

DELEGATED OFFICER REPORT:**Application Ref:** F/24/97518**Site Address:** 5 NETLEY CLIFF, VICTORIA ROAD, NETLEY ABBEY,
SOUTHAMPTON, SO31 5JZ**Case Officer:** Clare Martin**Description:** Replacement Sea Wall

Particular Site Constraints?	Yes ☒	No ☐
• Within Urban edge (on boundary with beach front) • Within Flood Zone 3 • Protected Trees within site • Within Netley to Hamble Shore SINC • Adjacent to Solent and Southampton SPA • The site is Outside of Netley Abbey Conservation Area		

Planning History?	Yes ☐	No ☐
• C/34066 – Coastal protection works including gabion walling and beach replacement - Permitted (June 1997)		

Publicity:	Letters ☒	Site Notice ☐	Newspaper ☐
Representations:	<u>7 letters of support and 2 comment letters</u> • The existing steel piling is rapidly eroding and needs to be replaced to protect the property from coastal erosion. Any delay will result in loss of trees and habitat. • The North Solent Shoreline Management Plan policy is to hold the line. • Enhance safety of publicly accessible beach front. • Clarification over the access to carry out works <u>Local Planning Authority Response</u> Comments are noted. The outline construction environmental management plan shows the proposed public slipway to be used for plant access to the site (figure 1). The Applicant/ Contactor will need to ensure that access rights are in place for the use of the slip way during the building works.		
Ecology Officer:	<u>Comments on 14/8/24</u> A letter outlining the changes to the CEMP has been submitted which addresses all my earlier comments. I am satisfied with their response. <u>Comments on 27/7/24</u> <u>Construction Impacts</u> Much of the proposed ecological mitigation is based around the timing of the works. The works must take place outside of the overwintering bird season and in the active reptile season. Does the timing of works therefore need to be conditioned or is it adequate that timing commitments are made in the application?		

Other mitigation to protect the ecology of the area such as pollution control measures have been specified in the CEMP which are sufficient and must be referenced in the HRA.

Some information from the Ecological Impact Assessment has not been transferred to the Outline CEMP (Section 5). This includes the action required if a reptile is found and unable to move itself to safety and dust management. Dust management may have been subsequently considered and deemed unnecessary given the nature of the works and surrounding environment. Please can the applicant confirm if this is the case.

The EcIA does not report the findings of the baseline study for nesting birds (section 3.7) within the scrub, trees or cliff in the zone of influence of the works. From the photos there looks to be the potential for nesting birds and therefore suitable mitigation must be included in the CEMP should a nest be encountered. Ideally an ECoW should first ascertain whether there are any breeding birds present immediately prior to commencement of the works. An undisturbed buffer around any active nest must be provided until the young have fledged.

The EcIA states that routes across the beach will be established to prevent any impacts to sensitive areas which will be high along the front and away from the areas of mudflats which are exposed at low tide, informed by an ecologist. The CEMP indicates a route across the beach (within the SPA). Was this informed by the project ecologist?

Operational impacts

The new piling, which will be place seaward of the existing sheet piling, is in close proximity to the Solent and Southampton SPA but not within it. However, the site is within the Solent Wader and Brent Goose Network Site E03 (a low use site) which is functionally linked to the SPA and therefore is considered to have the same statutory protection as the SPA. The site is within Netley to Hamble Shore SINC.

There will be a relatively small loss of shingle habitat (approx. 25m²) over a 65m length within Site E03 and the SINC, between the old and new piling. The loss of this habitat within Site E03 must be considered in the HRA. However, because the loss within Site E03 is shingle habitat, rather than the more extensive and ecologically valuable mudflats (priority habitat with greater feeding opportunities) present within Site E03, it is likely to be concluded that this loss will not affect the integrity of the SPA.

Biodiversity Net Gain

Based on the assumption that the backfill will not be significantly higher than the existing pile height, we have calculated the loss of shingle habitat between the existing and new piles as: 65m length x (0.3m offset+0.1235m half a new pile width) = 27.5m²

This is only slightly over the 25m² de minimis threshold and does not take into account the on-site variables and, given the small exceedance and the nature and scale of the project. We therefore consider the scheme to be within the parameters required for a de minimis exemption, provided the backfill will not be significantly higher than the existing pile height (confirmation required from the applicant).

