

From: Simon Davis
Sent: 22 June 2017 12:30
To: Planning.Responses
Subject: FW: Pagham beach

Please upload as Planning Correspondence and label as "DCLG Decision". I don't need a copy.

Thanks

Kind Regards

Simon J Davis MRTPI | Principal Planning Officer, Planning Department, Arun District Council |
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Save the environment - think before you print.

From: [REDACTED]
Sent: 22 June 2017 11:36

Subject: Pagham beach

Dear Naomi and Simon,

Please see attached – the Secretary of State's decision letter. Many thanks for your assistance in progressing this matter and thank you for agreeing the extension of time informally as it saved time in arriving at an outcome.

I would be grateful for copies of the eventual planning permissions issued as I will need to report to the European Commission on the outcome. In the meantime an indication of the likely timing of these would be helpful so that I can make a diary note as to when to check on progress with you.

(Tim, thank you also for your help - I'd be similarly grateful for a copy of the MMO licence when issued).

Regards,

Mike

Mike Hale | Senior Planning Casework Officer | Planning Casework Unit | Department for Communities and Local Government | ☎ 0303 44 45374 | ✉ [REDACTED] | 📍 5 St Philip's Place, Colmore Row, Birmingham B3 2PW |

For PCU General Enquiries: ☎ 0303 444 8050 | ✉ pcu@communities.gsi.gov.uk

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Department for
Communities and
Local Government

1. Simon Davis
Principal Planning Officer
Arun District Council

By email: [REDACTED]

2. Mrs Naomi Langford
Senior Planning Officer
Chichester District Council

By email: [REDACTED]

Please ask for: **Mike Hale**
Tel: 0303 44 45374
Email: [REDACTED]

Your ref:

Our ref: PCU/CHR/C3810/77721 (Arun DC) &
PCU/CHR/L3815/77773 (Chichester DC)

Date: 22 June 2017

Dear Mr Davis and Mrs Langford

Reference to the Secretary of State under Regulation 62 of the Conservation of Habitats and Species Regulations 2010 (Habitats Regulations 2010)

Proposed managed breach of shingle spit and blocking of tidal inlet channel with shingle barrier, formation of shingle island within harbour following excavation of adjacent area of spit – Church Norton Spit, Pagham Beach, Pagham, West Sussex:

Application numbers 1. Arun District Council - P/97/15/PL and 2. Chichester District Council - 15/03053/FULEIA

1. I refer to your respective letters 1. dated 9 May 2017 and 2. dated 25 May 2017 notifying the Secretary of State under regulation 62(5) of the Habitats Regulations 2010 that your Councils propose to grant planning permission for the above applications relating to the above project, notwithstanding a negative assessment of the implications for the Pagham Harbour Special Protection Area (SPA) and Ramsar site.
2. The Secretary of State must give his approval where a competent authority proposes to agree to a plan or project notwithstanding a negative assessment.

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The proposal

3. The development proposed by Pagham Parish Council is the managed breach of a shingle spit and a blocking of a tidal inlet channel with a shingle barrier, formation of a shingle island within a harbour following excavation of the adjacent area of spit at the Church Norton Spit, Pagham Beach, Pagham, West Sussex. The proposal would have direct effects on the Pagham Harbour SPA and Ramsar Site, together with the Pagham Harbour SSSI and Marine Conservation Zone.
4. As the proposed development is not directly connected with or necessary for the management of the site and is likely to significantly affect a European site, the competent authority must, in accordance with Regulation 61, make an Appropriate Assessment (AA) of the implications of the proposal for the site in view of the site's conservation objectives. In this case, Chichester District Council (CDC) has led on behalf of Arun District Council (ADC) in preparing a joint AA. The Marine Management Organisation (MMO) has prepared a Marine Conservation Zone Assessment and has deferred to the two local authorities in terms of the content of the AA in its letter of 15 December 2016. The AA concluded that the project would adversely affect the integrity of Pagham Harbour SPA and Ramsar. Natural England is satisfied with the process and the conclusions in the AA. The Environment Agency and Historic England were also consulted by the competent authorities and do not object to the proposals.
5. In light of the conclusions of the AA, the decision-taker(s) must determine whether it can ascertain that the proposal will not adversely affect the integrity of the site. Whilst a number of the impacts would be addressed by mitigation measures, the competent authorities, including the MMO, have concluded that the proposal would have an adverse impact on the integrity of the Pagham Harbour SPA and Ramsar Site. This is due to the effect on the nesting habitat for little terns, which is an interest feature of the SPA, and cannot be mitigated by conditions and obligations.
6. The Secretary of State is satisfied that the AA has been carried out in accordance with the Habitats Regulations 2010. He also considers that the competent authorities have fulfilled the requirements of:
 - Regulation 61 (2), requiring the provision of information to the competent authority,
 - Regulation 61 (3 & 4) relating to consultation with nature conservation bodies and the public;
 - Regulation 61 (5 & 6) concerning the impact on the integrity of the European Maritime site.

