



Town & Country Planning Act 1990 (as amended)
Town and Country Planning (Development Management
Procedure) (England) Order 2015
Application for Planning Permission
DECISION NOTICE

Application Ref: P/97/15/PL

1 To Addressee

ABPmer
 Quayside Suite
 Medina Chambers
 Town Quay
 Southampton
 SO14 2AQ

2 Site Address

Church Norton Spit
 Pagham Beach

 PO21 4NJ

3 Description of Development

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

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:

- * Location Plan Showing the Application Area (Red Line Boundary) Figure 1 (Version 5);
- * Block Plan Showing the Breach and Infill Area Figure 2 (Version 4);
- * Cross Section Plan of the Tern Island Figure 5 (Version 2);
- * Cross Section Profiles of the Breach and Infill Barrier Figure 4 (Version 2);
- * Block Plan showing the Proposed Compensation Area (New Tern Island) Figure 3 (Version 1); and
- * Location and Design of Proposed Breach and Channel Infill Figure 2.2 (Version 1).

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policy GEN7 of the Arun District 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 GEN23 of the Arun District Local Plan.

- 4 No development shall take place until the developer has secured the implementation of a programme of archaeological investigation and mitigation (to include terrestrial archaeological, geo-archaeological, and marine field archaeological work), undertaken in accordance with a Written Scheme of Investigation, which is to be submitted to and approved in writing by the Local Planning Authority as advised by Historic England and the Chichester District Council Archaeology Officer.

Reason: To ensure that the archaeological and historical interest of the development site is safeguarded and recorded, to comply with the National Planning Policy Framework and policy AREA17 of the Arun District Local Plan. This is required to be a pre-commencement condition because the commencement of construction work could harm any archaeology within the site area.

- 5 Within 6 months of planning permission being granted, the developer shall submit for approval by the Local Planning Authority, in consultation with Natural England, final plans and details concerning the design and construction of the proposed Tern Island compensation measure. The final design shall ensure that the island is cut off from surrounding land and hydro-dynamically connected to the tidal waters either side of it with a view to isolating the island and reducing the risk of future predation by foxes and shall remove any loose debris or artificial features from around the Island.

The Tern Island shall then be implemented in accordance with the approved details and completed prior to the breeding season following the breaching of the Spit in order to ensure that it is available for use by Little Terns before the overwintering season.

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 District Local Plan policies AREA13, AREA14 & GEN29 and policies ENVDM1 & ENVDM2 of the Arun Local Plan 2011 - 2031 Publication Version.

- 6 Within 6 months of permission being granted, the developer shall submit for approval by the Local Planning Authority, an adaptive management plan setting out how the harbour opening will be monitored and how the approved compensation/mitigation measures will be reviewed in order to assess their effectiveness. The plan is to refer to the proposed adaptive 'Traffic Light System' approach set out in the May 2016 report. The plan must include membership details of the Stakeholder Group that will be created, the frequency of Stakeholder Group meetings; and the methods by which the stakeholder group will communicate with each other. No changes shall be made to the approved adaptive management plan other than with the written approval of the Local Planning Authority.

Reason: To ensure that the Pagham Harbour remains open and connected to the sea in accordance with the National Planning Policy Framework, Arun District Local Plan policies AREA13, AREA14 & GEN29 and policies ENVDM1 & ENVDM2 of the Arun Local Plan 2011 - 2031 Publication Version.

- 7 Within 6 months of planning permission being granted, the developer shall submit for approval by the Local Planning Authority, in consultation with Natural England, details of the proposed mitigation measures (and management thereof) to be employed on the sections of the remaining Spit in order to protect the existing Little Tern habitat. These shall include:

- i. Summertime reactive fencing around the nesting areas on the spit;
- ii. Signage to keep people off the Spit;
- iii. Wardening to enforce these restrictions.
- iv. Seasonal visitor exclusion of the connected section between Pagham Beach and the infill area; and
- v. The installation of seasonal signage to explain to residents and visitors (and especially dog walkers) why this access exclusion fencing is in place and explain the need to be alert to the situation during the summer breeding season (1st April until mid-to late August - the timing in August depending on confirmation from the RSPB that all chicks have fledged);

These mitigation measures shall be implemented prior to works commencing on the spit and shall be permanently retained thereafter unless written notification is received from the Local Planning Authority that this is no longer required

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, Arun District Local Plan policies AREA13, AREA14 & GEN29 and policies ENVDM1 & ENVDM2 of the Arun Local Plan 2011 - 2031 Publication Version.

