



Delegated Report

Full Planning Application

Planning Application No: 20240312

Location: Land at RSPB Shorne Marshes, Queens Farm Road, Shorne, Gravesend

Description: Improvements and enhancements to Nature Reserve, including restoration of wetland grazing marsh and reedbed by creating hydrological features to enhance wetland habitat by creating pools, scrapes and rills.

Applicant: Mr Will Tofts, Royal Society for the Protection of Birds

Site Visit Date: 8 May 2024

Submitted Documents/Plans

Application form

Drawing ref. SEM/SLP/24_A (Site Location Plan)

Drawing ref. SEM/BP1/24_A (Block Plan 1)

Drawing ref. SEM/BP2a/24_A (Block Plan 2a)

Drawing ref. SEM/BP2b/24_A (Block Plan 2b)

Drawing ref. SEM/BP2c/24_A (Block Plan 2c)

Drawing ref. SEM/BP2d/24_A (Block Plan 2d)

Drawing ref. SEM/BP2e/24_A (Block Plan 2e)

Drawing ref. SEM/BP2f/24_A (Block Plan 2f)

Drawing ref. SEM/BP2g/24_A (Block Plan 2g)

Drawing ref. SEM/BP3a/24_A (Block Plan 3a)

Drawing ref. SEM/BP3b/24_A (Block Plan 3b)

Drawing ref. SEM/X1/24_A (Cross section drawings Shorne East North SEB1-6, SEC1-2)

Drawing ref. SEM/X2/24_A (Cross section drawings Shorne East North SEC3-6, SED2)

Drawing ref. SEM/X3/24_A (Cross section drawings Shorne East North SEC7, SED1)

Drawing ref. SEM/X4/24_A (Cross section drawings Shorne East North SED3, SEDE1, SEP1.1a)

Drawing ref. SEM/X5/24_A (Cross section drawings Shorne East North SEP1.1a-3)

Drawing ref. SEM/X6/24_A (Cross section drawings Shorne East North SEP1.1c-1.2, 5, 7)

Drawing ref. SEM/X7/24_A (Cross section drawings Shorne East North SEP4, 6, 8)

Drawing ref. SEM/X8/24_A (Cross section drawings Shorne East North SEP9-10, SEI1-4)

Drawing ref. SEM/X9/24_A (Cross section drawings Shorne East North SER** Generic)

Drawing ref. SEM/X10/24_A (Cross section drawings Shorne East South SEC5b, 8, SED4, SEPW1, SEP11.1-13)

Drawing ref. SEM/X11/24_A (Cross section drawings Shorne East South SEP14, 15)

Drawing ref. SEM/X12/24_A (Cross section drawings Shorne Reedbed SRC1, SRP1-2, SR14-5, SRR1-4, SRBL1, 4a)

Drawing ref. SEM/X13/24_A (Cross section drawings Shorne Reedbed SRP3-6, SRI13, SRR2, SRBL4a)

Drawing ref. SEM/X14/24_A (Cross section drawings Shorne Reedbed SRP7-8.1, SRI1-4, 6-8, SRR4, SRBL1-3)

Drawing ref. SEM/X15/24_A (Cross section drawings Shorne Reedbed SRP5, SRI9-12, SRR2, SRBL3)

Drawing ref. SEM/DM1/24_A (Habitat Design Master – Summer Topography & Surface Water Extent)

Drawing ref. SEM/DM2/24_A (Habitat Design Master – Winter Topography & Surface Water Extent)

Drawing ref. SEM/DM3/24_A (Hard Infrastructure Design Master – Hydrological Controls & Access)

Planning Statement

Design and Access Statement
 Archaeological Desk-based Assessment (report no. 2023/142, October 2023)
 Archaeological Gazetteer
 Construction Environmental Management Plan (Biodiversity)
 Ecological Site Assessment
 Non-European Site Receptor Ecological Site Assessment
 Detailed Unexploded Ordnance Threat and Risk Assessment
 SSSI Citation
 RAMSAR Citation
 Line Searches
 Kent Rare and Scarce Species Inventory
 Invasive Non-native Species Inventory
 Protected Species Inventory
 Conservation Concern Species Inventory
 Water Voles Site Surveys
 Shorne Marshes & Higham Bight Management Plan Extension (1st April 2024 – 31st March 2025)
 Species Count
 Habitat Map
 Existing Site Topography
 Breeding Birds Data
 Kent Bird Records Summary
 Bat Roost Locations Map
 Priority Habitat Map
 National Gas Transmission Letter (28 September 2023)
 Consent of Natural England
 Masterplan Groundwork Schedule

