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31 March 2021

Site Location: Langstone Harbour in the West to Chichester Harbour in the East Langstone, Havant

Re: Request for a Screening and Scoping Opinion under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 for the construction of new Flood and Coastal Erosion Risk Management structures at Langstone, Hampshire.

Dear Madam

I am writing to you further to your enquiry received on the 18 January 2021 (subject to an extension of time for opinion until the 31 March 2021) regarding the above address.

Proposed works

The proposed sea defence measures include a combination of raising the existing footpath, earth embankments, active flood barriers, flood gates and flood walls with accessible paths, new parapet wall, refurbishment and some rock armour.

As set out in the submitted Environmental Scoping Report November 2020 the proposal comprises a core scheme and an additional scheme. The Core Scheme is located within the Statutory Harbour Authority boundary of Chichester Harbour Conservancy. The Additional Scheme is located within the Statutory Harbour Authority boundary of Langstone Harbour Board. These harbour areas are used for recreation, both on and off the water.

The proposed works comprise:

Core Scheme

2b

Raising of the footpath (north section) and earth embankment (south section)

3b

Active flood barrier across car park and setback floodwall (south section), extension of western end of flood defence to the south, parallel with the road.

3d to 3e

Floodwall with glass top

3f to 3h

Floodwall with accessible path2

3i

Flood proof residential building, accessible path (potential for 3i to be combined with 3h if building flood proofing not adequate).

3j

Flood gate

3k

New parapet wall on alignment of existing wall (if possible due to integrity of the current wall).

Additional Scheme**1a**

Earth embankment

1b

Capital refurbishment

2a

Rock armour

Screening

Having considered the proposals as detailed in your letter, Havant Borough Council is of the opinion that the application does not fall within Schedule 1 Development of the Environmental Impact Assessment Regulations 2017 but within Schedule 2 Development, Part 10, Infrastructure Projects (m) Coastal work to combat erosion and maritime works capable of altering the coast through the construction, for example, of dykes, moles, jetties and other sea defence works, excluding the maintenance and reconstruction of such works;

In my opinion, having regard to the selection criteria in Schedule 3 to the Regulations and the associated guidance including screening indicative criteria and thresholds, the development would be likely to have significant effect on the environment by virtue of factors such as:

Characteristics of Development:

The proposed sea defence measures include a combination of raising the existing footpath, earth embankments, active flood barriers, flood gates and flood walls with accessible paths, new parapet wall, refurbishment and some rock armour.

Location of development:

The proposed development is located within/ partly within or has the potential for adverse effects on the following designated nature conservation sites or designated landscapes/townscapes:

- Chichester Harbour Site of Special Scientific Interest (SSSI)
- Langstone Harbour SSSI
- Solent Maritime Special Area of Conservation (SAC)
- Chichester and Langstone Harbour Special Protection Area (SPA)
- Chichester and Langstone Harbour Ramsar
- Chichester Harbour Area of Outstanding National Beauty (AONB)
- Langstone and Mill Lane Conservation Areas
- Designated Heritage Assets

Characteristics of potential impact:

The impacts from the excavation and disturbance during construction/ maintenance of the new sea defences within the sites include (but not limited to):

- Temporary disturbance/ habitat loss of the intertidal foreshore and functionally linked landward supporting habitats for non-breeding birds.
- Changes in suspended sediment altering water clarity and leading to deoxygenation, smothering and siltation rate changes.
- Potential hydrocarbon and Polycyclic Aromatic Hydrocarbons (PAH) contamination.
- Permanent loss and shading of intertidal (supporting) habitat from the footprint of the proposed new flood defences and due to longer term coastal squeeze.
- Noise and visual disturbance to over-wintering birds, and foraging and breeding terns/ prey species.
- Traffic
- Amenity and recreation

The proposed sea defence measures would have a potentially significant impact on (but not

limited to) Habitat, Archaeology, the Historic Environment, Landscape and Visual receptors.

