

Date: 26 May 2023
Our ref: 432348
Your ref: F/23/95051



Rebecca Altman
Eastleigh Borough Council
BY EMAIL ONLY

Customer Services
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Dear Rebecca,

Planning consultation: Erection of single-storey commercial accommodation

Location: Port Hamble Marina, Satchell Lane, Hamble, SO31 4QD

Thank you for your consultation on the above dated 05 May 2022 which was received by Natural England on the same day.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

SUMMARY OF NATURAL ENGLAND'S ADVICE

FURTHER INFORMATION REQUIRED TO DETERMINE IMPACTS ON DESIGNATED SITES

As submitted, the application could have a likely significant effect on designated sites in the Solent, including:

- Solent and Dorset Coast SPA
- Portsmouth Harbour SPA and Ramsar Site
- Chichester and Langstone Harbours SPA
- Solent Maritime SAC
- Solent and Southampton Water SPA

Your Authority will need to undertake a Habitats Regulations Assessment (HRA) to determine whether the proposal is likely to have a significant effect on the sites named above, proceeding to the appropriate assessment stage where significant effects cannot be ruled out. The following information is required to inform a HRA:

- Consideration of this project's effects on total nitrogen and/or total phosphorus nutrient loading within the Solent catchment, including a nutrient budget calculation.
- Details of proposed mitigation measures to address any nutrient impacts, including appropriately funded management and monitoring, and details of how the measures will be secured for the lifetime of the development.
- Any other likely significant effects that could arise from the development should also be assessed.

Once the above information is obtained, please consult Natural England on any appropriate assessment your authority may decide to make.

Natural England's Approach

As your Authority will be aware, there are impacts on nationally and internationally important wildlife sites in the Solent Catchment arising from excessive nutrients from wastewater discharge. On 9 March 2022, Natural England sent a letter (via email) to the Head of Planning at your Authority, explaining that Natural England is fully committed to working closely with your Authority to develop strategic approaches for delivering a nutrient neutrality to help development to proceed. At this time, Natural England is issuing this standard advice in response to planning consultations / proposals requiring nutrient neutrality that meet the following criteria:

- the proposal is for 150 homes or fewer
- the proposal is not accompanied by a habitats regulations assessment (HRA) which has been completed or adopted by the competent authority.

Standard Advice for Nutrient Neutrality

It is Natural England's view that there is a likely significant effect on the internationally designated sites in the Solent catchment due to the increase in wastewater from new housing. One way to address this is for new development to achieve nutrient neutrality. Nutrient neutrality is a means of ensuring that development does not add to existing nutrient burdens and this provides certainty that the whole of the scheme is deliverable in line with the requirements of the Conservation of Habitats and Species Regulations 2017 (as amended).

We have written to your authority about the availability of an updated package of tools and guidance in relation to nutrient impacts. We recommend that your authority moves to using the updated generic Nutrient Neutrality Methodology and the updated catchment calculators in preference to existing methodologies whether produced by Natural England or your own authority. Your authority will be best placed to consider how it transitions to the new tools and guidance. Natural England recognises that for some existing catchments where nutrient neutrality is being implemented and mitigation is being actively progressed, authorities may need to consider the associated practicalities of moving to the new guidance whilst recognising their role as Competent Authority.

The supporting information for this proposal should include a nutrient budget and details of any proposed mitigation to address nutrient impacts. To demonstrate that proposed mitigation will remain effective for the lifetime of the development, information on management and monitoring will be required, together with details of how this will be secured and funded in perpetuity. This information

should be considered by your authority in accordance with regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) i.e. through a HRA.

The proposed development, and the application of any measures to mitigate the likely harmful effects from it, should be formally checked and confirmed by your Authority, as the competent authority, via an appropriate assessment, in view of the European Sites' conservation objectives. Further information on carrying out a HRA as a competent authority can be found online¹.

Once a HRA has been completed or adopted by the competent authority, Natural England will review the proposal.

