

Delegated Decision Sign off Sheet

Case Number:	SI/24/01262/FUL	Case Officer:	Martin Mew
Proposal:	Ecological Enhancement of RSPB Ferry Field through reprofiling of and extension of existing ditch and footdrains, creation of islands in existing saline lagoon, installing a predator exclusion fence, replacing a hydrological control structure and installing a solar pump.		
Site:	Ferry Field (Wetlands), Chichester Road, Selsey, West Sussex		
Applicant/Agent:	Agent Details :		
	Ms Natacha Bricks-Yonow South Downs Centre, North Street, Midhurst West Sussex, GU29 9DH United Kingdom,		
Application Type:	Full Application		
Site Visit:	N/A		
Map Ref:	(E) 485422	(N) 96396	
Parish:	Sidlesham	Ward: Sidlesham With Selsey North	

Red Card?		Stat. Consultee Objections?		Parish Objection	
Third Party Representations?	1	Overall Publicity Expiry Date:	19 September 2024	CIL Liable	N/A
Legal Agreement?			Extension of Time?	30 November 2024	
Recommendation:	PERMIT			Expiry Date:	4 September 2024
Decided Plan(s):	Plan/DRG No.:001 Plan/DRG No.:002 Plan/DRG No.:003 Plan/DRG No.:004				
Recommendation Date:	27 November 2024				
Recommendation By:	Martin Mew				
Signed Off by:	Katie Stephens				

1. Site Description, Proposal and History

The Site and Surroundings

The application site is located in the defined rural area, outside of a defined Settlement Boundary.

The site is located to the west of the B2145 Selsey Road, which is elevated compared to the application site.

The site is a SSSI and within the Pagham Harbour Marine Conservation Zone (MCZ). The MCZ protects features within the harbour area, Ferry Pool lagoon and Church Norton spit.

The Proposal

Ecological Enhancement of RSPB Ferry Field through reprofiling of and extension of existing ditch and footdrains, creation of islands in existing saline lagoon, installing a predator exclusion fence, replacing a hydrological control structure and installing a solar pump.

The proposals include:

- 1.8m predator exclusion fence
- Creation of three islands, with a maximum width of 22m and height of 0.6m AOD
- Creation of a new low bund with a crest of 1.1m AOD
- Creation of a new low berm crest of 0.6m AOD
- Creation of a ditch, less than 1m in depth and less than 3m wide
- Reprofiling of the edge of Ferry Pool Pond
- The provision of a solar pump and solar PV panels to replace a diesel pump
- The creation of vehicle crossing points

Planning History

23/02375/PRESSP - Re-establish a wetland complex based around the historic Ferry Pool and fields drainage system. This will be achieved by re-profiling and deepening sections of Ferry Pool along with similar works to enhance the existing network of ditches and wetland features in the adjacent fields - Advice Given

2. Representations and Consultations

Consultations and Representations

Parish Council

Sidlesham Parish Council raise NO OBJECTION and leave the decision with CDC Planners.

Natural England

Further comments received 27.09.2024

NO OBJECTION

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites, including the Pagham Harbour MCZ, as well as Pagham Harbour SPA, Ramsar, and SSSI, and has no objection.

A lack of objection does not mean that there are no significant environmental impacts. Natural England advises that all environmental impacts and opportunities are fully considered and relevant local bodies are consulted.

Natural England's further advice on designated sites/landscapes and advice on other natural environment issues is set out below.

Advice on Further Information Provided - Pagham Harbour MCZ

Based on the further information provided by the applicant, Natural England considers that the proposed development will not likely have significant effects on the Pagham Harbour Marine Conservation Zone, and has no objection to the proposed development. We advise you conduct an MCZ assessment to record your decision that there is no significant risk of the activity hindering the conservation objectives of the MCZ.

The following may provide justification for that decision:

- o The proposed works include plans to stabilise the salinity at a more suitable level for the Lagoon Sand Shrimp, including the increased storage capacity to hold water throughout the summer and prevent hypersaline peaks, and the plans to intake saltwater, to maintain a higher salinity more suitable for the species, which will support the recovery of the feature.
- o Works to Ferry Pool are not expected to cause long-term damage to the sediments, or impede the ability of floating algal mats to form, or damage the Lagoon Sand Shrimp, given there were no individuals recorded at the time of last survey.

