



AQUIND Limited

AQUIND INTERCONNECTOR

Applicant's Written Summary of the Oral Case
at ISH5 – Appendix 1 Additional Information
Requested at ISH5 Q5.1

The Planning Act 2008

The Infrastructure Planning (Examination Procedure) Rules 2010, Rule 8(1)(c)

Document Ref: 7.9.41.1

PINS Ref.: EN020022

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DATE: 19 FEBRUARY 2021



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For the attention of Mr Alan Banting (Case Officer)
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Our ref
5567/18857/30985781
Your ref

Date
13 May 2020

Dear Sirs

**North Portsea Island Phase 4B Coastline Between Milton Common And Kendalls Wharf
Eastern Road Portsmouth**

Planning Application: 20/00329/DOC

SUMMARY

- 1.1 We write on behalf of our client AQUIND Limited in relation to the application made to Portsmouth City Council (the "**Council**") by Eastern Solent Coastal Partnership ("**ESCP**") on 6 March 2020 "*to seek approval of details reserved by conditions 6, 8a, 11, 13, 16 and 20 of planning permission 19/01368/FUL*" (the "**Application**").
- 1.2 Our client is the applicant in respect of the AQUIND Interconnector DCO which is shortly to be examined by the Planning Inspectorate and subsequently determined by the Secretary of State pursuant to the Planning Act 2008, and which is located in the vicinity of the land that is the subject of the Application.
- 1.3 Having reviewed the Application and the documents available on the Council's website relating to application reference 19/01368/FUL, it is apparent that the documents submitted in respect of conditions 8a, 11 and 13 (the "**Ecology Conditions**") of planning permission 19/01368/FUL (the "**Planning Permission**") contain fundamental issues such that it would not be appropriate or lawful for Portsmouth City Council to determine the Application in its current form.
- 1.4 In particular, our client objects to the Application on the following grounds (set out in further detail in section 3, below):
 - 1.4.1 The Application does not satisfy the Ecology Conditions;
 - 1.4.2 The proposals contained in the Application have not been subject to an environmental impact assessment as is required in accordance with the Town

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and Country Planning (Environmental Impact Assessment) Regulations 2017;
and

1.4.3 The proposals contained in the Application have not been subject to an appropriate assessment as is required in accordance with the Conservation of Habitats and Species Regulations 2017.

1.5 We therefore look forward to receiving confirmation that the Council has determined that the Application is invalid and will not proceed to determination.

2. **BACKGROUND**

2.1 We refer to the Biodiversity Mitigation and Enhancement Plan and Construction Environmental Management Plan provided in support of the Application. These documents contain details relevant to the Ecology Conditions.

2.2 We note that Section 3.3 and Section 7 of the Biodiversity Mitigation and Enhancement Plan and Section 3.2.1 of the Construction Environmental Management Plan refer to the creation of “two... *alternative high tide roosting / feeding sites*” for wintering non-breeding SPA / Ramsar / SSSI protected birds on Milton Common (the “**Refuges**”).

2.3 We note that the first justification for the creation of the Refuges provided in the Construction Environmental Management Plan and Biodiversity Mitigation and Enhancement Plan is the temporary habitat loss within Core Site P11 caused by a temporary car park. We further note that this temporary car park does not form part of the development authorised by the Planning Permission and was therefore not subject to any form of assessment.

2.4 We also refer to the Environmental Statement submitted in support of the application for the Planning Permission and to Appendix C1 of this Environmental Statement which sets out a shadow Habitats Regulations Assessment. We understand that this shadow Habitats Regulations Assessment prepared by ESCP was adopted by Portsmouth City Council as its appropriate assessment for the purposes of the Conservation of Habitats and Species Regulations 2017 in determining the Planning Permission.

2.5 We note that the second justification for the creation of the Refuges provided in the Construction Environmental Management Plan and Biodiversity Mitigation and Enhancement Plan is the temporary habitat loss within Core Site P23R during construction, caused by Compound 6. However, we also note that the Refuges do not form part of the mitigation assessed within the Environmental Statement¹ and the adopted shadow Habitats Regulations Assessment² in respect of this temporary habitat loss. Instead, the assessed mitigation for the temporary impact caused by Compound 6 is its annual demobilisation and the reinstatement of Core Site P23R during the winter period. Implementation of this mitigation (i.e. annual reinstatement) was assessed to result in “*no residual impact*” / “*residual adverse effect*” on the overwintering birds, such that no additional mitigation or compensatory measures would be required, and in turn none were considered.

2.6 We further note that the Environmental Statement and the adopted shadow Habitats Regulations Assessment assessed that the permanent impact on Core Site P23R would be

¹ See the Non-technical Summary, Section 9.3 of Chapter 9, and Table 21.1 of Chapter 21 of the Environmental Statement.

² See Table 6.2 of Appendix C1, Information for the Habitats Regulations Assessment: Phase 4b (Eastern Road).



"inconsequential". Therefore, no mitigation measures are set out in respect of permanent impacts.