- 8 Within 6 months of planning permission being granted, the developer shall submit for approval by the Local Planning Authority, in consultation with Natural England, a management plan for the proposed Little Tern Island compensation measure. The Management Plan shall include the following:

- i. Tape lures and bird decoys to encourage colonisation by Little Terns;
- ii. The placement (and continuous replacement) of seasonal reactive predator-exclusion fencing around nests;
- iii. Regular visits by wardens;
- iv. The monitoring of nesting activities and breeding success with results then fed back to the overseeing stakeholder group in order that they can review the effectiveness of the management measures; and
- v. The regular raking of the surface of the Island to keep it from being colonised by ground level vegetation.

The approved management plan will be implemented in accordance with the approved details and the approved management measures retained thereafter unless written notification is received from the Local Planning Authority that this is no longer required

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, Arun District Local Plan policies AREA13, AREA14 & GEN29 and policies ENVDM1 & ENVDM2 of the Arun Local Plan 2011 - 2031 Publication Version.

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Within 6 months of planning permission being granted, the developer shall submit for approval by the Local Planning Authority, in consultation with Natural England, a Construction Management Plan concerning the construction activities involved with both the breaching of the spit and the creation of the new Little Tern Island.

The Plan shall provide details on the following matters:

- i. The timing of construction works;
- ii. The anticipated timescales and likely start dates of the different parts of the project (noting in particular the need to complete the Tern Island prior to the breeding season following the breaching of the Spit);
- iii. Methods of access and routing of vehicles and people during construction - including the use and management of Rectory Lane and the use of designated paths/tracks or if necessary, within the active intertidal zone to ensure minimum impact on shingle ridges where little terns nest;
- iv. Security hoarding or other suitable barriers to exclude the public from the development site;
- v. The anticipated number, frequency and types of vehicles used during construction;
- vi. The protection of the surface geomorphology of shingle ridges and recurves;
- vii. Cold weather working restrictions;
- viii. A 5-10m buffer zone around the Little Lagoon with all plant to remain at least 15m from the edge of the lagoon;
- ix. The parking of vehicles by site operatives and visitors;
- x. The loading and unloading of plant, materials and waste;
- xi. The storage of plant and materials used in construction of the development;
- xii. The provision of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders);
- xiii. Safety provision in respect of working on the Spit particularly during storm conditions;
- xiv. The details of public engagement both prior to and during construction works (to include information boards and appropriate signage near the site to explain the project and provide contact details for queries/emergencies); and
- xv. The arrangement of an on-site meeting to confirm the construction methodology prior to works commencing.

There shall be no vehicle access from the Church Norton side of the spit and all works shall be from the eastern side of the spit accessed from the Pagham frontage except with the express agreement of Natural England for the purposes of emergency access, safety or where the site changes to such an extent as safe access is not possible from the Pagham side.

No development shall then commence until written approval has been received to this plan and the plan shall thereafter be implemented and adhered to throughout the entire construction period.

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, Arun District Local Plan policies AREA13, AREA14, GEN7 & GEN29 and policies ENVDM1 & ENVDM2 of the Arun Local Plan 2011 - 2031 Publication Version.

- 10 Once the spit has been breached in accordance with the approved details, it shall be left to evolve naturally subject to a tidal exchange being maintained without any further intervention. However, should the Harbour 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.

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 on the Church Norton side as this shingle will be re-establishing the geomorphological feature.

Subject to agreement by the Local Planning Authority in consultation with the Stakeholders Group, there shall be no further maintenance 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, Arun District Local Plan policies AREA13, AREA14 & GEN29 and policies ENVDM1 & ENVDM2 of the Arun Local Plan 2011 - 2031 Publication Version.

- 11 Unless otherwise agreed in writing with the Local Planning Authority in consultation with Natural England, all works are to be completed before the main over wintering season which commences on the 1st of November each year and ends on the 31st March each year.

