

Our ref: R/3688-17/9/ESM

Arun District Council
1st Floor
Arun Civic Centre
Maltravers Road
LITTLEHAMPTON
BN17 5LF

Elena San Martin
Senior Consultant

FAO Simon Davis
Principal Planning Officer

13 September 2017

Dear Simon

Re: Pagham Spit Intervention: Discharging Condition 13 - Watching Brief

ABPmer has been commissioned by Pagham Parish Council (on behalf of the Flood Defence Community Interest Company) to undertake the necessary work to discharge Condition 13 of Arun District Council **Planning Application Ref 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.**

Condition 13 of the planning consent states:

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."*

This condition relates to Conditions 11 and 12 which state the following:

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 overwintering season which commences on 1st November each year and ends on 31st March each year. Any works that are allowed to continue after 1st 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/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."*
12. *"No work is to take place within the site between 15th March and the end of August or until the last Little Tern has fledged whichever is the later."*



Pagham Harbour is an area of high nature conservation value that is nationally and internationally protected as a Special Protection Area (SPA)/Ramsar site, Site of Special Scientific Interest (SSSI), a Marine Conservation Zone (MCZ) and a Local Nature Reserve (LNR). The protected features include the shingle spits on the front, the habitats in the harbour (e.g. mudflats, saltmarshes and seagrass beds) and birds and species using these habitats.

The above conditions are necessary to specifically protect overwintering birds and any breeding Little Terns at Pagham Harbour and ensure that they are not significantly impacted (primarily through disturbance) by the works.

Scope of Watching Brief

The applicant is committed to maintaining a watching brief in accordance with Condition 13 to ensure that works avoid the overwintering bird and breeding Little Tern seasons.

The specific details of how a watching brief will be implemented will be developed through the setting up of a Stakeholder Management Group (SMG). Within the application documents it was emphasised that this project should have technical oversight from a panel of stakeholders (e.g. Section 11.3 of the Environmental Statement; ABPmer, September 2015). The need for and role of a "stakeholder group" was also clarified in the Further Information Report (ABPmer, May 2016). It is recommended that this group comprise relevant representatives from Arun District Council (ADC), the Environment Agency, Natural England, the Royal Society for the Protection of Birds (RSPB), Chichester District Council and the Marine Management Organisation (MMO).

The SMG should, as proposed, meet biannually over the first two years. We note that ADC has previously written to Colin Scott (letter dated 1 August 2017), offering a meeting to discuss the discharging of planning conditions. Recent correspondence indicates that this is likely to take place in October, although the date is to be confirmed. As per our reply (email dated 18 August 2017), in effect this could be seen as the first meeting of the stakeholder group which needs to be set up to oversee the ongoing monitoring and management of the project. These SMG meetings will be a key element of the watching brief process.

RSPB is also willing to assist the local community by providing an "on the ground" overseeing role during the works in support of the watching brief. This will ensure that contractors/ staff employed are advised on the specific sensitivities of the site and appropriate working practices in terms of avoiding causing any disturbance to overwintering and Little Tern breeding birds.

The timed development restrictions as set out in Conditions 11 and 12 are based on historic bird usage at the site. RSPB will continue to manage and monitor Pagham Harbour, including conducting monthly Wetland Bird Surveys, and will therefore be able to confirm the actual periods that overwintering birds and breeding Little Terns are using the site.

To further ensure adherence to Conditions 11 and 12, flexibility will be built into the construction programme to allow works to take place at the appropriate window of opportunity to avoid significantly disturbing overwintering birds or breeding Little Terns. Any works that overlap with the timed development restriction periods as set out in Conditions 11 and 12 will be agreed in advance with the Local Planning Authority in consultation with Natural England.

As stated in Condition 11, any works that are allowed to continue into the winter after 1st November or between the end of February and the end of March will be undertaken in accordance with Natural England's advice regarding severe/freezing weather working restrictions. RSPB will also advise on additional management measures that should be implemented to avoid significant disturbance to

overwintering birds during these more sensitive periods, including working during daylight hours only, restricted use of artificial lighting and keeping to agreed access routes.

In accordance with Condition 12, no works will take place in spring/summer during the Little Tern breeding season. Should RSPB advise that the breeding season has ended sooner than anticipated (e.g. all Little Terns have fledged by middle of August) then it may be possible to undertake works within the timing restriction, subject to the Local Planning Authority's prior permission, in consultation with Natural England.

All contractors/ staff employed on the site will be briefed according to this letter during their site induction.

With the implementation of the watching brief outlined in this letter, it is considered that overwintering birds and breeding Little Terns will be protected during the works, and accordingly condition 13 can be safely discharged.

I hope that this letter provides you with the necessary information required to validate our application to discharge condition 13. Should you have any queries or questions at all then please do not hesitate to contact me.

Yours sincerely
for ABPmer

A large black rectangular redaction box covering the signature area.

Elena San Martin
Senior Consultant