	While the proposal is exempt from biodiversity net gain, Policy DM11 requires development to have no net biodiversity loss and to provide (unquantified) biodiversity gain wherever possible. It is however difficult to deliver net gain given the limited and appropriate habitat enhancement/ creation opportunities available at this site. Other consultees may have suggestions how this could be achieved. The backfill behind the new piling which forms part of this application should be allowed to naturally colonise by plants, invertebrates and other species which will be suited to the environmental conditions. This should therefore provide valuable transitional and resilient coastal habitat which will benefit multiple species.
Tree Officer:	<u>No objection</u> Given the method of piling in front of the existing sheets, and back filling the vacant areas, with all access coming along the shore, there should be no significant arboricultural impact.
Built Heritage Consultant:	<u>No Objection</u> <u>Context</u> The whole of the Netley Abbey foreshore faces due southwest so is at precisely 90 degrees to the prevailing winds, which will enhance the wave action across Southampton Water from Hythe and it's relatively flat hinterland, only rising to some 40m above sea level. This level of exposure is resulting in the rate of erosion witnessed in the photographs accompanying this application, which will obviously require swift action to limit both the physical and financial loss currently being endured. The site is outside of and south of the southern end of the Netley Abbey Conservation Area originally designated in 1981 and last reviewed in 2010. The closest listed building is that of the Prince Consort public house on the other side of Victoria Road a little to the north of this site. <u>The Proposal</u> While a number of the properties along the Netley foreshore have employed gabions, this one is different in having a sheet pile defence system which one would think is a more permanent solution but evidently does not last forever and is softened by the planting overhanging the top. Logic suggests that the solution here is more of the same, as proposed by the application, and sensibly a bit higher to both match that of the sailing club to the south again and cope with the rising sea level caused by the warming climate change scenario. As this is at the foot of a bank it will not be a problem, as is the replacement which will also retain the trees to provide softness to this area adjacent to the conservation area. <u>Conclusion</u> This is work that quite clearly needs to be expedited to prevent further erosion and although outside the conservation area affects it's setting, however being down on the beach front this is minimal and it is more important to protect the shoreline to prevent further erosion which

	would lead to the loss of the trees and thereby affect the setting of the conservation area.
Environmental Health:	<u>Comments 6/9/24</u> - The applicant indicates that proposed works will be carried out during Summer 2025. The nearest sensible receptor has been identified as residents from Netley Cliff Apartments, who are commissioning the proposed works. The applicant indicates they will give as much notice as possible to nearby residents in the event of any out of hours works are required. We agree that a good communication plan with the local community is essential. Keeping residents informed about the timing, duration, and expected noise levels, as well as providing a point of contact for concerns, can significantly reduce potential issues. - We note that exact plant and machinery to be used is not yet confirmed. It is noted that the applicant has provided predicted noise levels for the equipment based on BS 5228-1 guidance, setting a noise target of 88dB at 10m from piling activity. No information on ambient noise at nearest sensible receptor was included. BS 5228-1 (table E.1) suggests that noise levels should not exceed 65 dB(A) in residential areas during the daytime to avoid significant disturbance. Although it would be great to have this information based on assessment, we generally agree that due to terrain conditions and treeline between the construction site and nearest receptors the impact of noise from such activities is likely to be reduced. The monitoring scheme is a good approach to ensure that noise levels remain within acceptable limits; however, no clear mitigation strategies has been outlined in the event of noise level exceeding the target. It is advised that this information is included in the CEMP. - A complaints procedure has been provided. <u>Comments 24/6/24</u> The CEMP proposed standard working hours (08:00 to 18:00 hrs Monday to Friday and 08:00 to 13:00 on Saturdays); however, due to the nature of the project, it is stated that out of hours working may be required to accommodate certain tidal conditions and to accelerate programme. To avoid nuisance complaints, it is advised that the contractor gave as much notice as possible in the event of any out of hours works are required. It is also noted that the works are due to start early July 2024 and expected to be finished by early September 2024. Section 7 of the CEMP indicates that vibratory piling will be used until either refusal or encountered depth required, followed by a drop hammer method if required, and the noise target is 88dB at 10m from piling activity. This approach is acceptable as vibration piling is less noisy than hammer driven piling. The CEMP indicates that the project will incorporate monitoring systems which triggers when target level is exceeded, in which case, an assessment will be carried out to determine the cause and to install any mitigation measures. Can the applicant provide details on where/ how many monitors will be located? No details on what plant/ equipment will be used have been provided. Can the applicant provide these details?

