



Turning science into action for nature,
people and the planet

Mike Hale
Head of Environmental Casework
Planning Casework Unit
Ministry of Housing, Communities and Local
Government
23 Stephenson Street
Birmingham B2 4BH

Quay House,
2 East Station Road,
Fletton Quays, Peterborough,
PE2 8YY
United Kingdom

Email: feedback@jncc.gov.uk
Tel: +44 (0) 1733 562626
jncc.gov.uk

Our reference:
Portsmouth 1/2025
Your reference:
PCU/RARE/Z1775/3352981

Date: 7 February 2025

Dear Mr Hale

Request for an IROPI opinion in respect of the proposed Tipner West and Horsea Island East allocation in the Portsmouth Council Local Plan

Thank you for consulting the Joint Nature Conservation Committee (JNCC) under Regulation 107(4A)(a) of The Conservation of Habitats and Species Regulations 2017 (as amended), with regards an opinion on the Imperative Reasons of Overriding Public Interest (IROPI) for the proposed Tipner West and Horsea Island East allocation in the Portsmouth Council Local Plan.

JNCC is the public body that advises the UK Government and devolved governments on UK wide and international nature conservation. Its work contributes to maintaining and enriching biological diversity and sustaining natural systems.

Consistent with guidance agreed with Defra ([Changes to the Habitats Regulations 2017 – IROPI](#)), and with our broader statutory remit, the scope of JNCC's advice in relation to this request is the national (UK) importance of the affected features at Portsmouth Harbour SPA, setting the possible adverse impacts of the proposed project in the wider conservation context. JNCC is not advising on whether the public interest of the proposal overrides the conservation interest and nor whether the reasons are imperative.

Our advice is presented in Appendix 1. In summary:

Portsmouth Harbour SPA was classified in 1995 for supporting non-breeding populations of Dark-bellied Brent Goose (*Branta bernicla bernicla*), Dunlin (*Calidris alpina alpina*), Black-tailed Godwit (*Limosa limosa islandica*) and Red-breasted Merganser (*Mergus serrator*). At classification, the site held approximately 3% of the UK's SPA network population of Dark-bellied Brent Geese (2,847 individuals); more recent counts show that the population has declined slightly. The populations of the other three species varied from 0.4% to 4% of the UK SPA network populations, depending on the period assessed (see Appendix 1). Overall, the site makes a significant contribution to the conservation of these species within the national site network. The wider contribution of the SPA to the conservation of the species in

Great Britain is significant for Dark-bellied Brent Geese, Dunlin and, in recent times, for Black-tailed Godwit, but not for Red-breasted Merganser. The SPA is internationally important for Dark-bellied Brent Goose; the whole biogeographical population over-winters in Great Britain so the national site network (SPAs) is of particular significance for the conservation of this population.

The conservation status of all four species in the SPA is unfavourable. Across the network, the short-term population trend for Dark-bellied Brent Geese is increasing, and across the UK it is stable, with an increasing long-term trend. The Black-tailed Godwit trend in the network and nationally is increasing, whilst trends for Dunlin are declining, and for Red-breasted Merganser is short-term decline but long-term increase.

Portsmouth Harbour SPA comprises approximately 1% grassland, 14% salt marsh and 85% estuarine, tidal mud and sand flats. Both latter habitat types provide significant benefits to biodiversity. According to a recent extent and zonation study of salt marsh in England the area in which the proposed plan is situated, Southeast England, has seen a net loss of 2.6% of this important habitat, much of this in the Solent. According to the appropriate assessment of the proposal a total of 6.6 ha of supporting habitat within the SPA will be lost, equating to approximately 0.5% of the total SPA area. This comes at a time when Portsmouth Harbour is one of the only major waterbodies in the Solent area that has experienced a net gain of saltmarsh habitat between 2008-2016.

