

UPDATE PAPER

Southern Area Planning Committee

Date: Tuesday, 12th May 2020

Time: 5.30 p.m.

Venue: Being held virtually by Microsoft Teams. The Public can listen to the live stream here: <http://www.audiominutes.com/p/player/player.html?userid=tvbc>

**Southern Area Planning Committee – 12th May 2020
Update Paper**

The purpose of the report is to provide information on planning applications which has been received since the agenda was printed.

Report of Head of Planning

1. Background

- 1.1 Reports on planning applications are prepared for printing on the agenda some 10 days before the date of the Committee meeting but information and representations received after that time are relevant to the decision. This paper contains such information which was received before 10.00am on the date of the meeting. Any information received after that time is reported verbally.

2. Issues

- 2.1 Information and representations are summarized but the full text is available on the relevant file should Members require more details. The paper may contain an officer comment on the additional information, amended recommendations and amended and/or additional conditions.

7. **19/02772/FULLS (PERMISSION) 26.11.2019**
SITE: Shb Hire Ltd, Mill Lane, Nursling, **NURSLING AND
ROWNHAMS**

10 – 23

CASE OFFICER: Mark Staincliffe

APPLICATION NO.	19/02772/FULLS
APPLICATION TYPE	FULL APPLICATION - SOUTH
REGISTERED APPLICANT SITE	26.11.2019 Mr Warren Cann Shb Hire Ltd , Mill Lane, Nursling, SO16 0YE, NURSLING AND ROWNHAMS
PROPOSAL AMENDMENTS	Erection of a battery storage facility 11.12.19 - Updated acoustic design specification
CASE OFFICER	Mr Mark Staincliffe
	Background paper (Local Government Act 1972 Section 100D)

1.0 **Additional Representations**

1.1 Two additional representation have been received. A summary of these comments are set out below:

- 1.2
- The application is not supported by up to date ecological surveys of the site. The submitted appraisal is over 2 years old and undertaken during different ground conditions.
 - The application if approved would result in a significant net loss of biodiversity, contrary to Government policy and contrary to the NPPF, 2019.
 - There is not sufficient area for the necessary biodiversity compensation and net gain to be delivered.
 - The compensation planting for the battery storage unit that is on land that was felled and subject to the restocking notice.
 - To deliver the compensatory planting for the battery storage compound plus the proposed woodland restoration through re-planting of trees as proposed would require that the natural woodland regeneration of the last 3.5 years would need to be cleared, resulting in additional loss of biodiversity for which no compensation is proposed;
 - The current natural vegetation on the site is now highly suitable for a range of legally protected species including hazel dormouse and reptiles. The clearance of the current vegetation on the site would therefore risk the killing, injury and disturbance of these protected species and would be unlawful;
 - The Council has a duty to conserve biodiversity under Section 41 of the Natural Environment and Rural Communities (NERC) Act, 2006. If the Council approves this current application, it would be failing in that duty.

