

NOTICE OF MEETING

Meeting: PLANNING COMMITTEE – SPECIAL MEETING

Date and Time: FRIDAY, 31 MAY 2019, AT 2.00 PM*

Place: THE COUNCIL CHAMBER, APPLETREE COURT,
LYNDHURST

Telephone enquiries to: Lyndhurst (023) 8028 5000
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PUBLIC PARTICIPATION:

***Members of the public are entitled to speak on individual items on the public agenda in accordance with the Council's public participation scheme. To register to speak please contact Development Control Administration on Tel: 02380 285345 or E-mail: DCAdministration@nfdc.gov.uk**

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Chief Planning Officer

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This Agenda is also available on audio tape, in Braille, large print and digital format

AGENDA

Apologies

1. DECLARATIONS OF INTEREST

To note any declarations of interest made by members in connection with an agenda item. The nature of the interest must also be specified.

Members are asked to discuss any possible interests with Democratic Services prior to the meeting.

2. SITE OF FAWLEY POWER STATION, FAWLEY ROAD, FAWLEY, SO45 1TW (APPLICATION 19/10138) (Pages 1 - 44)

Proposed dismantling, removal and site clearance of buildings at Fawley Power Station, and remediation of the site (approval under Regulations 73 & 75 of the Conservation of Habitats and Species Regulations 2010)

RECOMMENDED:

Grant.

3. ANY OTHER ITEMS WHICH THE CHAIRMAN DECIDES ARE URGENT

To: Councillors:

Christine Ward (Chairman)
Christine Hopkins (Vice-Chairman)
Sue Bennison
Hilary Brand
Fran Carpenter
Rebecca Clark
Anne Corbridge
Kate Crisell
Arthur Davis
Jan Duke

Councillors:

Barry Dunning
Allan Glass
David Hawkins
Maureen Holding
Mahmoud Kangarani
Joe Reilly
Tony Ring
Ann Sevier
Beverley Thorne
Malcolm Wade

Application Number: 19/10138 Demolition Determination

Site: SITE OF FAWLEY POWER STATION, FAWLEY ROAD, FAWLEY
SO45 1TW

Development: Dismantling, removal and site clearance of buildings at Fawley
Power Station and remediation of the site (Approval under
Regulations 73 and 75 of The Conservation of Habitats and Species
Regulations 2010)

Applicant: Fawley Waterside Ltd

Target Date: 26/02/2019

Extension Date: 31/05/2019

19/10138

1 SUMMARY OF THE MAIN ISSUES

1.1 This application has been made pursuant to the Habitat Regulations. The application is not a typical planning application, and there is, in fact, just one issue to consider, namely:

whether or not the proposed demolition of Fawley Power Station would have an adverse effect on the integrity of the designated European nature conservation sites that are situated in close proximity to the power station.

1.2 Approval of the application can only be given if an Appropriate Assessment concludes that the proposed demolition would not have an adverse effect on the integrity of the adjacent European sites, taking into account any mitigation measures that may be proposed.

1.3 This matter has been brought before Committee because Officers do not have specific delegated powers to determine an application of this type.

2 THE SITE

2.1 Fawley Power Station is a large brownfield site that is completely surrounded by land that is within the New Forest National Park. The existing power station buildings are of a hyper scale. The main power station building is 354 metres in length, with the turbine hall element being about 50 metres in height. The power station chimney is approximately 198 metres in height. The power station is bounded to the east by land that forms part of the Solent and Southampton Water Special Protection Area (SPA), the Solent and Southampton Water Ramsar site, and the Solent Maritime Special Area of Conservation (SAC).

3 THE PROPOSED DEVELOPMENT

Introduction

3.1 This application relates to a project for the demolition of Fawley Power Station. This covers all of the main elements of the power station including the turbine hall, the DA bay, the boiler house, the control building, the canteen, and the chimney.

3.2 Two applications are before the Council, namely this application for Approval under the Habitat Regulations and a separate Prior Approval application regarding the method of demolition and the proposed restoration of the site.

3.3 The applications are accompanied by a report entitled "Information for Appropriate Assessment of Proposed Demolition of Fawley Power Station, Fawley, Hampshire" and a number of detailed reports and method statements. In addition, a Unilateral Undertaking has been submitted by the applicants which would ensure that they are bound to adhere to the submitted methodology and all of the control, avoidance and mitigation measures contained therein.

The Prior Notification Application

3.4 The proposed demolition of the power station can be carried out as permitted development pursuant to Part 11, Class B of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, provided certain conditions and criteria are satisfied.

3.5 One of these conditions is that the applicant must apply to the Local Planning Authority as to whether or not the prior approval of the Local Planning Authority is required as to the method of demolition and any proposed restoration of the site. As indicated above, the applicants have duly submitted a Prior Notification application to the Local Planning Authority for the demolition of all of the main power station buildings (Ref:19/10131). This application is scheduled to be determined at Officer level, using delegated powers by the end of May 2019. As such, the Prior Notification application is not a matter for Committee consideration.

The Habitats Regulations Application

3.6 For a project where there is the likelihood that the development could have a significant effect on designated European sites, demolition can also only proceed as permitted development if the relevant Competent Authority (in this case the Local Planning Authority) has carried out a Habitats Regulation Assessment (Appropriate Assessment) of the project and reached the conclusion that the integrity of the adjacent European sites will not be adversely affected. This is what is required of this particular application.

4 PLANNING HISTORY INCLUDING NOTES OF ANY PRE-APPLICATION DISCUSSIONS

Relevant Planning Applications

- 4.1 Demolition of Fawley Power Station (EIA Screening Opinion) (14/10238) - EIA not required - 30/05/14
- 4.2 Demolition of Fawley Power Station (Habitats Regs Screening Opinion) (14/10248) - Opinion given 29/05/14
- 4.3 Demolition of Pump House; associated fuel pipework / ducting; four former fuel tank bases (Demolition Prior Notification) (17/10795) - details not required to be approved 29/06/2017
- 4.4 2 steel portal framed buildings (Use Class B2); mobile portable cabin; use of land for storage of wind turbines (Use Class B8) - 10 year temporary permission granted 8/9/17
- 4.5 Demolition of Fawley Power Station (EIA Screening Opinion) (17/11706) - EIA not required 22/2/18 - Screening Direction by Secretary of State endorsed this opinion in July 2018.
- 4.6 Dismantling and removal of external structures including tanks, ductwork and bunds (Demolition Prior Notification) (18/11048) - details not required to be approved 28/08/18
- 4.7 Use of land to provided open storage gravel (Use Class B8) and associated works including provision of containment bunds, drainage channels and excavation (18/11169) - temporary 5 year permission granted 29/11/18
- 4.8 Dismantling, removal and site clearance of buildings (Demolition Prior Notification application) (19/10131) - application being considered concurrently with this application.

Pre-application discussions

- 4.9 Pre-application discussions have been held with the applicants for some time, mostly concentrating on the subsequent proposed redevelopment of the site. The demolition process and the inherent requirements have been discussed as a small part of this wider process.

5 THE DEVELOPMENT PLAN AND OTHER NFDC GUIDANCE RELEVANT TO THE APPROPRIATE ASSESSMENT

Core Strategy

Objectives

1. Special qualities, local distinctiveness and a high quality living environment
8. Biodiversity and landscape

Policies

- CS1: Sustainable development principles
CS3: Protecting and enhancing our special environment (Heritage and Nature Conservation)

CS5: Safe and healthy communities

Local Plan Part 2 Sites and Development Management Development Plan Document

DM2: Nature conservation, biodiversity and geodiversity

The Emerging Local Plan

Policy 1: Achieving Sustainable Development

Policy 9: Nature Conservation, biodiversity and geodiversity

Policy 29: Safe and healthy communities

Strategic Site 4: The Former Fawley Power Station

Supplementary Planning Guidance and other Documents

None relevant

6 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Relevant Legislation

The following legislation and regulations are relevant to this application:

The Conservation of Habitats and Species Regulations 2010

The Conservation of Habitats and Species Regulations 2017

The Town and Country Planning (General Permitted Development) (England)

Order 2015

Relevant Advice

National Planning Policy Framework - Paragraphs 174-177 relating to Habitats and biodiversity

There are also a number of legal cases that are of relevance, which are discussed in the Appropriate Assessment.

7 PARISH / TOWN COUNCIL COMMENTS

Fawley Parish Council: Are happy to accept the decision reached by the District Council's Officers under their delegated powers.

8 COUNCILLOR COMMENTS

None

9 CONSULTEE COMMENTS

The following comment is summarised, with the full comment being available to read online.

9.1 Natural England:- Notes that the LPA's Appropriate Assessment concludes that the LPA is able to ascertain that the proposal will not result in adverse

effects on the integrity of the sites in question. Having considered the assessment and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal and the method for securing these, Natural England advise that they concur with the assessment conclusions. NE advise that their conclusion is based on the mitigation measures as set out in the Shadow Appropriate Assessment and Site Management Reports produced by the applicant that are to be secured by the signing of a Unilateral Undertaking.

10 REPRESENTATIONS RECEIVED

10.1 The following representations are summarised, with full comments being available to view online. It should be noted that the majority of the representations received (bar those raising legal and process issues) are related to the Demolition Prior Notification application and are not relevant to the matters that can be considered through this application. However, for the record, the representations that have been submitted are as follows:-

10.2 34 letters of objection from local residents:- many of the letters raise objections to the demolition of the chimney and control tower, which the objectors would like to see retained as landmark structures and as part of the area's industrial heritage. There are also concerns about the potential impact on rare nesting birds - e.g. peregrines. There are concerns that demolition proposals are being considered before an application for redevelopment of the site is being considered. There are concerns that demolition waste traffic would have an adverse impact on the local road infrastructure. There are concerns about dust and pollution, and the impact this could have on human health and the local environment. There are concerns about noise disturbance. Concerns have also been raised about the subsequent proposed redevelopment of the site.

10.3 2 individual local objectors to the application raise substantive legal issues, asserting that:

- the information provided by the developer does not provide sufficient identification of all aspects of the proposed works that might affect the conservation objectives of the site;
- there are gaps in the information that has been submitted;
- It is not possible to provide complete, precise and definitive findings capable of dispelling all reasonable scientific doubt as to the effects of the proposed works on protected sites;
- Not all aspects of the plan or project in question, either individually or in combination with other plans or projects, are sufficiently identified to ensure that undue harm will not be done to the protected sites.
- For these reasons, it is considered the application should be refused.
- If the Competent Authority does not accept these arguments and considers that prior approval is not required, then a signed Unilateral Undertaking to secure the mitigation measures is essential.