In coming to these conclusions, the consultation responses received from Environmental Health, County Archaeologist, Historic England, Natural England, HBC Ecologist, the RSPB, Chichester Harbour Conservancy, Hampshire & Isle of Wight Wildlife Trust have all been taken into account.

Scoping

The proposed development falls within the provisions of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

In summary your submission identifies a range of identified topics that are suggested to be 'Scoped -Out' of the EIA and others that are 'Scoped In'.

Other potential areas have also been identified through the scoping process. The considerations and suggestions in relation to your identified topic areas are responded to in part 1 with the additional topic areas identified in part 2 below. The comments result largely from consultations within the statutory EIA consultees.

PART 1

Environmental Designations- scoped in

Schedule 3(2) of the Town & Country Planning (Environmental Impact Assessment) Regulations 2017 requires consideration of the selection criteria for Schedule 2 EIA development and identification of 'environmental sensitivity'. The proposed development is located within/ partly within or has the potential for adverse effects on the following designated nature conservation sites or designated landscapes:

- Chichester Harbour Site of Special Scientific Interest (SSSI)
- Langstone Harbour SSSI
- Solent Maritime Special Area of Conservation (SAC)
- Chichester and Langstone Harbour Special Protection Area (SPA)
- Chichester and Langstone Harbour Ramsar
- Chichester Harbour Area of Outstanding National Beauty (AONB)

The proposed development could have likely significant direct and/or indirect effects upon the above designated sites or landscapes and that further environmental assessment is required. The impacts from the excavation and disturbance during construction/ maintenance of the new sea defences within the sites include (but not limited to):

- Temporary disturbance/ habitat loss of the intertidal foreshore and functionally linked landward supporting habitats for non-breeding birds.
- Changes in suspended sediment altering water clarity and leading to deoxygenation, smothering and siltation rate changes.
- Potential hydrocarbon and Polycyclic Aromatic Hydrocarbons (PAH) contamination.
- Permanent loss and shading of intertidal (supporting) habitat from the footprint of the proposed new flood defences and due to longer term coastal squeeze.
- Noise and visual disturbance to over-wintering birds, and foraging and breeding terns/ prey species.

The EIA should provide a detailed assessment of the impacts of this proposal on these protected species. In order to provide this information, there may be a requirement for surveys to be carried out at appropriate times of the year. Surveys should always be carried out by suitably qualified and, where necessary, licensed consultants. Further information is included in Natural England's standing advice on protected species.

Land Quality and Hydrology - scoped out and Water and Sediment Quality- scoped out

The report scopes out Land Quality issues based upon Human Health criteria only, and Water & Sediment Quality is scoped out principally on the basis of baseline sediment quality. This approach appropriately considers resuspension / redistribution of foreshore sediments, but does not consider in detail any pathways from land (via runoff or perched / shallow / stratified groundwater); no leachate sampling or groundwater chemical analysis is considered.

The ground investigation has not identified any significant concentrations of contaminants in soils, and whilst the elevated PAH compounds noted are attributed to an isolated 'pollution incident', it is considered likely that the source is related to traditional macadam present within made soils. As a result, such concentrations are not unlikely to be encountered elsewhere, but mobility is likely to be relatively low.

No specific 'red flags' are raised by the soil sampling presented, and no additional significant potential soil sources other than the reclaimed ground & former Coal Wharf (identified within the report, WS02 & WS05 relate) have been identified.

Section 4.2.3 proposes that *"a contaminated land method statement and materials management plan will be produced for approval by HBC prior to the commencement of construction works"*. The same section outlines examples of anticipated content, which are considered to be broadly appropriate.

It is agreed that 'significant environmental impacts' are not likely to arise as a result of the scheme construction, and it is agreed that the residual risks can be addressed as proposed (through a contamination method statement, materials management plan and construction environmental management plan, to be approved by the LPA prior to the commencement of works).

