

Date: 16 December 2022  
Our ref: 413542  
Your ref: P/22/076/FUL, P/22/077/FUL, P/22/078/FUL



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## BY EMAIL ONLY

Dear Liv,

### **Planning consultation: P/22/076/FUL, P/22/077/FUL, and P/22/078/FUL Coastal Defensive Work**

**Location: Bryher, St Agnes, St Martins**

Thank you for your consultation on the above dated 16 November 2022 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**

### **OBJECTION - INSUFFICIENT INFORMATION**

**Natural England objects to this proposal.** As submitted we consider it could:

- have an adverse effect on the integrity of the Isles of Scilly SPA
- have an adverse effect on the integrity of the Isles of Scilly Complex SAC
- damage or destroy the interest features for which Pool of Bryher & Popplestone Bank (Bryher) Site of Special Scientific Interest has been notified.
- damage or destroy the interest features for which Big Pool & Browarth Point (St. Agnes) Site of Special Scientific Interest has been notified.
- damage or destroy the interest features for which St. Martin's Sedimentary Shore Site of Special Scientific Interest has been notified.

Natural England's further advice on designated sites/landscapes is set out below.

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 in accordance with regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). We provide the advice enclosed on the assumption that your authority intends to adopt this HRA to fulfil your duty as competent authority.

Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process, and a competent authority should have regard to Natural England's advice.

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 your assessment, and the measures proposed to mitigate for any adverse effects, Natural England's advice is that your assessment is not sufficiently rigorous or robust to justify this conclusion and therefore it is not possible to ascertain that the proposal will not result in adverse effects on the integrity of the sites in question. We advise that your authority should not grant planning permission at this stage.

We believe the assessments provided contain insufficient information regarding the impacts of the proposed coastal defensive works on the designated features and therefore these applications should not be approved until your authority has made 'certain' that they will not have an adverse effect on the site integrity for the above sites and will not damage or destroy the interest features for which the above SSSIs have been notified, according to the precautionary principle.

Further advice on the likely effects and further information required will follow in the week commencing the 8<sup>th</sup> January 2023.

Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 281 (6) of the Wildlife and Countryside Act 1981 (as amended) to notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, your authority has taken account of Natural England's advice. You must also allow a further period of 21 days before the operation can commence.

In addition, Natural England would advise on the following issue.

### **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, 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.

Yours sincerely,

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