10.4 Twentieth Century Society:- Objects - considers the site holds historic interest as a now rare surviving example of the immense growth of the electricity generation industry in the post-war period, and to additionally hold an outstanding level of architectural interest. Consider the core buildings to be the

combined boiler and turbine houses; the administration blocks, the canteen and the chimney. Consider the buildings to be a non-designated heritage asset, and regard must therefore be had to national planning policy guidance for such heritage assets. The Society is alarmed that the proposals seek demolition without any clear vision for later development of the site. The planning balance between the loss of a heritage asset and proposed public benefits cannot be satisfied without a full understanding of the long-term use of the site.

10.5 3 letters of support from local residents - the chimney no longer has a useful function and its removal will be visually beneficial.

10.6 Friends of the New Forest / New Forest Association:- Support some of the other concerns that have been raised; feel that sufficient time must be given to allow careful consideration of the application; are concerned with the proposals for the redevelopment of the site and its detrimental impact on the National Park.

11 OFFICER COMMENTS

Introduction

11.1 The application, as submitted, specifically and solely seeks the Local Planning Authority's approval under Regulations 75 & 77 of the Conservation of Habitats and Species Regulations 2017. As noted above, Fawley Waterside Ltd are proposing to demolish the existing buildings at Fawley Power Station through a demolition Prior Notification application. Regulation 75 of the Conservation of Habitats and Species Regulations 2017 indicates that it is a condition of any planning permission granted by a general development order made on or after 20th November 2017, that development which:

a) is likely to have a significant effect on a European site (either alone or in combination with other plans or projects) and

b) is not directly connected with or necessary to the management of the site

must not be begun until the developer has received written notification of the approval of the Local Planning Authority under Regulation 77 (approval of local planning authority).

11.2 Regulation 77 of the Conservation of Habitats and Species Regulations 2017 indicates that an application to the Local Planning Authority for approval, as mentioned in regulation 75, must give details of the development to be carried out. The Local Planning Authority may only approve the development after having ascertained that it will not adversely affect the integrity of the European Site.

11.3 Although the application has been expressed to be under regulation 77 of the 2017 Regulations, regulation 77 is concerned with planning permissions granted by a General Development Order made on or after 30th November 2017. For planning permissions granted under a General Development Order before that date, the relevant provision requiring written notification of approval remains regulation 73 of the 2010 Conservation of Habitats and Species Regulations, which is expressly saved by Schedule 7 of the 2017 Regulations. It

is considered that this application therefore needs to be treated as if being made in response to regulation 73. However, it will be noted that the provisions of regulation 77 of the 2017 Regulations relating to the grant of approval are precisely the same as those in regulation 75 of the 2010 Regulations. The Council's substantive decision would therefore be the same, no matter which Regulations were applied.

Appropriate Assessment

11.4 As is required by the Habitats Regulations, officers have carried out a very thorough Appropriate Assessment, which is attached as Appendix A to this report. This Appropriate Assessment draws heavily on the information provided within the applicant's 'shadow' Appropriate Assessment that was prepared by the applicant's ecologist.

11.5 Before officers carried out their Appropriate Assessment, they took expert advice from Land Use Consultants (LUC), who are a leading firm of environmental consultants. LUC reviewed the 'shadow' Appropriate Assessment and considered the following key questions:

- Does the assessment include consideration of the appropriate European sites?
- Does the assessment include appropriate consideration of all potential impact types?
- Is the approach in line with the requirements of the Habitat Regulations including recent changes in case law, and current best practice guidelines?
- Are the HRA decisions informed by appropriate and robust sources of information?
- Are the avoidance and mitigation measures deliverable with certainty?

11.5 LUC's reached the following conclusions on the 'shadow' Appropriate Assessment:

- It is robust and appropriate in terms of the European sites which have been included in the assessment.
- All impact types with the potential to result in likely significant effects at the HRA Screening stage, or Adverse Effects on Integrity at the Appropriate Assessment stage have been considered.
- The approach is in accordance with current guidelines for undertaking HRA and the requirements of the Habitats Regulations.
- It has been informed by a range of appropriate and robust baseline information, specific survey effort and existing evidence. As a result, there is a high level of certainty in the conclusions reached.
- The avoidance and mitigation measures specified are considered feasible, appropriate and robust.

11.6 LUC recommended that the required mitigation measures be secured

within a Unilateral Undertaking and that an Environmental Clerk of Works be appointed for the duration of works. LUC's overall conclusion was that providing the mitigation and avoidance measures set out in the applicant's various reports are secured, then "it can be concluded that NFDC can be satisfied that application 19/10138 to demolish and remediate the Fawley Power Station site would not result in adverse effects on the integrity of European sites, either alone or in-combination with other plans and projects".

11.7 Before officers carried out their Appropriate Assessment, they also consulted Natural England. Natural England made the following initial comment: "Having considered the information provided by the applicant to inform your Appropriate Assessment, Natural England is satisfied, subject to the comments set out below, that the mitigation measures proposed will mitigate for all identified adverse effects that could potentially occur as a result of the proposal". (The "comments below" have been subsequently addressed by the applicants amending some of their initial demolition methodology reports.)

11.8 Having had this advice from LUC and Natural England, officers have been able to carry out their Appropriate Assessment with the necessary degree of confidence. The Appropriate Assessment has a number of key stages. It sets out the project that is being assessed, before going on to look at the relevant legal and planning context. Having considered Stage 1 HRA Screening Requirements, the Appropriate Assessment then considers each of the European sites that would have the potential to be significantly affected by the proposed demolition, and this includes a consideration of the sites' conservation objectives. Relevant background information and baseline conditions are considered, before the potential impacts of demolition are reviewed. 5 main potential impacts are considered:

- Direct impacts to habitats
- Potential Indirect Impacts of Drainage
- Potential Impacts of Dust
- Potential Impacts of Noise and Vibration
- Potential Impact of Visible Movement

11.9 The Appropriate Assessment prepared by officers then goes on to consider in-combination effects, before considering in some detail the applicant's proposed schedule of mitigation. Finally, the Appropriate Assessment considers the likely impacts arising from demolition against the conservation objectives of the European sites, before making a conclusion on the effects of demolition on the integrity of the European sites.

11.10 The key conclusion of the Appropriate Assessment undertaken by officers is:

"taken as a whole, including all of the identified mitigation measures, the proposed project to demolish Fawley Power Station would not have an adverse effect on the integrity of the following European sites:

- *Solent and Southampton Water SPA*
- *Solent and Southampton Water Ramsar Site*
- *Solent Maritime SAC*
- *River Itchen SAC"*

Natural England response

11.11 Having carried out its Appropriate Assessment, the Local Planning Authority have sought the further views of Natural England, who have confirmed that they agree with the Local Planning Authority's conclusions, as set out within its Appropriate Assessment.

Comment on representations

11.12 The Local Planning Authority has had regard to the views of objectors, but does not accept their main concerns. Specifically, the Local Planning Authority considers that the information provided by the developer does provide sufficient identification of all aspects of the proposed works that might affect the conservation objectives of the site. It is considered that there are no gaps in the information submitted that have impeded the Council's ability to come to a conclusion of the likely effects on protected European sites. The Local Planning Authority is satisfied that the information submitted with the application is sufficiently robust and comprehensive to make it possible to come to a reasonable conclusion that there would be no significant adverse effect on these sites. The Unilateral Undertaking that has been submitted would help ensure that all of the relevant control, avoidance and mitigation measures are delivered.

12 CONCLUSION ON THE PLANNING BALANCE

In the light of the above conclusions, it is considered, firstly, that the Local Planning Authority can formally adopt the Appropriate Assessment prepared by Officers, and secondly, having done this, it can then proceed in approving this application.

13 OTHER CONSIDERATIONS

Proactive Working Statement

In accordance with paragraph 38 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council take a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome.

This is achieved by

- Strongly encouraging those proposing development to use the very thorough pre application advice service the Council provides.
- Working together with applicants/agents to ensure planning applications are registered as expeditiously as possible.

- Advising agents/applicants early on in the processing of an application (through the release of a Parish Briefing Note) as to the key issues relevant to the application.
- Updating applicants/agents of issues that arise in the processing of their applications through the availability of comments received on the web or by direct contact when relevant.
- Working together with applicants/agents to closely manage the planning application process to allow an opportunity to negotiate and accept amendments on applications (particularly those that best support the Core Strategy Objectives) when this can be done without compromising government performance requirements.
- Advising applicants/agents as soon as possible as to concerns that cannot be dealt with during the processing of an application allowing for a timely withdrawal and re-submission or decision based on the scheme as originally submitted if this is what the applicant/agent requires.
- When necessary discussing with applicants/agents proposed conditions especially those that would restrict the use of commercial properties or land when this can be done without compromising government performance requirements.

In this case, additional information has been submitted since the application was first registered, including a Unilateral Undertaking, and this has enabled a positive recommendation to be made.

Crime and Disorder

There are no relevant crime and disorder implications.

Local Finance

Local financial considerations are not material to the decision on this application.

Human Rights

Human Rights are not a relevant consideration for an application of this type.

Equality

The Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics, namely: age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs and sex and sexual orientation. It places the Council under a legal duty to have due regard to the advancement of equality in the exercise of its powers including planning powers. The Committee must be mindful of this duty *inter alia* when determining all planning applications. In particular the Committee must pay due regard to the need to:

- (1) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- (2) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (3) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

14 NOTES FOR INCLUSION ON CERTIFICATE:

None

15. RECOMMENDATION

Grant

Further Information:

Ian Rayner

Telephone: 023 8028 5345 (Option1)

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APPENDIX A

APPROPRIATE ASSESSMENT

APPLICATION FOR THE APPROVAL OF THE LOCAL PLANNING AUTHORITY UNDER REGULATIONS 75 & 77 OF THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2017

APPLICATION REF: 19/10138

PROPOSAL: DISMANTLING, REMOVAL AND SITE CLEARANCE OF BUILDINGS AT FAWLEY POWER STATION AND REMEDIATION OF THE SITE.

1. Introduction

1.1 On 29th January 2019, Fawley Waterside Ltd submitted an application to New Forest District Council, seeking the Local Planning Authority's approval under Regulations 75 & 77 of the Conservation of Habitats and Species Regulations.

1.2 Fawley Waterside Ltd are proposing to demolish the existing buildings at Fawley Power Station. On 29th January 2019, they submitted a Demolition Prior Notification application for these works to the Local Planning Authority (ref: 19/10131). That application is currently scheduled to be determined by 17th May 2019.

1.3 Regulation 75 of the Conservation of Habitats and Species Regulations 2017 indicates that it is a condition of any planning permission granted by a general development order made on or after 20th November 2017, that development which:

- a) is likely to have a significant effect on a European site (either alone or in combination with other plans or projects) and
- b) is not directly connected with or necessary to the management of the site

must not be begun until the developer has received written notification of the approval of the Local Planning Authority under Regulation 77 (approval of local planning authority).