Coastal Processes- scoped out

However, it needs to be demonstrated that through the assessment of options the potential for coastal squeeze to occur has been considered and understood.

Ornithology- scoped in

The proposed site location for the construction of new flood and coastal erosion risk management structures at Langstone are directly adjacent to Chichester and Langstone Harbours SPA, Ramsar site, and Sites of Special Scientific Interest (SSSIs). These sites provide internationally (SPA and Ramsar) and nationally (SSSIs) important populations of both breeding and wintering birds, and internationally important assemblages of wintering birds. In addition, at times of high tide, supporting terrestrial areas provide important feeding and roosting opportunities for Dark-bellied Brent geese (*Branta bernicla bernicla*) and wading bird communities. A network of sites providing this function across the Solent have been identified within the Solent Wader and Brent Goose Strategy (SWBGS).

The potential impact pathways on birds from the proposed development identified in The Langstone Environmental Scoping Report (ESR) is agreed. None of the ornithological impact pathways during construction and operation of the development plans have been scoped out of the Environmental Statement, and it is agreed they should be considered for their impacts relating to avian features.

The conclusions summarised in table 4.10 for potential terrestrial ecology pathways, in particular the inclusion of bats, reptiles, badger and great crested newt, together with the inclusion of the potential for beneficial impacts to be considered in relation to biodiversity net gain are agreed.

The recommendations for further work set out in section 4.6.3. Marine (identified within this

chapter both the European eel and sea trout are present in the vicinity of Langstone and Chichester Harbours) is agreed.

The inclusion of the potential of beneficial impacts is included within the invasive species section of the table which is confusing and potentially misleading. Any potential for beneficial impacts should be included in the table as a separate section. The recommendations for further work set out in section 4.7.3 of the Environmental Scoping Report November 2020 is agreed

Marine Ecology - scoped in

The Scheme is located within a complex site encompassing a major estuarine system with functionally linked estuaries and dynamic marine and estuarine habitats. This includes extensive areas of intertidal mudflats and sandflats, often supporting eelgrass (*Zostera* species), subtidal sandbanks, saltmarsh and natural shoreline transitions such as drift line vegetation. The Solent Maritime SAC is the only site to support all four species of cordgrass (*Spartina*) found in the UK, including the rare native small cordgrass (*Spartina maritima*) (Natural England, 2020).

Both the Core and Additional Scheme have the potential to affect marine ecology, and the Environmental Scoping Report November 2020 Recommendations for further work are agreed.

Archaeology and Historic Environment- scoped in

The development could, potentially, have an impact upon a number of designated heritage assets and their settings in the area around the site. In particular, the grade II listed The Old Mill, The Royal Oak Public House, 16,17 and 18, High Street, 1-14 High Street, The Green Cottage, The Ship Inn and the Langstone and Mill Lane conservation areas. It is therefore considered that a full EIA in relation to the historic environment is required.

In line with the advice in the National Planning Policy Framework (NPPF), the Environmental Statement should contain a thorough assessment of the likely effects which the proposed development might have upon those elements which contribute to the significance of these assets.

The Environmental Statement should also consider the potential impacts on non-designated features of historic, architectural, archaeological or artistic interest, since these can also be of national importance and make an important contribution to the character and local distinctiveness of an area and its sense of place.

It is important that the assessment is designed to ensure that all impacts are fully understood. Section drawings and techniques such as photomontages are a useful part of this and should be provided.

The assessment should also take account of the potential impact which associated activities (such as construction, servicing and maintenance, and associated traffic) might have upon perceptions, understanding and appreciation of the heritage assets in the area. The assessment should also consider, where appropriate, the likelihood of alterations to drainage patterns that might lead to *in situ* decomposition or destruction of below ground archaeological remains and deposits and can also lead to subsidence of buildings and monuments.

