



**TOWN AND COUNTRY PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT)
(ENGLAND AND WALES) REGULATIONS 2011 (SI 2011 NO. 1824) (AS AMENDED)**

Regulation 24 Statement

P/97/15/PL

Managed breach of shingle spit and blocking of adjacent tidal inlet channel with shingle barrier. Formation of shingle island within harbour following excavation of adjacent area of spit.

Managed Breach, Pagham Harbour, West Sussex, PO21 4NJ.

This statement sets out the main reasons and considerations, on which the decision was based, as well as a description, where necessary, of measures to avoid, reduce and offset any major adverse effects of the development.

In accordance with Regulation 24 (1) (a) and (b)

Arun District Council has informed the Secretary of State and the public of the decision
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Regulation 24 (1) (c) (i) – the content of the decision and any conditions attached to it
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Refer to the decision notice reference P/97/15/PL

Regulation 24 (1) c) (ii) - the main reasons and considerations on which the decision is based including, if relevant, information about the participation of the public.
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The proposal comprises EIA development under the 2011 Regulations (Schedule 2 (10) (m): Coastal work to combat erosion and maritime works capable of altering the coast through the construction, for example, of dykes, moles, jetties and other sea defence works, excluding the maintenance and reconstruction of such works).

The application was submitted with an Environmental Statement dated September 2015 which includes the following sections
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| <ol style="list-style-type: none">1. Non-Technical Summary;2. Introduction;3. Project Need and Alternatives; |
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4. Project Description and Methodology;
5. Consents, Approvals and Policy Guidance;
6. Impact Assessment Approach;
7. Receptor Specific Impact Assessment – Physical Environment and Coastal Protection;
8. Receptor Specific Impact Assessment – Water and Sediment Quality;
9. Receptor Specific Impact Assessment – Nature Conservation and Ecology;
10. Receptor Specific Impact Assessment – Marine Recreation;
11. Cumulative and In-Combination Effects; and
12. Assessment Summary (Impacts, Mitigation and Monitoring).

Appendices:

- A. Proposed Design and Modelling Report;
- B. Scoping Consultation Log;
- C. Information for Appropriate Assessment;
- D. Construction Maps;
- E. Legislation and Policy;
- F. Review of Nature Conservation Designations;
- G. Marine Conservation Zone Assessment;
- H. Water Framework Directive Compliance Assessment (updated February 2017);
- I. Transport Statement;
- J. The Ecology of the DeFolin's Lagoon Snail;
- K. Review of Bird Disturbance; and
- L. Little Tern Habitat Creation and Management Review.

Furthermore, in May 2016, the applicants submitted “Managed Breach of Shingle Spit at Pagham Harbour; Further information for Planning Application and Marine Licence” and this includes sections on the changes to the site since the application was compiled, implications of the breach and project objectives, design and methods for the breach and compensation site including monitoring, appropriate assessment information, additional details for the EIA and MCZ assessments and impacts on SSSI features, archaeological information and impact assessment. Re-consultation took place on receipt of this additional information.

Taking the environmental information into account, planning application reference P/97/15/PL is approved for the reasons set out in Arun District Council's Decision Notice dated 27 June 2017 and officer's report dated 27 June 2017 available to view at www.arun.gov.uk. The reasons for the decision are summarised as follows:



- The conclusion of the Assessment under the Habitats Directive is that subject to several planning conditions setting out mitigation measures, the application does not need to be refused and can proceed to a planning determination;
- There are no other impacts which are either unacceptable or could not be overcome with planning conditions;
- There would be significant positive benefits to the local community in terms of coastal protection & reduced flood risk; and that the adverse impacts would, in general, be apparent only for a temporary period (i.e. during the construction period).

The application was advertised by several notices on and around the site and in the local press in accordance with statutory requirements. A total of 264 letters were received from interested residents as well as 5 petitions of support from the Pagham Flood Defence Trust comprising of 2, 7, 10, 173 & 1,155 signatures. The responses are summarised in the Delegated Report.

Regulation 24 (1) c) iii) – a description, where necessary, of the main measures to avoid, reduce and, if possible, offset the major adverse effects of the development.

The ES identifies that there will be a range of negative and positive environmental effects that will occur during the 9 to 11 week construction phase or the subsequent post-breach operational phase. The impacts will be immediate (days/weeks), short term (weeks/months to a year), medium term (years) and long term (10 to 20 years).