Any direct habitat loss is likely to reduce the feeding areas for the four species; all are in unfavourable status in the SPA and any loss of habitat extent is likely to inhibit improvement in conservation status. This could worsen the 'No Change' status of Dark-bellied Brent Geese and 'Declining' status of Dunlin and Red-breasted Merganser and halt the 'Recovering' status of Black-tailed Godwit at the site. In addition, it might force redistribution of birds to less favourable foraging areas that are themselves undergoing reductions in extent, in part due to cumulative pressures in the region. There is also the possibility of loss of individuals from beyond the 6.6 ha impacted area but within the SPA, due to indirect impact of disturbance whilst works are being carried out.

In summary, the proposed allocation will lead to a loss of important feeding habitat for the classified features of the SPA and, in particular, could worsen the status of these features within the UK SPA network. This might lead to a significant adverse effect on the national and hence biogeographical Dark-bellied Brent Goose population, and on the national populations of Dunlin and Black-tailed Godwit, but not on the natural ranges of these species.

If you have any questions about our advice, please do not hesitate to get in touch.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Dave Stone', with a long horizontal line extending to the right.

Dave Stone FIEnvSC CSci
Chief Scientist
Dave.Stone@jncc.gov.uk

Appendix 1. Portsmouth ref 1/2025. Information in support of JNCC's advice to the Ministry of Housing, Communities and Local Government under Regulation 107(4A)(a) of The Conservation of Habitats and Species Regulations 2017 (as amended).

Nature conservation factor relevant to IROPI advice	Analysis
1. Significance of the site's contribution to conserving the affected feature relative to the UK European Site network	<p>Portsmouth Harbour SPA covers 1249.6 ha of mixed humid grassland (habitat class code N10), salt marsh (N03) and estuarine mud and sand flats (N02) ^[1]. It was originally classified for its over winter populations of Dark-bellied Brent Geese (<i>Branta bernicla bernicla</i>), Dunlin (<i>Calidris alpina alpina</i>), Black-tailed Godwit (<i>Limosa limosa islandica</i>) and Red-breasted Merganser (<i>Mergus serrator</i>) ^[1].</p> <p>At classification, the site held approximately 3% of the UK's SPA network population of Dark-bellied Brent Geese (2,847 individuals) ^[1;2]. This is similarly the case, when considering more recent counts at the site ^[3].</p> <p>The site also held c.1% of the SPA network population of Dunlin (5,123 individuals) at classification ^[1;2]. The recent 5-year average population estimate for the site suggests 5,044 individuals frequent the site ^[3], equating to approximately 1.7% of the network population.</p> <p>Approximately 0.4% of the Black-tailed Godwit SPA network population was held at the site when classified (31 individuals) ^[1;2]. The recent 5-year average suggests this has increased to 433 individuals ^[3], equating to approximately 1.5% of the network population.</p> <p>At classification 87 Red-breasted Merganser individuals were cited equating to approximately 4% of the network population ^[1;2].</p> <p>Although not a feature of the SPA, Grey plover (<i>Pluvialis squatarola</i>) is cited as a feature of the overlapping SSSI ^[4]. Only 1 Grey Plover individual was recorded at the site in 2022/23 down from 60 in 2018/19 ^[3]. The condition status of this feature in this site was given Unfavourable-Recovering in 2010.</p>
2. Significance of the site's contribution to conserving the affected feature relative to its wider natural range	<p>At classification, just under 1% of the UK population of Dark-bellied Brent Geese were found at Portsmouth Harbour SPA ^[1]. Recent estimates of Dark-bellied Brent Geese at the site (5-year average 18/19-22/23 WeBS) suggest 2,121 individuals frequent the SPA, equating to approximately 2% of the national population, exceeding the GB classification threshold of 980 individuals ^[3]. The wider Solent Harbours area can host over 20% of the national population of Dark-bellied Brent Geese ^[5] (Frost <i>et al.</i>, 2019).</p>