3. DETAILED OBJECTIONS TO THE APPLICATION

3.1 Our client objects to the Application on the following grounds:

3.1.1 **The Application does not satisfy the Ecology Conditions.**

Condition 8a

- (A) Condition 8a of the Planning Permission requires the Biodiversity Mitigation and Enhancement Plan to be *"in line with the measures set out within the submitted Environmental Statement"*.
- (B) The Refuges are not *"measures set out within the submitted Environmental Statement"*.
 - (1) The Environmental Statement does not assess or set out measures to mitigate the impacts of the temporary car park on Core Site P11. As noted in paragraph 2.3, the temporary car park does not form part of the development authorised by the Planning Permission. This car park, any impacts associated with it and any mitigation in relation to those impacts, cannot validly form reasons for the measures included in the Biodiversity Mitigation and Enhancement Plan submitted in connection with the Planning Permission conditions.
 - (2) No mitigation measures (whether in respect of the temporary construction or permanent operational impacts of the development) are assessed as necessary for Core Site P11 in the Environmental Statement in respect of the development authorised by the Planning Permission. Therefore, there are no measures in respect of this Core Site P11 which may validly form part of the Biodiversity Mitigation and Enhancement Plan.
 - (3) The Biodiversity Mitigation and Enhancement Plan sets out the permanent mitigation measures required for the development authorised by the Planning Permission only. As noted in paragraph 2.6, there are no permanent impacts on Core Site P23R assessed as requiring mitigation in the Environmental Statement. Accordingly, there is no valid basis on which to include mitigation measures relating to impacts associated with Core Site P23R in the Biodiversity Mitigation and Enhancement Plan.

Condition 11

- (A) **The Biodiversity Mitigation and Enhancement Plan and Construction Environmental Management Plan do not provide the required details to satisfy Condition 11.**
 - (1) In particular, details of *"interpretation"* are not included and neither are *"(ii) detailed methods for habitat reinstatement including the turf composition and management measures (iii) a plan showing the extent of Compound 6 and the extent of habitat*



reinstatement; and, (iv) the party(s) responsible for these measures”.

Condition 13(a)

- (A) Condition 13(a) of the Planning Permission requires the Construction Environmental Management Plan to “*include the construction mitigation measure [sic] set out within the submitted Environmental Statement*”.
- (B) As detailed in paragraphs 2.5 and 3.1.1(B), the Refuges are not “*construction mitigation measure [sic] set out within the submitted Environmental Statement*”.
- (C) As noted in paragraph 2.5, the Environmental Statement assesses that the annual demobilisation of Compound 6 and the reinstatement of the habitat in Core Site P23R would mitigate the temporary impacts of construction on overwintering birds. Therefore, this annual reinstatement of Core Site P23R should be included in any valid Construction Environmental Management Plan, rather than the Refuges.

3.1.2 **The proposals contained in the Application have not been subject to an environmental impact assessment as required in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.**

- (A) As set out above, the Environmental Statement does not contain adequate environmental information to assess the significant effects of the Application. Neither the impact of the provision of the temporary car park on Core Site P11 nor the provision of the Refuges on Milton Common are assessed within the Environmental Statement.
- (B) Therefore, in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, the Council is under a legal obligation to require further environmental information from ESCP. The Council is also obligated to undertake all associated statutory publicity and consultation requirements in respect of such further environmental information prior to determining any application to which it relates.

3.1.3 **The proposals contained in the Application have not been subject to an appropriate assessment in accordance with the Conservation of Habitats and Species Regulations 2017.**

- (A) The project set out in the Application differs from that assessed in the determination of the Planning Permission in material respects. As a result, the impacts of the Application on the conservation of habitats have not been subjected to an appropriate assessment and may not rely on the assessment carried out and adopted in connection with the grant of the Planning Permission.
 - (1) As noted in paragraph 2.5, the Refuges were not included in the appropriate assessment for the Planning Permission. Instead, the conclusion of that appropriate assessment was that the temporary impact on Core Site P23R would be mitigated by the annual reinstatement of the habitat.



- (2) The Refuges provide off-site habitat and are therefore considered compensatory measures rather than mitigation. The appropriate assessment for the Planning Permission did not set out a need for such compensatory measures in respect of the temporary impact on Core Site P23R³.
- (3) An appropriate assessment for a project including compensatory measures would require the Council to undertake additional steps (including the consideration of alternatives, consideration of reasons of overriding public interest, and notification to the Secretary of State). Such considerations were not undertaken in respect of the impact on Core Site P23R.
- 3.2 In light of the fundamental issues outlined above it would not be appropriate or lawful for Portsmouth City Council to determine the Application in its current form.
- 3.3 We therefore look forward to receiving confirmation that the Council has determined that the Application is invalid and will not proceed to determination.
- 3.4 Should you wish to discuss the contents of this letter please do not hesitate to contact Martyn Jarvis of this firm on [REDACTED] or at [REDACTED] [@hsf.com](mailto:[REDACTED]@hsf.com).

Yours faithfully

[REDACTED]

Herbert Smith Freehills LLP
on behalf of AQUIND Limited

³ See Section 7.2.2 of Appendix C1, Information for the Habitats Regulations Assessment: Phase 4b (Eastern Road)

TOWN AND COUNTRY PLANNING ACTS



Reference No: 19/01368/FUL

Portsmouth City Council
ESCP Floor 1, Core 2
Portsmouth City Council
Civic Offices
Portsmouth
PO12BG

On behalf of: Portsmouth City Council Eastern Solent Coastal Partnership for PCC

LOCATION:

North Portsea Island Phase 4B Coastline Between Milton Common And Kendalls Wharf
Eastern Road Portsmouth

DESCRIPTION OF DEVELOPMENT:

Flood and coastal erosion management scheme comprising a combination of encasing sections of the existing sea wall with enhanced stepped revetment, construction of a new vertical sea wall with stepped revetment, improvements to 2no. existing slipways, removal of 1no. existing slipway, reconstruction and raising of the existing coastal footpath, provision of additional seating and viewing areas, creation of an offshore bird island, and all associated works, compounds, removal of trees and landscaping. The proposal constitutes EIA development.

