

Recommendation Report for Delegated Approval by the Director of Place

REF NO: P/97/15/PL

LOCATION: Church Norton Spit, Pagham Beach, Pagham

PROPOSAL: Managed breach of shingle spit & blocking of adjacent tidal inlet channel with shingle barrier. Formation of Shingle Island within Harbour following excavation of adjacent area of Spit. This application is accompanied by an environmental statement

REASON FOR UPDATE:

The attached Appropriate Assessment and the following report sections have already been agreed by the Director of Place (27/07/16) and have been published on the Councils website under Reference P/97/15/PL.

The Appropriate Assessment's author has amended the document slightly to include the following text with regard to the proposed Dorset and Solent Special Protection Area:

"However the proposal is not likely to have a significant effect on the directly adjacent Solent and Dorset Coast potential Special Protection Area (pSPA) as this is proposed to protect foraging areas for tern species and the effect of the proposal will be minor and not significant as regards the feeding areas of the tern species."

Natural England have not been consulted on this change to the Appropriate Assessment. However, they were aware of the pSPA when they previously provided comments and they did not highlight any particular need for assessment of the impact on the pSPA at that time.

It is therefore necessary to agree this minor change and publish the amended Appropriate Assessment on the Council's website.

The following report sections have not been altered and are provided for completeness only.

INTRODUCTION:

Chichester District Council was instructed on behalf of the competent authorities (Arun District Council, Chichester District Council and the Marine Management Organisation) to prepare a Part 1 Appropriate Assessment under the Habitats Regulations (Conservation of Habitats and Species Regulations 2010).

It is now necessary to agree with the conclusions of the Appropriate Assessment in order to proceed to the next stage and move closer to being able to determine the planning application.

Legal advice has been sought with regard to Arun District Council's Constitution and the advice received was that under Part 4, Section 2, paragraph 5.5, any decision in relation to the Appropriate Assessment can be delegated to the Director of Planning and Economic Regeneration

This report has been prepared to accompany the Appropriate Assessment (which is attached as an Appendix) and to enable the Director to agree its recommendation.

SUMMARY OF CONSULTATIONS RESPONSES:

In accordance with regulation 61(3) of the Conservation of Habitats and Species Regulations 2010, Natural England were given 14 days to provide their formal advice on the Part 1 Assessment. Their response dated the 18th July was as follows:

"Thank you for consulting Natural England on the Appropriate Assessment undertaken by your authority and sent to us on 4th July with regard to the managed breach of Pagham Harbour spit.

This assessment concludes that there would be an Adverse Effect on the Integrity of the site as a result of this proposal. As the statutory adviser for Appropriate Assessments we advise that we concur with your assessment of the impacts and the conclusion you have reached.

We have made some minor suggestions within the assessment (attached) for your consideration. These are intended to help with clarity but we advise that we do not consider these affect the assessment's conclusion.

If you are minded to proceed with this application, any mitigation measures suggested in the assessment or implicit in the application that are required should be secured through appropriate planning conditions.

We also advise that compensation measures have been developed and if these are required we consider that they would be sufficient. We are happy, however, to continue to provide advice on these measures if this would be helpful.

We trust that this response is sufficient at this stage but please do not hesitate to contact us if you require any further advice."

OFFICERS COMMENTS ON CONSULTATIONS:

The author of the Appropriate Assessment has accepted the comments of Natural England and the Appropriate Assessment document was amended in line with their suggestions.

CONCLUSIONS OF THE APPROPRIATE ASSESSMENT:

The Appropriate Assessment report concludes that there would be an adverse effect on the Integrity of the site due to the loss of nesting sites for little terns. This will substantially reduce the area of the site which supports this key species on the site.

The Appropriate Assessment recommends to the competent authorities that they conclude that the project, including mitigation measures but excluding compensation measures, does have an Adverse Effect on the Integrity of Pagham Harbour Special Protection Area.

This would then require derogation under Article 6(4) of the Habitats Directive and this then requires three further derogation tests, namely:

- (1) Alternative Solutions;
- (2) Imperative Reasons of Overriding Public Interest; and
- (3) Compensatory Measures.

RECOMMENDATION:

It is recommended that the Director of Planning & Economic Regeneration approve the recommendation of the attached Appropriate Assessment that the Assessment should proceed to the derogation tests.

DECISION:

SIGNATURE: _____



NAME: _____

V. Roberts

DATE: _____

2/3/17.