Additional documents:

Archaeological Watching Brief Written Scheme of Investigation (May 2024)

Relevant Planning History

Reference	Description	Decision	Decision Date
20140466	Application for the approval of condition 3 attached to planning permission reference number 20130446 relating to a written specification and timetable of archaeological work.	Approval of details	19.04.2016
20130446	Creation of two lengths of security ditch (Section A and B) to protect the nature reserve from trespass.	Permitted	19.07.2013

Development Plan

Gravesham Local Plan Core Strategy 2014

- CS01 – Sustainable Development
- CS02 – Scale and Distribution of Development
- CS11 – Transport
- CS12 – Green Infrastructure
- CS18 – Climate Change
- CS19 – Design and Development Principles
- CS20 – Heritage and the Historic Environment

Saved Policies in the Gravesham Local Plan First Review 1994

- T1 – Impact of Development on the Highway Network

Paragraph 33 of the NPPF 2021 sets out that those policies within adopted local plans should be reviewed to assess whether they need updating at least once every five years and should then be updated as necessary. Such reviews are also a legal requirement as set out in Regulation 10A of the Town and Country Planning (Local Planning) England Regulations 2012.

The Council undertook such a review in September 2019 and the review found that the adopted Local Plan Core Strategy is in need of a partial review in terms of Policy CS02, due to the increased need for housing since the Local Plan Core Strategy was adopted, and the need to ensure a sufficient land supply exists to meet this need. Whilst saved policies from the Local Plan First Review 1994 generally conform with the NPPF 2021, the Council will also seek to replace these saved policies via the emerging Local Plan.

National Planning Policy Framework 2023

- Section 2 – Achieving sustainable development
- Section 9 – Promoting sustainable transport
- Section 12 – Achieving well-designed and beautiful places
- Section 14 – Meeting the challenge of climate change, flooding and coastal change
- Section 15 – Conserving and enhancing the natural environment

Supplementary Planning Guidance (SPG)

- Gravesham Landscape Character Assessment (2009)

Consultations, Publicity and Representations

KCC Heritage

Initial comments:

Thank you for consulting us on this application and my apologies for the delayed response. I hope that you can take these recommendations into account.

The 'site' lies within an area of multi-period archaeological potential with some complexity with regards the Holocene alluvial sequences and underlying pre-Holocene topography. The application has been made with an Archaeological Desk-Based Assessment (Canterbury Archaeological Trust) which usefully reports the present understanding for the wider 'site'. The assessment demonstrates that the proposals have the potential to impact surface and below-ground archaeological remains, and therefore, I recommend that if planning permission is granted the following condition is applied to any forthcoming consent:

No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of i. archaeological field evaluation works in accordance with a Written Scheme of Investigation and timetable which has been submitted to and approved in writing by the Local Planning Authority; and ii. following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a Written Scheme of Investigation and timetable which has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure appropriate assessment of the archaeological implications of any development proposals and the subsequent mitigation of adverse impacts through preservation in situ or by record.

Further comments following WSI:

It was useful to discuss the presence of the probable saltern or medieval salt working site in the east of the project area and the need to try and avoid impacts to it. We also discussed the probably re-located anti-tank blocks, the likely mortar craters in the north and the value in recording evidence of former palaeo-channels and other geomorphological features exposed during the works.

I would be happy for mitigation to take the form of an Archaeological Watching Brief for which the CAT

Written Scheme of Investigation (WSI) has been submitted. Ideally the WSI should have had a plan illustrating the location of all relevant heritage assets, but the description in the text clearly relates back to the desk-based assessment and mapping, a copy of which must be kept by the archaeologist in the field, whilst carrying out the watching brief.

If planning permission is granted a condition could be applied that requires that the archaeological monitoring will be in accordance with the approved Written Scheme of Investigation for the watching brief.