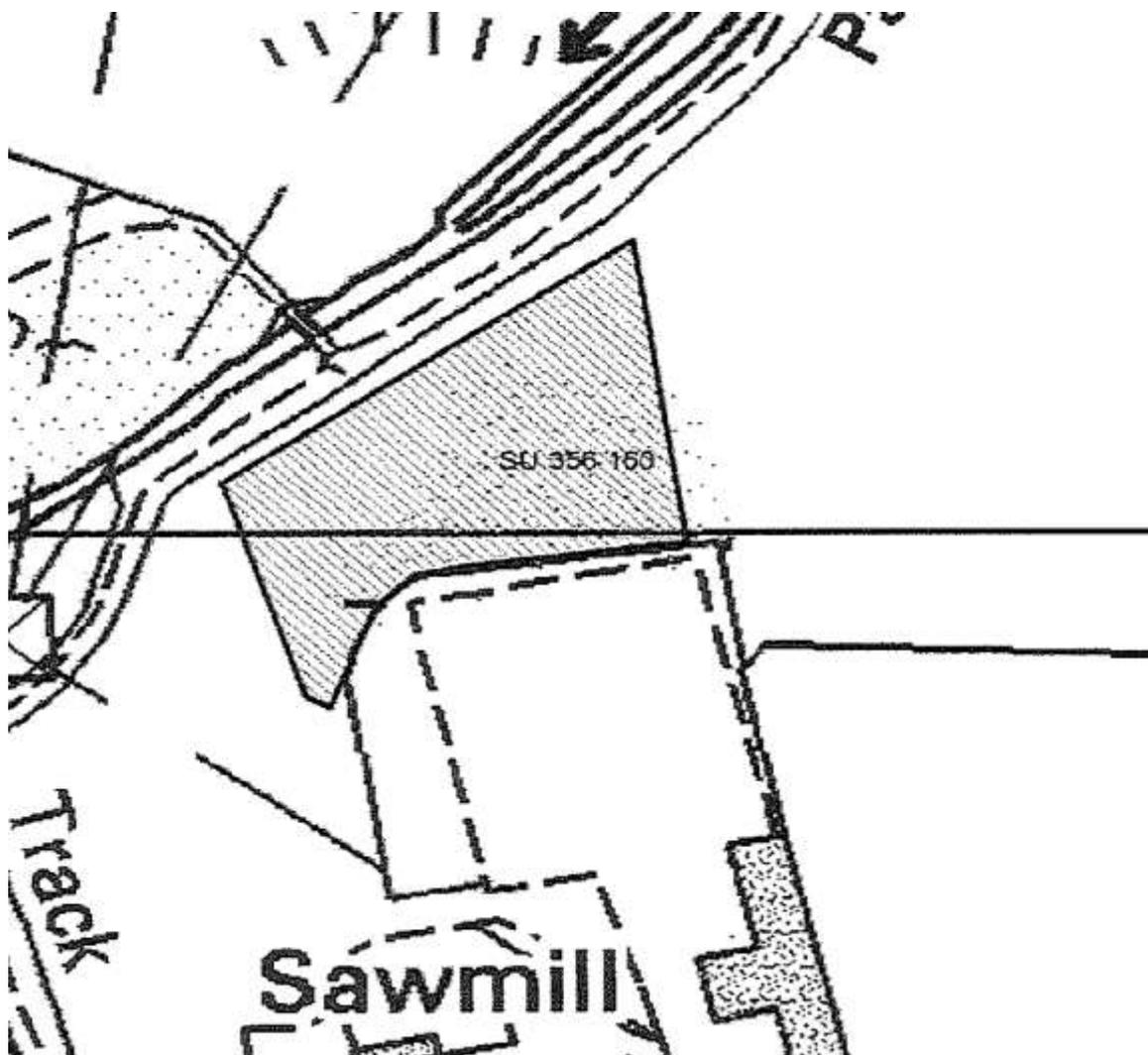
1.3 Officer Comment

The representations place a lot of emphasis on the previous decision being taken prior to the current iteration of the NPPF. That is correct, however, the appeal was determined against the 2018 NPPF and the paragraph 170(d), for which the representations place significant emphasis on, did form part of that

NPPF and the wording remains unchanged between those drafts of the NPPF. The Inspector, in reaching his decision to permit the previous appeal, was aware of his duty under the NPPF and Section 41 of the NERC but rather than an immediate refusal of the application the consideration is one of planning judgement and determining whether the benefits of the scheme outweigh the conflict with policy. This planning balance has been undertaken within the committee report.

The representations also make regular reference to the Environment Bill. However, the Environment Bill is precisely that, a Bill. It was re-introduced to Parliament after the December election, but has not made it on to the statute books as yet. Councils are, therefore, under no statutory duty to secure biodiversity gain at present and to do so without policy justification would not be sound decision making.

It is also alleged that the compensation planting for the proposed battery storage unit is on land that was felled and subject to the restocking notice. This is incorrect and misleading, below is a copy of the plan attached to the restocking notice and it does not include the land in question.



It is agreed that the ecology survey work accompanying the application is over two years old. However, the County Council have been consulted on the application and have raised no objection to the proposal.

It is accepted that the proposal, like the proposal approved at appeal, fails to provide full compensatory measures for the SINC lost by the development. However, the benefits of the scheme are clear with additional capacity to the existing network and demonstrable need for this, the restoration of biodiversity and the land's management along with the extant permission for similar development, which the applicant has confirmed will be implemented if this application were to fail, are all material considerations which weigh in favour of planning permission being granted.

2.0 **Corrections**

2.1 Paragraph 8.15

Should read (Changes in **BOLD**):

The application is accompanied by a Woodland Restoration and Management Plan. This has the potential to deliver a more diverse habitat mosaic which benefits a range of species and better reflects the original site characteristics **of the SINC**. Although the area of land replanted would be less than that degraded as a result of the recent woodland **clearance and less than but equal to** that permitted under the extant planning permission, the quality **of it and the strict management of it** would more than offset this **and offer a better solution to natural regeneration**. There would be compliance with Policy E5 insofar as it supports development that conserves, and where possible restores and/or enhances biodiversity, it would also comply with the NPPF. **This was a position support by the Planning Inspector when considering the previous appeal.**