In pursuance of powers under the above mentioned Acts the City Council, as Local Planning Authority, **GRANT PLANNING PERMISSION** for the development indicated above in accordance with the application, drawings and other particulars valid on 6 September 2019 **and subject also to compliance with the following conditions:-**

1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.

2) Unless otherwise agreed in writing with the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: Location Plan Chainage Plan - 0005Rev.T02 General Arrangement 1 - 0011Rev.T02 General Arrangement 2 - 0012Rev.T02 General Arrangement 3 - 0013Rev.T02 General Arrangement 4 - 0014Rev.T02 General Arrangement 5 - 0015Rev.T02 General Arrangement 6 - 0016Rev.T02 General Arrangement 7 - 0017Rev.T02 General Arrangement 8 - 0018Rev.T02 Cross sections 1 - 0071Rev.T02 Cross sections 2 - 0072Rev.T02 Cross sections 3 - 0073Rev.T02 Cross sections 4 - 0074Rev.T02 Cross sections 5 - 0075Rev.T02 Cross sections 6 - 0076Rev.T02 Cross sections 7 - 0077Rev.T02 Access & compound plan 1 - 0002Rev.T01 Access & compound plan 2 - 0003Rev.T02 Site boundary plan 1 - 0021Rev.T02 Site boundary plan 2 - 0022Rev.T02 Site boundary plan 3 - 0023Rev.T02 Site boundary plan 4 - 0024Rev.T02 Site boundary plan 5 - 0025Rev.T02 Site boundary plan 6 - 0026Rev.T02

THIS IS AN IMPORTANT LEGAL DOCUMENT - READ ATTACHED NOTES CAREFULLY

Site boundary plan 7 - 0027Rev.T02 Site boundary plan 8 - 0028Rev.T02 Site clearance plan 1 - 0031Rev.T02 Site clearance plan 2- 0032Rev.T02 Site clearance plan 3 - 0033Rev.T02 Site clearance plan 4 - 0034Rev.T02 Site clearance plan 5 - 0035Rev.T02 Site clearance plan 6 - 0036Rev.T02 Site clearance plan 7 - 0037Rev.T02 Site clearance plan 8 - 0037Rev.T02 Sea wall typical section - 0101Rev.T02 Sea wall encasement types 1-4 - 0102.Rev.T02 Sea wall encasement types 5-6 - 0103.RevT02 Sea wall details misc. - 0104Rev.T02 Tie-in details - North - 0105Rev.T02 Tie-in details - sea wall encasement - 0122Rev.T02 Tie-in details - Great Salterns Quay - 0128Rev.T02 Tie-in details - South - 0134Rev.T02 Tudor Sailing Club - Slipway plan - 0107Rev.T02 Tudor Sailing Club - slipway sections - 0108Rev.T02 Activity Centre - slipway plan - 0109Rev.T02 Activity Centre - slipway sections - 0110Rev.T02 Outfall details - 0116Rev.T02 Seawall encasement egress steps - 0124Rev.T02 Seawall encasement egress steps - 0125Rev.T02 Seawall encasement egress steps - 0126Rev.T02 Seawall encasement egress steps - 0127Rev.T02 Seawall encasement egress steps - 0130Rev.T02 Seawall encasement egress steps - 0131Rev.T02 Seawall encasement egress steps - 0132Rev.T02 Seawall encasement egress steps - 0133Rev.T02 Social spot 01 - Plan - 0145.Rev.T02 Social spot 01 - Sections - 0146Rev.T02 Social spot 02 - Plans - 0150Rev.T02 Social spot 02 - Sections - 0151Rev.T02 Social spot 03 - Plan - 0155Rev.T02 Social Spot 03 - Sections - 0156Rev.T02 Social spot 04 - Plan - 0160Rev.T02 Social spot 04 - Sections - 0161Rev.T02 Social spot 05 - Plan - 0165Rev.T02 Social spot 05 - Sections - 0166Rev.T02 Social spot 06 - Plan - 0170Rev.T02 Social spot 06 - Sections - 0171Rev.T02 Social spot 07 - Plan - 0175Rev.T02 Social spot 07 - Sections - 0176Rev.T02 Social spot 08 - Plan - 0180Rev.T02 Social spot 08 - Sections - 0181Rev.T02 Social spot 09 - Plan - 0185Rev.T02 Social spot 09 - Sections - 0186Rev.T02 Social spot 10 - Plan - 0190Rev.T02 Social spot 10 - Sections - 0191Rev.T02 Social spot 11 - Plan - 0195Rev.T02 Social spot 11 - Sections - 0196Rev.T02 Access Road - Drainage - 0132Rev.T02 Misc. landward details - 0140Rev.T02 Access road details - 0141Rev.T02 Timber cladding detail - 0142Rev.T02 Concrete kerb details - SD/1100/03 Typical pedestrian crossing - SD/1100/05 AWSC Sports Field - footpath realignment Dec 2019 (002) - 628060-LA-6000 Landscape plan 1 - 0081Rev.T02 Landscape plan 2 - 0082Rev.T02 Landscape plan 3 - 0083Rev.T02 Landscape plan 4 - 0084Rev.T02 Landscape plan 5 - 0085Rev.T02 Landscape plan 6 - 0086Rev.T02 Landscape plan 7 - 0087Rev.T02 Landscape plan 8 - 0088Rev.T02 Existing seawall/apron details 1 - 0006Rev.T02 Existing seawall/apron details 2 - 0007Rev.T02 Existing seawall/apron details 3 - 0008Rev.T02 Services plan 1 - 0041Rev.T02 Services plan 2 - 0042Rev.T02 Services plan 3 - 0043Rev.T02 Services plan 4 - 0044Rev.T02 Services plan 5 - 0045Rev.T02 Services plan 6 - 0046Rev.T02 Services plan 7 - 0047Rev.T02 Services plan 8 - 0048Rev.T02 ASWC Tower plan - 628060-LA-5420