Nature conservation factor relevant to IROPI advice	Analysis
	<p>Around 1% of the GB population of Dunlin was found at the site at classification ^[1]. The recent 5-year average population estimate for the site suggests 5,044 individuals frequent the site, approximately 1.5% of the national population, exceeding the GB classification threshold of 3,400 individuals ^[3].</p> <p>When classified Portsmouth Harbour held around 0.4% of the Black-tailed Godwit population ^[1]. The recent 5-year average suggests this has increased to 433 individuals, equating to approximately 1% of the national population, exceeding the GB classification threshold (390 individuals) ^[3].</p> <p>At classification the population of Red-breasted Merganser equated to 0.9% of the GB population ^[1]. Recent counts at the site (5-year average 18/19-22/23) suggest 60 individuals which does not meet the GB threshold (100 individuals) ^[3].</p>
3. Significance of the affected feature in an international context	<p>At designation Portsmouth Harbour SPA held 0.9% of the Dark-bellied Brent Goose Biogeographic population ^[1], this has remained relatively consistent with the recent 5-year average (2,121 individuals) exceeding the international classification threshold for the species ^[3]. The wider Solent Harbours area can host over 10% of the international population of Dark-bellied Brent Geese ^[5]. Great Britain itself is estimated to host c.50% of the world population ^[6] and approximately 100% of the wintering biogeographic population, with over 90% of the population utilising the SPA network ^[2].</p> <p>For Dunlin, Black-tailed Godwit and Red-breasted Merganser neither at classification nor through recent counts were the international thresholds met at this particular site. However, Great Britain holds just over 26% of the biogeographic population of Dunlin, with 85% of that population found within the GB SPA network ^[2]. Similarly, GB hosts a large proportion of the biogeographic population of Black-tailed Godwit, approximately 70%, of which almost 48% are found within the SPA network ^[2]. Therefore, although the international significance of this single site is low for these species, the importance of the health of the overall GB network is significant.</p>
4. Prevailing conservation status assessment of the affected feature across the UK network and its natural	Both the Red-breasted Merganser and Dunlin have been deemed to be in 'Unfavourable Declining' condition at this site ^[7] . Black-tailed Godwit is in 'Unfavourable Recovering' condition and Dark-bellied Brent Geese is in 'Unfavourable No Change' condition ^[7] .

Nature conservation factor relevant to IROPI advice	Analysis
range, including current trends for the habitat/species concerned	<p>Across the network, the short-term population trend for Dark-bellied Brent Geese is increasing, across the UK it is stable with an increasing long-term trend ^[8]. Internationally, the species is listed as Least Concern in the European Red List (2021) ^[9].</p> <p>For Dunlin, the trend for the network in the short-term is decreasing, similarly the long-term trend for the UK is also decreasing but stable in the short-term ^[8]. From an international perspective they have been given 'Least Concern' status in the European Red List 2021 ^[9].</p> <p>The Black-tailed Godwit population across the UK network has been increasing in the short-term, this is the same for the wider UK population both the short and long-term trends ^[8]. However, internationally, the species has been deemed 'Near Threatened' and 'Endangered' (EU+UK) as per the European Red List ^[9].</p> <p>Red-breasted Merganser have been decreasing in the short-term across the UK network, this is the same across the wider UK range ^[8]. However, the long-term population trend is suggested to be increasing ^[8]. Internationally, this species status is 'Near Threatened' as per the European Red List ^[9].</p>
<p>5. Significance of the adverse effect on the attributes of the affected feature's national (UK) conservation status and its impact on:</p> <ul style="list-style-type: none"> its overall geographic extent and range its structure and function its overall population (where a species feature is concerned) Its overall range and distribution of a species feature 	<p>Portsmouth Harbour SPA contains approximately 1% grassland, 14% Salt marsh and 85% estuarine, tidal mud and sand flats ^[1]. Both latter habitat types provide significant benefits to biodiversity and provide numerous ecosystem services, in particular their ability to sequester waves and limit coastal flooding and erosion ^[10;11]. According to a recent extent and zonation study of salt marsh in England the area in which the proposed plan is situated, South-East England, has seen a net loss of 2.6% of this important habitat ^[10]. Much of this loss was observed in the Solent waterbodies, where the proposed plan is situated ^[10]. According to the appropriate assessment of the proposal a total of 6.6 ha of supporting habitat within the SPA will be lost, equating to approximately 0.5% of the total SPA area. This comes at a time when Portsmouth Harbour is one of the only major waterbodies in the Solent area that has experienced a net gain of saltmarsh habitat between 2008-2016 ^[10].</p> <p>Portsmouth Harbour SPA is one of 19 SPAs for Dark-bellied Brent Geese in the UK, all of which are situated along the East and South Coasts of England ^[2]. Although the other three species are named features in the citation for the site, Portsmouth Harbour does not appear as a listed SPA for any of them in either the second or third SPA reviews ^[2;6]. However, as two of them have nationally important numbers frequenting the site, the impact should still be considered. All four species are in 'Unfavourable' status therefore any</p>

