August.

INFORMATIVE: All precautions must be taken to avoid discharges and spills to the ground or water during construction. In the event of a pollution incident, all works should cease immediately, and the Environment Agency should be contacted via our incident hotline 0800 80 70 60 (24-hour service).

INFORMATIVE: Should any protected species or evidence of any protected species be found prior to or during the development, all works must stop immediately, and an ecological consultant or Chichester District Council's ecologist contacted for further advice before works can proceed. All contractors working on site should be made aware of this advice and provided with the contact details of a relevant ecological consultant.

INFORMATIVE: The warden supervision of the Little Tern Island compensation measure shall have a frequency at least as per the current RSPB management measures, but this should be increased to take account of any voluntary support.

INFORMATIVE: The Stakeholder Management Group to be created in order to monitor the breach and the Harbour opening and advise on whether the harbour needs to be re-opened shall in addition to the applicants, include representatives from the following bodies: Arun District Council, Natural England, RSPB, Chichester District Council, and the Marine Management Organisation.

INFORMATIVE: The Marine Management Organisation has separately issued a Marine Licence (Ref MLA/2021/00272) and the applicant/developer should also have regard to the conditions associated with that Licence.



Neil Crowther
Group Head of Planning

Case Officer: Mr S Davis

Decision Issued: 14th October 2021

Arun District Council
The Arun Civic Centre
Maltravers Road
Littlehampton
West Sussex BN17 5LF

IT IS IMPORTANT THAT YOU READ THE NOTES ATTACHED TO THIS DOCUMENT