Other advice

Pagham Harbour SPA and Ramsar

Based on the plans submitted, Natural England considers that the proposed development will not have any likely significant effects on the Pagham Harbour Special Protection Area and Ramsar and has no objection to the proposed development. To meet the requirements of the Habitats Regulations, we advise you to record your decision that a likely significant effect can be ruled out. The following may provide a suitable justification for that decision:

- o The beneficial nature of the works for the designated breeding and overwintering bird species, as well as the intention to complete the works between August and October to minimise disturbance impacts on those species.

Pagham Harbour Site of Special Scientific Interest

Based on the plans submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection.

Priority Habitats and Species

Priority habitats and Species are of particular importance for nature conservation and included in the England Biodiversity List published under section 41 of the Natural Environment and Rural Communities Act 2006. List of priority habitats and species can be found [here](#).

Natural England does not routinely hold species data, such data should be collected when impacts on priority habitats or species are considered likely. Under Section 40 of the NERC Act every public authority, in exercising its functions, must have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity. We also remind you of the UK vision and objectives for 'clean, healthy, safe productive and biologically diverse oceans and seas' and to ensure sustainable development in the marine environment.

Protected species We have not assessed this application and associated documents for impacts on marine protected species as listed on Schedule 5 of the Wildlife and Countryside Act (1981 as amended). The onus is on the applicant to ensure that they are legally compliant with the legislation throughout the duration of the licence. Further details of the species protected through this legislation can be found here: <https://www.gov.uk/government/publications/protected-marine-species>

Initial comments received 16.07.2024

FURTHER INFORMATION REQUIRED TO DETERMINE IMPACTS ON DESIGNATED SITES

As submitted, the application could have potential significant effects on Pagham Harbour Marine Conservation Zone (MCZ). Natural England requires further information in order to determine the significance of these impacts and the scope for mitigation.

The following information is required:

- o An assessment of impacts on the MCZ features, in particular the lagoon sand shrimp and its habitat.

Without this information, Natural England may need to object to the proposal.

Additional Information required

We advise that a MCZ assessment be undertaken for this proposal, given that it occurs within Pagham Harbour MCZ, which includes the features: Defolin's Lagoon Snail, Seagrass, and Lagoon Sand Shrimp. The Lagoon Sand Shrimp *Gammarus insensibilis* is particularly relevant to Ferry Pool. Further information can be found on designated sites viewer Site list (naturalengland.org.uk). While impacts to European sites can be screened out based on the benefits to the bird and wetland features, the management proposed is not directly for the benefit of the Lagoon Sand Shrimp and may cause loss or damage to its habitat, and as such a MCZ assessment should be conducted by the regulator (CDC).

In particular, we recommend consideration of changes to the potential habitat of the shrimp, for example due to installation of bird islands, and potential increases or decreases in salinity as a result of changing water levels and their management. Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 281 (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.

HRA

Having considered the proposal and supporting documentation, and the manner in which the works are proposed to be carried out, Natural England advises that all of the works proposed are directly connected with or necessary for the management of the European site interest features for nature conservation purposes. Particularly given the focus of the works on bird conservation and wetland habitat restoration for Pagham SPA and Ramsar, and the stated timings of the works between August and October. The works will enable the maintenance or restoration of those features and contribute to the achievement of the site's Conservation Objectives.

The proposal can therefore be screened out from further stages in the Habitats Regulations Assessment process, in accordance with regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended).

Environment Agency

We have no objection to the proposed development as submitted, provided that the following condition be attached to any planning permission granted, and that the details in relation to these conditions be submitted and approved by the Local Planning Authority.

Condition - Previously Unidentified Contamination

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by, the local planning authority. The remediation strategy shall be implemented as approved.

Reasons

To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site. This is in line with paragraph 180 of the National Planning Policy Framework.

The previous use of the land neighbouring the proposed development site as a historic landfill presents a medium risk of contamination that could be mobilised during construction to pollute controlled waters. Controlled waters are particularly sensitive in this location because the proposed development site is located upon a secondary aquifer A in hydrological continuity with Broad Rife.

The application's planning statement demonstrates that it will be possible to manage the risks posed to controlled waters. Further detailed information will however be required before built development is undertaken. We believe that it would place an unreasonable burden on the developer to ask for more detailed information prior to the granting of planning permission but respect that this is a decision for the local planning authority.