	Section 5 indicates the potential impacts from construction works. The noise and vibration table within this section indicates that it is unlikely that the use of generators, plant and equipment have a significant impact considering the distance from the nearby residential area. Aerial imagery suggested that the nearby dwellings are approximately at 25m away from the site. Can the applicant support the statement of construction activities having an insignificant impact on nearby residential dwellings? No details on the complaint procedure have been included.
Parish Council:	<u>No Objection</u> However, no official request has been made to utilise the public car park to store Plants and equipment as quoted on the construction project plan. It was suggested that a survey of the car park and access to the beach should be officially conducted prior to the start of the project at no cost to the Parish Council. Council have acknowledged that it is essential that the sea wall replacement is conducted however safeguarding the integrity of the slipway whilst accessing the beach is a priority to the Parish Council. Closing the public car park during the busy season would not be supported at this particular time of year. The seawall on the southern side of the slipway is already awaiting repairs, any further possible damages should be avoided at all costs
Environment Agency:	Consultation response sets out activities which require an environmental permit
Natural England:	Do not agree with conclusions within the HRA, as the developer needs to contribute towards the Solent Waders and Brent Goose Strategy's. The Solent Waders and Brent Goose Strategy's Guidance on Mitigation and Off-setting Requirements states that all Low Use sites have the potential to be used by waders or Brent geese. These sites have the potential to support the existing network and provide alternative options and resilience for the future network. The in-combination loss of these sites would impact on the continued ecological function of the wader and Brent goose network. In all cases proportionate mitigation, off-setting and/or enhancement measures will be required. The compensation contribution should therefore be collected in line with the latest guidance on costs. This site is categorised as a 'Low Use Site', E03, which is functionally linked to the SAC, SPA/RAMSAR designated sites. As such, it should be suitably and proportionately mitigated in line with the above. Therefore, Natural England are not in agreement with the conclusions reached in the HRA that, due to the type of habitat present (shingle rather than mudflats) and the perceived smaller scale of the proposal, the 25 square metre loss will not affect the integrity of the SPA/RAMSAR and SAC.
Ministry of Defence	<u>No objection</u>, I can confirm that, following review of the application documents, the proposed development falls outside of MOD safeguarded areas and does not affect other defence interests.

Site Visit:	Yes ☒	No ☐
Site visit carried out 19/7/24		

Pre-commencement Conditions:	Yes ☐	No ☒
Details:		

Legislation:
Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:- <i>"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."</i>

Policy:
National Planning Policy Framework Planning Practice Guidance Development Plan: The <u>Eastleigh Borough Local Plan 2016-2036</u> The most relevant policies are Strategic policies S1, S2 & S7; and Development Management policies DM1, DM7 (flood defence) and DM11. Supplementary Planning Documents: Character Area Appraisals & Trees and Development The North Solent Shoreline Management Plan (<i>Non-Statutory Policy Document</i>)

Proposal:
The scheme is to strengthen the existing 60m long sheet pile sea defence, which retains the slope beneath the Netley Cliff apartments. The proposed development involves installing a new steel sheet pile wall 300mm seaward of the existing one and the area between the two will be back filled. The works are required to defend Netley Cliff Apartment building and its grounds from coastal erosion. The existing sea defence is structurally compromised, with soil washout occurring during tidal cycles and occasional large, localised, failures occurring most notably during the winter months.

Assessment:
Principle The site is within the urban edge where the principle of development is acceptable. Policy DM7 states that flood defences and costal protection works will be permitted providing they accord with the approved management plans, which in this case is the NSSMP (North Solent Shoreline Management Plan). The NSSMP aims to hold the line for the stretch of coastline along Netley Village (from Cliff House to Netley Castle – area 5C09). The proposed works contribute to this by maintaining and upgrading the level of protection provided by the existing coastal defence for the stretch in front of Netley Cliff apartments. As such there is a policy presumption in favour of the development.

Character and Appearance

The proposal will result in a 2m high sheet pile wall stretching for a length of 60m in front of the existing crumbling sea defence. The man-made structure is softened slightly by the trees and vegetation at the top of the cliff, within the grounds of 5 Netley Cliff. The proposal replaces a lower degraded sheet pile wall and its designed is dictated by the need to protect the property from future coastal erosion.

There is already a mixture of different sea defences present along Netley shoreline, mostly notably gabion walls but also some sheet piling structures like at the sailing club to the South. It is considered that the proposed sheet pile wall will fit in with the variety of defence structures present along this stretch of shoreline.

Ecology

There will be a relatively small loss of shingle habitat (approx. 25m²) over the length of the development, between the old and new piling. However, this shingle habitat has a lower ecological value than other habitats (such as the mudflats along the River Hable which are a priority habitat for over wintering birds). The backfill behind the new piling which forms part of this application will be seeded with a suitable coastal seed mix to aid the natural recolonisation by plants of this cliff habitat, encouraging invertebrates and other species which will be suited to the environmental conditions. This should therefore provide valuable transitional and resilient coastal habitat that will benefit multiple species.

Furthermore, the proposed sea defence will delay the loss of trees and habitats on the bank behind the wall, which provides ecological opportunities. On balance it is considered more important to protect the existing bank from coast erosion than prevent the small loss of the shingle habitat which is prevalent along this stretch of coastline.