KCC Biodiversity

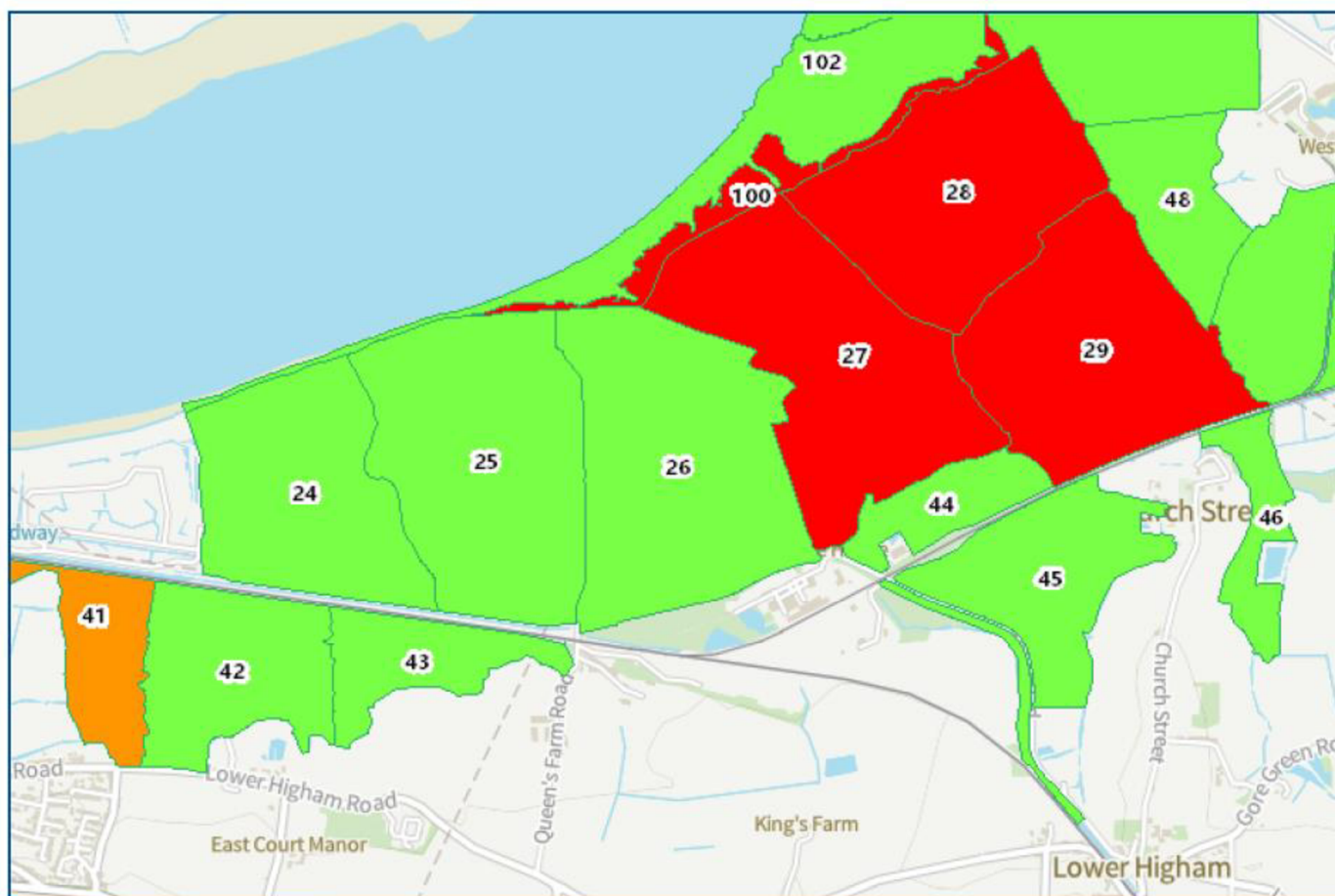
We have reviewed the information submitted by the applicant and advise that sufficient ecological information has been provided. The site of the proposed development is covered by two statutory designations and supports several protected species. A suitable Construction Environmental Management Plan (CEMP) has been submitted as part of this application which details measures to avoid adverse impacts to the designated sites and their qualifying features. Adherence to this CEMP can be secured via a planning condition.

Natural England will need to be consulted as the proposals fall within a SSSI. A Habitats Regulations Assessment (HRA) is required as the proposals fall within a Ramsar site, but no appropriate assessment is necessary.

This application is exempt from delivering Biodiversity Net Gain (BNG) under the de minimis exemption. See detailed comments below.