Nature conservation factor relevant to IROPI advice	Analysis
	direct habitat loss is likely to inhibit any improvement on this status. There is also a possibility that with any loss of habitat, there could be a loss of individuals, though total extent of loss cannot be quantified. This could worsen the 'No Change' status of Dark-bellied Brent Geese and 'Declining' status of Dunlin and Red-breasted Merganser and halt the 'Recovering' status of Black-tailed Godwit at the site. There is also the possibility of loss of individuals extending beyond the 6.6 ha impacted area, due to indirect impacts from disturbance whilst works are being carried out. The proposed plans also potentially pose an indirect impact to the overall hydrology of the area, through the deep water dredging and bridge structure.
SUMMARY OF ADVICE TO COMPETENT/APPROPRIATE AUTHORITY	

Sources:

[1] JNCC, 1995. Standard Data Form SITE UK9011051 Portsmouth Harbour SPA. <https://jncc.gov.uk/jncc-assets/SPA-N2K/UK9011051.pdf> accessed 06/02/25

[2] Stroud, D.A., Bainbridge, I.P., Maddock, A., Anthony, S., Baker, H., Buxton, N., Chambers, D., Enlander, I., Hearn, R.D., Jennings, K.R, Mavor, R., Whitehead, S. & Wilson, J.D. - on behalf of the UK SPA & Ramsar Scientific Working Group (eds.) 2016. The status of UK SPAs in the 2000s: the Third Network Review. [c.1,108] pp. JNCC, Peterborough. <https://data.jncc.gov.uk/data/d1b21876-d5a4-42b9-9505-4c399fe47d7e/ukspa3-status-uk-spas-2000s-web.pdf> accessed 06/02/25

[3] Woodward, I.D., Calbrade, N.A., Birtles, A., Feather, G.A., Peck, K., Wotton, S.R., Shaw, J.M., Balmer, D.E. and Frost, T.M. 2024. Waterbirds in the UK 2022/23: The Wetland Bird Survey and Goose & Swan Monitoring Programme. BTO/RSPB/JNCC/NatureScot. Thetford. <https://app.bto.org/webs-reporting/numbers.jsp> accessed 06/02/25

[4] Natural England, 1993. Portsmouth Harbour SSSI citation. <https://designatedsites.naturalengland.org.uk/PDFsForWeb/Citation/1003174.pdf> accessed 06/02/25

- [5] Frost, T., Austin, G., Hearn, R., Mcavoy, S., Robinson, A., Stroud, D., Woodward, I., Wotton, S. and Allen, R. (2019). Population estimates of wintering waterbirds in Great Britain. *British Birds*. 112. 130-145.
- [6] Stroud, D.A., Chambers, D., Cook, S., Buxton, N., Fraser, B., Clement, P., Lewis, P., McLean, I., Baker, H. & Whitehead, S. (eds). 2001. The UK SPA network: its scope and content. JNCC, Peterborough. <https://data.jncc.gov.uk/data/3634580a-cabc-4218-872f-8660a1760ad8/uk-spa-vol2-web.pdf> accessed 06/02/25
- [7] Natural England, 2024. Portsmouth Harbour SPA, Feature Condition Assessment. <https://designatedsites.naturalengland.org.uk/> accessed 06/02/25
- [8] European Commission, 2020. Article 12 Web Tool (2013-2018): Population status and trends at the EU and Member State Levels [Online] <https://nature-art12.eionet.europa.eu/article12/summary> accessed 06/02/25
- [9] BirdLife International, 2022. European Red List of Birds 2021. Office for Official Publications of European Communities, Luxembourg. <https://www.birdlife.org/wp-content/uploads/2022/05/BirdLife-European-Red-List-of-Birds-2021.pdf.pdf> accessed 06/02/25
- [10] Environment Agency, 2022. The extent and zonation of saltmarsh in England: 2016-2019 *An update to the national saltmarsh inventory*. https://assets.publishing.service.gov.uk/media/62f62bf88fa8f50b5437435d/The_extent_and_zonation_of_saltmarsh_in_England_2016-2019_-_report.pdf accessed 06/02/25
- [11] Joint Nature Conservation Committee, 2008. UK Biodiversity Action Plan; Priority Habitat Descriptions: Intertidal Mudflats. <https://data.jncc.gov.uk/data/6e4e3ed1-117d-423c-a57d-785c8855f28c/UKBAP-BAPHabitats-22-IntertidalMudflats.pdf> accessed 06/02/25