Any works that are allowed to continue after the 1st of November or between the end of February and the end of March shall be in accordance with Natural England's advice regarding severe/freezing weather working restrictions. 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, Arun District Local Plan policies AREA13, AREA14 & GEN29 and policies ENVDM1 & ENVDM2 of the Arun Local Plan 2011 - 2031 Publication Version.

- 12 No work is to take place within the site between the 15th March and the end of August or until the last Little Tern has fledged whichever is the later.

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, Arun District Local Plan policies AREA13, AREA14 & GEN29 and policies ENVDM1 & ENVDM2 of the Arun Local Plan 2011 - 2031 Publication Version.

- 13 Within 3 months of planning permission being granted, the developer shall submit for approval by the Local Planning Authority, in consultation with Natural England, a watching brief which sets out how the site will be monitored in respect of the timed development restrictions as set out in conditions 11 and 12. No development shall then commence until written approval has been received to this plan and the brief shall thereafter be implemented and adhered to throughout the entire construction period.

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, Arun District Local Plan policies AREA13, AREA14 & GEN29 and policies ENVDM1 & ENVDM2 of the Arun Local Plan 2011 - 2031 Publication Version.

- 14 Within 6 months of planning permission being granted, the developer shall submit for approval by the Local Planning Authority, a scheme detailing the deployment of a tide gauge within the harbour for the purposes of monitoring tidal heights and tidal behaviour in the middle of the harbour. The approved tide gauge should be continuously deployed before during and after the construction period from, at least, 1 month before to 1 month after construction.

Reason: In the interests of coastal defence in accordance with the National Planning Policy Framework and Policies GEN10 and GEN19 of the Arun District 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 identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

INFORMATIVE: All works should be undertaken following current best practice and with minimum impact on water quality. The applicant/developer should adhere to the Environment Agency's Pollution Prevention Guidance (PPG) 5 for works in or near watercourses. In the event of a pollution incident, all works should cease immediately and the Environment Agency should be contacted via the incident hotline 0800 807060.

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 nest between March and September.

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 Marine Management Organisation has separately issued a Marine Licence (Ref MLA/2015/00390) and the applicant/developer should also have regard to the conditions associated with that Licence.

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 wardening 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: Ideally, the design of the tide gauge (referred to in condition 14 above) should include a radio link and a stilling tube with millimetre accuracy.

INFORMATIVE: In respect of condition 11 above, a continuous period of 7 days of severe or freezing weather is defined as when the nearest Meteorological station records minimum daily air temperatures of 0 degrees C or less for 7 consecutive days, allowing short periods of thaw. Short periods of thaw shall be one or two days where the minimum daily air temperature is above 0 degrees C. The short periods of thaw will have no effect on the counting process of severely cold consecutive days, but periods of thaw of three or more days have the effect of resetting the severe weather day number to 0. Further details of the severe/freezing weather suspension set out within Condition 11 can be found at: <https://basc.org.uk/shooting/severe-weather-and-waterfowl-shooting/> and the JNCC page: <http://jncc.defra.gov.uk/page-2894>.

INFORMATIVE: Please note the following in respect of Condition 06: The stakeholder group will need to recognise that natural change is ongoing and that such change is to be enabled / allowed as an objective of the project. However, the group will also have to make balanced judgements about the value and implications of any managed interventions. Where changes to the management plan are required, a written consent for such changes will be sought from the Local Planning Authority. In addition, when the stakeholder group deems the management plan is no longer valid and can be stopped (because natural processes are now the dominant influencing factor rather than the managed breach intervention) they will also seek a written agreement to this effect from the Local Planning Authority.

INFORMATIVE: The Council has taken account of the content of the Environmental Statement (ABP Marine Environmental Research Ltd, September 2015, Appendix H updated February 2017) and is satisfied that the environmental impacts of the development have been fully assessed in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended). The likely significant impacts have been identified and the mitigation, compensation, monitoring and management measures required to address these impacts has been secured.

INFORMATIVE: Please note it may be necessary to submit an application to vary condition 02 should it not be possible to implement the works in accordance with the submitted drawings. If this is necessary, then the competent authorities may be required to re-assess the proposal in respect of the Habitats Regulations.

Case Officer: Mr S Davis

Date of Decision:

27 June 2017



Neil Crowther
Group Head of Planning

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