1.4 Regulation 77 of the Conservation of Habitats and Species Regulations 2017 indicates that an application to the Local Planning Authority for approval, as mentioned in regulation 75, must give details of the development to be carried out. The Local Planning Authority may only approve the development after having ascertained that it will not adversely affect the integrity of the European Site.

1.5 This application for approval under the Conservation of Habitats Species Regulations 2017 (but which is being treated, more correctly, as an application for approval under Regulation 73 of the Conservation of Habitats and Species Regulations 2010) relates to the demolition of all of the main elements of the power station including the turbine hall, the DA bay, the boiler house, the control building and canteen, and the chimney. The application is accompanied by a report entitled "Information for Appropriate Assessment of Proposed

Demolition of Fawley Power Station, Fawley, Hampshire". The report (v6) was prepared by Jonathan Cox Associates and is dated 16th January 2019.

1.6 The application and the associated Prior Notification application are also supported by a number of detailed reports / method statements, comprising:

- Site Environmental Management Plan v10 dated 23d April 2019 by Brown and Mason
- Noise Management Plan v9 dated 15th April 2019 by Brown and Mason
- Pollution Prevention Plan v2 dated 23rd April 2019 by Brown and Mason
- Ecological Management Plan v3 dated 23rd April 2019 by Brown and Mason
- Dust Management Plan v8 dated 15th April 2019 by Brown and Mason
- Site Waste Management Plan v7 dated 23rd April 2019 by Brown and Mason
- Traffic Management Plan v7 dated 23rd April 2019 by Brown and Mason
- Vibration Management Plan v8 dated 23rd April 2019 by Brown and Mason
- Provisional Programme 2e dated 15/03/19 by Brown and Mason
- Barge Loading Method Statement rev a dated 14/03/19 by Brown and Mason
- Drawing No C1702/SEMP/004 rev 3 dated 15/04/19
- Outline Explosive Demolition Method Statement rev a dated 12th March by Brown and Mason
- Outline Blow Down Manual ref C1701/BDM1/BAM/03/19 by Brown and Mason
- Bat Survey Report dated 04 March 2019 by Davidson-Watts Ecology

2. Background to the Current Application

2.1 In 2014, RWE, the then owners of Fawley Power Station, sought a Screening Opinion from the Local Planning Authority for the demolition of Fawley Power Station under Regulation 61 of the Conservation of Habitats and Species Regulations 2010 (as amended). The Council's Opinion concluded that the proposed demolition would not be likely to have a significant effect on European sites "due to the nature of the development and the mitigation measures proposed". Having reached this conclusion, it was therefore unnecessary to proceed to Stage 2 of the Habitats Regulations Assessment and carry out an Appropriate Assessment

2.2 In April 2018, the Court of Justice for the European Union ruled (in the case of *People over Wind, Peter Sweetman v Coillte Teoranta*) that mitigation measures should not be considered during the Screening Stage of the Habitats Regulations Assessment (HRA). The consequence of this judgement is that the Council's 2014 Screening Opinion is now out of date and its conclusion no longer fit for purpose.

2.3 Because the Council's 2014 Screening Opinion of no adverse effects was reliant upon the implementation of mitigation measures and because such measures can no longer be considered at Stage 1 of the Habitats Regulations Assessment (HRA), it is now necessary to proceed to Stage 2 of the HRA process and carry out an Appropriate Assessment. Only by doing this is it now possible to ascertain whether or not the proposed demolition of Fawley Power Station will adversely affect the integrity of European sites.

2.4 The “Information for Appropriate Assessment” report submitted by Jonathan Cox Associates has been submitted so as to provide the Local Planning Authority, as the Competent Authority, with the necessary information to enable it to undertake this Appropriate Assessment. The “Information for Appropriate Assessment” has been submitted in the form of a ‘shadow’ Appropriate Assessment.

2.5 It is relevant to note that the proposal to demolish Fawley Power Station was the subject of a separate EIA Screening application that was submitted in December 2017 and determined in February 2018 (ref:17/11706). The Local Planning Authority’s conclusion was that the proposed demolition was not EIA development based on the mitigation measures that it was suggested would be secured. The Secretary of State subsequently received a request for a Screening Direction, and in July 2018 they reaffirmed the Council’s Opinion that the proposed demolition is not EIA development within the meaning of the 2017 Town and Country Planning (Environmental Impact Assessment) regulations 2017, (again based on the mitigation being put forward).

3. The Plan or Project to be assessed

3.1 The demolition of Fawley Power Station that is now proposed is illustrated on Brown and Mason’s Drawing No C1702/SEMP/004 rev 3, and a Programme of works is set out on a separate sheet dated 15th March 2019. A number of reports, as set out in Paragraph 1.6 above, describe the precise demolition schedule.

3.2 The demolition of the power station has been divided into 3 phases, and this Appropriate Assessment specifically needs to consider the impacts of phases 2 and 3 of the demolition project. This Appropriate Assessment does not need to consider Phase 1, which has already commenced, and which includes various internal stripping out works and demolition of some of the smaller structures on the western side of the power station building that were the subject of a separate Demolition Prior Notification application last year.

3.3 The proposed demolition comprises complete removal of all of the remaining structures of each building, including all subsurface floor levels, equipment and plant concrete plinths, pedestals, and internal walls. However, these activities will not include the removal of the structural floor of the lower sub-basement floor slab or basement walls. All buildings and structural demolition will be carried out as specified and in accordance with the BS6187:2011 Code of Practice.

3.4 The demolition would include 4 explosive demolition events comprising demolition of the Turbine Hall (excluding its front wall), the DA Bay, the Boiler House, and finally the chimney.

3.5 The proposed demolition would result in crushed material (‘clean’ concrete and arising) being stored on the site (within the turbine hall basement) following demolition. Other materials including recyclables would be removed from the site.

4. Legal and Planning Context

4.1 The requirement to undertake HRA of development plans and projects was confirmed by the amendments to the Habitats Regulations published for England and Wales in 2007;

the currently applicable version is the Conservation of Habitats and Species Regulations 2017 (as amended).

4.2 Regulation 63 of the Habitats Regulations requires that any plan or project not directly connected with or necessary for the management of the site and likely to have a significant effect upon a European site should be subject to an Appropriate Assessment by the relevant Competent Authority. In this case, only if the Local Planning Authority considers it beyond reasonable doubt that the project will not adversely affect the integrity of any European site would it then be appropriate to approve the application that has been submitted.

4.3 Considering the likely significant effect of a plan or project at both the screening stage and appropriate assessment stage of the HRA requires the competent authority to consider the effects of the proposal on European sites, both alone and in combination with other plans or projects.

4.4 There are 2 notable recent rulings from the Court of Justice for the European Union (CJEU) that are of particular relevance to this Appropriate Assessment: these are the 'People over Wind' ruling (as referred to in Paragraph 2.2 above) and the 'Holohan' ruling.

4.5 The *People over Wind, Peter Sweetman v Coillte Teoranta* (April 2018) judgement ruled that Article 6(3) of the Habitats Directive should be interpreted as meaning that mitigation measures should be assessed as part of an Appropriate Assessment, and should not be taken into account at the screening stage.

4.6 The *Holohan v An Bord Pleanala* (November 2018) judgement stated that:

Article 6(3) of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora must be interpreted as meaning that an 'appropriate assessment' must, on the one hand, catalogue the entirety of habitat types and species for which a site is protected, and, on the other, identify and examine both the implications of the proposed project for the species present on that site, and for which that site has not been listed, and the implications for habitat types and species to be found outside the boundaries of that site, provided that those implications are liable to affect the conservation objectives of the site."

4.7 Accordingly, this Appropriate Assessment should fully consider the potential for effects on species and habitats, including those not listed as qualifying features, to result in secondary effects upon the qualifying features of European sites, including the potential for complex interactions and dependencies.

4.8 In addition, this assessment should consider the potential for off-site impacts, such as through impacts to functionally linked land, and / or species and habitats located beyond the boundaries of the European site, but which may be important in supporting the ecological processes of the qualifying features.

4.9 However, with respect, to non-qualifying Annex I and Annex II species and habitats, it is deemed that an assessment is not required unless the effect of a plan or project on such species is liable to affect the conservation objectives of the site.

5. Stage 1 HRA Screening

5.1 As noted above, the Council's 2014 HRA Screening Opinion concluded that there would be no adverse impacts on European sites subject to the implementation of specific mitigation measures. The particular sites that were considered at that time were the Solent and Southampton Water Special Protection Area, the Solent and Southampton Water Ramsar site, and the Solent Maritime Special Area of Conservation. Due to the changed legal context, one can no longer at the Stage 1 HRA Screening Stage rely on mitigation measures. As it is not possible to reach a conclusion of no adverse effects on these 3 European sites without mitigation measures, it is necessary in respect of all 3 designations to move on to Stage 2 of the HRA and carry out an Appropriate Assessment. This is considered in further detail below.

5.2 The Council's conclusions in respect of the 2014 HRA Screening application did not consider impacts on 2 European sites that the 'shadow' Appropriate Assessment identifies as requiring further assessment, namely the Solent and Dorset Coast proposed Special Protection Area, and the River Itchen Special Area of Conservation.

5.3 The Solent and Dorset Coast proposed Special Protection Area (pSPA)

5.3.1 The 'shadow' Appropriate Assessment notes that the Solent and Dorset Coast pSPA is designated to conserve populations of three species of bird listed on Annex I of the EU Birds Directive, namely; Little Tern, Common Tern and Sandwich Tern. These three species are also a feature of the Solent and Southampton Water SPA so that conservation objectives for this group of species would be the same for both of these sites. The boundary of the pSPA is, however, some 750 metres from the nearest building to be demolished within the former power station, whereas the Solent and Southampton Water SPA boundary is immediately adjacent to the power station boundary.

5.3.2 As such, measures that mitigate impacts on the Solent and Southampton Water SPA to a level that allows a conclusion of no adverse effect on its integrity would also ensure there is no adverse effect on the Solent and Dorset Coast pSPA. Effects of the demolition on the Solent and Dorset Coast pSPA will therefore be considered as part of the assessment of the Solent and Southampton Water SPA and not considered further in this assessment.

5.4 The River Itchen Special Area of Conservation

5.4.1 The 'shadow' Appropriate Assessment notes that the EIA Screening report (WSP, 2017) considered potential impacts from demolition on migrant Atlantic salmon passing through Southampton Water. The EIA Screening report assessed the effects of noise and vibration on migratory fish. This included all migratory species using Southampton Water as well as the Atlantic salmon.

5.4.2 The EIA Screening report concluded that given the distance between the demolition activities and migratory fish (within Southampton Water), vibration would not be likely to be a significant effect when percussive plant is in operation. However, should explosives be used to demolish the chimney stack and other concrete structures, the EIA report concluded that these activities may result in levels of vibration that cause disturbance, albeit the duration would be likely to be a singular activity and short-term. The EIA Screening went on to conclude that mitigation measures proposed to reduce noise impacts on migratory birds would also have the effect of preventing disturbance to migratory fish.

