

01 March 2024

Our ref: 457097



BY EMAIL ONLY

Operations Delivery
Hornbeam House
Crewe Business Park
Electra Way
Crewe
Cheshire
CW1 6GJ

0300 060 3900

Dear Mr Gardiner,

Discretionary Advice Service (Charged Advice)

Operation proposal and location: North Wirral Foreshore SSSI (Hoylake Beach)

Thank you for your consultation on the above which was received on 20 February 2024.

This advice is provided as part of Natural England's Discretionary Advice Service. HaskoningDHV UK Ltd. has asked Natural England to provide advice upon:

- A review of the revised draft HRA's for beach management options at Hoylake Beach with written feedback.
- Advice on potential impacts on the designated features and/or protected sites.

This advice is provided in accordance with the Quotation and Agreement dated 12 December 2023.

Many thanks for providing Natural England with two revised HRA's for beach management options at Hoylake Beach. Natural England were really pleased to see you have taken our advice on board although we favour the most natural approach to beach management possible, we would like to continue working with you to get a good outcome for nature and people at Hoylake Beach. As we have previously said, we cannot support the original two options, but these revised versions are moving in the right direction. The following advice is based upon the information within:

1. Habitat Regulations Assessment Report: Hoylake Beach Management Plan – Access For All, Final/2, 16 February 2024.
2. Habitat Regulations Assessment Report: Hoylake Beach Management Plan – Amenity Beach, Final/2, 16 February 2024.

- 1. Habitat Regulations Assessment Report: Hoylake Beach Management Plan – Access For All,**

Final/2, 16 February 2024.

These proposals affect or may affect The Dee Estuary Special Area of Conservation (SAC); Mersey Narrows and North Wirral Foreshore Special Protection Area (SPA) and Mersey Narrows and North Wirral Foreshore Ramsar. These sites are hereafter referred to as 'European Sites'.

Natural England have reviewed the Habitat Regulations Assessment (HRA) for Hoylake Beach Management Plan – Access for All undertaken by Royal HaskoningDHV, dated 16 February 2024, on behalf of Wirral Borough Council. As competent authority, it is your responsibility to produce the HRA and be accountable for its conclusion. Natural England have provided comments within this letter.

On page 22 (Table 3-1), it states that 0.38ha of seawall vegetation is to be lost and following that within the Appropriate Assessment Stage the HRA states, 'To protect this habitat, the proposed strip, from the RNLI station to King's Gap, will be located approximately 5m from the seawall, providing a buffer'. If the buffer is intended as mitigation to avoid an adverse effect on habitats from the seawall vegetation being lost (and potentially Shore Dock (*Rumex rupestris*), this needs to be made clearer. For example, confirming that as a result of the 5m buffer along the sea wall no vegetation will be lost from this zone.

On page 23, Natural England suggests that the vegetation removal cover % should be separated by saltmarsh vegetation density type. This will help inform how much dense vegetation is to be removed compared to sparse vegetation type.

On page 32, the following Annex II species are listed: S1095. *Petromyzon marinus*; Sea lamprey S1099. *Lampetra fluviatilis*; River lamprey S1395. *Petalophyllum ralfsii*, Petalwort. These should be considered in the Likely Significant Effect (LSE) stage for completeness.

In Section, 5.3.1.3 Habitat Loss and Damage Embryonic shifting dunes, this section should include the amount of vegetation to be lost.

Within the LSE table where physical loss is assessed, the amount of embryonic shifting dune loss should be specified.

Within Section 5.4 LSE - In-combination Assessment, Natural England were pleased to see the inclusion of West Kirby Beach Management Options and Beach Management Operations Wirral Beaches, however the in-combination assessment failed to include the removal of saltmarsh vegetation, both directly (West Kirby) and through incidental vegetation loss (Wirral Beaches). This should be considered within the in-combination assessment.

On page 43 the HRA states, 'Should any protected plant species be identified, an appropriate translocation plan will be developed and implemented prior to any habitat being removed'. Whilst Natural England are pleased to see mitigation here, the term protected plant species is ambiguous and we suggest the targeted protected plant species are named here.

Within Section 6.1.3 Damage to adjacent habitats and sediment structure, smothering of habitats and loss of sediment affecting the Dee Estuary SAC and Mersey Narrows and North Wirral Foreshore Ramsar site, Natural England was pleased to see mitigation to avoid damage to adjacent habitats. Considering the sensitivities on the site, Natural England suggests an ecological clerk of works oversees the work on site who should have skills in plant ID, ornithology (to monitor potential impacts on birds) and to be able to liaise with contractors or members of the public. This section also outlines that the best practice for vehicle operations will be followed. Our view is that a commitment to a vehicle management plan would be preferred with defined routes to be used for maintenance works (this could include the access route to be used for the RNLI in case of staff changes).