Please note that where the necessary avoidance and mitigation measures are limited to collecting a funding contribution that is in line with an agreed strategic approach for the mitigation of impacts on Habitats Sites then, provided no other adverse impacts are identified by your authority's appropriate assessment, your authority may be assured that Natural England agrees that the appropriate assessment can conclude that there will be no adverse effect on the integrity of the Habitats Sites. In such cases Natural England will not require a Regulation 63 appropriate assessment consultation. However please note it is strongly advised you as competent authority seek your own legal opinion on whether to consult under these circumstances. Further, your authority, as Competent Authority, should consider how the updated Nutrient Neutrality Methodology relates to the budget provided for any strategic mitigation, ensuring it is appropriate to mitigate this development. In all other cases (where impacts from the proposed development cannot be addressed solely by contributions to an agreed strategic approach) you must contact Natural England for further advice on your appropriate assessment. Permission should not be granted until such time as Natural England has been able to consider these impacts and respond.

Additional advice

Surface water drainage

Best practice SuDS should be designed and installed in accordance with the requirements in the CIRIA SuDS Manual (C753).

Please note, the pollution hazard indices in the CIRIA SuDS Manual (C753) relate to 'protected waters' with regards to drinking water supply. Step 3 under Section 26.7.1 of the SuDS manual outlines that the requirement for extra treatment should be considered in relation to discharge to environmentally protected sites. It states that 'an additional treatment component (i.e. over and above that required for standard discharges), or other equivalent protection, is required that provides environmental protection in the event of an unexpected pollution event or poor system performance'.

Due to the close proximity of the designated sites, this should be confirmed for consideration within the Habitat Regulations Assessment. Where applicable, it is advised details are provided with regards to the long-term (in perpetuity) maintenance/replacement and funding of SuDS, and which authority will have responsibility for this, for incorporation into your authority's appropriate assessment.

The detailed design of a Sustainable Drainage System (SuDS) should be submitted and agreed with Eastleigh Borough Council. This should include evidence to show that the proposed SuDS scheme will ensure there will be no deterioration in water quality [or changes in water quantity] in discharges from

¹ <https://www.gov.uk/guidance/habitats-regulations-assessments-protecting-a-european-site#follow-hra-principles>

the site. Information on the long term management and maintenance (including funding) of the SuDS for the lifetime of the development should also be secured prior to the commencement of any works.

Construction Environmental Management Plan (CEMP):

Natural England advises a Construction Environmental Management Plan (CEMP) should be submitted to and approved in writing by the district ecologist/biodiversity officer that identifies the steps and procedures that will be implemented to avoid or mitigate constructional impacts on species and habitats. The CEMP should address the following impacts:

- A list of defined potential impacts on designated sites listed above
- Storage of construction materials/chemicals and equipment;
- Dust suppression
- Chemical and/or fuel run-off from construction into nearby watercourse(s)
- Waste disposal
- Noise/visual/vibrational impacts
- Visual screening (for SPA birds)

The approved CEMP should be secured via an appropriately worded condition attached to any planning consent and shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority

To avoid impacts on SPA birds, wherever possible, percussive piling or works with heavy machinery (i.e. plant resulting in a noise level in excess of 69dbAmax – measured at the sensitive receptor) should be avoided during the bird overwintering period (i.e. October to March inclusive). If such a condition is problematic to the applicant than Natural England will consider any implications of the proposals on the SPA bird interests on a case by case basis through our Discretionary Advice Service. Note: The sensitive receptor is the nearest point of the SPA or any SPA supporting habitat (e.g. high tide roosting site).

Recreational impacts on the New Forest SAC, SPA and Ramsar

[Recent analysis](#) shows that new residential development within a 13.8km buffer zone of the New Forest designated sites is likely to have a significant effect on the sites via recreational impacts (including disturbance, trampling, eutrophication amongst others), alone and/or in combination with other plans or projects. Larger developments (e.g. EIA development) beyond this zone but within 15km may also contribute to recreational impacts on the designated sites.

This application is situated within the 13.8km zone, and therefore Natural England advise your Habitats Regulations Assessment includes this potential impact pathway for consideration, alone and in combination with other plans/projects, proceeding to appropriate assessment stage where likely significant effects cannot be ruled out. It will need to set out in detail any mitigation measures that will be secured in this case, along with the necessary justification of their likely efficacy so as to ensure there is no adverse effect on the integrity of the site(s) in accordance with the Conservation of Habitats and Species Regulations 2017 (as amended).

