

Guidance Note for Applicants within Adur that have Developments that have the Potential to Cause Significant (Harmful or Negative) Impacts to Intertidal Habitats

Introduction

There is the potential for development adjacent to and in the vicinity of the River Adur to lead to loss of or significant harm to intertidal habitats. There are strong policies in the National Planning Policy Framework (NPPF), Adur Local Plan, Shoreham Harbour Joint Area Action Plan and Flood Risk Management Guide SPD to ensure **protection** of these habitats and ensure provision of **net gains** for biodiversity. Mudflats are considered important biodiversity habitat and saltmarsh is included in the list of 'irreplaceable habitats' under the revised NPPF 2018. Both mudflats and saltmarsh are listed as UK Biodiversity Action Plan Priority Habitats.

Guidance for Applicants

Please note, as well as the guidance detailed below, other usual biodiversity considerations should still apply as normal.

A hierarchical approach of avoid-mitigate-compensate for significant (harmful or negative) impacts should be adopted for all developments that potentially pose a risk to the environment as follows:

1. **Avoid** – Developers should **avoid** significant harm to intertidal habitats.
2. **Demonstrate and Justify** - if the developer **cannot** avoid causing impacts, then it must be demonstrated and justified why avoidance is not feasible.
3. **Mitigate** - if developers **can demonstrate and justify** that avoidance is not possible, **mitigation measures** will be required to address significant harmful impacts. In the case of direct habitat loss, compensation will be required (point 4 below).
4. **Compensate**. For direct habitat loss, **compensatory habitat** will be required on a **like-for-like** basis.
5. Development will also have to demonstrate how it is addressing the loss of intertidal habitat as a result of the development causing **coastal squeeze**.

The Adur Estuary Site of Special Scientific Interest (SSSI) is located in the area. Development on land within or outside a SSSI, and which is likely to have an adverse effect on it (either individually or in combination with other developments), **should not normally be permitted**. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest.

<https://designatedsites.naturalengland.org.uk/SiteSearch.aspx>

Where a developer demonstrates and appropriately justifies that a proposed development would result in **unavoidable** habitat loss, **compensatory habitat** will be required on a **like-for-like** basis. Developers are currently required to identify and deliver their own like-for-like compensatory habitat at or as close as possible to the impacted habitat, whilst ensuring the compensatory habitat and any habitat remaining on site is ecologically sustainable. Adur District Council are developing a strategy to address the issue of providing like-for-like intertidal compensatory habitat. Once the strategy is completed, the developer may wish to consider this strategic approach for the provision of like-for-like compensatory habitat.

Applicants must use up to date ecological information to support proposals.

Desktop information on priority habitats can be accessed via the Magic Website <https://magic.defra.gov.uk/>. Comprehensive local biodiversity data including priority habitats, local designations and species can be sought from the Sussex Biodiversity Record Centre via their data request page <https://sxbrc.org.uk/services/dataRequests.php>

Please be aware of the resolution of the mapping and ensure that **ground truthing** is undertaken at low tide to ensure areas of intertidal habitat are not missed.

Desktop data should be seen as a starting point to identify where further ecological surveys may be required. All ecological surveys should be undertaken by a suitably qualified ecologist and adhere to survey guidelines and best practice.

Both the Environment Agency (EA) and Natural England (NE) are able to provide a charged pre-application advice service which can help developers ensure that developments are progressed in line with relevant legislation. For further information on this service, please contact the Environment Agency at PlanningSSD@environment-agency.gov.uk or seek Natural England's advice through their [Discretionary Advice Service](#).

Further information can also be gained at:

<https://www.gov.uk/guidance/developers-get-environmental-advice-on-your-planning-proposals>

Relevant Legislation

- National Planning Policy Framework July 2018 - Paragraphs 170 - 177 but specifically Paragraph 175 & Annex 2: Glossary (Definition of Irreplaceable Habitat)
<https://www.gov.uk/government/publications/national-planning-policy-framework--2>
- Adur Local Plan December 2017 - specifically Policy 31: Biodiversity
<https://www.adur-worthing.gov.uk/media/media,147017,en.pdf>
- Shoreham Harbour Joint Area Action Plan - specific paragraphs to be added once the plan is finalised.
<https://www.adur-worthing.gov.uk/shoreham-harbour-regeneration/>
- Shoreham Harbour Flood Risk Management Guide SPD September 2015 - specifically Paragraph 9.6 including Policy FRMG5: Intertidal Compensatory Habitat
<http://www.adur-worthing.gov.uk/media/media,136867,en.pdf>