3)i) No works shall take place in each approved phase of the site until a Method Statement detailing a scheme for monitoring and assessing the soil for contamination as relevant to that phase, shall have been submitted to and approved by the local planning authority in writing. The Method Statement should detail where the soils will be stored, tested, and transferred, and the approach used when soils excavated do not meet re-use criteria. The development shall be carried out fully in accordance with the approved Method Statement, unless any variation shall have been submitted to and approved in

writing by the local planning authority. ii) In the event that any signs of pollution (visual, olfactory or textural), odour, oily, ashy, odorous or fibrous materials, staining or unusual colouration of the soil, asbestos fragments or fibres, inclusions of putrescible materials, plastics, drums or other materials having been used in the construction of the built structure or remains of a past industrial use, are found in the soil at any time when carrying out the approved development it must be reported in writing within 14 days to the local planning authority (LPA) and if the LPA considers it necessary an environmental consultant assess the site in accordance with BS10175:2011+A2:2017 'Investigation of Potentially Contaminated Sites Code of Practice'. Where remediation is deemed necessary a Remediation Scheme must be submitted to and approved by the LPA in writing and then fully implemented in accordance with the approved details. iii) On completion of development (or works in each approved phase), a report shall be submitted to and approved by the local planning authority in writing to evidence either (i) that there were no indications of pollution during works or (ii) verification records from the monitoring agreed by condition 4(i) and summarise any remedial works undertaken in accordance with condition 4(ii); and unless otherwise agreed in writing by the local planning authority, such verification shall comprise: (a) as built drawings of the implemented scheme; (b) photographs of the remediation works in progress; and (c) certificates demonstrating that imported and/or material left in situ is free from contamination. Thereafter the scheme shall be monitored and maintained fully in accordance with the approved report.

4) A silt curtain shall be installed prior to the commencement of any work on the intertidal foreshore, to fully contain the working area. The silt curtain shall be maintained for the duration of all construction works on the foreshore, and any failures in the silt curtain shall be repaired as soon as feasible.

5) The intertidal works area shall be restricted to a maximum of 20 metres seawards of the existing defences and a maximum of 10 metres at the sensitive saltmarsh area (adjacent to the Airport Service Road junction) and shall be marked by the silt curtain to limit the extent of foreshore disturbance. Temporary haul routes on the foreshore shall be designed and constructed to be removable (eg geotextile and aggregate core) to ensure the least possible damage to the foreshore. All haul routes on the foreshore shall be removed by 30th September and shall not reinstated until 1st April in each year.

6) No development shall take place at the site until a method statement detailing how the intertidal habitat disturbed during the construction works will be reinstated over the toe/stepped apron of the new defences shall be submitted to, and agreed in writing by, the Local Planning Authority. The method statement must demonstrate how the sediment layers will be replaced to match as closely as possible the order of the layers and topography prior to the works. The development must then fully accord with the approved method statement.

7) Piling and excavation of the foreshore shall only be undertaken in the dry (when the surface of substrate is above the current tide level).

8)(a) No development shall take place at the site until a Biodiversity Mitigation and Enhancement Plan (BMEP) shall have been submitted to and approved in writing by the

Local Planning Authority. The strategy shall be in line with the measures set out within the submitted Environmental Statement and include clear demonstration of biodiversity habitat net gain through the use of an approved suitable biodiversity metric calculation and details of the proposed methods for saltmarsh habitat restoration on the foreshore adjacent to the Airport Service Road junction once the new sea defences have been constructed; (b) The measures in any approved BMEP shall be fully implemented and a verification report shall be submitted to and approved in writing by the local planning authority that the approved BMEP measures shall have been carried fully in accordance with the approved scheme; and (c) the approved BMEP measures shall thereafter be retained.

9) The final scheme for the proposed high tide wader roost island shall be submitted to and approved in writing by the local planning authority prior to any works commencing in relation to the island; this scheme shall include a post-construction monitoring plan, with appropriate survey methods to assess any changes in water flows and scour/accretion patterns associated with the island as well as ornithological surveys to monitor the use of the roost island by birds. The high tide wader roost island shall be undertaken fully in accordance with the approved scheme as an integral part of the Phase 4B sea defence works.

10) No construction works (with the exception of soft landscaping / planting) shall be carried out between 1st October and 31st March inclusive. Site compound areas 1, 3, 4 and 5 shall be mobilised no earlier than the 15th March in each year. Site compound area 2 shall be mobilised no earlier than 1st April in each year.

11) Prior to any works or preparation of land commencing in relation to Compound 6 (to be sited on P23R core habitat), a detailed management plan, which includes appropriate mitigation measures and the interpretation for the offsetting sites, shall be submitted to and approved by the Local Planning Authority. The measures shall include: (i) details of the timing within which Compound 6 will operate (ii) detailed methods for habitat reinstatement including the turf composition and management measures (iii) a plan showing the extent of Compound 6 and the extent of habitat reinstatement; and, (iv) the party(s) responsible for these measures. The compound and reinstatement shall be fully undertaken in accordance with such approved management plan.

