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By Liv Rickman at 2:13 pm, Dec 18, 2023



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BY EMAIL ONLY

Dear Liv,

Planning consultation: P/23/095/FUL Installation of 75 m long geobag core added to existing cobble embankment and tied with geotextile.

Location: Green Bay, Southard, Bryher, Isles of Scilly.

Thank you for your consultation on the above dated 14 December 2023 which was received by Natural England on the same day.

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

SUMMARY OF NATURAL ENGLAND'S ADVICE:

NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

We consider that without appropriate mitigation the application would:

- have an adverse effect on the integrity of the Isles of Scilly Special Protection Area (SPA), the Isles of Scilly Ramsar site, and the Isles of Scilly Complex Special Area of Conservation (SAC).

In order to mitigate adverse effects and make the development acceptable, the mitigation measures as detailed within the Habitats Regulations Assessment (HRA) should be secured via an appropriate planning condition or obligation attached to any planning permission.

All the mitigation measures detailed in the submitted documents should be included in a appropriately detailed Construction Environmental Management Plan (CEMP) secured via an appropriate planning condition or obligation attached to any planning permission.

Other issues and considerations for your authority are set out below.

We confirm that these works are adjacent to the Isles of Scilly SPA, 100 meters from the Isles of Scilly Complex SAC, approximately 495 meters from the Isles of Scilly Ramsar site, and 380 meters from the Rushy Bay & Heathy Hill (Bryher) SSSI.

The Conservation of Habitats and Species Regulations 2017 (as amended)

Natural England notes that the Habitats Regulations Assessment (HRA) has not been produced by your authority, but by the applicant. As competent authority, it is your responsibility to produce the HRA and be accountable for its conclusions. We provide the advice enclosed on the assumption that your authority intends to adopt this HRA to fulfil your duty as competent authority.

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any planning permission given. In addition, all mitigation measures detailed in the submitted documents should be included within an approved Construction Environmental Management Plan (CEMP) and appropriately secured by condition in any planning permission issued.

Further advisory comment:

We understand that there has been an issue at another site (Porth Coose) that is included in these wider project of works. There is potentially insufficient material at this other site to fully complete the works. We advise that your authority satisfies itself that the works for this application have the required material for them to be fully completed.

Wildlife and Countryside Act 1981 (as amended)

Providing the works are carried out in accordance with the application, in Natural England's view they are not likely to damage any of the flora, fauna or geological or physiographical features for which the site is designated.

Further advise

Protected Species

Natural England has produced [standing advice](#)¹ to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice. Natural England will only provide bespoke advice on protected species where they form part of a Site of Special Scientific Interest or in exceptional circumstances.

Shoreline Management Plan (SMP) Policy

The SMP2 identifies the preferred policy for this site within policy unit 45.12 currently and up to 2105 as No Active Intervention (NAI). The NAI approach is to satisfy the objectives relating to the AONB and Isles of Scilly SAC designations. We therefore question if these works conform to SMP policy.

There is a prescribed SMP change process where the policy undergoes the appropriate review and is then amended if required. We understand that if an applicant believes an SMP policy to be incorrect the SMP change process should be followed before any works are planned.

We advised your authority to seek the view of the Environment Agency on the matter of SMP policy and the implications, and we would defer to their advice as the authority on SMP policy.

Biodiversity and wider environmental gains

Development should provide net gains for biodiversity in line with the NPPF paragraphs 174(d), 179 and 180. It is anticipated that major development (defined in the [NPPF glossary](#)) will be required by

¹ <https://www.gov.uk/protected-species-and-sites-how-to-review-planning-proposals>

law to deliver a biodiversity gain of at least 10% from January 2024 and that this requirement will be extended to smaller scale development in April 2024. For nationally significant infrastructure projects (NSIPs) it is anticipated that the requirement for biodiversity net gain will be implemented from 2025.

Further information on the timetable for mandatory biodiversity net gain can be found [here](#). Further general information on biodiversity net gain can be found [here](#).

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

We advise you to follow the mitigation hierarchy as set out in paragraph 180 of the NPPF and firstly consider what existing habitats within the site can be retained or enhanced. Where on-site measures are not possible, provision off-site will need to be considered.

Further information on biodiversity net gain, the mitigation hierarchy and wider environmental net gain can be found in government [Planning Practice Guidance](#).

Natural England would remind your authority that within The Isles of Scilly Local Plan 2015 – 2030 Policy OE1 Protecting and enhancing the landscape and seascape its states:

170. Biodiversity net gains will be required in addition to any mitigation and compensation measures across the islands to enhance the environment in line with the objectives of the DEFRA's 25 year plan: A Green Future (2018), A Natural Choice for Securing the Value of Nature (2011) and the NPPF. Net gains will be measured against the metrics published by DEFRA. As part of this commitment to net-gains, regard will be given to the implications of a changing climate, to ensure that habitats are protected and enhanced to support their resilience to such changes.

Protected Landscapes

The proposed development is for sites within a nationally designated landscape namely Isles of Scilly AONB. Natural England advises that the planning authority uses national and local policies, Page 13 of 15 together with local landscape expertise and information to determine the proposal. The policy and statutory framework to guide your decision and the role of local advice are explained below.

Your decision should be guided by paragraphs 176 and 177 of the National Planning Policy Framework which gives the highest status of protection for the 'landscape and scenic beauty' of AONBs and National Parks. For major development proposals paragraph 177 sets out criteria to determine whether the development should exceptionally be permitted within the designated landscape.

Alongside national policy you should also apply landscape policies set out in your development plan, or appropriate saved policies.

We also advise that you consult the relevant AONB Partnership or Conservation Board. Their knowledge of the site and its wider landscape setting, together with the aims and objectives of the AONB's statutory management plan, will be a valuable contribution to the planning decision. Where available, a local Landscape Character Assessment can also be a helpful guide to the landscape's sensitivity to this type of development and its capacity to accommodate the proposed development.

The statutory purpose of the AONB is to conserve and enhance the area's natural beauty. You should assess the application carefully as to whether the proposed development would have a significant impact on or harm that statutory purpose. Relevant to this is the duty on public bodies to 'have regard' for that statutory purpose in carrying out their functions (S85 of the Countryside and Rights of Way Act, 2000). The Planning Practice Guidance confirms that this duty also applies to

proposals outside the designated area but impacting on its natural beauty.

For any questions relating to this advice letter please contact me using the details below.

For further consultations please contact us at consultations@naturalengland.org.uk.

Yours sincerely,

Gareth Townsend

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