In light of the above, the proposed development will be acceptable if a planning condition is included requiring the submission of a remediation strategy. This should be carried out by a competent person in line with paragraph 189 of the National Planning Policy Framework.

Advice to Applicant

Land contamination: risk management and good practice

We recommend that developers should:

- o Follow the risk management framework provided in Land Contamination: Risk Management, when dealing with land affected by contamination
- o Refer to our Guiding principles for land contamination for the type of information that we require in order to assess risks to controlled waters from the site - the local authority can advise on risk to other receptors, such as human health
- o Consider using the National Quality Mark Scheme for Land Contamination Management which involves the use of competent persons to ensure that land contamination risks are appropriately managed
- o Refer to the contaminated land pages on gov.uk for more information

Waste on-site

The CL:AIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site

during remediation and/or land development works is waste or has ceased to be waste. Under the Code of Practice:

- o excavated materials that are recovered via a treatment operation can be reused on-site providing they are treated to a standard such that they are fit for purpose and unlikely to cause pollution
- o treated materials can be transferred between sites as part of a hub and cluster project
- o some naturally occurring clean material can be transferred directly between sites

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on-site operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

We recommend that developers should refer to:

- o the position statement on the Definition of Waste: Development Industry Code of Practice
- o The waste management page on GOV.UK

Waste to be taken off-site

Contaminated soil that is (or must be) disposed of is waste. Therefore, its handling, transport, treatment and disposal are subject to waste management legislation, which includes:

- o Duty of Care Regulations 1991
- o Hazardous Waste (England and Wales) Regulations 2005
- o Environmental Permitting (England and Wales) Regulations 2016
- o The Waste (England and Wales) Regulations 2011

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standard BS EN 14899:2005 'Characterization of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

If you receive (or reject) any hazardous waste, you must send a report to the Environment Agency. These are known as 'returns'. If you dispose of hazardous waste at the premises where it's produced you may also need to send returns. You should follow the guidance provided here: Hazardous waste: consignee returns guidance.

Environmental permit

The Environmental Permitting (England and Wales) Regulations 2016 require a permit or exemption to be obtained for any activities which will take place:

- o on or within 8 metres of a main river (16 metres if tidal)
- o on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal)
- o any temporary works within the flood plain of a main river For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activitiesenvironmental-permits> or contact our National Customer Contact Centre on 03708 506 506 (Monday to Friday, 8am to 6pm) or by emailing enquiries@environmentagency.gov.uk.

WSCC Lead Local Flood Authority

The applicant has provided a Flood Risk Assessment to account for the local flood risk issues and surface water drainage at this location. Following a review of the submitted documents, the details are in accordance with NPPF and local planning policy 42.

We have no objection to this application. The applicant is reminded that any works to an ordinary watercourse will require ordinary watercourse consent prior to construction. Any works to main river may require flood risk activity permit from the Environment Agency.

Informative: Erection of flow control structures or any culverting of an ordinary watercourse requires consent from the appropriate authority, which in this instance is Chichester District Council on behalf of West Sussex County Council. It is advised to discuss proposals for any works at an early stage of proposals.

WSSC Highways

Further comments 26.06.2024 (Summarised)

Details of site set up and access arrangements would be ok to be required by condition. If there were any issues this would not get discharged until these had been solved. I suggest this condition but of course you might want to add or change it in some way, but I think it covers everything we would like to see.

CONSTRUCTION

Construction Management Plan

No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. The Plan shall provide details as appropriate but not necessarily be restricted to the following matters,

- o the anticipated number, frequency and types of vehicles used during construction,
- o the method of access and routing of vehicles during construction,
- o the parking of vehicles by site operatives and visitors,
- o the loading and unloading of plant, materials, and waste,
- o the storage of plant and materials used in construction of the development,
- o the erection and maintenance of security hoarding,
- o 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),
- o details of public engagement both prior to and during construction works.

Reason: In the interests of highway safety and the amenities of the area.

Initial comments 26.06.2024

The applicant suggests there will be no highway impact on the road or on traffic. In order to confirm this, as stated in the pre-application advice given, WSSC would require details of vehicles and machinery used to create the enhancements above.

WSSC require this to ensure that what you are claiming i.e. no traffic impact is correct and that any traffic or vehicle movements associated with the works are accommodated effectively whilst the works are being undertaken.