SITE IMPACTS

Proposed works include the creation of rills, scrapes and pools within the Thames Estuary and Marshes Site of Special Scientific Interest (SSSI) unit 26, as visible on MAGIC maps.



This SSSI unit's most recent condition assessment was dated 12 February 2009. The unit was then described as being composed of lowland neutral grassland¹ and assessed as being in "Favourable" condition. Its value to great crested newts and breeding and overwintering birds was highlighted. This assessment may be considered outdated now, and the RSPB have highlighted that the unit is prone to drying out in spring and summer (a direct threat to nesting and foraging waders) and "we do not assess [the SSSI units] to be as Favourable as they could/should be, hence the desire to undertake the habitat enhancements"². Nonetheless, protected species (including reptiles, great crested newts, water voles and nesting birds) may be presumed to occupy the application site and, without avoidance/mitigation measures in place, proposed activities may result in an offence being committed, or the degradation or loss of habitat within the designated areas.

A Construction Environmental Management Plan (CEMP) has been submitted as part of this application which contains detailed mitigation and avoidance measures to be adhered to prior to and during works. In summary, these include:

- Work will be condensed (all operational units worked on at the same time in one year) so remaining units function as undisturbed refuge areas;
- Vehicle tracking via specified haul routes and stockpiling of materials and machinery kept to minimum;
- An Ecological Clerk of Works (ECoW) will be present throughout works;
- Phased vegetation management (sward heights first reduced to 50mm, two cuts for any vegetation 200mm or over) to encourage dispersal of any fauna present;
- Works are occurring in the core nesting season (March through August inclusive) so the ECoW will be required to confirm chicks have fledged if any nests are found; if an active nest is found, a buffer zone will be established and maintained until all chicks have fledged;
- Contractors will receive toolbox talks regarding sensitive habitats and protected species;
- Construction materials will be stored so as to avoid site contamination or dust/fuel/chemical spillage/spread;
- Avalon barriers will be used to fence off particularly sensitive areas; and
- Controls will be put in place to stop further spread of highly invasive aquatic plant *Crassula* which is present on site.

Whilst great crested newts and reptiles are known to occupy both the wider site and unit 26 of the SSSI, they are not known to be present in the area affected by the proposed groundworks. They will likely colonise the affected area post-development and benefit from habitat enhancements. No impacts to roosting bats or water vole are anticipated as no works are proposed which will affect any potential roost features or existing ditches/banks with active burrows. **As such, we regard the submitted CEMP as suitable to avoid/mitigate any impacts to protected species/designated sites and suggest the following condition wording is attached to any decision notice requiring adherence to the approved plan:**

All works shall take place in accordance with the 'Shorne Marshes Habitat Enhancement Project Construction Environmental Management Plan (Biodiversity)', received 04 April 2024.

Reason: To ensure protection of the protected/notable species and sensitive habitats on the site.

STATUTORY DESIGNATIONS

The proposed works are located within both the South Thames Estuary and Marshes SSSI and Thames Estuary and Marshes Ramsar Wetland of International Importance. The former is a national designation and the latter is an international designation. Policy on both designations has been considered in the submitted 'Non-European Site Receptor Ecological Site Assessment' and 'Report to Inform an Assessment Under the Habitats Regulation' documents associated with the planning application.

South Thames Estuary and Marshes SSSI

The NPPF 2023 states regarding SSSIs, "development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted."

(Paragraph 186b.) Such adverse effects have been reasonably ruled out in the submitted Non-European Site Receptor Ecological Site Assessment as the proposals are exclusively intended to enhance the qualifying features of the SSSI. The NPPF further states, “development whose primary objective is to conserve or enhance biodiversity should be supported”. (Paragraph 186d.) **Natural England must still be consulted regarding this application given its location within a SSSI, but we advise that are unlikely to raise any objection given that the proposals accord with the management objectives of the site.**

Thames Estuary and Marshes Ramsar Wetland of International Importance

As the proposals affect a Ramsar site, a Habitats Regulations Assessment (HRA) is required under Regulation 63 of The Conservation of Habitats and Species Regulations 2017. The applicant has submitted a “Shadow HRA” (‘Report to Inform an Assessment Under the Habitats Regulation’) as part of their responsibility to “provide such information as the competent authority may reasonably require for the purposes of the assessment”.