12) Installation of piles shall be undertaken using vibro piling techniques as standard. Percussive piling shall only be used when necessary to achieve the required design depth. If percussive piling is required, a soft start procedure shall be implemented for a minimum of 20 minutes; should the percussive piling cease for a period greater than 10 minutes, then the soft start procedure must be repeated.

13)(a) Notwithstanding the information already submitted, no works pursuant to this permission shall commence until a Construction Environmental Management Plan (CEMP) has first been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include the construction mitigation measure set out within the submitted Environmental Statement and the following: o Storage of construction materials/chemicals and equipment; o Dust suppression; o Chemical and/or fuel run-off from construction into nearby waterbodies; o Waste disposal; o

Noise/visual/vibrational impacts; o Drainage strategy, as necessary during the construction works; o Measures to minimise INNS introduction / spread; and, o Details of the management of flood risk during construction Detailed piling methodology with either mitigation (or justification if not required) regarding potential contamination of groundwater. (b) The approved plan shall be fully implemented and maintained until the development is completed.

14)(a) No works pursuant to this permission shall commence until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the Local Planning Authority. The CTMP shall include: o construction vehicle routing, o the provision of loading / offloading areas, o wheel wash facilities, o site office and contractors parking area, and o provision for temporary reopening of public footpaths outside of construction hours; and, (b) The approved plan shall be implemented and maintained until the development is complete.

15) All planting, seeding or turfing comprised in the approved details of landscaping shown on AWSC Sports Field - footpath realignment Dec 2019 (002) - 628060-LA-6000 and Landscape Plans 1-8 (inclusive) references 0081Rev.T02, 0082Rev.T02, 0083Rev.T02, 0084Rev.T02, 0085Rev.T02, 0086Rev.T02, 0087Rev.T02 & 0088Rev.T02 and agreed planting schedule (included in Appendix U of the ES) shall be carried out no later than the first planting and seeding season following the completion of the development; and any trees or plants which, within a period of 5 years from the date of planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

16) No development shall take place within each scheme frontage until a detailed drainage scheme has been submitted to and approved in writing by the Local Planning Authority of: (a) the layout of all existing sewer and drainage infrastructure at the site; (b) the proposed means of foul and surface water sewerage disposal; and, (c) measures to be undertaken to protect any existing public sewer and other drainage infrastructure; and the approved measures to protect existing public sewer/drainage infrastructure drainage and the approved drainage scheme shall be implemented in full.

17) The development must be undertaken fully in accordance with the approved Archaeological Management Strategy.

18) Prior to the commencement of demolition or construction works at Sub Frontage 3, a noise mitigation scheme shall be submitted to and approved in writing by the local planning authority to ensure that the following noise levels are not breached 1 metre from the façade of any occupied dwelling: Day (07:00-19:00) - LAeq(12 hour) 65 dB Evenings (19:00-23:00) - LAeq(4 hours) 55 dB Saturdays (07:00-13:00 - LAeq(6 hours) 65 dB Saturdays (13:00-23:00) - LAeq(10 hours) 55 dB Sundays (07:00-23:00) - LAeq(16 hours) 55 dB Nights (23:00-07:00) - LAeq(8 hour) 50 dB No work, processes or other activities shall take place on Bank Holidays or any other Public Holidays.

19) Should the proposed development affect the cricket outfield and/or the football pitch (including the run-off areas), the affected area(s) shall be restored in accordance with a scheme to be submitted and approved in writing by the local planning authority, and

made available for use within 6 months of practical completion of the completed works in the affected area(s).

20) No works shall take place within each sub-frontage until details have been submitted to and approved in writing by the local planning authority (either for the site as a whole or for each sub-frontage) of: (a) all external materials/finishes to be used for the sea defence structures including floorscape (to the coastal path and car park) and the design, extent and construction methods of the proposed glazed panels; and (b) any street furniture and treatments to the 'social spots' proposed to be installed; and the development shall be carried out fully in accordance with the approved materials under (a) and any other approved details under (b).

21) Prior to installation of the proposed public art the details shall be submitted to and approved in writing by the local planning authority; and such approved public art shall be fully implemented as an integral part of the sea defence works before completion of the development.

The reasons for the conditions are:-

- 1) To comply with Section 91 of the Town and Country Planning Act 1990.
- 2) To ensure the development is implemented in accordance with the permission granted.
- 3) To minimise adverse environmental impacts on designated habitats sites and to ensure the site is free from prescribed contaminants, to accord with policies PCS13 and PCS23 of the Portsmouth Plan (2012), saved policy DC21 of the Portsmouth City Local Plan 2001-2011 and the aims and objectives of the NPPF (2019).
- 4) To protect the nature conservation interests of the site and adjoining aquatic environment and minimise any significant effect on the special feature interests of Portsmouth & Chichester and Langstone Harbour's Special Protection Areas (SPAs), Langstone Harbour Sites of Special Scientific Interest (SSSI), Solent Maritime Special Areas of Conservation (SAC), Wetland of International Importance under Ramsar Convention (Ramsar Site), in accordance with policies PCS13 and PCS23 of the Portsmouth Plan (2012) and the aims and the objectives of the NPPF (2019).
- 5) To protect the nature conservation interests of the site and adjoining aquatic environment and minimise any significant effect on the special feature interests of Chichester and Langstone Harbours Special Protection Areas (SPAs), Langstone Harbour Site of Special Scientific Interest (SSSI), Solent Maritime Special Area of Conservation (SAC), Wetland of International Importance under Ramsar Convention (Ramsar Site), in accordance with policies PCS13 and PCS23 of the Portsmouth Plan (2012) and the aims and the objectives of the NPPF (2019).
- 6) To protect the nature conservation interests of the site and adjoining aquatic environment and minimise any significant effect on the special feature interests of Chichester and Langstone Harbours Special Protection Areas (SPAs), Langstone

Harbour Site of Special Scientific Interest (SSSI), Solent Maritime Special Area of Conservation (SAC), Wetland of International Importance under Ramsar Convention (Ramsar Site), in accordance with policies PCS13 and PCS23 of the Portsmouth Plan (2012) and the aims and the objectives of the NPPF (2019).