5.4.3 As such, because mitigation measures would be needed to offset impacts on migratory fish, it is necessary to consider impacts of the proposed demolition on the River Itchen SAC through this Appropriate Assessment.

6. The European Sites that would be affected by the Proposed Development and their Conservation Objectives

6.1 The 'shadow' HRA by Jonathan Cox Associates identifies 4 European sites that would be likely to be affected by the proposed development on account of their proximity to the application site and/or their conservation features. These sites are:

- a) The Solent and Southampton Water Special Protection Area (SPA)
- b) The Solent and Southampton Water Ramsar Site
- c) The Solent Maritime Special Area of Conservation (SAC)
- d) The River Itchen Special Area of Conservation (SAC)

The Competent Authority agrees that all of these sites need to be considered, as all the sites have the potential for functional ecological connectivity, and therefore for all of the sites impact source-pathway-receptor connectivity potentially occurs.

These 4 sites and their conservation objectives are assessed further below, drawing directly from the 'shadow' HRA by Jonathan Cox Associates.

6.2 The Solent & Southampton Water Special Protection Area (SPA) & Ramsar Site

6.2.1 The Solent and Southampton Water SPA and Ramsar site qualify for classification for 2 distinct groups of birds. In the summer, the site attracts internationally important populations of five species of sea bird listed on Annex 1 of the EU Birds Directive: Common tern, Little tern, Sandwich tern, Roseate tern and Mediterranean gull. These birds nest on shingle beaches and saltmarshes around the Solent shore with breeding colonies confined to a few discrete locations. The tern species return to the Solent in April after wintering on the African coast. In the western Solent, they nest on shingle deposits at the entrance to the Beaulieu River estuary and between Hurst Castle and the Lymington River estuary. Further colonies are found to the east of the Solent in Langstone and Chichester Harbour. In late summer, numbers of terns in the Solent increase as juvenile and returning migrant birds congregate to feed over sand banks and the entrance of estuaries where their prey of small fish are concentrated. The nearest breeding terns to Fawley are those at Needs Ore Point at the entrance of the Beaulieu River estuary.

6.2.2 The second important group of birds are the regularly occurring migratory birds that qualify the SPA under Article 4.2 of the Birds Directive. These reach peak numbers in the Solent during the winter months of December and January. The Solent meets two of the SPA qualifying criteria for this group of birds. It supports internationally important populations of four species of bird; Dark bellied brent geese, Teal, Black-tailed godwit and Ringed plover. The SPA attracts >1% of the UK wintering population of all four of these species. In addition the Solent attracts an assemblage of more than 20,000 wintering waterfowl. At the time of designation, the five year peak mean population was 53,948 individual birds. This assemblage of wintering waterfowl comprises a diversity of wader and wildfowl species. The assemblage is important to the SPA both in terms of the total

number of birds and its diversity of species. Although the selection of the SPA is based on wintering bird populations, it should be noted that the SPA Review states:

“sites selected for waterbird species on the basis of their occurrence in the breeding, passage or winter periods also provide legal protection for these species when they occur at other times of the year.”

6.2.3 This is important, as several species for which the Solent qualifies as an SPA are present both in winter and during periods of passage migration and during the breeding season. The spring passage occurs in April and early May whilst post breeding passage migrants such as Black-tailed godwit and Ringed plover may be present in significant numbers from July onwards. Some Ringed plover also remain in the SPA to nest during the breeding season.

6.2.4 Criteria 5 and 6 of the Solent and Southampton Water Ramsar site mirror the two groups of birds for which the SPA qualifies for selection under article 4.2 of the Birds Directive. There is, however, one subtle difference: the qualifying population of Ringed plover for which the SPA has been classified occurs in winter, whilst the Ramsar qualifying criteria is based on the passage migrant population occurring in spring and autumn.

6.3 The Solent Maritime Special Area of Conservation (SAC) and Southampton Water Ramsar Site

6.3.1 The Solent Maritime SAC has been designated to conserve examples of 10 habitats of European importance. These can be grouped into four broad habitat types and one ecosystem that may be comprised of a number of Annex 1 and other habitat types. The Ramsar Site designation largely mirrors this range of habitat but also includes the freshwater and terrestrial transitions from these, including coastal grazing marshes, coastal woodlands and reedbeds. The List of habitat types are as follows:

4 Habitat Groups:

a) Saltmarshes:

- *Salicornia* Glasswort and other annuals colonising mud and sand
- *Spartina* Cord grass swards (*Spartinion maritimae*)
- Atlantic Salt meadows (*Glauco-Pucconellietalia maritimae*)

b) Vegetated Shingle

- Annual vegetation of drift lines
- Perennial vegetation of stony banks; Coastal shingle vegetation outside the reach of waves

c) Sand Dunes

- Shifting dunes along the shoreline with *Ammophila arenaria* (“white dunes”); shifting dunes with marram

d) Marine

- Sandbanks which are slightly covered by sea water all the time

- Mudflats and sandflats not covered by seawater at low tide; intertidal mudflats and sandflats
- Coastal lagoons

Ecosystems

- Estuaries

6.3.2 The SAC is also designated for one species: the Desmoulin's whorl snail *Vertigo moulinsiana*. This small snail is associated with freshwater tall fen habitat and is confined to Chichester Harbour in the extreme east of the SAC.

6.4 The River Itchen SAC

6.4.1 The River Itchen SAC is designated for its representation of one Annex 1 habitat type and a total of six species listed on Annex II of the EU Habitats Directive, namely: Southern damselfly *Coenagrion mercuriale*, Freshwater crayfish *Austropotamobius pallipes*, Brook lamprey *Lampetra planeri*, Atlantic salmon *Salmo salar*, Bullhead *Cottus gobio*, and Otter *Lutra lutra*. Of these, only the Atlantic salmon is potentially threatened by the proposed demolition of Fawley Power Station.

6.4.2 The Atlantic salmon is a migratory fish passing through the Solent and Southampton Water both as an adult fish returning to the river and as a juvenile fish or smolt migrating to the sea. Adult salmon migrate up Southampton Water throughout the year. However, peak movements are in autumn and spring/early summer. Movements are stimulated by pulses in freshwater flow following heavy rainfall. The movement of juvenile salmon or smolt back to the estuary is mostly between April and June. The channel of Southampton Water is over 750m from the site of Fawley power station, with intervening intertidal saltmarshes and mudflats. It is unlikely that migratory fish will move up the access channel to the power station dock as this has no attractant freshwater flow.

6.4.3 An additional two Annex II fish species occur within the River Itchen SAC that could potentially be affected. These are the river lamprey *Lampetra fluviatilis* and sea lamprey *Petromyzon marinus*. The river lamprey spends much of its adult life in estuaries, whilst sea lamprey may move through Southampton Water on migration. There is little information on the abundance or distribution of river and sea lamprey in Southampton Water, but it is considered that measures taken to prevent damage or disturbance to Atlantic salmon would also avoid adverse effects on river lamprey and sea lamprey.

6.5 Conservation Objectives of the Solent and Southampton Water SPA (criteria 5 & 6)

6.5.1 Natural England has published the following conservation objectives for this site:

“Subject to natural change; ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;

1. *The extent and distribution of the habitats of the qualifying features*
2. *The structure and function of the habitats of the qualifying features*
3. *The supporting processes on which the habitats of the qualifying features rely*

4. *The population of each of the qualifying features, and,*
5. *The distribution of the qualifying features within the site.”*

6.5.2 The ‘shadow’ Appropriate Assessment considers the vulnerability of the SPA with reference to relevant research. The conclusion is drawn that sea level rise and loss of undisturbed habitat are the most significant threats facing the success of Annex 1 nesting birds in the Solent. It is also noted that disturbance to beaches and shingle deposits used by nesting terns can be even more acute in summer than during the winter months. Finally, predation, particularly from mammalian predators, can also pose a significant threat to small vulnerable breeding colonies of seabirds.

6.6 Conservation Objectives of the Solent Maritime SAC and Solent and Southampton Water Ramsar Site (criteria 1 &2)

6.6.1 Natural England has published the following conservation objectives for this site:

“Subject to natural change, ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;

1. *The extent and distribution of qualifying natural habitats and habitats of qualifying species*
2. *The structure and function (including typical species) of qualifying natural habitats*
3. *The structure and function of the habitats of qualifying species*
4. *The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely*
5. *The populations of qualifying species, and,*
6. *The distribution of qualifying species within the site.”*

6.6.2 The ‘shadow’ Appropriate Assessment considers the vulnerability of the sites and notes that the SAC and Ramsar site habitats are vulnerable to many of the same impacts that threaten the SPA (as identified in Section 6.5.2 above). It notes that the effects of climate change and sea level rise are predicted to have substantial impacts on the distribution and extent of the coastal and wetland habitats around the Solent. Shoreline habitats are also vulnerable to the combination of trampling and erosion caused by excessive levels of public access. The areas are also vulnerable to changes on water quality: for example, through increased concentrations of nitrates. Reductions in freshwater flows, principally as a result of abstraction for public water supply, also have adverse effects on ecological transitions and movement of migratory fish through estuaries. This is an important feature of the Estuaries habitat type for which the SAC and Ramsar site are designated.

6.7 Conservation Objectives of the River Itchen SAC

6.7.1 Natural England has published the following conservation objectives for this site:

“Subject to natural change, ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;

1. *The extent and distribution of qualifying natural habitats and habitats of qualifying species*
2. *The structure and function (including typical species) of qualifying natural habitats*
3. *The structure and function of the habitats of qualifying species*
4. *The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely*
5. *The populations of qualifying species, and,*
6. *The distribution of qualifying species within the site.”*

7. Background Information – Bird Use of the Fawley Shoreline

The Jonathan Cox ‘shadow’ Appropriate Assessment provides details of bird use of the Fawley shoreline, based on surveys that were undertaken during the 2015/16 and 2016/17 winter.