Please can the applicant provide a plan to show the site set up and access arrangements, and if traffic is to be minimal then a construction management plan would not be required.

CDC Environmental Health

Our department raises no objection to the proposed development. The following conditions are considered necessary, should planning permission be granted.

Consideration has been given to the Planning Statement May 2024.

Noise: It is not anticipated the proposed solar pump will give rise to an adverse noise impact.

Construction works: Construction activity shall be restricted to between 08.00-18.00 Monday to Friday and 08.00-13.00 Saturday and at no time outside these hours including Sundays and Public and Bank Holidays.

Lighting: It is stated that "There is no requirement to use artificial lighting during the construction phase and no need for lighting once completed". This can be a condition of any permission granted.

Contaminated Land: - Should any land contaminants or unexpected ground conditions be identified during the course of development then groundworks shall cease, and the Environmental Health Department shall be notified so that any required remediation can be approved in writing before implementation.

Coast Protection & Land Drainage Officer

Due to the scale of the development, West Sussex County Council, as the Lead Local Flood Authority (LLFA), should be consulted regarding surface water drainage and flood risk.

Ordinary Watercourse Consent: We here in the Land Drainage Team are supportive of applications like this that make space for water. However, the applicant should be aware that any alterations to ordinary watercourses within the site (reprofiling, or the introduction of, or removal of, any structures that alter the flow etc.) will require formal written ordinary watercourse consent prior to construction. The consent application forms, and associated guidance documents can be found at the following web address: <https://www.westsussex.gov.uk/fire-emergencies-and-crime/dealing-with-extremeweather/flooding/flood-risk-management/ordinary-watercourse-land-drainage-consent/>

Flood Risk:

The site falls within flood zones 2/3 (High Risk) therefore the Environment Agency should be consulted and should comment on the acceptability of the development in this location.

Designated Main River

There is a designated main river that runs adjacent to the sites boundary and the proposals include a flow control structure associated with the main river. Therefore, the applicant will need to discuss their proposals with the Environment Agency as a flood risk activity permit is likely to be required (alongside planning permission).

CDC Environmental Strategy Unit

Further comments received 28.08.2024

Water voles

Following submission of the EIA (May 2024) and Water vole Survey Results and Mitigation Statement (Aug 2024) we are happy that the mitigation proposed would be suitable. A condition should be used to ensure this takes place. Please can the follow up water voles surveys once complete be submitted to us for review prior to works commencing onsite.

Badgers

Following submission of the EIA (May 2024) and Badger Mitigation Statement (August 2024) we are happy that the mitigation proposed including the 30m buffer would be suitable. A condition should be used to ensure this takes place. A full badger mitigation strategy is provided prior to any works starting on site.

Further comments 25.07.2024

Protected Sites

As detailed within the EIA (May 2024) we require that a CEMP is put together to detail how during construction dust, noise, light, vibration, run off and visual disturbance will be migration to ensure there is no impact to Pagham Harbour SPA. A condition should be used to ensure this takes place and the CEMP submitted to us prior to commencement onsite.

Water voles

Following submission of the EIA (May 2024), we are happy that the mitigation proposed would be suitable. A condition should be used to ensure this takes place. Please can the follow up water voles surveys once complete be submitted to us for review prior to works commencing onsite.

Reptiles

Following submission of the EIA (May 2024), we are happy that the mitigation proposed would be suitable. A condition should be used to ensure this takes place.

Badgers

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Nesting Birds

Following submission of the EIA (May 2024), we are happy that the mitigation proposed would be suitable. A condition should be used to ensure this takes place.

BNG

We are satisfied that following further confirmation that the area which will be negatively impacted by the works will be under 25m². Due to this we are satisfied that the site will be de minimus so no further BNG assessment will be required.

initial comments

We are pleased to see the proposal to re-establish a wetland complex.

Protected Sites

As detailed within the EIA (May 2024) we require that a CEMP is put together to detail how during construction dust, noise, light, vibration, run off and visual disturbance will be migration to ensure there is no impact to Pagham Harbour SPA.

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Nesting Birds

Following submission of the EIA (May 2024), we are happy that the mitigation proposed would be suitable. A condition should be used to ensure this takes place.

BNG

Please can we have confirmation on the size of the areas of habitat (semi improved grassland) where there will be a negative impact during and post construction. We are concerned that this may be over 25m2 so would be subject to a BNG assessment.

