

18th December 2023

BY EMAIL ONLY to:
Nick Hayhurst, Copeland Borough Council

Dear Nick,

Proposal: Hybrid application seeking full planning permission for the erection of 139 residential dwellings, new vehicular access off High Road, public open space and ancillary infrastructure, and outline planning permission for residential development units, retail and ancillary infrastructure with all matters reserved other than access.

Location: Former Marchon Chemical Factory, High Road, Whitehaven, Cumbria

Ref: 4/21/2432/0F1

Thank you for consulting the RSPB regarding the above proposed development in your letter dated 30th November 2023.

This development is situated immediately adjacent to St Bees Head SSSI, approximately 500m at the nearest point from the Solway Firth SPA, and just over 2km from RSPB's St Bees Head nature reserve.

Based on the information provided, RSPB **objects** to this application on the following grounds:

- Ecological assessment covers only part of the site, is still out of date and no longer valid.
- Insufficient information provided to enable HRA screening for potential impacts to Solway Firth SPA.
- Insufficient assessment of potential impacts to St Bees Head SSSI.
- Insufficient evidence to demonstrate consideration of cumulative impacts of these proposals in conjunction with other developments or projects.
- The plan still intrudes into the extension to the St Bees Heritage Coast that was democratically approved as part of the Local Plan in 2019, with the subsequent loss of habitat.

Please find appended our detailed comments.

In addition, RSPB wishes to remind the parties involved of the necessity of following the established hierarchy of mitigation – avoidance, minimisation, compensation. These should be approached in strict order, whereby minimisation is considered only after all opportunities to avoid impacts have been implemented, and compensation is only considered after all possibilities for avoiding and minimising the impacts of a development have been implemented. To be adequate, any mitigation should be suitably bespoke, measurable, and demonstrably effective.

We hope you find these comments useful. Please do not hesitate to contact us if you have any further questions.

Yours sincerely,

James Archer
Conservation Officer, Cumbria

Designated sites:

- **St Bees Head Site of Special Scientific Interest (SSSI).**

Section 3.3 of the Ecological Report quotes, “There are no statutorily protected sites within any part of the site, **or adjacent to the site.**” In fact, 500m of the Western boundary of Phase 1 shares a boundary with the St Bees SSSI.

St Bees Head is the most westerly point on the Cumbria coast, approximately 1 km southwest of Whitehaven. The SSSI comprises an 8 km stretch of coast between St Bees and Whitehaven and encompasses the sheer cliff face, an area of cliff-top grassland and the shore down to the mean low-water mark.

In addition to its geological interest, the biological interest of the site is represented in several different ‘habitats’: natural cliff-top grassland and heath, sheer cliff face and cliff-fall rubble, shingle, and wave-cut platform. The outstanding interest of this area and the focus of RSPB’s nature reserve, lies, however, in the sheer cliffs which provide the only breeding site on the coast of Cumbria for a variety of colonial seabirds. These include over 2,000 pairs of guillemots along with lesser numbers of fulmar, kittiwake, razorbill, cormorant, puffin, shag, and herring gull. The cliffs are, in addition, the only breeding site on the entire coast of England for black guillemots. Several other birds are known to use this site regularly for breeding and these include the tawny owl, sparrowhawk, peregrine, raven, and rock pipit, which is known to breed in only one other site in Cumbria.

Included in the designation are maritime heath and grasslands which occur along the cliff top, on the dry sandy soils, as grassland with species such as dyer’s greenweed *Genista tinctoria* alternates with patches of western gorse *Ulex gallii*, heather *Calluna vulgaris* and bracken *Pteridium aquilinum*.

- **Solway Firth Special Protection Area (SPA).**

The Solway Firth SPA was formally designated in December 2020 and is a large estuarine/marine site, with a total area of 1357.49km², situated between the western coastal margins of Cumbria in England and Dumfries and Galloway in Scotland. It is one of the largest estuaries in the UK (United Kingdom) along with Morecambe Bay and the Wash. The Solway Firth (including the previously classified Upper Solway Flats and Marshes SPA and the recent marine extension) supports populations of European importance of the following Annex 1 species: red-throated diver (*Gavia stellata*); whooper swan (*Cygnus cygnus*); barnacle goose (*Branta leucopsis*); golden plover (*Pluvialis apricaria*); and bar-tailed godwit (*Limosa lapponica*). It also supports migratory bird populations of 23 species of European importance.

Insufficient ecological assessments:

A Phase 1 Habitat Survey was carried out in 2017 on the brownfield site of the former Marchon Chemical Factory (Phase 2 of the Site Masterplan) and one small arable field to the east of the north-south laneway (eastern part of Phase 1 of the Site Masterplan). No habitat or ecological assessment appears to have been made of the clifftop greenfield sites to the west of the laneway (Phase 1 of the Site Masterplan) as these appear to have been added to the development plans at a later stage. The 2017 report by BSG Ecology notes that “*The masterplan has yet to be finalised. Therefore, it is not possible to fully assess the extent of any impacts upon ecological features during either the construction or operational (occupation) phases of the development at this stage.*” In addition, [CIEEM advice on the lifespan of ecological reports and surveys](#) clearly states that **reports older than three years are “unlikely to still be valid and most, if not all, of the surveys are likely to need to be updated (subject to an assessment by a professional ecologist, as described above).”**

The proximity of the proposed development site to the Solway Firth SPA requires the applicant to provide information to the Local Authority sufficient to undertake screening for a Habitat Regulations Assessment (HRA).

