

Date: 11 March 2024
Our ref: 468328
Your ref: 20221064



Katherine Parkin
Planning
Gravesham Borough Council

Customer Services
Hornbeam House
Crewe Business Park
Electra Way
Crewe
Cheshire
CW1 6GJ

T 0300 060 3900

BY EMAIL ONLY

Dear Mrs.Parkin,

Planning consultation: 20221064 Amendment More info Outline with all matters reserved, except for means of access, for a mixed-use redevelopment demolition of existing buildings & structures & development of up to 3,500 residential units (Class C3), up to 55,000sqm (GEA) of Class E including up to 32,000sqm (GEA) floorspace for retail, food etc.

Location: Land Surrounding Ebbsfleet United Football Club, Bounded By Lower Road, Railway Line, Grove Road And The River Thames, Northfleet, Gravesend.

Thank you for your consultation on the above dated 01 September 2023 which was received by Natural England on the same date.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

SUMMARY OF NATURAL ENGLAND'S ADVICE

NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

We consider that without appropriate mitigation the application would:

- have an adverse effect on the integrity of Thames Estuary and Marshes Special Protection Area (SPA) and Ramsar site <https://designatedsites.naturalengland.org.uk/>.
- damage or destroy the interest features for which Swanscombe Peninsula Site of Special Scientific Interest (SSSI) has been notified.

In order to mitigate these adverse effects and make the development acceptable, the following mitigation measures are required / or the following mitigation options should be secured:

- Appropriate contributions to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMMS),
- Strategic Access Management Plan to address recreational impacts upon Swanscombe Peninsula SSSI features
- Measures to address construction impacts on SSSI breeding bird assemblage e.g. Construction Environment Management Plan (CEMP) including measures to minimise or avoid noise impacts during the breeding season (February to August/September for most species, although weather conditions can alter this)

- Lighting levels to follow best practice standards for wildlife to address impacts on birds and invertebrates of the SSSI
- Revised strategy to address impacts of cat predation on ground nesting birds to include at a minimum wet fences and details of maintenance and monitoring.

In addition, we consider the KCIIIECP route would better meet its statutory criteria if located to the north of the current alignment and linked to the east along the riverside and across the mouth of Robin's Creek.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

Natural England's further advice on designated sites/landscapes and advice on other natural environment issues is set out below.

Further advice on mitigation

Natural England responded to your consultation for this application on 20 November 2023 and issued a 'Further Information Request' to determine impacts on designated sites. In January 2024 the Applicant engaged with Natural England through our Discretionary Advice Service (DAS). This response letter reflects our updated advice based on this DAS engagement and the Applicant's response to our further information requests set out in November 2023.

Swanscombe Peninsula SSSI

Recreational Disturbance

Natural England maintains the view that recreational disturbance from new residents of the proposed Northfleet development is likely to have an adverse impact on designated features of the Swanscombe Peninsula SSSI if not robustly mitigated.

We welcome the opportunity to connect people with nature and therefore advise that a condition is added for the Reserved Matters Stage for the Applicant to:

- 1) carry out surveys to quantitatively assess recreational impacts from the proposed development on the SSSI, and
- 2) work collaboratively with the competent authority, Natural England and other stakeholders/partners to develop a Strategic Access Management Plan for the Swanscombe Peninsula SSSI.

This management plan should be developed and in place before occupation of the Northfleet development.

Breeding bird assemblage

Natural England is satisfied that, based on the Applicant's ecology assessment adopting a worst-case scenario and assuming presence of breeding birds that the mitigation measures allow a significant effect to be excluded on the breeding bird assemblage of the Swanscombe Peninsula SSSI.

We concur with the Applicant's proposal to carry out additional breeding bird surveys during 2024 in order to update previous data from the London Resort Scheme and agree with this being conditioned as part of the application's Reserved Matters Stage.