Third Party Representation

None

3. Relevant Planning Policy

The principal policies and neighbourhood plans relevant to the consideration of this application are as follows:

Chichester Local Plan 2014-2029:

National Guidance

The following sections of the NPPF are relevant to this application: 2, 4, 8, 11, 12, 14 and 15.

Development Plan

Chichester District Local Plan -

Policy 1: Presumption in Favour of Sustainable Development

Policy 2: Development Strategy and Settlement Hierarchy

Policy 39: Transport, Accessibility and Parking

Policy 42: Flood Risk and Water Management

Policy 44: Development around the Coast

Policy 45: Development in the Countryside

Policy 48: Natural Environment

Policy 49: Biodiversity

Policy 52: Green Infrastructure

Chichester Local Plan 2021 - 2039: Proposed Submission (Regulation 19)

The Chichester Local Plan 2021-2039: Proposed Submission completed its 'Regulation 19' consultation on 17 March 2023 and was submitted for examination to the Planning Inspectorate on 3rd May 2024. In accordance with the Local Development Scheme and with Examination Hearings which commenced in October 2024, it is anticipated that the new Plan will be adopted by the Council in Spring 2025.

Accordingly the plan could now be considered to be at an 'Advanced Stage of Preparation' for the purposes of paragraph 48(a) of the NPPF and consequently could be afforded moderate weight in the decision making process. At this stage, the Local Plan Proposed Submission is an important material consideration in the determination of planning applications, the weight that can be attached to the policies contained therein is dependent on the significance of unresolved objections attributed to any relevant policy, commensurate with government policy in the NPPF.

Relevant policies from the published Chichester Local Plan 2021 - 2039: Proposed Submission (Regulation 19) are:

Policy S1 Spatial Development Strategy
Policy S2 Settlement Hierarchy
Policy NE5 Biodiversity and Biodiversity Net Gain
Policy NE10 Development in the Countryside
Policy NE12 Development Around the Coast
Policy NE15 Flood Risk and Water Management
Policy NE24 Contaminated Land
Policy P1 Design Principles
Policy P2 Local Character and Distinctiveness
Policy P6 Amenity
Policy P14 Green Infrastructure
Policy T2 Transport and Development

4. Planning Considerations

The main considerations are:

- Principle of development
- Visual amenity and impact upon the character of the area
- Impact on neighbouring amenity
- Ecology
- Biodiversity Net Gain
- Highway Safety
- Flood Risk
- Contaminated Land

Principle of Development

The application site is located in the rural area outside of any Settlement Boundary, which is defined as the 'Rest of the Plan Area' by Policy 2 of the Chichester Local Plan. Therefore the site is in the countryside for planning policy purposes. Policies S1 and S2 of the emerging local plan also define the site in this way.

Policy 1 of the Local Plan provides a presumption in favour of sustainable development. Policy 2 then contains a development strategy and settlement hierarchy for the delivery of sustainable development within the District. For those sites outside of the settlement boundaries of Chichester and other named settlement hubs and service villages, policy 2 indicates that development be

restricted to that; which requires a countryside location, meets an essential local rural need, or, supports rural diversification, in accordance with Local Plan policies 45-46.

Policy 45 requires that development outside of settlement boundaries requires a countryside location and that such development is to meet the essential, small-scale and local need, which cannot be met within or immediately adjacent to existing settlements.

In this instance the proposed works are specific to the Ferry Wetlands site. The proposals are put forward as being directly linked to the management of the designated site to improve the site's ecological integrity and as such the proposal complies with Policies 2 and 45 of the Chichester Local Plan and Policies S1 and S2 of the emerging Local Plan.

Policies 44 of the Chichester Local Plan and Policy NE12 of the emerging plan support proposals that not have harmful effects on nature conservation areas within Pagham Harbour. Policy 52 of the Chichester Local Plan also supports the principle of the improvement to existing green infrastructure to enhance existing ecology, including the restoration, enhancement or creation of additional habitat and habitat networks.

It is therefore considered that the principle of the development complies with policy.

Visual amenity and impact upon the character of the area

Policy 48 of the Local Plan states the need to protect the quality of rural landscapes. NPPF section 12 references achieving well-designed places and looks to ensure that development creates high quality, beautiful and sustainable buildings.