Drawing directly from the ‘shadow’ Appropriate Assessment, the key conclusions of these surveys are as follows:

- The peak count of wildfowl and waders in the five count areas at Fawley was made on 28th October 2015 with 1,874 birds representing some 3.6% of the internationally important waterfowl assemblage for which the Solent and Southampton Water SPA/Ramsar site has been classified (Assemblage of 51,361 waterfowl, 5 year peak mean 1991/92-1995/96). The peak mean high water count from the two years of survey was 1,428 birds.
- More birds were present at high water than at low water, with the peak mean low water count being 839.5 birds.
- A couple of the Count areas (1 and 2) comprising the saltmarshes, shingle banks and intertidal mudflats fronting the Power Station were the most important for wintering and passage migrant wildfowl and waders. The most numerous species in these two count areas were Dark-bellied brent goose (high water peak count 751 on 08/12/15), Oystercatcher (peak count 676 on 28/10/2015), Wigeon (peak count 208 on 28/10/15) and Teal (peak count 207 on 30/01/17). The two year peak mean counts in these two Count areas for these four species represent 25%, 48%, 7% and 19% of the Southampton Water winter populations of these species.
- Count areas 1 and 2 are also important in the Southampton Water context for Ringed plover (high water two year mean peak count 27, 19% of Southampton Water), Shelduck (peak mean high water count 52.5, 49% of Southampton Water), Pintail (peak mean high water count 54.5, 71% of Southampton Water) and Black-tailed godwit (peak mean high water count 94.5, 22% of Southampton Water).
- Counts of the Fawley Power station channel found generally low numbers of birds, with a peak count of 168 birds on 19/12/2016. The most numerous species was Dark bellied Brent goose with a peak count of 106 birds (peak mean 2015/16 was 38 and 2016/17 was 45.5). Other more abundant species were Oystercatcher (peak count of 49, annual means of 21 and 31.4) and Wigeon (peak count of 42, annual means of 8). The channel was surprisingly poor for Redshank, Black-tailed godwit and Dunlin, with peak counts of 11 Redshank, 56 Black-tailed godwit and no Dunlin. The channel was used occasionally by small numbers of diving birds with peak counts of Great crested grebe (7), Little grebe (1), Great northern diver (1) and Cormorant (4).

8. Baseline Conditions

8.1 As noted in the 'shadow' Appropriate Assessment by Jonathan Cox Associates "Assessing the impact of a plan or project on a European site requires an understanding of the current condition of that site. Sites that are already under environmental stress are less likely to be able to withstand increased pressure than those that are less stressed".

8.2 As noted in the 'shadow' Appropriate Assessment, the former Fawley Power station fronts the Hythe to Calshot Marshes SSSI. Condition assessments for the SSSI are published by Natural England and provide an initial analysis of the condition of the SSSI. Two SSSI condition assessment units front the site of the power station: both are composed of intertidal mudflats and saltmarsh and both are assessed as being in "Unfavourable Recovering Condition".

8.3 With respect to birds using the Solent and Southampton Water SPA and Ramsar site, monitoring data by the British Trust for Ornithology notes that there are red alerts for 3 of the 18 species associated with the SPA (Ringed plover, Dunlin and Redshank) and amber alerts for another 4 (Shelduck, Pintail, Lapwing and Curlew). However, as noted in the 'shadow' Appropriate Assessment, site specific pressures are only likely to be causing declines in Lapwing, with other declines following wider national and regional trends.

9. Review of Potential Impacts

9.1 The 'shadow' Appropriate Assessment by Jonathan Cox Associates identifies 5 potential impacts on European sites arising from the proposed demolition of the Power Station. These are:-

- a) Direct Impacts to Habitats
- b) Potential Indirect Impacts of Drainage
- c) Potential Impacts of Dust
- d) Potential Impact of Noise and Vibration
- e) Potential Impact of Visible Movement

The Competent Authority agrees that these are all impacts that need to be considered, and these impacts are duly assessed below, drawing from the details within the "shadow" Appropriate Assessment.

9.2. Direct Impacts to Habitats

9.2.1 Demolition work is expected to last for a little over 2 years. As noted in the 'shadow' Appropriate Assessment, demolition would be entirely outside the SPA, SAC & Ramsar site boundary, with the nearest part of the building to be demolished being approximately 80 metres away from the SPA boundary. There should therefore be no direct impact on the designated habitats.

9.3 Potential Indirect Impacts of Drainage

9.3.1. The 'shadow' Appropriate Assessment considers that the baseline conditions with respect to drainage, as outlined within the 2014 HRA and separate EIA Screening applications, remain valid, and this is agreed by the Competent Authority. In summary, the Site drains through a traditional pipe drainage network to a series of coastal outfalls into Southampton Water within the intertidal saltmarshes and mudflats of the SPA, SAC and Ramsar site. The existing drainage system includes a number of pollution control

mechanisms (blind sumps, oil interceptors, penstocks and oil sensors) that are remnants from the operation of the Site as a power station.

9.3.2 There are two further outfalls at the southern end of the existing site that take surface water runoff from ditches on the western boundary of the existing site. One of these ditches flows southwards along the western boundary, and receives offsite flows from the west of the existing site at Badminton Farm. The other flows northwards towards the south-west corner of the existing power station site and is assumed to take surface water flows from the existing properties at Calshot.

9.3.3 The previous 2014 HRA Screening application identified that demolition activities could have a potential impact on the European sites through the release and mobilisation of historical contamination. It therefore identified the need for mitigation to offset these impacts.

9.3.4 The 'shadow' Appropriate Assessment notes that no demolition works pursuant to this application will be undertaken until decommissioning operations have been completed, specifically in relation to the removal of all fuel, stored oils and water treatment chemicals from the Site, some of which has already been completed. It is also noted that the Site is currently subject to an Environmental Agency Permit which controls discharge from the Site. All drainage discharges will be made via the on-site interceptors (already installed within the on-site drainage system) with appropriate levels of monitoring and reporting to the EA, which will continue throughout the demolition works.

9.3.5 The 'shadow' Appropriate Assessment notes that, as a precautionary measure, the 2014 HRA Screening application recommended the need to secure mitigation by way of a Pollution Prevention Plan, which should be submitted as part of a wider Site Environmental Management Plan, a conclusion which is considered to remain valid.

9.3.6 In conclusion, there is considered to be a likely significant effect from drainage of the site during demolition. It is therefore necessary to consider whether the mitigation measures that have been submitted with the application in the form of a Pollution Prevention Plan and a Site Environmental Management Plan would offset these effects, having regard to the European and Ramsar Site Conservation Objectives.

9.4 Potential Impacts of Dust

9.4.1 The 'shadow' Appropriate Assessment considers that the baseline conditions for dust are largely unchanged from that presented within the 2014 HRA and separate EIA Screening applications, with the exception of the revocation of the Fawley Air Quality Management Area (AQMA) in 2013, following a series of process improvements at Fawley Refinery and a reduction in sulphur dioxide. In addition, the 'shadow' Appropriate Assessment notes that since 2014, small scale decommissioning works have been in progress within the Site, as well as the introduction of two new temporary uses within the Site, comprising a small scale haulage company and wind turbine trans-shipment, processing and storage. The Competent Authority agrees with this assessment of the baseline conditions.

9.4.2 The previous 2014 Screening Report considered receptors located within 200 metres radius of the site. The shadow 'Appropriate Assessment' notes that more recent

guidance published by the Institute of Air Quality Management (IAQM) advises that consideration should be given to a slightly larger area, notably to ecological receptors within 50 metres of the site boundary and/or 50 metres of the routes used by construction traffic (up to a distance of 500 metres from the site entrance).

9.4.3 The previous 2014 HRA Screening application identified that demolition activities could potentially lead to the degradation of designated ecological sites as a result of dust deposition associated with mechanical and explosive demolition, concrete crushing activities, material stock piling and on-site haulage activities. This is considered to remain relevant. However, the 'shadow' Appropriate Assessment has now identified a potential additional dust impact on sensitive receptors, which is a potential increase in pollutant concentrations (Nitrogen Dioxide (NO₂)) and Particulate Matter (PM₁₀ and PM_{2.5}) from exhaust emissions, arising from construction traffic and plant. This additional potential impact is agreed by the 'Competent Authority'. There are not considered to be any other significant dust effects. However, there is evidently a need for mitigation to offset the 2 potential adverse effects on European sites that have been identified.

9.4.5 The 'shadow' Appropriate Assessment notes that the 2014 Screening application proposed mitigation by way of a Dust Management Plan, to be prepared and implemented throughout the demolition work, based on industry best practice and relevant guidance. The 'shadow' Appropriate Assessment also recommends that specific mitigation measures should be incorporated into a Site Environmental Management Plan, in relation to plant, equipment and construction traffic.

9.4.6 In conclusion, there is considered to be a likely significant effect from dust emissions during demolition. It is therefore necessary to consider whether the mitigation measures that have been submitted with the application in the form of a Dust Management Plan and a Site Environmental Management Plan would offset these effects, having regard to the European and Ramsar Site Conservation Objectives.

9.5 Potential Impacts of Noise and Vibration

9.5.1 The 'shadow' Appropriate Assessment considers that the baseline conditions identified within the 2014 HRA and separate EIA Screening are largely unchanged, with principal noise sources being noise generated from road traffic, shipping movements within Southampton Water, the operation of the substations (400kV and 132KV / two super-grid transformers) and nearby industrial activities (including Fawley Oil Refinery).

9.5.2 However, as the 'shadow' Appropriate Assessment notes, a number of new activities are now taking place that were not taking place in 2014. This includes the internal stripping of the Turbine Hall, and the use of the site by temporary tenants, by far the most significant of whom is MHI Vestas, who are operating a wind turbine trans-shipment, processing (painting) and storage facility. Noise generated by the MHI Vestas facility was modelled as part of their planning application for temporary planning permission. It predicted a worse-case scenario maximum noise at the SPA boundary of 64.9 dBA. This was predicted at the north-eastern end of the new MHI Vestas facility near to the south-east corner of the electricity sub-station building.

9.5.3 The 'shadow' Appropriate Assessment recognises the significant effects that were identified as part of the 2014 HRA Screening process, which are considered to remain

valid. These effects are, firstly, disturbance to SPA and Ramsar site birds from noise generated by on-site demolition and construction activities and associated temporary traffic; and secondly, disturbance to SPA and Ramsar site birds from vibration generated by on-site demolition and construction activities.

9.5.4 As is set out in the 'shadow' Appropriate Assessment, demolition noise will involve HGV movements, diesel engine plant, percussive noise from breaking concrete and cutting steel, and isolated events of explosive demolition noise.

9.5.5 The level at which disturbance to birds in the SPA and Ramsar site is likely to occur is considered to be 69dB(A). As part of the previous 2014 HRA and EIA Screening work, the potential impacts of noise were looked at by a firm of acoustic consultants. Subject to normal control measures, noise levels from demolition of most of the power station should not exceed the threshold where disturbance would be expected. However, with respect to the demolition of the control room (which is the nearest building to the SPA), there would be the potential, without any screening, for noise levels to reach 73 dB(A) at the nearest point of the SPA. However, as the 'shadow' Appropriate Assessment notes, the area where noise levels might be above 70dB(A) would be mainly an area of coastal grassland that is not used by the SPA birds. The 'shadow' SPA suggests that either through screening and/or the timing of the most noisy demolition works outside of the most sensitive overwintering period that it would be possible to mitigate noise impacts. These mitigation details should be set out in a Noise Mitigation Plan.