Natural England were pleased to see monitoring included in the HRA. Natural England would be willing to support any future monitoring and our coastal specialists would be willing to input to ensure suitable data is collected moving forward.

Natural England was disappointed that Shore Dock was not considered throughout the HRA. Natural England has confirmed the presence of this species when a site visit was undertaken by our vascular plant senior specialist in 2022 at Hoylake Beach and should be considered within any future assessment.

For both options, there are questions around the future extent of H2110 embryonic shifting dunes habitat, as it is in effect constrained by the promenade and the proposed vegetation removal. The Supplementary Advice for the Conservation Objectives (SACO) for H2110 habitat has several attributes around function and coastal processes including:

Attribute	Target
Future extent of habitat within the site and ability to respond to seasonal changes	Maintain/ Restore the ability to absorb seasonal and periodic fluctuations in the extent of the habitat.
Structure and function: dune topography	Maintain/ Restore a natural dune topography, and allow natural change that is wind driven (some change may be necessary to maintain the continuity of slacks).
Supporting processes: adaptation and resilience (habitat)	Maintain/ Restore the feature's ability, and that of its supporting processes, to adapt or evolve to wider environmental change, either within or external to the site.
Supporting processes: functional connectivity with wider coastal sedimentary system	Maintain/ Restore adequate movement of sediment from all key sediment sources (directly from the beach, indirectly from offshore, eroding cliffs, etc).

The management options will prevent the development of this habitat type and this needs to be considered further. It may be worth considering where embryo dunes could be created or allowed to develop unhindered transitioning naturally to saltmarsh vegetation for example to the north of the RNLI station. This area could be specified in the Beach Code of Conduct as an unmanaged area where access is limited.

SAC, SPA & Ramsar

Natural England is satisfied that, subject to the consideration of Natural England's recommendations above by your Authority and the operations being undertaken in strict accordance with the submitted proposals, these proposals will avoid adverse effects upon the interest features for which the European sites are notified. Natural England favours the access for all option.

SSSI

These options have not been assessed at the SSSI level and this advice does not constitute Natural England's assent. Although Natural England's discretionary advice does not pre-determine the outcome of any SSSI assessment we do have reservations about the potential impacts to the features of the SSSI.

These proposals affect or may affect The Dee Estuary Special Area of Conservation (SAC); Mersey Narrows and North Wirral Foreshore Special Protection Area (SPA) and Mersey Narrows and North Wirral Foreshore Ramsar. These sites are hereafter referred to as 'European Sites'.

Natural England have reviewed the Habitat Regulations Assessment (HRA) for Hoylake Beach Management Plan – Amenity Beach undertaken by Royal HaskoningDHV, dated 16 February 2024, on behalf of Wirral Borough Council. As competent authority, it is your responsibility to produce the HRA and be accountable for its conclusion. Natural England have provided comments within this letter.

On page 22, it states that 0.44ha of seawall vegetation and 0.01 ha of embryonic shifting dune habitat is to be lost and then within the Appropriate Assessment, the HRA states, 'To protect this habitat, the proposed strip, from the RNL station to King's Gap, will be located approximately 5m from the seawall, providing a buffer'. If the buffer is intended as mitigation to avoid an adverse effect on the habitats (the seawall vegetation and embryonic shifting dune habitat (and potentially Shore Dock (*Rumex rupestris*)) being lost, this needs to be made clearer.

On page 23, Natural England suggests that the vegetation removal cover % should be separated by saltmarsh vegetation density type. This will help inform how much dense vegetation is to be removed compared to sparse vegetation type.

On page 32, the following Annex II species are listed: S1095. *Petromyzon marinus*; Sea lamprey S1099. *Lampetra fluviatilis*; River lamprey S1395. *Petalophyllum ralfsii*, Petalwort. These should be considered in the Likely Significant Effect (LSE) stage for completeness.

In Section, 5.3.1.1 Noise and visual disturbance, it states, 'The proposed beach management activities are localised, taking place between the RNL station and King's Gap'. This appears to be related to the access for all option rather than the amenity beach option and this should be rectified.

In Section, 5.3.1.3 Habitat Loss and Damage Embryonic shifting dunes, this section should include the amount of vegetation to be lost.

Within Section 5.3.1.5 Recreational Activities, it states that 'Any increase in visitor numbers to Hoylake Beach as a result of the BMP is expected to be minimal.' Natural England understands that this option is for amenity benefits, and this will likely result in increased beach visitor numbers. This also applies to Section 5.3.1.6 Environmental Enhancements and Benefits, therefore it needs to be clarified how the vegetation removal strip and Code of Conduct will reduce trampling, disturbance, dog fouling on the beach and reduce disturbance to wildlife. This also applies to Section 6.1.6 Changes in recreation pressure affecting the Dee Estuary SAC, and the Mersey Narrows and North Wirral Foreshore SPA and Ramsar site.

