



Council of the  
ISLES OF SCILLY

# Habitats Regulations Assessment (HRA)

## Screening and Appropriate Assessment Statement

### The Isles of Scilly Special Protection Area (SPA)

*PLEASE NOTE: Undertaking the HRA process is the responsibility of the decision maker as the Competent Authority for the purpose of the Habitats Regulations, however, it is the responsibility of the Applicant to provide the Competent Authority with the information that they require for this purpose.*

As part of its duty under the Conservation of Habitats and Species Regulations 2017 (as amended) (Habitats Regulations), this document provides screening, and where necessary appropriate assessment, of the development proposal below.

### Details of the proposed development

Details of the proposed development	
Planning Application Number	<b>P/24/057/FUL</b>
Overview of the planning application	Replacement of bird hide
Has information been submitted by the applicant which informs this HRA? If so, what has been submitted?	HRA screening (IoS Wildlife Trust, Jul 2024) Ecological Assessment (IoS Wildlife Trust, Jul 2024)
Is the planning application directly connected with or necessary to the management of the designated site (if yes, Applicant should have provided details)?	No



### Stage I: Screening – the ‘Likely Significant Effects test’.

Screening under Regulation 63(1)(a) of the Habitats Regulations – Could there be likely significant effects, alone or in combination with other plans or projects? The assessment must exclude the consideration of mitigation measures following the ‘Sweetman II’<sup>1</sup> judgement.

The Isles of Scilly SPA encompasses most of the islands and islets within the Isles of Scilly archipelago and is designated for nesting locations for breeding seabirds and seabird assemblage of European importance. Of note is the breeding population of European storm-petrel (*Hydrobates pelagicus*), Lesser black-backed gull (*Larus fuscus graellsii*), European shag (*Phalacrocorax aristotelis aristotelis*), and Great black-backed gull (*Larus marinus*).

The designation covers those areas used for nesting as well as marine areas around the archipelago used for foraging, loafing, preening and other essential behaviours of the birds found at the site.

This development proposal falls within the Higher Moors & Porth Hellick Pool (St Mary's) Site of Scientific Special Interest (SSSI) and is within 200m of the Isles of Scilly SPA.

The advice from Natural England is that whilst lesser black backed gulls are present in the area, this is not in great numbers and no breeding seabirds notable within the SPA are present within this part of the Higher Moors & Porth Hellick Pool (St Mary's) Site of Scientific Special Interest (SSSI).

The Isles of Scilly Wildlife Trust shadow Habitat Regulations Assessment screens out likely significant effects due to the inland location of the development. It also refers to the 2023 SPA seabird survey which records ten pairs of breeding Manx shearwater on Porth Hellick Down, over 400m away from the hide location.

The Isles of Scilly Wildlife Trust's Ecological Assessment (July 2024) also confirms that work will be undertaken during the winter over a brief period (estimated to be one week) between 1 November 2024 and 31 March 2025, which is outside the bird breeding season.

Given the above, it is considered that likely significant effects can be ruled out.

#### Screening Conclusion

Could the proposal lead to likely significant effects?

**No** – although the site is a SSSI within 200m of the SPA the proposal would not impact breeding seabirds or result in the loss of habitat. It can therefore be concluded that there are no likely significant effects on the Isles of Scilly SPA arising from the proposed development.

*(If yes, continue to Stage 2)*

<sup>1</sup> The Court of Justice of the European Union (CJEU) judgement in the case of ‘People over Wind and Peter Sweetman v Coillte Teoranta’ (Sweetman II) determined that mitigation (i.e. measures that are specifically introduced to avoid or reduce the harmful effects of a plan or project on European sites) should not be taken into account when forming a view on likely significant effects (i.e. at the screening stage). Mitigation should instead only be considered at the appropriate assessment stage. Appropriate Assessment is not a technical term: it simply means ‘an assessment that is appropriate’ for the plan or project in question’. As such the law purposely does not prescribe what it should consist of or how it should be presented.



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## Stage 2: Appropriate Assessment

<b>Stage 2: Appropriate Assessment – the ‘Integrity Test’</b>
Appropriate Assessment under Regulation 63(1) - if there are any potential significant impacts, the applicant must provide evidence showing avoidance and/or mitigation measures to allow an Assessment to be made as to whether there could be ‘adverse effects on the integrity of the relevant European site(s). The Applicant must also provide details which demonstrate any long term management, maintenance and funding of any solution.
<b>Appropriate Assessment</b> n/a
<b>Natural England comments submitted on the proposed scheme</b> No objection
<b>Appropriate Assessment Conclusion</b> n/a

## Conclusion

<b>Overall conclusion</b>
Although within 200m of The Isles of Scilly Special Protection Area, the development is unlikely to have significant effects upon breeding seabirds or other designated features or result in the loss of habitat. It can therefore be concluded that there are no likely significant effects on the Isles of Scilly SPA as a result of development.

**Appendix**  
**Isles of Scilly SPA**



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<b>The Isles of Scilly Special Protection Area</b>	
Reasons for designation	<p>Qualifying individual species listed in Annex I of the Wild Birds Directive (Article 4.1)</p> <ul style="list-style-type: none"> <li>• Storm petrel (<i>Hydrobates pelagicus</i>)</li> </ul> <p>Qualifying assemblage of species (Article 4.2) the populations of</p> <ul style="list-style-type: none"> <li>• Lesser black-backed gull (<i>Larus fuscus</i>)</li> <li>• European Shag (<i>Phalacrocorax aristotelis aristotelis</i>)</li> <li>• Great black-backed gull (<i>Larus marinus</i>)</li> </ul>
Sensitivities, vulnerabilities and pressures	<ul style="list-style-type: none"> <li>- Invasive non-native species</li> <li>- Fishing and harvesting aquatic resources</li> <li>- Airports, flightpaths</li> <li>- Outdoor sports and leisure activities, recreational activities</li> <li>- Shipping lanes, ports, marine constructions</li> </ul>
Conservation Objectives	<p>Maintain or restore:</p> <ul style="list-style-type: none"> <li>• sandbanks which are slightly covered by sea water all the time', 'mudflats and sandflats not covered by seawater at low tide' and 'reefs'.</li> </ul>