The following impacts have been identified by ABPmer (the applicants agent) as having minor to moderate significant environmental effects. These include positive and negative environmental effects. Where the adverse effects have been reduced in significance due to the proposed mitigation and/or compensation measures, these have been secured through planning conditions (specified in italics):

Shingle habitat

- Access routes will be agreed in advance to minimise the construction footprint and therefore the potential damage to shingle habitat will at worst be **minor adverse significant**. *Planning condition 9 requires details of construction management to be agreed prior to works commencing and adherence to the agreed management plan during construction activities.*
- The impact on shingle habitat during operation will be **minor adverse significant** given that it has tolerated and recovered from past breaches and a new spit is likely to grow in the future. *Planning conditions 6 and 10 secure a 5 year monitoring programme using a Stakeholder Group.*



Other protected habitats

- The temporary access causeway during construction will result in a temporary and small (4.2ha) decrease in intertidal mudflat within Pagham Harbour of **minor adverse significance**. *Planning condition 9 requires details of construction management to be agreed prior to works commencing and adherence to the agreed management plan during construction activities.*

Birds

- The temporary reduction in intertidal mudflat habitat inside the harbour during construction is considered to be **minor adverse significant** for feeding birds.
- The immediate impact on breeding birds will be **insignificant** as the breach will avoid the breeding season and will not disturb habitat that is currently being used by nesting Little Terns. *Planning condition 12 requires works to be undertaken outside the breeding season.*
- The construction programme may well include the overwintering bird period but, given the scale of the works and tolerance of birds, any disturbance effects will be **minor adverse significant**. *Planning condition 11 require works to be undertaken outside the overwintering season.*
- The impact on tern breeding habitat during operation is **minor adverse significant** in short term but potentially up to **moderate** (with increasing uncertainty) in medium to long-term. To offset potential breeding habitat effects, mitigation measures and the creation of a New Tern Island as compensation are proposed (reducing impact to **minor adverse or insignificant**). *Planning condition 5 requires full details of the proposed Tern Island compensation measure. Condition 7 requires a mitigation measure management plan with particular attention paid to the existing Little Tern habitat. Condition 8 requires details of the management plan for the Tern Island compensation measure.*
- The creation of a temporary saline lagoon behind the severed (northern) spit will be **minor beneficial significant** to DeFolin's lagoon snail and feeding/foraging birds;
- The increased accessibility of the severed spit during operation will result in a **moderate adverse significant** disturbance impact on birds;
- A range of mitigation measures, including fencing and wardening, will be implemented to reduce the disturbance impact during operation to **insignificant**. *Planning conditions 7 and 8 secure these mitigation measures.*
- The improved navigational access into the harbour and recreational disturbance on birds, in the context of existing management and byelaws, will be **minor adverse significant**;
- The new tidal inlet (breach) is less likely to close and more likely to be reopened than the



existing inlet; therefore the potential impact of closure on birds will be **insignificant**. *Planning conditions 6 and 10 secure monitoring and action plans through a Stakeholder Group to minimise the risk of the breach closing.*

Other protected species

- The creation of a temporary saline lagoon behind the severed spit will be **minor beneficial significant** to DeFolin's lagoon snail.

Geomorphology

- The immediate effect of the project will be **minor adverse significant** given the small change to a 'double spit' shape and because breaching is a natural part of how dynamic spits behave. *Planning conditions 6 and 10 secure monitoring and action plans through a Stakeholder Group.*
- The impact on the geomorphological spit feature during operation will be **minor adverse significant** given that it will continue to be dynamic (i.e. a new spit is likely to form and grow). *Planning conditions 6 and 10 secure monitoring and action plans through a Stakeholder Group*

Marine Recreation

- Overall, the impact on the marine recreational and amenity value of Pagham is considered to be **moderate beneficial significant**.

In summary, the primary mitigation required to address the significant environmental impacts comprises the following:

- Carrying out the excavation works outside of the bird nesting period (March to July) to avoid any adverse effects on breeding birds;
- Contractors adhering to best practice guidance/measures during the construction work to minimise the risk of a pollution event (e.g. from fuel spill);
- Contractors agreeing fixed plant access routes in advance with Natural England and RSPB to minimise the footprint of any impact and minimise any potential damage to vegetated shingle;
- Creating a new isolated island habitat within the harbour to offset any damage to Little Tern nesting areas over the medium to long term;
- Fencing to be installed and access of people and predators managed to spit areas during the summer months to minimise impacts on nesting terns and other breeding bird species; and



- The community to be actively involved in ongoing management measures (e.g. wardening) of the spit and, if required, on the New Tern Island.

It is also necessary to regularly monitor the breach, as its closure as a direct consequence of the proposed works would result in significant adverse effects on the special environmental interest of Pagham Harbour. This will be secured through the establishment of a Stakeholder Management Group, including the applicant, RSPB, Arun District Council, Chichester District Council, Natural England and the Marine Management Organisation. The supporting information dated May 2016 set out the details of a 'traffic light system' to monitor the breach and determine if further intervention is required, and what that would entail.

On the basis of the above, the Local Planning Authority is satisfied that the negative environmental impacts of the development will not be significant. Full details of the planning conditions imposed to secure the above mitigation and compensation are contained in the decision notice.

Regulation 24 (1) c) iv) – information regarding the right to challenge the validity of the decision.

The validity of the Council's decision can be challenged by application to the Courts for Judicial Review. Further advice about making a High Court Challenge can be obtained from the Administrative Court at: The Royal Courts of Justice, Queen's Bench Division, Strand, London, WC2 2LL – Telephone number: 0207 9476655 – Website: www.courtservice.gov.uk