The Shadow HRA highlights that Regulation 63 of this legislation only requires appropriate assessment to be carried out for any plan or project which “is not directly connected with or necessary to the management of that site”. **As the applicant has reasoned that the proposals are directly connected with/necessary to the management of the site, no appropriate assessment is necessary and significant effects to the Ramsar site can be screened out.**

As such, we advise that the submitted Shadow HRA and Non-European Site Receptor Ecological Site Assessment reasonably rule out impacts to qualifying features of both the SSSI and Ramsar sites (including scarce plants and breeding/overwintering birds) and highlight how the proposed works will benefit these species. The conclusions of the Shadow HRA can be adopted by Gravesham Borough Council for the purposes of conducting a full HRA, but we advise that no appropriate assessment is necessary.

BIODIVERSITY NET GAIN

This application was received by Gravesham Borough Council on 04 April 2024 following the commencement of statutory BNG for most planning applications in England. However, it falls under the de minimis exemption³ which excludes any development which does not result in the loss or degradation of any onsite habitat. The applicant has highlighted the following: “Superficially, the cutting of new rills and scrapes could be construed as loss or degradation. However, this is not the case but an immediate enhancement – even without a green cover. They provide immediate access to soil invertebrates for species that feed on these. In fact, established rills and scrapes can become choked with vegetation.”

We accept that no loss or degradation of any habitat will occur as a result of the proposed development and the applicant is not required to demonstrate BNG.

Natural England

SUMMARY OF NATURAL ENGLAND’S ADVICE

NO OBJECTION

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection.

We are satisfied that the activity planned is necessary for the conservation management of the site.

A lack of objection does not mean that there are no significant environmental impacts. Natural England advises that all environmental impacts and opportunities are fully considered and relevant local bodies are consulted.

Natural England’s further advice on designated sites/landscapes and advice on other natural environment

issues is set out below.

Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on the Thames Estuary and Marshes Ramsar and has no objection to the proposed development.

To meet the requirements of the Habitats Regulations, we advise you to record your decision that a likely significant effect can be ruled out. The following may provide a suitable justification for that decision:

- The proposed ground works will benefit the waterbird assemblage by creating suitable floodplain grazing marsh habitat year round; keeping the site wet through the winter months and in to the summer to facilitate appropriate feeding conditions.
- The wetland vascular plant assemblage within the Thames Estuary and Marshes Ramsar will thrive in wet and bare areas restored and created.
- Restoring wetland features and creating a varied habitat will provide an increase in surfaces that support the wetland invertebrate assemblage associated with the Ramsar European designation. By improving the habitat and increasing the number of invertebrates available for wader feeding, the proposal will lead to a positive impact on the waterbird assemblage and individual species within the Ramsar.

South Thames Estuary and Marshes Site of Special Scientific Interest (SSSI)

Based on the plans submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection.

- Following recent surveys (April 2024) of the SSSI units undertaken by Natural England, the condition of the site was deemed unfavourable due to the current unsuitability of the floodplain grazing marsh for the designated breeding and overwintering bird features.
- The activity planned is recommended and supported by Natural England to achieve favourable condition of the site.

Other advice

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

Environment Agency

Initial comments 10 May 2024

Thank you for consulting us on the above application. We have no objections to the proposal, subject to the following planning condition and informative being applied to any planning permission granted.

Fisheries, Biodiversity and Geomorphology

We have reviewed the submitted documents with particular reference to the Construction Environmental Management Plan, the Ecological Site Assessment and the Design and Access Statement.

Within section 3.22-3 conflicting habitat requirements, (page 18 of the Design and access statement) it states that “we have utilised the extant topography and the scope of peak surface water with the creation of banks within high water level areas. The new hydrological regime will ensure ditches do not dry out (as they do currently), therefore increasing water vole habitat.” The proposal proposes to additionally abstract from pre wetted ditch networks to the greater wetland. Therefore, it is essential that levels within the ditch networks are managed and monitored to prevent “dry out”.

We consider that planning permission could be granted to the proposed development as submitted if the following planning condition is included as set out below. Without this condition, the proposed development on this site could pose an unacceptable risk to the environment and we would object to the application.

Condition 1

No development shall take place until a water level management and monitoring programme has been submitted to and agreed by the local planning authority.