Within the LSE table where physical loss is assessed, the amount of embryonic shifting dune loss should be specified. For the smothering assessment, increased recreational disturbance impacts should be considered here.

Within Section 5.4 LSE - In-combination Assessment, Natural England were pleased to see the inclusion of West Kirby Beach Management Options and Beach Management Operations Wirral Beaches, however the in-combination assessment failed to include the removal of saltmarsh vegetation, both directly (West Kirby) and through incidental vegetation loss (Wirral Beaches). This should be considered within the in-combination assessment.

It is stated on page 41, 'The inclusion of a 5m buffer from the seawall, pushes the strip slightly further into the Atlantic salt meadow habitat resulting in the loss of 1.54ha of Atlantic salt meadows habitat, which

equates to 0.09% of the combined area of Atlantic salt meadows recorded in the Dee Estuary SAC and the Hoylake beach management area'. Please revise these figures as they appear to relate to the access for all option.

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unhindered transitioning naturally to saltmarsh vegetation for example to the north of the RNLI station. This area could be specified in the Beach Code of Conduct as an unmanaged area where access is limited.

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Protected species

The advice on this proposal, and the guidance contained within Natural England's standing advice relates to this case only and does not represent confirmation that a species licence (should one be sought) will be issued. Please see **Annex 1** for information regarding licensing for the following Protected Species:

- Shore Dock (*Rumex rupestris*)

This proposal, as presented, has the potential to affect species protected under European or UK legislation.

Other advice

A marine license may be required for this activity. Please contact the Marine Management Organisation (MMO) for further advice surrounding this.

For clarification of any points in this letter, please contact Cheshire2.Lancashire@defra.gov.uk.

This letter concludes Natural England's Advice within the Quotation and Agreement dated 12 December 2023.

The advice provided within the Discretionary Advice Service is the professional advice of the Natural England adviser named below. It is the best advice that can be given based on the information provided so far. Its quality and detail is dependent upon the quality and depth of the information which has been provided. It does not constitute a statutory response or decision, which will be made by Natural England acting corporately in its role as statutory consultee to the competent authority after an application has been submitted. The advice given is therefore not binding in any way and is provided without prejudice to the consideration of any statutory consultation response or decision which may be made by Natural England in due course. The final judgement on any proposals by Natural England is reserved until an application is made and will be made on the information then available, including any modifications to the proposal made after receipt of discretionary advice. All pre-application advice is subject to review and revision in the light of changes in relevant considerations, including changes in relation to the facts, scientific knowledge/evidence, policy, guidance or law. Natural England will not accept any liability for the accuracy, adequacy or completeness of, nor will any express or implied warranty be given for, the advice. This exclusion does not extend to any fraudulent misrepresentation made by or on behalf of Natural England.

Yours

Amy Corthine
Coastal Senior Adviser
Cheshire to Lancashire Area Team
Cc commercialservices@naturalengland.org.uk

Annex 1

Protected Species

A licence is required in order to carry out any works that involve certain activities such as capturing the animals, disturbance, or damaging or destroying their resting or breeding places. Note that damage or destruction of a breeding site or resting place is an absolute offence and unless the offences can be avoided (e.g. by timing the works appropriately), it should be licensed. In the first instance it is for the public body/statutory undertaker to decide whether a species licence will be needed. The developer may need to engage specialist advice in making this decision. A licence may be needed to carry out mitigation work as well as for impacts directly connected with a development. Further information can be found in Natural England's ['How to get a licence'](#) publication.

As the application requires your organisation's permission, it is for your organisation to consider whether the permission would offend against Article 12(1) of the Habitats Directive, and if so, whether the application would be likely to receive a licence. This should be based on the advice Natural England provides at formal consultation on the likely impacts on favourable conservation status and Natural England's [guidance](#) on how the three tests (no alternative solutions, imperative reasons of overriding public interest and maintenance of favourable conservation status) are applied when considering licence applications.

Natural England's Pre-submission Screening Service can screen application drafts prior to formal submission, whether or not the relevant permission is already in place. Screening will help applicants by making an assessment of whether the draft application is likely to meet licensing requirements, and, if necessary, provide specific guidance on how to address any shortfalls. The advice should help operators and ecological consultants to better manage the risks or costs they may face in having to wait until the formal submission stage after permission is secured, or in responding to requests for further information following an initial formal application.

The service will be available for new applications, resubmissions or modifications – depending on customer requirements. More information can be found on the [GOV.UK website](#).