9.5.6 The 4 explosive demolition events that are proposed would produce high peak noise levels of a short duration (in excess of 69dB(A)). Because of the short duration of these explosive demolition events, the 'shadow' SPA suggests that such noise is unlikely to have any significant impact, but that the planning and timing of these events should be agreed to avoid any cumulative impact.

9.5.7 The 'shadow' Appropriate Assessment suggests that "*vibration is not considered likely to have an impact on SPA and Ramsar site bird populations, given the separation between the buildings and the European and Ramsar site boundary*". However, in the light of the previous 2014 HRA Screening report, it is suggested that a precautionary approach is now taken to vibration.

9.5.8 In conclusion, there is considered to be a likely significant effect from noise and vibration during demolition. It is therefore necessary to consider whether the mitigation and avoidance measures that have been submitted with the application in the form of a Noise Management Plan, and a Vibration Management Plan would offset these effects, having regard to the European and Ramsar Site Conservation Objectives.

9.6 Potential Impact of Visible Movement

9.6.1 The baseline conditions relied upon in the 'shadow' Appropriate Assessment recognise the historic use of the site as a power station and the changes that have taken place since the power station was decommissioned. These have included the temporary use of the site as a film set, and more recently the temporary uses of parts of the site for the painting and storage of wind turbines, and for mineral workings. These uses result in the regular movement of vehicles and people between the power station buildings and the SPA and Ramsar site boundary. There is also a public footpath alongside the power

station's coastal edge. The 'shadow' Appropriate Assessment notes that from the bird surveys that have been undertaken, there is some evidence that unpredictable and unusual levels of activity can cause disturbance to wintering and migratory birds.

9.6.2 The 'shadow' Appropriate Assessment indicates that demolition activity will involve HGV movements, but these will predominantly be at the rear of the station which is screened from the SPA. Nonetheless, it is recognised that additional visible movements on the site could potentially affect the European sites, and that this therefore needs mitigation through the agreement of a Zoning and Layout Plan (as part of an overall Demolition Management Plan), identifying car parking, HGV routes and handling areas.

9.6.3 The 'shadow' Appropriate Assessment indicates that it is likely that barges or coasters will be the main means by which scrap metal leaves the site. Boats can only navigate the channel at high tide, when the majority of birds will be displaced from the intertidal zones. Boats will be a similar size or smaller than those previously used to supply the power station with fuel oil. The channel is regularly used by the 'Bladerunner', a boat specifically designed to transport the wind turbine blades to and from the site. Studies of boat movements at Fawley and elsewhere in the Solent have shown that providing speed is limited they cause no significant disturbance to intertidal feeding waterfowl.

9.6.4 The 'shadow' Appropriate Assessment notes that demolition work on the north-eastern side of the power station and activity at a high level, including handling reflective roof and glazing panels, has the potential to cause visual disturbance to birds within the SPA during the sensitive overwintering period, particularly between November and February. As the 'shadow' Appropriate Assessment identifies, an avoidance strategy has been developed in order to ensure that most external demolition activity does not occur in this area of the power station during this overwintering period. In this way, potential disturbance to SPA and Ramsar site bird populations will be minimised. However, should any low level activity be required on the site of the Control Room during the more sensitive overwintering period, this is considered unlikely to cause any significant disturbance to wintering SPA birds as the activity would tend to be slow moving predictable and constant; as the distance between the demolition site and the SPA would be in excess of likely disturbance distances (based on a previous study); and as a belt of coastal grassland and scrub provides an important visual screen between the power station and the intertidal flats used by the SPA birds.

9.6.5 In conclusion, there is considered to be a likely significant effect from visible movement during demolition. It is therefore necessary to consider whether the mitigation and avoidance measures that have been submitted with the application in the form of a Demolition Management Plan and a Site Environmental Management Plan would offset these effects, having regard to the European and Ramsar Site Conservation Objectives.

10. In-Combination Assessment

10.1 As noted in the 'shadow' Appropriate Assessment, it is a requirement that plans and projects assessed under the Habitats Regulations are considered both alone and, where necessary, in combination with other plans or projects. This is done to take account of cumulative or additive effects. However, to have a combined effect it is necessary for each plan or project to have a measurable impact on the European sites concerned.

10.2 The HRA Screening assessment undertaken in 2014 considered in-combination effects of the proposed demolition in some detail. It concluded that the implementation of an avoidance strategy would mean that activities with potential to have impacts on the SPA and Ramsar site would not be carried out during the bird wintering period, so avoiding the potential for visual disturbance. Noise from general demolition was assessed and was not expected to exceed thresholds at which disturbance would be expected. As a consequence, it was concluded that there were no impacts arising from the demolition to be considered in combination.

10.3 The 'shadow' Appropriate Assessment has considered 4 other projects for in combination effects. These are:

- a) The National Grid substations
- b) Fawley Quarry
- c) Maintenance Dredging within Southampton Water
- d) The MHI Vestas wind turbine painting and storage facility

These will now be looked at in turn.

10.4 The National Grid Substations

10.4.1 The National Grid currently lease 8.7ha of land within the boundary of Fawley Power Station, which is occupied by two substations (400kV and 132kV) and two supergrid transformers, as well as associated infrastructure. The operations here would be concurrent with the proposed demolition.

10.4.2 However, as the 'shadow' Appropriate Assessment notes, the survey work which informed the 2014 screening applications, and the subsequent data which has been used to inform this Appropriate Assessment was undertaken / produced with the substation in place. Therefore, the National Grid substation forms part of the baseline scenario, and any combined effects of this project and the proposed demolition have already been considered. Accordingly, there is not considered any need to further consider in-combination effects associated with this project.

10.5 Fawley Quarry

10.5.1 Fawley Quarry has been operational for many years, and there remains a consent to extract sand and gravel on this site up until 2026. As such, extraction activities and associated transport of materials on this site would be concurrent with the proposed demolition.

10.5.2 Due to the proximity of Fawley Quarry to the proposed demolition site, there is a similar geographical extent to the 2 projects, and common sensitive receptors. However, as the 'shadow' Appropriate Assessment notes, the survey work which informed the 2014 screening applications, and the subsequent data which has been used to inform this Appropriate Assessment was undertaken / produced during the ongoing operations at Fawley Quarry. Therefore, Fawley Quarry forms part of the baseline scenario, and any combined effects of this project and the proposed demolition have already been

considered. Accordingly, there is no requirement to further consider in-combination effects associated with this project.

10.6 Maintenance Dredging within Southampton Water

10.6.1 The 'shadow' Appropriate Assessment advises that Fawley Waterside Limited (FWL) undertook maintenance dredging of the marine channel from the Fawley Power Station Dock to Southampton Water in February 2017. Dredging was completed in line with marine license L/2017/00024/1, held by FWL. The marine license was valid up to the 27 February 2017, and as such, no further dredging activities can now be undertaken without an additional license application.

10.6.2 Therefore, it is considered that channel maintenance dredging activities do not share a common construction or operational phase with the proposed demolition. Accordingly, there is no requirement to further consider in-combination effects associated with this project.

10.7 The MHI Vestas wind turbine painting and storage facility

10.7.1 MHI Vestas have been granted a 10 year temporary planning permission, expiring on 31st December 2027. The permission is for 2 steel portal framed industrial buildings (Use Class B2); a mobile portable cabin, and use of land for the storage of wind turbine blades (B8). The development is located within the boundary of the former power station and, therefore, shares a common geographical extent. As such, the activities associated with this use would be concurrent with the proposed demolition activity.

10.7.2 The Council's 2018 EIA Screening assessment for the demolition that is now proposed considered that there was a potential for combined effects of the MHI Vestas operation and the demolition of the power station. 2 potential in-combination effects were identified. These were:

- Disturbance to bird populations associated with nearby SPA and Ramsar sites and functionally linked land.
- Increased surface water flow to controlled waters within the nearby SPA, SAC and Ramsar sites.

10.7.3 Looking at the first of these 2 in-combination effects, the common receptor under consideration is important species (birds) associated with the adjacent designated ecological sites. Bird species are considered to be tolerant to a level of noise disturbance (considered to be 69.9dB), above which there may be disturbance and hence adverse effects on wintering birds (based on information provided by Natural England).

10.7.4 As noted in the 'shadow' Appropriate Assessment, the operation of the MHI Vestas facility involves noise generating activities, including; loading/unloading of barges; movement of blades via transporters within the Site; and plant and machines associated with on-site process, including washing and painting, which may occur at the same time as noise generating activities associated with the proposed demolition (mechanical and/or explosive demolition).

10.7.5 Taking the worse-case scenario, noise levels modelled for the MHI Vestas application would give a maximum of 64.9dB(A) at the SPA boundary. In the absence of

any acoustic screening from the demolition of the Control Room, the Spectrum Acoustic modelling predicts a maximum noise level of 73dB(A) at the same nearest point of the SPA boundary. Combining these two predicted noise levels gives a level of 64.9dB(A) plus 73dB(A) Model E1 = 73.625dB(A). This would exceed the noise disturbance threshold for the SPA and Ramsar site. However, this situation would be avoided by timing of demolition of the Control Room to avoid the sensitive wintering bird period of November to February or, mitigated by providing acoustic screening if noise generating work needed to be undertaken at this time of year.

10.7.6 It is noted that on-site noise level monitoring will also be undertaken to ensure noise levels remain below the target threshold and action taken should these deviate from those predicted by the modelling.

10.7.7 As noted in the 'shadow' Appropriate Assessment, the proposed demolition and the MHI Vestas facility will, in combination, lead to an increase in physical movements within the Site, visible from the adjacent designated ecological sites and functionally linked land. Visual disturbance can result in bird flight, increased energetic demand and potentially abandonment of habitat.

10.7.8 Movement at the MHI Vestas facility, associated with the transportation and loading / unloading of turbine blades, as well as staff movements, may occur at the same time as the operating equipment and staff required for the proposed demolition, including the movement of barges. As is set out in the 'shadow' Appropriate Assessment, visual disturbance associated with barge movements is principally linked to the proximity of barges to protected species, where the tolerance of species to such disturbance is linked to distance (i.e. greater tolerance with increased distance). The visual disturbance associated with the MHI Vestas facility is considered to be limited because movement of turbine blades is undertaken with precision (i.e. at slow speeds) due to the scale and movability of the blades. In addition, the movement of barges associated with this use is typically no more than 10 return trips a week.

10.7.9 Some of the waste arisings from the proposed demolition are proposed to be removed by barges. There would therefore be a potential in-combination effect in terms of barge movements. To mitigate any potential in-combination impacts, a Barge Loading Method Statement is proposed which would include measures to ensure that barge movements are scheduled so that multiple movements would not take place at the same time or exceed (in combination) 21 return trips a week.