Landscape and Visual- scoped in

The Core Scheme overlaps with Langstone village including a historic quay with two public

houses along with mixed residential property and adjacent footpaths. This includes the Mill Lane Conservation Area, designated to protect the open, historic landscape adjacent to the Langstone and Chichester Harbours. The Core Scheme also overlaps with the Langstone Conservation Area that encapsulates what was the historical hamlet of Langstone that evolved around the harbour.

Both the Core and Additional Scheme are adjacent to Public Rights of Way (PRoW) including the Solent and Wayfarers walk. These PRoW provide scenic views across to Hayling Island, Thorney Island and Portsea Island including the adjacent Chichester Harbour AONB

Both the Core and Additional Scheme have the potential to affect landscape and visual receptors as set out in Table 4.1 Environmental Scoping Report November 2020 and Recommendations for further work is agreed.

Commercial Fisheries and Navigation - Core scheme scoped out, Additional scheme scoped in

Approximately 20 boats fish from Langstone Harbour the main effort being during the oyster season (Walmsley and Pawson, 2007). However severe depletion of the native oyster beds has resulted in the Temporary Closure of them in the Solent in recent years, including in Langstone Harbour for the 2020/2021 season (between the 1st November 2020 and the 28th February 2021) (SIFCA, 2020a) and in Chichester Harbour (SxIFCA, 2020). Other byelaws include regulation of the use of Skate or Stop nets in Langstone Harbour (SIFCA, 2020b) and byelaws prohibiting the use of towed fishing gears and digging, collection and hand gathering of marine fisheries resources in specified areas of Langstone Harbour and Chichester Harbour to protect eelgrass (*Zostera* spp.) and therefore prevent damage or deterioration to the Solent European Marine Site.

The Core Scheme is located within the Statutory Harbour Authority boundary of Chichester Harbour Conservancy. The Additional Scheme is located within the Statutory Harbour Authority boundary of Langstone Harbour Board. These harbour areas are used for recreation, both on and off the water

The core scheme would not involve the mobilisation of any vessels for construction nor once operational and is scoped out for navigation. The additional scheme could involve delivery and deployment of rock armour and is scoped in for navigation (construction)

Both the Core and additional schemes are scoped out for fishing owing to the low commercial fishing activity within the vicinity of the scheme.

Should the Additional Scheme be brought forward, which would include construction of rock armour at the spit, impacts relating to navigation should be scoped in for further assessment.

Socio Economic, Amenity and Recreation - scoped in

The scheme has the potential to disrupt local businesses and recreational interests and both the core scheme and additional scheme are scoped in as set out in the Environmental Scoping Report November 2020.

Traffic and Access - scoped in

The Scheme is in the vicinity of narrow roads including the High Street at Langstone with restricted turning or passing places. Particularly in the summer months it is a popular visitor location, with increased pressure on road space.

The A3023, Langstone Road bisects the Scheme, linking the A27 to Hayling Island. There are

several PRoW or permissive paths within the vicinity of the Scheme.

Both the Core and Additional Scheme have the potential to affect traffic and access and are scoped in as set out in Environmental Scoping Report November 2020 and the proposed recommendation for additional work agreed.

Noise and Vibration- scoped in

The majority of the Scheme is sited within a quiet coastal residential area, with some residential properties in the immediate vicinity. There are also several local businesses in the vicinity of the works, including the Ship Inn and Royal Oak public houses, and Langstone Sailing Club. Other sensitive receptors include visitors to the area and adjacent heritage assets.

Both the Core and Additional Scheme have the potential to affect noise and vibration and are scoped in, in accordance with the Environmental Scoping Report November 2020 and the recommendation for further work.

Air quality- scoped out

The rationale for the Air Quality scoping assessment is agreed, and the conclusion to scope out consideration of significant Air Quality effects from the formal EIA is accepted.