Policy NE2 requires that proposals in the countryside address matters including the following: that proposals are designed to respect, and enhance, nationally designated sites, distinctive local landscape character, and public amenity whilst sensitively contributing to their settings. Policy NE10 requires that outside of settlement boundaries that the scale, form, bulk, siting, design and materials proposed are appropriate to their countryside location and will not cause unacceptable harm to their rural setting. It also requires that proposals conserve and enhance the key features and qualities of the rural and landscape character and landscape setting.

Emerging Local Plan Policy P1 sets out that all development shall achieve high quality design in accordance with the National Design Guide, evidenced through a Design and Access Statement. P2 sets out that development proposals should protect, enhance and reflect the positive characteristics and distinctiveness of the local area, positively contributing towards local identity and the surrounding area, being integrated within the built environment and landscape.

The proposed works would result in changes which are visible from public vantage points, however officers are content that the changes would not be to a degree which would significantly alter the rural character of the area. The land level changes to create the new islands, bunds, berms, ditches and re-profiled slopes are low-level and in-keeping with the overall character of the site.

The predator fencing would have some visual impact from outside of the site, however it is noted that there ecological benefits in favour of the proposed fencing. The details show this to be metal posts with mesh wire which means that it would be see-through, which helps to mitigate the visual impact. Furthermore, the site is at a lower level compared with the adjacent B2145 public highway, which limits the visual impact from outside of the site.

Solar Panels are shown to be sited in a small part of the southern area of the site. The siting of these are considered to be acceptable and written specifications have been provided in the supporting information. It is considered that the detailed appearance can be secured by condition prior to installation.

Therefore the proposal complies with Policy and 48 of the Chichester Local Plan, Sections 12 and 15 of the NPPF, and Policies NE2, NE10, P1, and P2 of the Emerging Local Plan.

Impact upon the amenity of neighbouring properties

The NPPF states in paragraph 135 that planning should ensure a good quality of amenity for existing and future users (of places). Emerging Local Plan Policy P6 sets out that development proposals are required to ensure that they would not result in material nuisance and or unacceptable impact on the amenity of an area, its users, neighbouring residents and occupiers, including those of the future development and that it would be likely to not be detrimental to human health.

Given the scale and nature of the proposed works and separation to residential properties the proposal is considered to be acceptable with regard to neighbouring amenity.

The proposal would be sufficiently distanced, orientated and designed so as not to have an unacceptable effect on the amenities of the neighbouring properties. Therefore, it is considered that the development complies with paragraph 135 of the NPPF and policy P6 of the emerging local plan.

Ecology

Policy 49 of the Chichester Local Plan requires the biodiversity of the site to be safeguarded. Policies NE5 and NE8 seek to ensure that development conserves and enhances biodiversity.

The proposals are put forward as being directly linked to the management of the designated site to improve the site's ecological integrity. The Council's Environmental Strategy Team have reviewed the proposals, including the detailed mitigation information and concluded that the proposal is acceptable. Conditions would be used to secure mitigation for nesting birds, badgers, water voles and reptiles. A condition would also be used to secure a Construction Environment Management Plan (CEMP) to detail how during construction dust, noise, light, vibration, run off and visual disturbance will be managed to ensure there is no impact to Pagham Harbour SPA.

The application site is located within the Pagham Harbour Marine Conservation Zone (MCZ). Pagham Harbour is renowned for its rich wildlife and as such the area is already protected by several designations including Pagham Harbour Site of Special Scientific Interest, Special Protection Area and Ramsar site. The MCZ builds upon this by offering protection to features not already covered by the existing designations.

The council are required to undertake a Marine Conservation Assessment prior to determination and this has been undertaken.

The proposal for works to Ferry Pool have the potential to impact upon the designated feature (Lagoon Sand Shrimp (*Gammarus insensibilis*)). Consideration was given to changes to the potential habitat of the shrimp, for example due to installation of bird islands, and potential increases or decreases in salinity as a result of changing water levels and their management. The proposed works include plans to stabilise the salinity at a more suitable level for the Lagoon Sand Shrimp, including the increased storage capacity to hold water throughout the summer and prevent hypersaline peaks, and the plans to intake saltwater, to maintain a higher salinity more suitable for the species, which will support the recovery of the feature. Works to Ferry Pool are not expected to cause long-term damage to the sediments, or impede the ability of floating algal mats to form, or damage the Lagoon Sand Shrimp, given there were no individuals recorded at the time of last survey. Therefore with regard to the best evidence available the authority is satisfied that there is

no significant risk of the proposal hindering the conservation objectives stated for the Marine Conservation Zone.

