



## Appendix 7.14

**NATURAL ENGLAND DISCRETIONARY ADVICE SERVICE LETTER  
14 SEPTEMBER 2023**

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Date: 14 September 2023  
Our ref: DAS/448060



Customer Services  
Hornbeam House  
Crewe Business Park  
Electra Way  
Crewe  
Cheshire  
CW1 6GJ

0300 060 3900

## **BY EMAIL ONLY**

Dear Sir/Madam,

### **Discretionary Advice Service (Charged Advice)**

**Development proposal and location:** Hillingdon Water Sports Facility and Activity Centre (HWSFAC), Broadwater Lake.

Thank you for your consultation on the above following a meeting at the end of August.

This advice is being provided as part of Natural England's Discretionary Advice Service. Greengage Environmental Limited has asked Natural England to provide advice upon:

- Potential impacts on designated sites
- Ecological mitigation plan

This advice is provided in accordance with the Quotation and Agreement dated 5<sup>th</sup> September 2023.

The following advice is based upon the information sent through by the client on the 25<sup>th</sup> of August 2023, and a further document sent through on the 31<sup>st</sup> of August.

### **Protected sites**

Natural England remain concerned that the proposed development is likely to damage the interest features of the Mid-Colne Valley SSSI both during construction and operation.

Broadwater Lake forms an important part of the Mid Colne Valley SSSI and is one of the largest expanses of open water in the Colne Valley. It is part of a wider network of lakes and waterways that form a valuable mosaic habitat on the edge of London. Broadwater Lake functions as a significant refuge from disturbance from other sites, attracting almost the whole range of species in the valley, along with being one of the key breeding sites and moulting refuges.

While we are appreciative of the mitigation and enhancements that are being proposed, we consider that the potential impacts of the proposal on the SSSI outweigh these.

Our concerns over the impacts of the development are:

- The proposals as they are currently presented will lead to a direct loss of SSSI, both in terms of open water and woodland areas. Including the direct loss of supporting

habitat.

- The construction process will be extremely disruptive. As the notified features include both over wintering and breeding bird species, it is likely to be extremely challenging to time the works without causing harm.
- Once operational there will be an increase in recreational pressure both on the lake, and around the woodland areas of the site. This is likely to impact the features that the site is notified for, and it is currently unclear what the extent of these impacts will be.

The Alternative Site Assessment (September 2023) shortlists Broadwater Lake for further consideration as a potential site for HWSFAC. Natural England agree Broadwater Lake supports ornithological interest of national importance. However we have some significant concerns with the content of this document. In particular;

- It states all relevant activities would be undertaken within the 'approved sailing area' as per existing planning permissions re 23822/86/1291. However, this sailing area is towards the north of Broadwater Lake which is the opposite end to the proposed development.
- We disagree with the statement in table 5.2 that there are no recreational restrictions due to ecological sensitives at Broadwater Lake.

With regard the Breeding Birds Survey:

- Natural England recommend that a minimum of three consecutive years of surveys are required to ascertain the breeding bird assemblage of the lake and its immediate surroundings.
- We recognise surveys took place over the spring and summer months, which is when the majority of activity of the centre will take place. However, Natural England would expect survey effort at all key times of the year for species classified within the SSSI.

With regard the SSSI narrative

- Although lower numbers of birds were found, the site is already designated as a SSSI and remains in favourable condition.
- We agree that the outdoor activities centre will lead to an increase in human activity during the bird breeding season, thus increasing recreational pressure.
- We are concerned at the use of the word avoidance. Avoidance means putting in place measures that stop the harm occurring on the SSSI and ensure they occur elsewhere instead. Natural England disagree with the use of this word in this context.
- We think that our early conversations may have been misinterpreted with the statement that Natural England would prefer the loss of open water over woodland habitat. Any loss of habitat will have an impact on the notified features, and we would advise the need for compensation rather than enhancement and mitigation.

For clarification of any points in this letter, please contact Isabella Jack on 07443379002.

The advice provided within the Discretionary Advice Service is the professional advice of the Natural England adviser named below. It is the best advice that can be given based on the information provided so far. Its quality and detail is dependent upon the quality and depth of the information which has been provided. It does not constitute a statutory response or decision, which will be made by Natural England acting corporately in its role

as statutory consultee to the competent authority after an application has been submitted. The advice given is therefore not binding in any way and is provided without prejudice to the consideration of any statutory consultation response or decision which may be made by Natural England in due course.

The final judgement on any proposals by Natural England is reserved until an application is made and will be made on the information then available, including any modifications to the proposal made after receipt of discretionary advice. All pre-application advice is subject to review and revision in the light of changes in relevant considerations, including changes in relation to the facts, scientific knowledge/evidence, policy, guidance or law. Natural England will not accept any liability for the accuracy, adequacy or completeness of, nor will any express or implied warranty be given for, the advice. This exclusion does not extend to any fraudulent misrepresentation made by or on behalf of Natural England.

Yours ,

Isabella Jack  
Thames Solent Area Team

Cc [commercialservices@naturalengland.org.uk](mailto:commercialservices@naturalengland.org.uk)

## **Annex 1**

### **European Protected Species**

A licence is required in order to carry out any works that involve certain activities such as capturing the animals, disturbance, or damaging or destroying their resting or breeding places. Note that damage or destruction of a breeding site or resting place is an absolute offence and unless the offences can be avoided (e.g. by timing the works appropriately), it should be licensed. In the first instance it is for the developer to decide whether a species licence will be needed. The developer may need to engage specialist advice in making this decision. A licence may be needed to carry out mitigation work as well as for impacts directly connected with a development. Further information can be found in Natural England's ['How to get a licence'](#) publication.

If the application requires planning permission, it is for the local planning authority to consider whether the permission would offend against Article 12(1) of the Habitats Directive, and if so, whether the application would be likely to receive a licence. This should be based on the advice Natural England provides at formal consultation on the likely impacts on favourable conservation status and Natural England's [guidance](#) on how the three tests (no alternative solutions, imperative reasons of overriding public interest and maintenance of favourable conservation status) are applied when considering licence applications.

Natural England's pre-submission Screening Service can screen application drafts prior to formal submission, whether or not the relevant planning permission is already in place. Screening will help applicants by making an assessment of whether the draft application is likely to meet licensing requirements, and, if necessary, provide specific guidance on how to address any shortfalls. The advice should help developers and ecological consultants to better manage the risks or costs they may face in having to wait until the formal submission stage after planning permission is secured, or in responding to requests for further information following an initial formal application.

The service will be available for new applications, resubmissions or modifications – depending on customer requirements. More information can be found on [Natural England's website](#).