7) To protect the nature conservation interests of the site and adjoining aquatic environment and minimise any significant effect on the special feature interests of Chichester and Langstone Harbours Special Protection Areas (SPAs), Langstone Harbour Site of Special Scientific Interest (SSSI), Solent Maritime Special Area of Conservation (SAC), Wetland of International Importance under Ramsar Convention (Ramsar Site), in accordance with policies PCS13 and PCS23 of the Portsmouth Plan (2012) and the aims and the objectives of the NPPF (2019).

8) To maintain, protect and produce a net gain in biodiversity and minimise adverse environmental impacts on the Chichester & Langstone Harbour's Special Protection Areas (SPAs), Langstone Harbour Sites of Special Scientific Interest (SSSI), Solent Maritime Special Areas of Conservation (SAC) and Wetland of International Importance under Ramsar Convention (Ramsar Site). In addition, to secure a high quality setting for the development in the interests of the visual amenity of the area in accordance with policies PCS13 and PCS23 of the Portsmouth Plan (2012), the aims and objectives of the NPPF (2019) and the Natural Environment and Rural Communities Act 2006.

9) To maintain, protect and produce a net gain in biodiversity and minimise adverse environmental impacts on the Chichester & Langstone Harbour's Special Protection Areas (SPAs), Langstone Harbour Sites of Special Scientific Interest (SSSI), Solent Maritime Special Areas of Conservation (SAC) and Wetland of International Importance under Ramsar Convention (Ramsar Site). In addition, to secure a high quality setting for the development in the interests of the visual amenity of the area in accordance with policies PCS13 and PCS23 of the Portsmouth Plan (2012), the aims and objectives of the NPPF (2019) and the Natural Environment and Rural Communities Act 2006.

10) To protect overwintering birds from noise/general disturbance and minimise any significant effect on the special feature interests of Chichester Portsmouth & Langstone Harbour's Special Protection Areas (SPAs), Langstone Harbour Sites of Special Scientific Interest (SSSI), Solent Maritime Special Areas of Conservation (SAC), Wetland of International Importance under Ramsar Convention (Ramsar Site) and supporting high tide sites, in accordance with policies PCS13 and PCS23 of the Portsmouth Plan (2012) and the aims and the objectives of the NPPF (2019).

11) To protect P23R and ensure its function is maintained for wintering birds as far as possible, in accordance with the Conservation of Habitats and Species Regulations 2017 and Policy PCS13 of the Portsmouth Plan (2012).

12) To protect the nature conservation interests of the site and minimise any significant effect on the special feature interests of Chichester & Langstone Harbour's Special Protection Areas (SPAs), Langstone Harbour Sites of Special Scientific Interest (SSSI), Solent Maritime Special Areas of Conservation (SAC), Wetland of International Importance under Ramsar Convention (Ramsar Site), in accordance with policies PCS13

and PCS23 of the Portsmouth Plan (2012) and the aims and the objectives of the NPPF (2019).

13) To protect the nature conservation interests of the site and minimise any significant effect on the special feature interests of Chichester Portsmouth & Langstone Harbour's Special Protection Areas (SPAs), Langstone Harbour Sites of Special Scientific Interest (SSSI), Solent Maritime Special Areas of Conservation (SAC), Wetland of International Importance under Ramsar Convention (Ramsar Site), and to protect and minimise any significant effects to the amenity of local residents, in accordance with policies PCS13 and PCS23 of the Portsmouth Plan (2012) and the aims and the objectives of the NPPF (2019).

14) To minimise the potential for conflict with or hazard to existing users of the surrounding highway network, in accordance with Policy PCS17 of the Portsmouth Plan (2012) and the aims and objectives of the NPPF (2019).

15) To conserve and enhance biodiversity and minimise adverse environmental impacts on the Chichester & Langstone Harbour's Special Protection Areas (SPAs), Langstone Harbour Sites of Special Scientific Interest (SSSI), Solent Maritime Special Areas of Conservation (SAC) and Wetland of International Importance under Ramsar Convention (Ramsar Site). In addition, to secure a high quality setting for the development in the interests of the visual amenity of the area in accordance with policies PCS13 and PCS23 of the Portsmouth Plan (2012) and the aims and objectives of the NPPF (2019).

16) To protect existing drainage apparatus and to reduce the risk of flooding by the proposed development, without increasing flood risk elsewhere, to accord with policy PCS12 of the Portsmouth Plan and the aims and objectives of the NPPF.

17) In the interests of protecting and/or conserving evidence of the City's early heritage and development by assessing any archaeological potential across the site and ensure information is preserved by record for any future generations, in accordance with policy PCS23 of the Portsmouth Plan (2012) and the aims and objectives of the NPPF (2019).

18) To protect the amenity of occupiers of the nearest noise sensitive premises from excessive noise and disturbance during construction, to accord with policy PCS23 of the Portsmouth Plan (2012) and the aims and objectives of the NPPF (2019).

19) To ensure the site is restored to a condition fit for purpose and to accord with policy PCS13 of the Portsmouth Plan (2012) and the aims and objectives of the NPPF (2019).