It is considered that the proposal would adequately safeguard the biodiversity of the site and accord with Policy 49 of the Local Plan and Policies NE5 and NE8 of the emerging Local Plan.

Biodiversity Net Gain

The application has been accompanied by a Biodiversity Net Gain assessment which was updated during the course of the application at the request of consultees. It has been demonstrated that the area of habitat where there will be a negative impact during and post construction, meeting the definitions within government guidance, would not be over 25m². Therefore the proposal qualifies for a de minimis exemption. The Council's Environmental Strategy Team are satisfied that the proposal qualifies for the exemption.

Highway Safety

Policies, 8 and 39 of the CLP seeks to ensure that new development has acceptable parking levels, and access and egress to the highway. Paragraph 115 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

WSCC as the Local Highway authority have requested details of the machinery and vehicles to be used to create the enhancements and are satisfied that details of site set up and access arrangements can be dealt with by way of condition.

Subject to securing an appropriate condition and details being assessed under that process, the development complies with Policy 39 of the Chichester Local Plan and the NPPF.

Flood Risk

The site is located in Flood Zone 3, however the nature of the works relates specifically to the wetlands and could not be undertaken elsewhere and the proposals are water compatible development. Wetlands play an important role in natural flood management and the supporting information states that the proposal would not increase flood risk elsewhere and should result in a betterment in many areas.

The proposals have been reviewed by the Environment Agency, WSCC as the Lead Local Flood Authority and Coastal and Drainage and no objections have been raised.

The proposal is considered acceptable with regards to flood risk and complies with Policy 42 of the Chichester Local Plan and section 14 of the NPPF.

Contaminated Land

The previous use of the land neighbouring the proposed development site as a historic landfill presents a medium risk of contamination that could be mobilised during construction to pollute controlled waters. Controlled waters are particularly sensitive in this location because the proposed development site is located upon a secondary aquifer A in hydrological continuity with Broad Rife.

Both the Environment Agency and CDC Environmental Protection have recommended that a precautionary condition is placed on any approval to cover the possibility of identifying land contaminants or unexpected ground conditions during development.

Subject to this condition the development would be acceptable in this regard.

Conclusion

The proposal is considered to be in accordance with policy and is acceptable.

Human Rights

In reaching this conclusion, the human rights of the applicants and nearby occupiers have been taken into account and it is deemed that the recommendation to permit is justified and proportionate.

Officer Recommendation

PERMIT

Human Rights:

The Human Rights of all affected parties have been taken into account and the recommendation is considered justified and proportionate.

5. Recommendation

Officers Recommendation is to PERMIT the following: Ecological Enhancement of RSPB Ferry Field through reprofiling of and extension of existing ditch and footdrains, creation of islands in existing saline lagoon, installing a predator exclusion fence, replacing a hydrological control structure and installing a solar pump. for the following reasons :-

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 permitted shall be carried out in accordance with the plans listed below under the heading "Decided Plans"

Reason: For the avoidance of doubt and in the interests of proper planning.

3) No development shall commence, including any works of demolition, until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved CEMP shall be implemented and adhered to throughout the entire construction period unless any alternative is agreed in writing by the Local Planning Authority. The CEMP shall provide details of the following:

- (a) the anticipated number, frequency and types of vehicles used during construction,
- (b) the provision made for the parking of vehicles by contractors, site operatives and visitors,

- (c) the loading and unloading of plant, materials and waste,
- (d) the storage of plant and materials used in construction of the development,
- (e) the erection and maintenance of security hoarding,
- (f) the provision of road sweepers and/or wheel washing facilities to mitigate the impact of construction upon the public highway
- (g) measures to control the emission of dust and dirt during construction, to include where relevant sheeting of loads, covering and dampening down stockpiles
- (h) measures to control the emission of noise during construction,
- (i) details of all proposed external lighting to be used during construction and measures used to limit the disturbance of any lighting required. Lighting shall be used only for security and safety,
- (j) appropriate storage of fuel and chemicals, in bunded tanks or suitably paved areas, and
- (k) waste management including prohibiting burning.
- (l) measures to control vibration during construction
- (m) the method of access and routing of vehicles during construction

Reason: These details are necessary pre-commencement to ensure the development proceeds in the interests of highway safety and in the interests of protecting nearby residents from nuisance during all stages of development and to ensure the use of the site does not have a harmful environmental effect.