Noise

Natural England is satisfied that, with the inclusion of proposed mitigation measures to address noise impacts to the breeding bird assemblage during the construction phase, notably through a Construction Environment Management Plan (CEMP), it can be excluded that noise from the

proposed plan or project will have a significant effect on features of the Swanscombe Peninsula SSSI. We advise the Environmental Statement (ES) is updated with the additional mitigation details outlined in the Applicant's document: 'Northfleet – Natural England January 1A.pdf'.

Lighting

Natural England advises that mitigation measures for lighting impacts are included by condition and that the Applicant clearly identifies specific best practice standards that will be adhered to in order to keep lighting impacts from the resident blocks adjacent to the SSSI boundary within acceptable levels for the breeding bird and invertebrate assemblages of the SSSI. We advise the Environmental Statement (ES) is updated where necessary to include this detail. Based on these mitigation measures and ES update, Natural England is satisfied that it can be excluded that lighting from the proposed plan or project will have a significant effect on features of the Swanscombe Peninsula SSSI.

Urbanisation effects: Cat-predation

In January 2024 the Applicant engaged with Natural England through our Discretionary Advice Service (DAS). We provided further correspondence updating our advice based on this DAS engagement and the Applicant's response to our further information requests set out in November 2023. Based on our engagement and the best available information Natural England had at the time we advised that we were satisfied that the measures currently proposed were suitable to avoid significant impact to breeding bird assemblage from cat predation if measures were robustly implemented.

Since then, further information has been provided to us by local colleagues detailing the presence of nightingales within Botany Marshes, the unit of Swanscombe Peninsula closest to the proposed developments. This was not observed by our ornithologists or progressed further to mitigation in the Applicant's proposals. As nightingales are particularly vulnerable to predation by cats the nature of our advice has changed

It is important to note that Natural England does not consider any fencing to be 'cat proof' as during the lifetime of the development there will inevitably be lapses in integrity. We do not support the use of fencing to exclude cats where there are particularly vulnerable bird species and habitats such as ground nesting and heathland birds.

Consequently, Natural England does not agree that the fencing and shrub planting proposed will alone be sufficient to exclude cats from Swanscombe Marshes SSSI.

As discussed through our discretionary advice mitigation with the highest likelihood of success in excluding cats from an area is the provision of wet fences. These are wet ditches or swales of sufficient proportions to create a barrier for cats. As with any measure the design of these is crucial to their success to ensure adequate width, depth and year-round wetness, and Natural England would welcome engaging with the Applicant to develop a suitable approach.

If this approach can be agreed, we are happy to work with the Applicant in advance of the reserved matters stage.

We would like confirmation on the following and advise that several of these elements (addressing monitoring and maintenance) are attached as planning conditions and included in the Applicant's supporting documents.

- 1) Confirmation of the provision of continuous wet fences around the south-western/southern side of the development. These are wet ditches or swales of sufficient proportions to create a barrier for cats.
- 2) Confirmation that the Applicant has continued fencing and shrub planting around the south-western/southern side of the development given their proximity still to the SSSI boundary.
- 3) Confirmation the Applicant will engage with you, as competent authority, Natural England and any other relevant partners to determine spacing between the shrub planting and fencing to ensure an appropriate design. Cats can climb planting and use it to scale fencing;

therefore, dense scrub planting needs to be an appropriate distance from fencing and height to prevent this. If, as the Applicant argues, the proposed Hawthorn & Blackthorn planting dissuades cats from climbing this should be appropriately evidenced.

- 4) Confirmation that correction to fencing overhang width (from 500mm to 600mm) has been updated in the Design Code Addendum.
- 5) Detailed information on how the wet fences including water levels, fencing & dense shrub planting will be monitored in perpetuity to ensure: (a) their integrity is maintained and (b) that they effectively mitigate impacts of cat-predation on the SSSI breeding bird assemblage. This should include details of the body responsible for ensuring the monitoring is undertaken, the frequency of monitoring, reporting requirements, and the funding to secure the monitoring in perpetuity.
- 6) Detailed information on how the wet fences including water levels, fencing & dense shrub planting will be maintained in perpetuity. This should include details of the body responsible for ensuring the fencing and planting is maintained, the timescales for rectification of any breaches of integrity and the funding mechanism to ensure the fence and planting are maintained in perpetuity.

Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 28I (6) of the Wildlife and Countryside Act 1981 (as amended) to notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, your authority has taken account of Natural England's advice. You must also allow a further period of 21 days before the operation can commence.

Thames Estuary and Marshes SPA and Ramsar site

Natural England notes that the Habitats Regulations Assessment (HRA) has not been produced by your authority, but by the applicant. As competent authority, it is your responsibility to produce the HRA and be accountable for its conclusions. We provide the advice enclosed on the assumption that your authority intends to adopt this HRA to fulfil your duty as competent authority.

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any 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, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any planning permission given.

Natural England notes from the Shadow HRA within the Northfleet Harbourside Response to Avison Young Independent Environmental Statement Review Report (August 2023, pages 20-21) that the Applicant has stated any impact arising due to an increase in recreational disturbance on the SPA and Ramsar Sites can be addressed through an appropriate contribution to the provision of strategic access management measures. Due to the location of the proposed development, we are minded to agree with this approach.

We continue to advise that it is the Council's responsibility to ensure that the proposals fully adhere to the agreed approach within the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMMS), to mitigate for additional recreational impacts on the designated sites and to ensure that adequate means are in place to secure the mitigation before first occupation.

Other advice

King Charles III England Coast Path The development proposal affects the King Charles III England Coast Path. The current alignment of this National Trail at Northfleet is somewhat inland of the Thames Estuary, due to the presence of industrial development when the trail was opened in 2022. Within the original proposals for the coast path, the opportunity for moving the trail was highlighted for several developments in the Northfleet area "Development here is likely to affect the proposed trail, however there may be opportunities, as part of the new development, to align the trail closer to

the coast, with views of the sea". Being close to the sea, with views of estuary are both key elements in the coast path legislation: the Marine and Coastal Access Act 2009.

The Local Planning Authority will seek to protect and look for opportunities for the National Trail, in line with paragraphs 104, 178(d) and 180 (c) of the National Planning Policy Framework, including that: 'Planning policies and decisions should contribute to and enhance the natural and local environment by: c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate'. Natural England considers the route in this area would better meet its statutory criteria (close to coast, with views of the sea), as well as benefitting local residents and the public, if located to the north of the current alignment – and linked to the east along the riverside and across the mouth of Robins Creek.

Natural England fully supports the recommendations made through Tom Kennedy, the South East England Coast Path National Trails Officer, in his letter to Gravesham BC of 5 October 2023:

- "It is requested that the trail is re-aligned through the open green space in the northern corner of the site and passes along the proposed pedestrian route, before continuing east via Robins Creek. Should the section across Robins Creek be located outside the applicants control, consideration should be given to delivering this valuable public access link through a planning obligation. With the support of the local highway authority and local stakeholders, this new connection would provide a direct and attractive riverside trail for the public, enhancing opportunities for active travel and outdoor recreation.
- With regards to the north west section of the site, there appears to be a network of public access routes being proposed. It is requested that these routes are consolidated and, where appropriate, the KCIIIECP is 'snapped' to the alignment of a PRow that is direct and attractive to use. This approach would avoid a duplication of routes and minimise the public burden of path maintenance."

Further general advice on consideration of protected species and other natural environment issues is provided at Annex A.

If you have any queries relating to the advice in this letter please contact me on Hannah.Lee@naturalengland.org.uk.

We would be pleased to provide advice on the discharge of planning conditions or obligations attached to any planning permission to address the issues above.

Should the proposal change, please consult us again.

Yours sincerely,

Hannah Lee
Sustainable Development
Sussex and Kent Area Team