20) To achieve the highest quality appearance appropriate to the protection of the natural and cultural heritage of the harbour and to preserve the setting of the (Grade II listed) Great Salterns Mansion, in accordance with policy PCS23 of the Portsmouth Plan (2012) and the aims and objectives of the NPPF (2019).

21) To achieve the highest quality appearance appropriate to the protection of the natural and cultural heritage of the harbour, in accordance with policy PCS23 of the Portsmouth Plan (2012) and the aims and objectives of the NPPF (2019).

PRO-ACTIVITY STATEMENT

Notwithstanding that the City Council seeks to work positively and pro-actively with the applicant through the application process in accordance with the National Planning Policy Framework, in this instance the proposal was considered acceptable and did not therefore require any further engagement with the applicant.

INFORMATIVE(S)

Bats and their roosts receive strict legal protection under the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2017. All work must stop immediately if bats, or evidence of bat presence (eg droppings, bat carcasses or insect remains), are encountered at any point during this development. Should this occur, further advice should be sought from Natural England and/or a professional ecologist (reason: to avoid harm to bats).

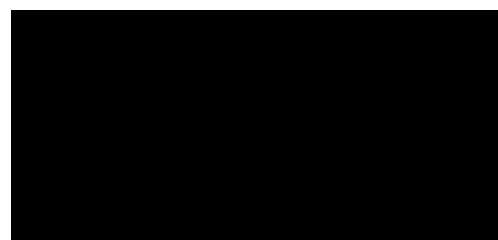
Condition 13 requires a Construction Environmental Management Plan (CEMP). Natural England's consultation response identifies the steps and procedures that will be implemented to avoid or mitigate constructional impacts on designated sites, species and habitats, and wider biodiversity, through the CEMP listing the following matters for inclusion: storage of construction materials/chemicals and equipment; dust suppression; chemical and/or fuel run-off from construction into nearby water bodies; waste disposal; noise/visual/vibrational impacts; drainage strategy, as necessary; measures to minimise INNS introduction/spread.

The Environment Agency (EA) strongly support the intention to utilise a silent or vibrational piling method but advise, if a contingency of impact piling method is deemed necessary to drive some or all piles to design depth only, then the following measures are recommended: there is a gradual ramping-up of sound before any impact piling; there should be use of a non-metallic pad between the hammer and the head of the pile; and, no piling should be undertaken at night. These measures will assist in the protection of the aquatic environment and migratory salmonids. In addition, the EA also (i) provide advice on Flood Risk Activity Permit that might be required and (ii) routine monitoring for collection of native blue mussels (*Mytilus edulis*) close to Salters Quay, along the creek edge - shellfish are collected and analysed for heavy metals and organic pollutants under the Cleaner Seas Environment Monitoring Program (CSEMP) and contribute biota analysis data towards the WFD chemistry classification - recommending contact with the EA's marine team.

Condition 19 is imposed at the request of Sport England, also seeking consultation on playing pitch restoration (as may be necessary). SE also recommend that the restoration scheme is undertaken by a specialist turf consultant. The applicant should be aiming to ensure that any restoration of playing field is fit for its intended purpose and should have regard to Sport England's technical Design Guidance Note entitled "Natural Turf for Sport" (2011) and relevant design guidance of the National Governing Bodies for Sport

eg performance quality standards produced by the relevant pitch team sports, for example the Football Association and the English Cricket Board.

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20 February 2020

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TOWN AND COUNTRY PLANNING ACT 1990

NOTIFICATION TO BE SENT TO AN APPLICANT WHEN A LOCAL PLANNING AUTHORITY REFUSE PLANNING PERMISSION OR GRANT IT SUBJECT TO CONDITIONS

Appeals to the Secretary of State

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.
- If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice.
- Appeals can be made online at: <https://www.gov.uk/planning-inspectorate>. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.
- The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. [Further details are on GOV.UK](#).

IT DOES NOT CONSTITUTE AN APPROVAL UNDER THE BUILDING REGULATIONS

You should also be advised that you may have obligations under the Party Wall Act 1996

THE APPLICANT IS RECOMMENDED TO KEEP THIS DOCUMENT WITH THE TITLE DEEDS OF THE PROPERTY



IMG_0086: Northern
Refuge Area:
Unmanaged grass and
shrubs in close
proximity to existing
path network.



IMG_0092: Northern Refuge Area: View northwards showing: unmanaged grass and shrubs in close proximity to existing path network.



IMG_0093: Northern
Refuge Area: View
northwards showing:
unmanaged grass and
shrubs in close
proximity to existing
path network.



IMG_0099: Southern Refuge Area: View towards entrance into Milton Common adjacent to junction between Moorings Way and Schooner Way showing: (i) signage adjacent to path; (ii) unmanaged grass and unlevel ground; (iii) lack of barrier between paths and Refuge; and (iv) off-leash dog walking.