Recreational Disturbance to Solent SPAs

This application is within 5.6km of the Solent & Southampton Water Special Protection Area (SPA) and may lead to a net increase in residential accommodation. Natural England is aware that Eastleigh Borough Council have adopted planning policy to mitigate against adverse effects from recreational disturbance on the Solent SPA sites, as agreed by the Solent Recreation Mitigation Partnership (SRMP), also known as Bird Aware Solent.

Provided that the applicant is complying with the policy and the Bird Aware Definitive Strategy, Natural England are satisfied that the applicant has mitigated against the potential adverse effects of the development on the integrity of the European sites and has no objection to this aspect of the application.

Please note, your authority's appropriate assessment should reflect the current developer contribution rates, which are updated every April in line with the Retail Price Index.

Further general advice on the protected species and other natural environment issues is provided at Annex A.

Please note that if your Authority is minded to grant planning permission contrary to the advice in this letter and aforementioned letter sent to your Head of Planning, you are required under Section 28I (6) of the Wildlife and Countryside Act 1981 (as amended) to notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, your Authority has taken account of Natural England's advice. You must also allow a further period of 21 days before the operation can commence.

Yours sincerely,

Thames Solent Area Team
Natural England

Annex A – Additional advice

Natural England offers the following additional advice:

Landscape

Paragraph 174 of the [National Planning Policy Framework](#) (NPPF) highlights the need to protect and enhance valued landscapes through the planning system. This application may present opportunities to protect and enhance locally valued landscapes, including any local landscape designations. You may want to consider whether any local landscape features or characteristics (such as ponds, woodland, or dry-stone walls) could be incorporated into the development to respond to and enhance local landscape character and distinctiveness, in line with any local landscape character assessments. Where the impacts of development are likely to be significant, a Landscape & Visual Impact Assessment should be provided with the proposal to inform decision making. We refer you to the [Landscape Institute](#) Guidelines for Landscape and Visual Impact Assessment for further guidance.

Best and most versatile agricultural land and soils

Local planning authorities are responsible for ensuring that they have sufficient detailed agricultural land classification (ALC) information to apply NPPF policies (Paragraphs 174 and 175). This is the case regardless of whether the proposed development is sufficiently large to consult Natural England. Further information is contained in [GOV.UK guidance](#). Agricultural Land Classification information is available on the [Magic](#) website on the [Data.Gov.uk](#) website. If you consider the proposal has significant implications for further loss of 'best and most versatile' agricultural land, we would be pleased to discuss the matter further.

Guidance on soil protection is available in the Defra [Construction Code of Practice for the Sustainable Use of Soils on Construction Sites](#), and we recommend its use in the design and construction of development, including any planning conditions. For mineral working and landfilling separate guidance on soil protection for site restoration and aftercare is available on [Gov.uk](#) website. Detailed guidance on soil handling for mineral sites is contained in the Institute of Quarrying [Good Practice Guide for Handling Soils in Mineral Workings](#).

Should the development proceed, we advise that the developer uses an appropriately experienced soil specialist to advise on, and supervise soil handling, including identifying when soils are dry enough to be handled and how to make the best use of soils on site.

Protected Species

Natural England has produced [standing advice](#)² to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice. Natural England will only provide bespoke advice on protected species where they form part of a Site of Special Scientific Interest or in exceptional circumstances.

Local sites and priority habitats and species

You should consider the impacts of the proposed development on any local wildlife or geodiversity sites, in line with paragraphs 175 and 179 of the NPPF and any relevant development plan policy. There may also be opportunities to enhance local sites and improve their connectivity. Natural England does not hold locally specific information on local sites and recommends further information is obtained from appropriate bodies such as the local records centre, wildlife trust, geoconservation groups or recording societies.

Priority habitats and Species are of particular importance for nature conservation and are included in the England Biodiversity List published under section 41 of the Natural Environment and Rural Communities Act 2006. Most priority habitats will be mapped either as Sites of Special Scientific Interest, on the Magic website or as Local Wildlife Sites. List of priority habitats and species can be found on [Gov.uk](#). Natural England does not routinely hold species data, such data should be collected when impacts on priority habitats or species are considered likely. Consideration should also be given to the potential environmental value of brownfield sites, often found in urban areas and former industrial land, further information including links to the open mosaic habitats inventory can be found [here](#).