10.7.10 As noted in the 'shadow' Appropriate Assessment, the operation of the MHI Vestas project requires a low number of operatives (33), which is considered to be a minimal addition, particularly considering existing activities on site. The proposed demolition is also likely to have a low number of staff (50).

10.7.11 The 'shadow' Appropriate Assessment concludes that providing boat movements are undertaken in line with the above measures, no further mitigation over and above that required at the individual project level is considered necessary unless the barge movements were to exceed 21 return trips a week. This conclusion is accepted by the Competent Authority.

10.7.12 With respect to increased surface water flow to controlled waters, the common receptor under consideration is Southampton Water, given that any outfall from the proposed demolition and MHI Vestas facility will ultimately be into Southampton Water.

10.7.13 The 'shadow' Appropriate Assessment notes that, as was determined at the project level, the MHI Vestas facility would result in an increased catchment area in terms of the area draining into Southampton Water, whilst the washing of blades may result in an increased volume of water draining to the receptor. However, the MHI Vestas facility minimises the requirement for drainage of surface water to the receptor as far as possible. No sources of contamination are considered likely within the open storage areas, and the volume of water used would be limited. Within the project level drainage assessment, it is noted that an environmental permit will be necessary for the discharge of runoff to the receptor, which would minimise any negative physical impacts to the receptor.

10.7.14 As the 'shadow' Appropriate Assessment recognises, due to the nature of the works associated with the proposed demolition, additional drainage requirements would be controlled to acceptable levels that can be accommodated by the receptor (Southampton Water). The 'shadow' Appropriate Assessment concludes that assuming the project level mitigation is implemented (and monitored where necessary) in-combination environmental effects on controlled waters are unlikely. This conclusion is accepted by the Competent Authority.

Additional in-combination effects

10.8 The 'shadow' Appropriate Assessment did not initially consider in-combination effects arising from a 5 year temporary planning permission for the use of land on the southern side of the power station for the open storage of gravel. However, an addendum has subsequently been submitted.

10.8.1 The submitted addendum notes that there is potential for in-combination effects of noise from the operation of the gravel storage area and the demolition of the power station. However, noise generated by the gravel storage operation will be monitored at the Special Protection Area boundary to ensure levels remain below target levels. As noted elsewhere, the most significant noise generating elements of the power station demolition will be undertaken outside of the sensitive overwintering bird period. With these mitigation measures in place, so it will be possible to ensure that there are no combined effects of noise that would adversely affect the Special Protection Area and Ramsar site bird populations.

10.8.2 The submitted addendum also notes that there is potential for combined effects of boat movements along the Fawley access channel from the demolition of the power station, MHI Vestas blade movements and the gravel storage operation. However, through the mitigations measures that are proposed that would limit the number of boat movements, limit boat speeds, and confine boat movements to the defined dredged channel, it would be possible to ensure that there are no combined effects from boat movements that would adversely affect the Special Protection Area and Ramsar bird populations.

11. Schedule of Proposed Mitigation

11.1 The Schedule of Proposed Mitigation includes the following:

- Site Environmental Management Plan (SEMP)
- Demolition Phasing Plan & Provisional Programme
- Site Layout Plan
- Explosive Demolition Method Statement & Blowdown Manual
- Ecological Management Plan
- Protected Species Licences (Bats)
- Noise Management Plan
- Vibration Management Plan
- Noise Monitoring
- Dust Management Plan
- Barge Loading Method Statement
- Site Waste Management Plan
- Pollution Prevention Plan
- Traffic Management Plan

11.2. Site Environmental Management Plan

11.2.1 The Site Environment Management Plan (SEMP) that has been prepared is a detailed document that sets out the proposed working procedures, management structure and control measures that will be put into place in order to manage asbestos removal, demolition and site clearance of the power station buildings. The SEMP incorporates detailed environmental management measures in respect of noise, dust management (air quality), vibration, water, waste, traffic, human health, visual impact, ecology, lighting and flood risk.

11.3 Demolition Phasing Plan

11.3.1 The demolition Phasing Plan and proposed demolition programme sets out the proposed demolition timescales to ensure those works with the greatest potential to impact on the SPA are timed so as to avoid the sensitive overwintering period between November and February (4 months).

11.4 Site Layout Plan

The Site Layout Plan incorporates details of the location of the fuel and oil storage area, the welfare area and the concrete crushing / stockpile area. These facilities would be either sited in areas furthest away from the SPA, or in the case of the crushing / stockpile area within the turbine hall basement where it would be screened from the SPA.

11.5 Explosive Demolition Method Statement & Blowdown Manual

11.5.1 The Outline Explosive Demolition Method Statement and the Outline Blowdown Manual provide a framework methodology for the 4 planned explosive demolition events, which would all be timed to take place outside the sensitive overwintering period (November to February). These single large noise events would result in a single disturbance that Natural England have confirmed can be considered 'de minimis' in terms of any noise impact on bird populations.

11.5.2 Each explosive demolition event will need to be the subject of a more detailed method statement (which cannot yet be determined), with the relevant details provided to

the Local Planning Authority beforehand. These more detailed method statements would take place within the parameters set by the Outline Explosive Demolition Method Statement and the Outline Blow Down Manual, so that there can be the necessary confidence that potential impacts on European sites will be appropriately mitigated.

11.6 Ecological Management Plan

11.6.1 The Ecological Management Plan that has been submitted incorporates a number of mitigation measures in order to manage the ecological aspects of asbestos removal, demolition of the power station buildings and site clearance. As well as dealing with the more detailed impacts set out in other reports, the Ecological Management Plan proposes measures to ensure that there are ongoing wildlife inspections of the site by a competent person.

11.7 Protected Species Licences (Bats)

11.7.1 A Bat Survey Report assessed the power station in 2018 for bat presence and found the presence of roosting common pipistrelle bats. Licences would be required in advance of the proposed demolition in agreement with Natural England. Mitigation for the loss of roosting bats is suggested.

11.8 Noise Management Plan

11.8.1 The Noise Management Plan sets out the noise control measures that will be put into place during the demolition project. The Noise Management Plan recognises that noise should not exceed 69.9dB(LAeq) at the nearest point of the SPA if adverse noise impacts on the SPA are to be avoided. Rather than mitigation of potential noise impacts through screening, the Noise Management Plan seeks to avoid such adverse impacts altogether by programming the explosive demolition events and the demolition of those parts of the power station that are closest to the SPA outside of the sensitive November to February overwintering period.

11.8.2 The Noise Management Plan incorporates a monitoring plan for an identified zone that forms the nearest section of the SPA to the power station buildings. Within this zone, monitoring would be carried out for 60 minutes each day, so as to ensure that the Action Level of not exceeding 69.9dB(LAeq) is adhered to.

11.9 Vibration Management Plan

11.9.1 The Vibration Management Plan sets out the procedures, management structure and control measures that will be put in place, in order to manage vibration impacts during the proposed demolition project. The Vibration Management Plan proposes that the potential effects of vibration on adjacent European sites are monitored at the nearest point of the SPA, with set actions then proposed to be put into place if vibration exceeds specified vibration levels. Such monitoring and action measures are designed to ensure that vibration levels during demolition remain within best practice guidelines.

11.10 Dust Management Plan

11.10.1 The Dust Management Plan sets out the procedures, management structure and control measures that will be put into place to manage dust emissions from the proposed

demolition. The Dust Management Plan has been prepared, utilising the IAQM's Guidance on Monitoring in the Vicinity of Demolition and Construction Sites – October 2018 (version 1.1)

11.10.2 Although, the Dust Management Plan assesses the impact of dust on the SPA as being low, by way of mitigation it proposes that there be continuous monthly monitoring within the nearest parts of the SPA to ensure that dust levels within the SPA do not exceed a level that would give rise to adverse effects.

11.11 Barge Loading Method Statement

11.11.1 The Barge Loading Method Statement indicates that in so far as the demolition of the power station is concerned, that there would be only 1 barge load a week associated with the transport of heavy scrap metal, which should not result in the combined number of barge movements to the site exceeding 21 return movements per week. The Barge Loading Method Statement includes procedures for ensuring the safe loading of barges.

11.12 Site Waste Management Plan

11.12.1 The Site Waste Management Plan provides a framework for the management of waste throughout the demolition project so as to ensure compliance with legislative requirements. It includes measures for recycling waste, where appropriate.

11.13 Pollution Prevention Plan

11.13.1 The Pollution Prevention Plan sets out the procedures, management structure and control measures that will be put into place in order to manage potential pollution sources, so as to prevent pollution and so as to ensure that demolition works do not affect local controlled bodies of water, drains or watercourses. The report includes a number of detailed control and monitoring measures.

11.14 Traffic Management Plan

11.14.1 The Traffic Management Plan sets out the procedures that will be put in place so as to manage traffic movements to and from the Power Station. Traffic would be routed so as to be primarily on the side of the site furthest away from the SPA boundary, thereby ensuring that any potential disturbance effects would be avoided.

11.15 Unilateral Undertaking

11.15.1 A Unilateral Undertaking has been submitted, in which the owner covenants that it will adhere at all times to the methodology set out in all of the above cited reports, and that it will implement in full all of the mitigation and avoidance measures set out within these reports. Furthermore, within the Unilateral Undertaking, the owner covenants to appoint an Environmental Clerk of Works who will be responsible for overseeing and monitoring the implementation of the various mitigation measures, and who will have the authority to require demolition to cease if a risk of a significant effect to a European site were to be identified. It is considered that this Unilateral Undertaking gives the Competent Authority the necessary level of confidence that the proposed methodology will be adhered to, that the mitigation measures will be achievable and effective, and that there will be the necessary safeguards should any risks be subsequently identified.

12. Assessment of Likely Impacts against Conservation Objectives

12.1 In his 'shadow' Appropriate Assessment, Jonathan Cox Associates has produced a set of tables (3 in total), which considers the 5 main potential adverse effects (drainage, dust, noise & vibration, visible movement, and in combination effects) against the particular conservation objectives of the 4 European sites that have the potential to be adversely affected by the proposed demolition. These 3 tables are attached as Appendix 1 to this Appropriate Assessment. In all cases, it is concluded that there would either be no impact, or that the impact would be mitigated, avoided or offset as a result of the mitigation measures that have been proposed within the various reports accompanying the application. The Competent Authority fully endorses the assessment of likely impacts as set out in these tables.

12.2 As such, it is the Competent Authority's conclusion that the implementation of the proposed mitigation measures, as set out in the reports discussed in Section 11 above, would ensure that the proposed demolition project would have no adverse effects on the Conservation Objectives of the Solent and Southampton Water SPA and Ramsar Site, the Solent Maritime SAC and the River Itchen SAC.

13. Assessment of Effects on Integrity

13.1 The 'shadow' Appropriate Assessment highlights that Regulation 63 of the Habitats Regulations requires not only an assessment be made against the Conservation Objectives of the European sites concerned, but also that a conclusion of no adverse effect on the integrity of the sites concerned be reached.