Cumulative Effects - scoped in

As set out in section 4.15 of the Environmental Scoping Report November 2020 it is agreed that this scheme should be assessed in combination with other schemes/projects and plans within the study area and that this assessment will be included in the Environmental Statement.

PART 2

Additional Topic Areas/Material for inclusion

The Environment Agency advises:

- The Environmental Statement should include a full assessment of all available options, including alternatives. The assessment should make it clear why the chosen options for the scheme have been selected.
- Additionally, the submitted report is not consistent for example within Appendix D there is suggestion of rock armour in a specified location. Given the Appendix G report, there is no assessed reason for placing a structure there, from either a coastal process or an environmental point of view. The EA also identify the need to see that through the assessment of options the potential for coastal squeeze to occur has been considered and understood.
- The ES should also ensure that the most recent available data and guidance is used. Currently we do not feel that the report makes reference to this, as there is more up to date information available on sea level rise and extreme water levels.
- Any works below mean high water mark will be subject to a Marine Licence, however any land-based embankments within the byelaw width of 8 metres from the Langstone Mill Channel or the Lymbourne Stream main rivers will be subject a permit under the Environment Permitting (England and Wales) Regulations 2016 from the Environment Agency.

- We support the conclusions within the Water Framework Directive (WFD) Report for both Chichester Harbour and Langstone Harbour waterbodies, in particular the inclusion of fish requiring an impact assessment for the potential of underwater noise to impact normal fish behaviour such as migration, movement and spawning. Also, the inclusion of SPA and SAC protected areas, habitats and non-native invasive species.
- The scoping table for fish for Langstone Harbour says that entrainment or impingement of fish requires impact assessment, but it appears that this is an error as the justification states that the works will not include dredging and therefore assessment is not required
- We note that factors scoped in will be assessed further at the next stage: we would recommend a standalone WFD Assessment.

Marine Management Organisation advises:

Any works within the Marine area require a licence from the Marine Management Organisation. It is down to the applicant themselves to take the necessary steps to ascertain whether their works will fall below the Mean High-Water Springs mark. Please see below for further information. The MMO's online portal to register for an application for marine licence can be found at:

<https://www.gov.uk/guidance/make-a-marine-licence-application>

Conclusions

In conclusion and in summary taking into account the schemes scale, nature and location, associated proposed assessments to accompany a planning application and likely mitigation measures it is anticipated it will result in significant environmental effects. Therefore, the Local Planning Authority considers that the forthcoming application for this site **is EIA development**. The topics and pathways proposed for further assessment under the EIA as summarised in Table 7.1 are agreed, with consideration also to be given to the matters set out in Part 2 above. Further, it is considered that in accordance with the Conservation of Habitats and Species Regulations 2017 an **Appropriate Assessment as part of the Habitats Regulations Assessment process should be conducted** due to the likely significant effects upon Chichester and Langstone Harbours Special Protection Area (SPA) and Ramsar site, and its functionally linked land.

I trust that the contents of this opinion are clear, but please do not hesitate to contact me if you require any clarification.

This letter should be taken as the local planning authority's scoping opinion under the Regulations.

Yours faithfully

Simon Jenkins
Director of Regeneration and Place
Havant Borough Council and East Hampshire District Council

Marine Licensing

Works activities taking place below the mean high water mark may require a marine licence in accordance with the Marine and Coastal Access Act (MCAA) 2009.

Such activities include the construction, alteration or improvement of any works, dredging, or a deposit or removal of a substance or object below the mean high water springs mark or in any tidal river to the extent of the tidal influence.

Applicants should be directed to the MMO's online portal to register for an application for marine licence

<https://www.gov.uk/guidance/make-a-marine-licence-application>

You can also apply to the MMO for consent under the Electricity Act 1989 (as amended) for offshore generating stations between 1 and 100 megawatts in English waters.

The MMO is also the authority responsible for processing and determining Harbour Orders in England, together with granting consent under various local Acts and orders regarding harbours.