4) Notwithstanding any details submitted, no solar PV panels shall be installed until details of the materials, finish and external appearance, siting and method of securing them to the land has been submitted to and agreed in writing by the Local Planning Authority. Development shall be undertaken in complete accordance with the agreed details.

Reason: In the interests of visual amenity

5) The development hereby permitted shall be carried out in strict accordance with the methodology and mitigation recommendations detailed within the following reports submitted with the application, unless otherwise agreed in writing by the Local Planning Authority:

- Ecological Impact Assessment - April 2024 (Revised May 2024) Reference number: 0198
- Badger Mitigation Statement - August 2024
- Watervole Survey Results and Mitigation Statement - August 2024

Reason: In the interests of protecting biodiversity and wildlife.

6) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by, the local planning authority. The remediation strategy shall be implemented as approved.

Reasons

To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site.

7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order) no external illumination shall be provided on the site other than in accordance with a scheme that shall first have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the proposed location, level of luminance and design of the light including measures proposed to reduce light spill. Thereafter the lighting shall be maintained in accordance with the approved lighting scheme in perpetuity.

Reason: In the interests of protecting wildlife and the character of the area.

8) The development hereby permitted shall not be constructed other than in accordance with the materials specified within the application form, plans and Planning Statement dated May 2024, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that a harmonious visual relationship is achieved between the new and the existing developments.

INFORMATIVES

- 1) The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
- 2) The applicant should be aware that any alterations to ordinary watercourses within the site (reprofiling, or the introduction of, or removal of, any structures that alter the flow etc.) will require formal written ordinary watercourse consent prior to construction. The consent application forms, and associated guidance documents can be found at the following web address: <https://www.westsussex.gov.uk/fire-emergencies-and-crime/dealing-with-extremeweather/flooding/flood-risk-management/ordinary-watercourse-land-drainage-consent/>
- 3) There is a designated main river that runs adjacent to the sites boundary and the proposals include a flow control structure associated with the main river. Therefore, the applicant will need to discuss their proposals with the Environment Agency as a flood risk activity permit is likely to be required (alongside planning permission).
- 4) The applicant's attention is drawn to the advice given in the Environment Agency's comments dated 4 June 2024 with regard to Land contamination: risk management and good practice; Waste on-site; Waste to be taken off-site; and Environmental Permitting.
- 5) The developer's attention is drawn to the provisions of the Wildlife and Countryside Act 1981, the Conservation (Natural Habitats etc) Regulations 1994, and to other wildlife legislation (for example Protection of Badgers Act 1992, Wild Mammals Protection Act 1996). These make it an offence to kill or injure any wild bird intentionally, damage or destroy the nest of any wild bird intentionally (when the nest is being built or is in use), disturb, damage or destroy and place which certain wild animals use for shelter (including badgers and all bats and certain moths, otters, water voles and dormice), kill or injure certain reptiles and amphibians (including adders, grass snakes, common lizards, slow-worms, Great Crested newts, Natterjack toads, smooth snakes and sand lizards), and kill, injure or disturb a bat or damage their shelter or breeding site. Leaflets on these and other protected species are available free of charge from Natural England.

The onus is therefore on you to ascertain whether any such species are present on site, before works commence. If such species are found or you suspected, you must contact Natural England Sussex and Kent Area Team (Worthing Office: Guildbourne House Chatsworth Road Worthing West Sussex BN11 1LD Telephone: 0300 060 3900, consultations@naturalengland.org.uk) for advice. If nesting birds are present on site, works should only be undertaken outside of the bird breeding season which takes place between 1st March 1st October.

Approved Plans

Details	Reference	Version	Date Received	Status
PLAN - SITE LOCATION PLAN	001		18.06.2024	Approved
PLAN - PROJECT OVERVIEW (OS BASE)	002		18.06.2024	Approved
PLAN - PROJECT DETAIL - PROPOSED NEW SLUICE AND SOLAR PUMP	003		18.06.2024	Approved
PLAN - PROJECT DETAIL - PROPOSED PREDATOR EXCLUSION FENCE	004		18.06.2024	Approved