13.2 In considering impacts on Site Integrity, advice from English Nature (as they were known when the advice was issued) suggests that the Competent Authority should ask itself 5 questions which are:

Has the Appropriate Assessment shown:

1. That the area of Annex 1 habitats (or composite features) will not be reduced.
2. That there will be no direct effect on the population of the species for which the site was designated or classified.
3. That there will be no indirect effects on the populations of species for which the site was designated or classified due to loss or degradation of their habitat (quantity / quality)
4. That there will be no changes to the composition of the habitats for which the site was designated (e.g. a reduction in species structure, abundance or diversity that comprises the habitat over time).
5. That there will be no interruption or degradation of the physical, chemical or biological processes that support habitats and species for which the site was designated or classified.

13.3 The Guidance goes on to suggest that if the answer to all of these questions is 'yes', then it would be reasonable to conclude that there would not be an adverse effect on integrity.

13.4 Accordingly, the Competent Authority has reviewed the answers to these 5 questions, and it considers that for all 5 questions the answer is indeed yes.

13.5 Given that all of the integrity questions can be answered in the affirmative, it is therefore concluded that, taken as a whole, including all of the identified mitigation measures, the proposed project to demolish Fawley Power Station would not have an adverse effect upon the integrity of the following European sites:

- Solent and Southampton Water SPA
- Solent and Southampton Water Ramsar Site
- Solent Maritime SAC
- River Itchen SAC

14. Consultation with Natural England

14.1 Natural England considered the 'shadow' Appropriate Assessment in their consultation response dated 21st February 2019. Subject to detailed comments, Natural England's conclusion is that the mitigation measures proposed will mitigate for all identified adverse effects that could potentially occur as a result of the proposal.

15. Overall Conclusion

15.1 The Competent Authority's overall conclusion is that the proposed project to demolish Fawley Power Station and to remediate the site would not result in adverse effects on the integrity of European sites, either alone or in-combination with other plans and projects, having regard to the suite of mitigation measures that would be implemented, as set out in the detailed application reports and as secured in the Unilateral Undertaking accompanying the Demolition Prior Notification application.

APPENDIX 1

1.1 Assessment Against Conservation Objectives for the Solent and Southampton Water SPA and Ramsar site

Subject to natural change; ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;

	Drainage	Dust	Noise & Vibration	Movement	In combination
The extent and distribution of the habitats of the qualifying features.	No Impact	No Impact	No Impact	No Impact	No Impact
The structure and function of the habitats of the qualifying features	Function of habitats will be maintained by mitigation measures defined in Pollution Prevention Plan (PPP)	Function of habitats will be maintained by mitigation measures defined in the Dust Management Plan and Site Environmental Management Plan (SEMP)	Function of habitats will be maintained by mitigation measures defined in the Noise & Vibration Management Plan	Function of habitats will be maintained by mitigation measures defined in the Demolition Management Plan	Potential cumulative impacts with MHI Vestas mitigated as defined in the Schedule of Proposed Mitigation
The supporting processes on which the habitats of the qualifying features rely	No Impact	No Impact	No Impact	No Impact	No Impact
The population of each of the qualifying	Bird populations not affected as habitat	Bird populations not affected as habitat function maintained by	Bird populations not affected as habitat	Bird populations not affected as habitat	Potential cumulative impacts with MHI Vestas

features	function maintained by measures proposed in PPP	measures proposed in Dust Management Plan and SEMP	function maintained by measures proposed in the Noise & Vibration Management Plan	function maintained by measures proposed in the Demolition Management Plan	mitigated as defined in the Schedule of Proposed Mitigation
The distribution of the qualifying features within the site	Bird distribution not be affected as habitat function is maintained by measures proposed in PPP	Bird distribution not affected as habitat function is maintained by measures proposed in Dust Management Plan and SEMP	Bird distribution not affected as habitat function is maintained by measures proposed in the Noise & Vibration Management Plan	Bird distribution not affected as habitat function is maintained by measures proposed in the Demoliton Management Plan	Potential cumulative impacts with MHI Vestas mitigated as defined in the Schedule of Proposed Mitigation

1.2 Assessment Against Conservation Objectives for the Solent Maritime SAC and Solent and Southampton Water Ramsar site (criteria 1 and 2)

Subject to natural change, ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;

	Drainage	Dust	Noise & Vibration	Movement	In combination
The extent and distribution of the habitats of the qualifying features	No Impact	No Impact	No Impact	No Impact	No Impact
The structure and function of the	Structure & Function of Annex I	Structure & Function of Annex I habitats	Structure & Function of Annex I	Structure & Function of Annex I	Potential cumulative impacts with

habitats of the qualifying features	habitats will be maintained by mitigation measures defined in Pollution Prevention Plan (PPP)	will be maintained by mitigation measures defined in the Dust Management Plan and Site Environmental Management Plan (SEMP)	habitats will be maintained by mitigation measures defined in the Noise & Vibration Management Plan	habitats will be maintained by mitigation measures defined in the Demolition Management Plan	MHI Vestas mitigated as defined in the Schedule of Proposed Mitigation
The supporting processes on which the habitats of the qualifying features rely	No Impact	No Impact	No Impact	No Impact	No Impact
The population of each of the qualifying features	No impact on population of qualifying features	No impact on population of qualifying features	No impact on population of qualifying features	No impact on population of qualifying features	No impact on population of qualifying features
The distribution of the qualifying features within the site	Distribution of Annex I habitats will not be affected by Drainage	Distribution of Annex I habitats will not be affected by Dust	Distribution of Annex I habitats will not be affected by noise or vibration	Distribution of Annex I habitats will not be affected by movement	Distribution of Annex I habitats will not be affected by combined or cumulative effects

1.3 Assessment Against Conservation Objectives for the River Itchen SAC

Subject to natural change, ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;

	Drainage	Dust	Noise & Vibration	Movement	In combination
The extent and distribution of the habitats of the qualifying features	No Impact	No Impact	No Impact	No Impact	No Impact
The structure and function of the habitats of the qualifying features	No Impact	No Impact	No Impact	No Impact	No Impact
The supporting processes on which the habitats of the qualifying features rely	No Impact	No Impact	No Impact	No Impact	No Impact
The population of each of the qualifying features	No Impact	No Impact	Potential impact on population of Atlantic salmon mitigated through Noise & Vibration Management Plan	No Impact	Potential impact on population of Atlantic salmon mitigated through Pollution Prevention

**The
distribution
of the
qualifying
features
within the
site**

Potential
impact on
distribution of
Atlantic salmon
removed by
implementation
of Pollution
Prevention Plan
(PPP)

No Impact

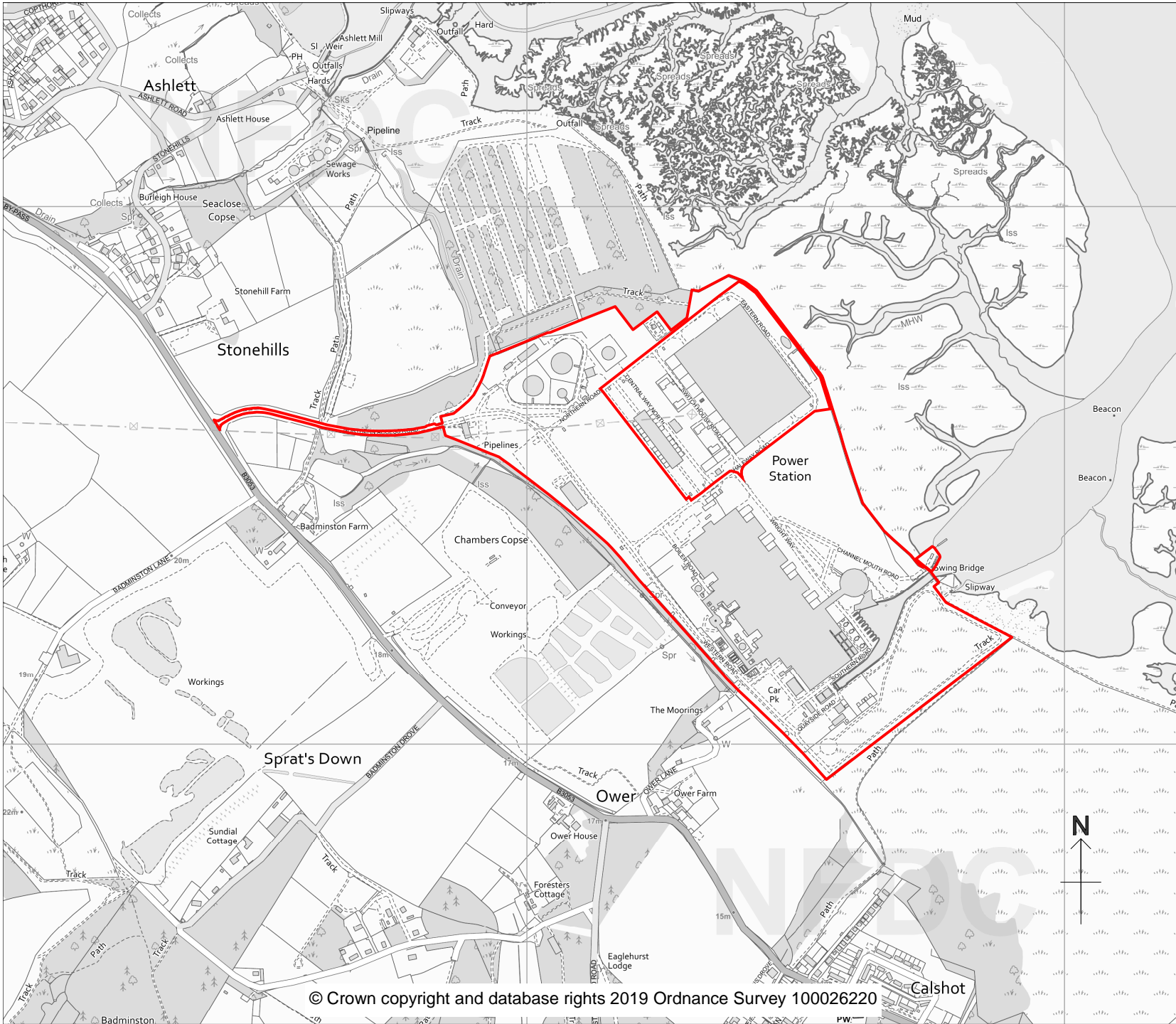
Potential
impact on
distribution of
Atlantic salmon
removed by
implementation
of Noise &
Vibration
Management
Plan

No Impact

Plan (PPP)

No Impact

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Special Planning Committee

May 2019

Item No: 2

Fawley Power Station
 Fawley Road
 Fawley
 19/10138

Scale 1:10000

N.B. If printing this plan from the internet, it will not be to scale.

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