A wildlife licence is also required for activities that would affect a UK or European protected marine species.

The MMO is a signatory to the [coastal concordat](#) and operates in accordance with its principles. Should the activities subject to planning permission meet the above criteria then the applicant should be directed to the follow pages: [check if you need a marine licence](#) and asked to quote the following information on any resultant marine licence application:

- local planning authority name,
- planning officer name and contact details,
- planning application reference.

Following submission of a marine licence application a case team will be in touch with the relevant planning officer to discuss next steps.

Environmental Impact Assessment

With respect to projects that require a marine licence the EIA Directive (codified in Directive 2011/92/EU) is transposed into UK law by the Marine Works (Environmental Impact Assessment) Regulations 2007 (the MWR), as amended. Before a marine licence can be granted for projects that require EIA, MMO must ensure that applications for a marine licence are compliant with the MWR.

In cases where a project requires both a marine licence and terrestrial planning permission, both the MWR and The Town and Country Planning (Environmental Impact Assessment) Regulations <http://www.legislation.gov.uk/ukxi/2017/571/contents/made> may be applicable.

If this consultation request relates to a project capable of falling within either set of EIA regulations, then it is advised that the applicant submit a request directly to the MMO to ensure any requirements under the MWR are considered adequately at the following link

<https://www.gov.uk/guidance/make-a-marine-licence-application>

Marine Planning

Under the Marine and Coastal Access Act 2009 ch.4, 58, public authorities must make decisions in accordance with marine policy documents and if it takes a decision that is against these policies it must state its reasons. MMO as such are responsible for implementing the relevant Marine Plans for their area, through existing regulatory and decision-making processes.

[The East Inshore and Offshore marine plans](#) were adopted on the 2nd April 2014. [The South Inshore and Offshore marine plans](#) were adopted on the 17th July 2018. Both plans are a statutory consideration for public authorities with decision making functions. The East Inshore and East Offshore Marine Plans cover the coast and seas from Flamborough Head to Felixstowe; the South Inshore and South Offshore Marine Plans cover the coast and seas from Folkestone to the River Dart in Devon.

A [map](#) s. For further information on how to apply the marine plans please visit our [Explore Marine Plans](#) service.

Planning documents for areas with a coastal influence may wish to make reference to the MMO's licensing requirements and any relevant marine plans to ensure that necessary regulations are adhered to. All public authorities taking authorisation or enforcement decisions that affect or might affect the UK marine area must do so in accordance with the [Marine and Coastal Access Act](#) and the [UK Marine Policy Statement](#) unless relevant considerations indicate otherwise. Local authorities may also wish to refer to our [online guidance](#) and the [Planning Advisory Service soundness self-assessment checklist](#). If you wish to contact your local marine planning officer you can find their details on our [gov.uk page](#).

Minerals and waste plans and local aggregate assessments

If you are consulting on a mineral/waste plan or local aggregate assessment, the MMO recommend reference to marine aggregates is included and reference to be made to the documents below;

- The Marine Policy Statement (MPS), section 3.5 which highlights the importance of marine aggregates and its supply to England's (and the UK) construction industry.
- The National Planning Policy Framework (NPPF) which sets out policies for national (England) construction minerals supply.
- The Managed Aggregate Supply System (MASS) which includes specific references to the role of marine aggregates in the wider portfolio of supply.
- The National and regional guidelines for aggregates provision in England 2005-2020 predict likely aggregate demand over this period including marine supply.

The NPPF informed MASS guidance requires local mineral planning authorities to prepare Local Aggregate Assessments, these assessments have to consider the opportunities and constraints of all mineral supplies into their planning regions – including marine. This means that even land-locked counties, may have to consider the role that marine sourced supplies (delivered by rail or river) play – particularly where land based resources are becoming increasingly constrained.

If you require further guidance on the Marine Licencing process, please follow the link <https://www.gov.uk/topic/planning-development/marine-licences>