Secretary of State's consideration

7. The Secretary of State is required to ensure that the proposal meets the requirements of the Habitats Regulations 2010, and to be satisfied that there

is no alternative solution or site, that the project has Imperative Reasons of Overriding Public Interest (IROPI) and that satisfactory compensation has been agreed and will be delivered.

Alternative Solutions

8. The Secretary of State has considered the detailed assessment of alternative solutions submitted by the applicant. These were:

- Installing/upgrading cross shore groynes structures
- Excavating a breach in the spit and fixing in place with a training wall.
- Closing the existing channel
- Progressively extending the existing revetment / protection / shingle recycling on a restrictive basis.
- Maintaining the new breach further along the spit and closing the existing tidal inlet; and
- Doing nothing and allowing the foreshore to evolve naturally.

He has concluded that there are no viable alternative solution that would have no effect or a lesser effect than the proposal on the site's integrity and would fully meet the projects objectives.

Imperative Reasons of Overriding Pubic Interest (IROPI)

9. If there is no alternative solution, the decision-taker should consider whether there are IROPI to justify the grant of permission despite a potentially negative effect on site integrity. Different tests apply depending on whether the site hosts a priority natural habitat type or species. Planning permission can be granted if the proposed development has to be carried out for imperative reasons of overriding public interest, including those of a social or economic nature.

10. The Secretary of State has considered the applicant's case for the development to proceed on the grounds of IROPI. The applicant considers that:

There are *imperative* reasons and *overriding* need, together with strong *public interests* for the project to go ahead. The project will provide larger and longer-term coastal defence benefits for the Pagham Beach foreshore that are urgently required and essential for public safety. The improved public access, safety, amenity and community engagement values provided will in turn result in human health benefits to the community. There will also be also gains for the environment.

11. The Secretary of State is satisfied that there is a strong case for the development to proceed on the grounds of IROPI.

Compensatory Measures

12. Where, in the absence of alternatives, the importance of the development is judged, in accordance with regulation 66, to outweigh the harm to a European

site, compensatory measures must be taken to ensure that the overall coherence of the network of SPAs and SACs known as Natura 2000 is protected.

13. The Secretary of State has considered the applicant's statements which provide details of the proposed island habitat in Pagham Harbour as compensation for the project. He notes that compensatory measures would be provided in comparable proportions to the habitats for the species lost and that planning conditions and other mechanisms would allow for maintenance and monitoring once the compensation package has been implemented.
14. The compensatory measures have been considered fully by the competent authorities, including the MMO, Natural England, the Environment Agency and Historic England. Natural England considers that the proposed compensatory measures associated with the project, which includes compensation for habitat loss and impacts on SPA interest features, is satisfactory in terms of Regulation 66 of the Habitats Regulations and is sufficient to secure the future nature conservation interest on the sites. The Secretary of State considers that the applicant has provided satisfactory compensation measures to ensure that the coherence of the network of SPAs and SACs known as Natura 2000 will be protected.

Conclusion and Decision

15. The Secretary of State has undertaken a comprehensive assessment of the flood prevention and anti-erosion measures at Pagham Harbour and beach and considered evidence submitted by the competent authorities including the MMO and statutory agencies to ensure that the project complies with the tests in the Habitats Regulations. He considers that a rigorous case has been made to demonstrate that there is no current alternative solution and that the proposal has IROPI. He is also satisfied that satisfactory compensation measures are in place and will be delivered by the planning conditions to ensure that the coherence of the network of SPAs and SACs known as Natura 2000 will be protected. The Secretary of State concludes that the tests in the Habitats Regulations 2010 have been fully met and that the applications are, therefore, returned to ADC and CDC for determination.
16. I am sending a copy of this letter to the Marine Management Organisation.

Yours sincerely

M A Hale

Authorised by the Secretary of State
to sign in that behalf