In terms of operational impacts, a construction environmental management plan has been submitted which includes timings of the work (outside of bird wintering period), pollution control measures, dust management, protection of nesting birds. This has been reviewed and approved by the Council's Ecologist and the methods put forward will help reduce the construction impacts of the development on environment.

Other Considerations

- The application is exempt from statutory 10% biodiversity net gain (de minimis).
- The development is along the beach, below the level of the residential properties along the cliff top. As such the proposal will not have an unacceptable impact on the amenity of the neighbouring properties in terms of loss of privacy, light or outlook.
- A revised construction environmental management plan has been provided which outlines noise monitoring and complaints procedure, in order to reduce disturbance to neighbours during the works.
- There will be no adverse impact upon trees and no objection has been raised by the tree officer.

Impacts on the Special Protection Area

The new piling, which will be positioned seaward of the existing sheet piling, is in close proximity to the Solent and Southampton SPA but not within it. The site is a low use Solent Wader and Brent Goose Network Site (E03), which is functionally linked to the SPA and therefore is considered to have the same statutory protection as the SPA.

An appropriate assessment under the habitat regulations has been completed and includes methods to limit the developments impact upon the SPA (such as avoiding the overwintering bird period). Natural England have reviewed the HRA but consider that the

Applicant also needs to contribute towards the Solent Waders and Brent Goose Strategy's (SWBGS).

The Council's Ecology Officer (in liaison with their contact at the Hampshire and Isle of Wight Wildlife trust) has reviewed these details and calculated that the SWBGS contribution for the loss of 25m² shingle habitat for the Netley Cliffs scheme would be £89.03. Paying such a small amount into the mitigation scheme is likely to have a negative cost benefit.

Furthermore, the mitigation payments towards the SWBGS are intended for larger projects, whereas for smaller scale schemes mitigation should be identified locally. The Council's conclusions within the HRA haven't changed in the very small loss of shingle (not mudflat) habitat in a low use SWBG site to facilitate ongoing protection to the dwellings from coastal erosion will not result in significant effects on the SPA.

In terms of mitigation, like-for-like habitat replacement, or intertidal enhancements, made to the in-pans of the piling is not possible on a project of this scale at this location. The new piling will stabilise the adjacent cliff habitat and we believe that the applicant's proposal to seed the area with a suitable coastal seed mix to aid the natural recolonisation of this cliff habitat, is proportionate habitat mitigation for this project. Therefore, in relation to the HRA and as the competent authority, The Local Planning Authority is confident that the proposal will not result in significant effects on the SPA

The 21 day notification (under Section 28I (6) of the Wildlife and Countryside Act 1981) has been given to Natural England confirming that the Council intends to grant planning permission, with conditions, against their advice. The notification was given on 12th September 2024 and a condition will be used to ensure that the Applicant cannot commence development until 3rd October 2024.

Equalities Act:

Section 149 of the Equalities Act 2010 created the public sector equality duty.

Section 149 (1) states:

A public authority must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

When making policy decisions, the Council must take account of the equality duty and in particular any potential impact on protected groups.

It is considered that this application does not raise any equality implications.

Climate Change:

In July 2019, the Council declared a Climate Change and Environmental Emergency. In doing so it agreed, among other things, to: (a) put in place measures to ensure the Council's own operations and functions achieve carbon neutrality by 2025; (b) work with partners to aim for all projects and services delivered in the Borough to achieve carbon neutrality by 2030; (c) ensure that the Council's procurement policy recognises carbon neutrality as one of its primary considerations; and (d) recognise the urgency of action to mitigate and adapt to climate change in every decision taken by the Council. This is underpinned by the Climate and Environment Emergency Strategy 2020–2030 and the supporting Climate and Environmental Emergency Action Plan – Update June 2020.

The declaration of the Climate Change and Environmental Emergency demonstrates a strong commitment from the Council to achieve net zero. The NPPF, development plan and emerging plan policy do not set this as a specific target, but it is a material

consideration to be considered alongside all other material considerations. In any case addressing climate change is a core part of the NPPF and emerging plan policy. The need to support the economy is part of the Strategic Environmental Assessment for the Emerging Local Plan, as is an assessment of climate impacts.

The NPPF aims for the need for housing to be met, and Policy S2 of the Adopted Local Plan sets a target for 14,580 dwellings to be provided by 2036. The NPPF, Saved, Policies S1, DM2 and DM3 of the Adopted Local Plan and energy and water elements of the adopted Environmentally Sustainable Development SPD require development to be sustainable in terms of resource use, climate change and energy use. When considering the impact of climate change, the proposed development is expected to be resilient to the potential effects of climate change and is expected to reduce/limit impacts on climate emissions as a result of the development or its use.

Conclusion:		
Recommendation:	PERMIT ☒	REFUSE ☐
Comments ...		