This should include consideration of potential impacts of this development alone and in-combination with any other known plans or projects.

RSPB considers that an up-to-date ecological assessment of the entire development site, encompassing **all areas within the red line boundary**, including a breeding bird survey and an assessment of the potential impacts of the development on both the biological interest of the site, and that of the nearby SSSI and SPA, during both construction and operational phases, is a basic and essential requirement for a development of this nature. It is, therefore, our view that planning permission should not be granted until this has been carried out and the subsequent report made available for consideration. This resubmission shows no change to the original Ecological Report for the site that included 1.5 hours on site in 2017. (BSG Ecology Extended Phase 1 Habitat Survey. Section 2.8).

Recreational impacts:

When deciding to grant or deny planning permission, the potential cumulative effects of the proposed housing development, in conjunction with nearby recent or proposed housing developments, should be considered.

Any development adjacent to these coastal habitats can disturb breeding seabirds, wintering and migrating waders and wildfowl, either by direct disturbance from the development itself or from increased public use, including dog walking, aerial drone usage, recreational fishing, and cliff-base water sports (e.g., paddle boarding, kayaking, etc).

Increased footfall, as a result of recreation and increased public access, can also damage vegetation through trampling and erosion, and eutrophication arising from nitrogen-rich dog-fouling. Research has shown that 20 passes repeated weekly over 5 weeks is enough to reduce cover of gorse and *Erica spp* by over 50% on coastal heath in Brittany ([Gallet, et al, 2004](#)) and, as habitats with naturally low soil fertility, the maritime heath and grasslands found within the SSSI are particularly vulnerable to dog-fouling.

Given the above, it is our considered opinion that the proposed development of 550 new dwellings, immediately adjacent to St Bees Head SSSI, is likely to have a degree of adverse impact on this nationally designated site.

Mitigation:

The established hierarchy of mitigation – avoidance, minimisation, compensation – should always be followed. These should be approached in strict order, whereby minimisation is considered only after all opportunities to avoid impacts have been implemented, and compensation is only considered after all possibilities for avoiding and minimising the impacts of a development have been implemented. To be adequate, any mitigation should be suitably bespoke, measurable, and demonstrably effective.

Coastal areas with impressive sea views are frequently sought-after locations for new housing developments and as such, there are a number of successful recreational disturbance mitigation and coastal protection schemes elsewhere that could be looked to as exemplars. On the south coast, Natural England have partnered with Local Authorities and developers to work on strategic mitigation approaches such as [BirdAware](#) and [BirdWise](#), the websites of which contain useful and relevant information, which we strongly recommend exploring in the context of this application. The potential for onsite measures such as signage around the SSSI, fencing where appropriate, and wardening, depending on the level of additional recreation/disturbance anticipated, should be given serious consideration in consultation with Natural England, as the relevant statutory authority for designated sites.

Developments should seek to enhance coastal habitats, through appropriate planning conditions and obligations. Maximising the potential to re-create habitat, particularly coastal heath, on agriculturally improved

land adjacent to the coastal strip. RSPB welcomes the habitat enhancements proposed on page 37 of the Design and Access Statement (September 2021) and recommends that the proposed northwest area of enhanced habitat, between the proposed houses and cliff face, should focus on extending and buffering the SSSI maritime heath and grassland habitats.

Landscape Impact:

The St Bees Heritage Coast is the only nationally recognised landscape to fall within the jurisdiction of Copeland Council as a planning authority. Whilst the extension area included within this planning submission has not yet been formally approved by Natural England, the LUC assessment of 2016 demonstrates that the proposed extension meets the criteria of Heritage Coast definition. This proposal was democratically signed off by Copeland Council in 2019 and included within the Local Plan where it is identified as Undeveloped Coast. Where it is referenced in the Local Plan Policy ENV5 – ‘Protecting and Enhancing the Borough’s Landscapes’ it states, that: The Borough’s landscapes will be protected and enhanced by: *Protecting all landscapes from inappropriate change by ensuring that development does not threaten or detract from the distinctive characteristics of that particular area.* The Council’s 2020 assessment of local landscape character defined the area affected by the proposed development as ‘4i Coastal Urban Fringe Cliffs’, highlighting its qualities as Open, panoramic, seaward views. Evidence of rich industrial and mining past. Recreational resource close to urban area. The assessment concludes that the area had a ‘high/medium’ overall landscape sensitivity, with *little capacity for development.*

Summary:

For the reasons detailed above, the RSPB still objects to the current application proposals, pending the production of an ecological assessment for the entire area within the red-line boundary of the development, including consideration of potential impacts to St Bees Head SSSI and Solway Firth SPA, and evidence of an appropriate plan for avoidance and mitigation of recreational impacts on St Bees Head SSSI.

Also, the development would be entirely inappropriate within the area that has been recognised by the Council as an extension to the Heritage Coast (democratically approved for inclusion within the local plan in 2019). The site is identified as “undeveloped Coast” in the Local Plan.

This new boundary of the Heritage Coast, whilst not formally adopted at this moment in time, is still shown on the most recent version of the draft plan.