Brent Goose Mitigation on Milton Common for Eastern Road sea defence improvement

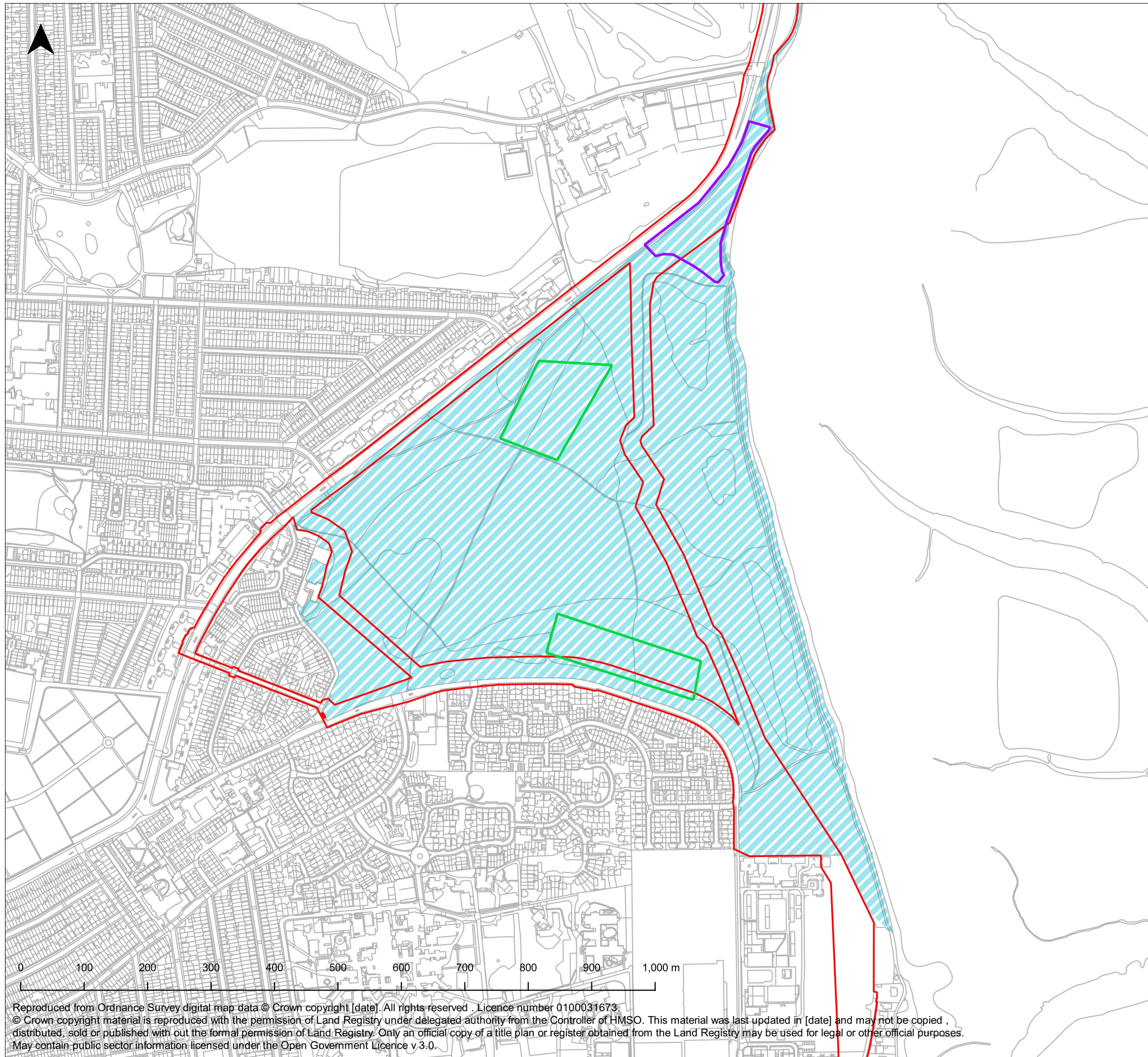
Coastal Partners is leading the North Portsea Island Coastal Defence Scheme to better protect 4,200 homes, 500 businesses, and critical infrastructure on North Portsea Island over the next 100 years. The scheme is split into five phases: phases 1 to 3 are complete and phase 4 is in progress. To facilitate the 4th phase in this programme of coastal defence improvements, a series of construction compounds are required along the length of the sea defences at Eastern Road. Due to the highly constrained nature of the works area, some of it falls within areas that are important for over wintering brent geese.

To offset any impact to this species, these specially managed plots will be maintained to attract brent geese during the 2-3 winters the sea defence construction will be undertaken. The grass sward will be managed to be in optimal condition for brent geese i.e. a low (1-5cm high), tight, nutritious grass ready for when they arrive in October.

The dark-bellied brent goose breeds in the Taimyr Peninsular in Siberia and much of the population spend the winter in the Britain. The population in Langstone Harbour and the Solent are very important, representing around 14% of the world population.



IMG_0104: Southern Refuge Area: View north-westwards into Milton Common showing: (i) path into Milton Common from entrance adjacent to junction of Moorings Way and Schooner Way which bisects Southern Refuge Area; (ii) further signage adjacent to path; (iii) unlevel ground; (iv) lack of barrier between paths and Refuge; and (v) off-leash dog walking, including dogs within Southern Refuge Area.



Legend

- Order Limits
- Milton Common SINC
- ESCP Compound 6
- ESCP Mitigation Areas

Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 - Regulation 5(2)(i)

REV	DATE	BY	DESCRIPTION	CHK	APP
01	05/02/21	PJ	Original	IE	IE

DRAWING STATUS:

FOR INFORMATION



WSP House, 70 Chancery Lane, London, WC2A 1AF, UK,
T+ 44 (0) 020 7314 5000
wsp.com

CLIENT



PROJECT:

AQUIND Interconnector

TITLE:

East Solent Coastal Partnership Phase 4b
Compounds and Mitigation Areas at Milton Common

SCALE AT A3: 1:6,000	CHECKED: PJ	APPROVED: IE
PROJECT NO: 62100616	DESIGNED: PJ	DRAWN: PJ
DRAWING NO: N/A		DATE: 05/02/21
REV NO: 01		

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