Mr Mike Hale
Head of Environmental Casework
Planning Casework Unit
Ministry of Housing, Communities
& Local Government

Your Ref: PCU/RARE/Z1775/3352981

By email: mike.hale2@communities.gov.uk

Dear Mr Hale

The Conservation of Habitats and Species Regulations 2017 (The ‘2017 Regulations’)

Request by Portsmouth City Council in respect of a proposed Pre-Submission Local Plan allocation for an Imperative Reasons of Overriding Public Interest (“IROPI”) opinion: Tipner West and Horsea Island East

Thank you for your letter dated 17th January 2025 requesting the Scottish Government’s views on whether likely harm to the Special Protection Areas (SPA) / Ramsar sites associated with allocating a change of land use for a Marine hub and housing at Tipner West and Horsea Islands East can be justified by imperative reasons of overriding public interest (“IROPI”).

In providing this opinion, we have considered the Habitats Regulation Appraisal (“HRA”), the Supplement to the HRA and the stakeholder consultation responses and subsequent correspondence. Also taking into account the requirements of the 2017 Regulations which need to be applied when considering an IROPI derogation, we would offer the following observations:

- No alternative solutions

We are satisfied that based on the information provided, particularly with respect to the requirements assessment of potential sites contained in the Supplement to the HRA and including the response from some stakeholders, that this test has been met.

- Imperative Reasons of Over-riding Public Interest

We are satisfied that based on the information provided, particularly the various economic and social appraisals highlighted in the Supplement to the HRA and including the response from some stakeholders, that this test has been met.

- Compensatory Measures

We note from the information provided the differing views expressed by Portsmouth City Council and Natural England regarding the extent to which areas are secured to provide the necessary compensation. It is our understanding that the proposals as presented could result in the loss of approximately 6.5 hectares of habitat which supports the notified bird species on the SPA. However, that the exact loss, and therefore the compensatory measures required, would not be known until the detailed project planning stage. The project planning stage would itself be subject to a HRA. Portsmouth City Council has identified, in the Supplement to HRA document, a number of sites which could be brought in

as compensatory measures. In total, these cover around 400 hectares, some of which have been secured for compensatory measures, while others are under negotiation.

Given the circumstances in this case, it would be our view that it would not be realistic for Portsmouth City Council to secure all compensatory area at the Plan stage. However, we are satisfied that they have given assurance to the Appropriate Authority that adequate compensatory measures are available and can be secured. As an additional safeguard, if this policy in the Local Plan is adopted, the project level planning and design will be subject to HRA based on known areas of loss and therefore there will be greater certainty of compensation requirements at that stage. This opinion is therefore based on the assumption that the proposed compensatory measures would need to have been secured at the project stage.

Taking all these factors into account and with the caveat noted above, we are satisfied that the necessary compensatory measures can be secured.

We hope these comments are helpful to you in considering the request from Portsmouth City Council. Please do continue to liaise with Brian Eardley if there are further issues arising from this case.

Yours sincerely



Brian Eardley
Biodiversity Unit Policy Manager
Nature Division
Scottish Government
Brian.eardley@gov.scot