Ancient woodland, ancient and veteran trees

You should consider any impacts on ancient woodland and ancient and veteran trees in line with paragraph

² <https://www.gov.uk/protected-species-and-sites-how-to-review-planning-proposals>

Annex A – Additional advice

180 of the NPPF. Natural England maintains the Ancient Woodland [Inventory](#) which can help identify ancient woodland. Natural England and the Forestry Commission have produced [standing advice](#) for planning authorities in relation to ancient woodland and ancient and veteran trees. It should be taken into account by planning authorities when determining relevant planning applications. Natural England will only provide bespoke advice on ancient woodland, ancient and veteran trees where they form part of a Site of Special Scientific Interest or in exceptional circumstances.

Environmental gains

Development should provide net gains for biodiversity in line with the NPPF paragraphs 174(d), 179 and 180. Development also provides opportunities to secure wider environmental gains, as outlined in the NPPF (paragraphs 8, 73, 104, 120, 174, 175 and 180). We advise you to follow the mitigation hierarchy as set out in paragraph 180 of the NPPF and firstly consider what existing environmental features on and around the site can be retained or enhanced or what new features could be incorporated into the development proposal. Where onsite measures are not possible, you should consider off site measures. Opportunities for enhancement might include:

- Restoring a neglected hedgerow.
- Creating a new pond as an attractive feature on the site.
- Planting trees characteristic to the local area to make a positive contribution to the local landscape.
- Using native plants in landscaping schemes for better nectar and seed sources for bees and birds.
- Incorporating swift boxes or bat boxes into the design of new buildings.
- Designing lighting to encourage wildlife.
- Adding a green roof to new buildings.

Natural England's [Biodiversity Metric 4.0](#) may be used to calculate biodiversity losses and gains for terrestrial and intertidal habitats and can be used to inform any development project. For small development sites the [Small Sites Metric](#) may be used. This is a simplified version of [Biodiversity Metric 4.0](#) and is designed for use where certain criteria are met.

Natural England's [Environmental Benefits from Nature tool](#) may be used to identify opportunities to enhance wider benefits from nature and to avoid and minimise any negative impacts. It is designed to work alongside [Biodiversity Metric 4.0](#) and is available as a beta test version.

Green Infrastructure

Natural England's [Green Infrastructure Framework](#) provides evidence-based advice and tools on how to design, deliver and manage green infrastructure (GI). GI should create and maintain green liveable places that enable people to experience and connect with nature, and that offer everyone, wherever they live, access to good quality parks, greenspaces, recreational, walking and cycling routes that are inclusive, safe, welcoming, well-managed and accessible for all. GI provision should enhance ecological networks, support ecosystems services and connect as a living network at local, regional and national scales.

Development should be designed to meet the [15 Green Infrastructure Principles](#). The Green Infrastructure Standards can be used to inform the quality, quantity and type of green infrastructure to be provided. Major development should have a GI plan including a long-term delivery and management plan. Relevant aspects of local authority green infrastructure strategies should be delivered where appropriate.

GI mapping resources are available [here](#) and [here](#). These can be used to help assess deficiencies in greenspace provision and identify priority locations for new GI provision.

Access and Recreation

Natural England encourages any proposal to incorporate measures to help improve people's access to the natural environment. Measures such as reinstating existing footpaths together with the creation of new footpaths and bridleways should be considered. Links to urban fringe areas should also be explored to strengthen access networks, reduce fragmentation, and promote wider green infrastructure.

Rights of Way, Access land, Coastal access and National Trails

Paragraphs 100 and 174 of the NPPF highlight the importance of public rights of way and access.

Annex A – Additional advice

Development should consider potential impacts on access land, common land, rights of way and coastal access routes in the vicinity of the development. Consideration should also be given to the potential impacts on the any nearby National Trails. The National Trails website www.nationaltrail.co.uk provides information including contact details for the National Trail Officer. Appropriate mitigation measures should be incorporated for any adverse impacts.

Biodiversity duty

Your authority has a [duty](#) to have regard to conserving biodiversity as part of your decision making. Conserving biodiversity can also include restoration or enhancement to a population or habitat. Further information is available [here](#).