

19 January 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 12 December 2023.

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 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.

We understand the pressures you are under and want to work with you to get a good outcome for nature and people at Hoylake Beach. The following advice is based upon the information within:

1. Habitat Regulations Assessment Report: Hoylake Beach Management Plan – Access For All, Final/1, 08 December 2023.
2. Habitat Regulations Assessment Report: Hoylake Beach Management Plan – Amenity Beach, Draft/0.1, 08 December 2023.

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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'. These sites form part of the UK's national site network which is made up of habitats and species considered to be most in need of conservation at a European level.

On pages 1 and 6, Natural England is referred to as the competent authority. Natural England must remind you that in this instance that Wirral Borough Council are the competent authority and are therefore responsible for the Appropriate Assessment (AA) and conclusions within this HRA.

The current version of the HRA does not meet the sequential tests of Habitats Regulations (i.e., Assessment of likely significant effects (LSE), followed by an AA) and does not draw clear conclusions at each stage.

On page 28 all features for Mersey Narrows and North Wirral Foreshore SPA are listed, however on page 33, 'little gull, *Hydrocoloeus minutus*' is missed from the LSE table. All SPA features should be assessed within the LSE stage.

We note that disturbance to birds from 'above water noise' and 'visual disturbance' is ruled out at the likely significant effect stage. Natural England generally considers any potential disturbance impacts to SPA/Ramsar birds as a likely significant effect. Any mitigation to avoid disturbance such as, time of year, should be assessed fully within the AA stage.

Natural England notes that impacts to birds from habitat loss is not considered. Natural England suggests that habitat loss may impact potential roosting sites for the SPA/Ramsar bird species, and this should be considered further.

Hydrocarbon & polycyclic aromatic hydrocarbon (PAH) and toxic contamination is ruled out at the likely significant effect stage and mitigation measures are included at this stage. Any mitigation to avoid contamination impacts, should be assessed fully within the AA stage.

We note the HRA does not include an assessment of all the attributes. Some key SAC habitats and key distinctive features such as H2110 embryonic shifting dunes and H1210 Annual Vegetation of driftlines are missing. The HRA also fails to consider any impacts to the protected species, Shore Dock (*Rumex rupestris*) which can be considered part of the assemblage of the H2110 embryonic shifting dunes habitat. An assessment of impacts on key designated habitat features is required, together with any mitigation measures, to ensure the robustness of the HRA.

To assess the activity fully, Natural England suggests potential impact pathways and sources should be expanded. As the minimum, habitat loss should consider all relevant attributes included in the Common Standards Monitoring (CSM) guidelines for sand dunes, shingle, and saltmarsh, but ideally the attributes for the Annex 1 qualifying features should be listed and considered.

Along with physical loss of vegetation and component species there are potential issues which should be considered further. These include smothering of adjacent vegetation when the vegetation is removed; loss of sediment from the system when clumps of vegetation are removed; and physical damage to the sediment structure (sediment stress) through the use of vehicles when undertaking vegetation clearance. Impacts to saltmarsh sediments associated with this include: soils having a higher bulk density, soils having a reduced oxygen availability due to a reduced pore size/connectivity, increased waterlogging, increase in bare ground. The loss of sediment / compaction could also cause a change in the local topography, increasing tidal inundation, and increased pooling affecting the adjacent vegetation, consequentially causing a shift in the species composition. In addition, the assessment should consider the future extent and direction of vegetation succession which could develop if the proposed work was not undertaken.

As Natural England disagrees with the conclusions from the Likely Significant Effect (LSE) stage, we therefore suggest the in-combination assessment is re-considered once our concerns from the LSE are addressed.

Page 35 states, 'The Hoylake BMP is considered to have a beneficial effect on recreational pressure at Hoylake Beach.' This statement should be clarified further and explain how the Hoylake BMP is considered to have a beneficial effect. If the plan is likely to increase recreational pressure, adequate mitigation should be implemented to avoid potential impacts.

Natural England acknowledges the maintenance of the boating lake is mentioned within the document. Natural England suggests impacts from this maintenance should be considered further within the HRA. Redistributing sand along the foreshore has the potential to smother existing vegetation and this should be assessed fully.

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Natural England may be able to support this option, with modification and additional mitigation measures. Here are some examples of mitigation which could be included:

- Ensuring as much sediment as possible is shaken off from vegetation removed from the system to retain sediment.
- Use of best practice methods when using vehicles on a saltmarsh e.g. using appropriate vehicles for the terrain or removing vehicles from site when not in use.
- Ensure careful route management to reduce potential for compaction.
- Translocation of any protected plant species.
- Code of conduct should include information on what is happening at the beach in terms of vegetation development and why the beach profile is changing. Public engagement signs are recommended to explain the importance of the vegetation and it is an offence to remove vegetation without the correct permissions.
- Explore opportunities to promote good practice along the frontage for management of recreational disturbance.

Natural England have concerns regarding the 10 meter buffer strip, removal of vegetation at the sea wall and removal of dense vegetation. Natural England would want to be confident that the width of the buffer is necessary for RNLI operations on the beach and so would need to see further evidence to justify this scale of clearance. Suitable evidence would include:

- the size of the vessels (width, length and clearance under the vessels).
- A clear map showing the slipways (primary, secondary, third and fourth) and how they are used, how often and labelling various location.

Natural England also has concerns regarding the clearance of slipways and the infilling of pools adjacent to the slipways which host significant stands of Northern/Sea Water Whorl Grass (*Catabrosa aquatica minor*).

2. Habitat Regulations Assessment Report: Hoylake Beach Management Plan – Amenity Beach, Draft/0.1, 08 December 2023.

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SPA/Ramsar birds as a likely significant effect. Any mitigation to avoid disturbance such as, time of year, should be assessed fully within the AA stage.

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As Natural England disagrees with the conclusions from the LSE stage, we therefore suggest the in-combination assessment is re-considered once our concerns from the LSE are addressed.

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It is unlikely that Natural England could support the extent of vegetation loss outlined in this option and it would need considerable refinement.

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

As this is a rapidly changing site, our advice may change as new evidence emerges and habitats develop further.

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

We have scheduled a meeting for 1st February to discuss our advice further and to answer any questions. We look forward to meeting with you. In the meantime, if we can do anything else to help, 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

Hannah Turner
Team Leader
Cheshire to Lancashire Area Team
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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](#).