Reason

To ensure that the abstraction regime does not 'dry out' any ditches with Water Vole and Great Crested Newt populations. This is supported by national planning policy set out in paragraph 180 of the National Planning Policy Framework

Informative 1

The Site falls within a Site of Special Scientific Interest and Ramsar designation and therefore Natural England will need to be contacted for assent and Habitats Regulations Assessment purposes.

Flood Risk

We have reviewed the documents associated with the enhancement work to the RSPB Shorne Marshes. We do not oppose the improvements and enhancement works detailed but would advise the applicant to apply for a flood risk activity permit for any hardstanding, permanent or ancillary work within 8 metres of fluvial statutory main river and within 16 metres of a tidal flood defence.

Informative 2 Environmental Flood Risk Activity Permit

The Environmental Permitting (England and Wales) Regulations 2016 require a permit or exemption to be obtained for any activities which will take place:

- on or within 8 metres of a main river (16 metres if tidal)
- on or within 8 metre of a flood defence structure or culverted main river (16 metres if tidal)
- on or within 16 metres of a sea defence
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in a floodplain more than 8 metres from the river bank, culvert or flood defence structure (16 metres if it's a tidal main river) and you don't already have planning permission.

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> or contact our National Customer Contact Centre on 03708 506 506 (Monday to Friday, 8am to 6pm) or by emailing enquiries@environment-agency.gov.uk

Further comments 5 July 2024 (following query about condition timing)

Fisheries, Biodiversity and Geomorphology

With reference to the email from the RSBP on the 1st of July, we acknowledge that Natural England have signed of a management plan however we think it would be prudent to ensure good water management within the ditches affected by abstraction which we understand only commences after the firing range ceases between July and August? Ref- "only a very small window when the works are able to be carried out due to the area being a fall-out area for the firing range to the west for most of the year; the area is not used between July – August"

If this is the case and operations are to commence in 2025- the condition can be reworded to include Within 3-6 months of the date of the decision, a water level management and monitoring programme shall be submitted to and approved by the Local Planning Authority. However, if abstraction is to take place in July-August 2024. We would wish to see a water level management and monitoring programme immediately.

Flood Risk

We have reviewed the documents associated with the enhancement work to the RSPB Shorne Marshes. We do not oppose the improvements and enhancement works detailed but would advise the applicant to apply for a flood risk activity permit for any hardstanding, permanent or ancillary work within 8 metres of fluvial statutory main river and within 16 metres of a tidal flood defence.

Informative-Environmental Flood Risk Activity Permit

The Environmental Permitting (England and Wales) Regulations 2016 require a permit or exemption to be obtained for any activities which will take place:

- on or within 8 metres of a main river (16 metres if tidal)
- on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal)
- on or within 16 metres of a sea defence
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in a floodplain more than 8 metres from the riverbank, culvert or flood defence structure (16 metres if it's a tidal main river) and you don't already have planning permission.

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> or contact our National Customer Contact Centre on 03708 506 506 (Monday to Friday, 8am to 6pm) or by emailing enquiries@environment-agency.gov.uk.

North Kent Marshes Internal Drainage Board

The site is within the drainage district of the North Kent Marshes Internal Drainage Board (NKMIDB) and I can confirm that we are happy with the proposals and are currently in the process of consenting works that affect the riparian-owned, ordinary watercourses within the site. That is, any works that affect the channel of a watercourse which includes the culvert extensions, dams, and control pipe structures. Works affecting main river come under the jurisdiction of the Environment Agency and we note from their response that the applicant is advised to apply for a flood risk activity permit for any hardstanding, permanent or ancillary work within 8 metres main river and within 16 metres of a tidal flood defence. We also note that the site falls within SSSI and we believe Natural England has been consulted regarding the proposals.

This response is based on the information provided with the planning application and is reliant on its accuracy. The Board would be very grateful if its comments were used in their entirety.

Shorne and Higham Parish Councils

No responses received.

Neighbouring properties

The application has been advertised on site. The consultation period expired on 14 June 2024.

No neighbour representations have been received.

The Local Ward Councillors were consulted and no responses were received.

Analysis

Proposal

This application seeks permission for improvements and enhancements to the Shorne Marshes Nature Reserve, including restoration of wetland grazing marsh and reedbed by creating hydrological features to enhance wetland habitat by creating pools, scrapes and rills.

The key issues facing the site are as follows:

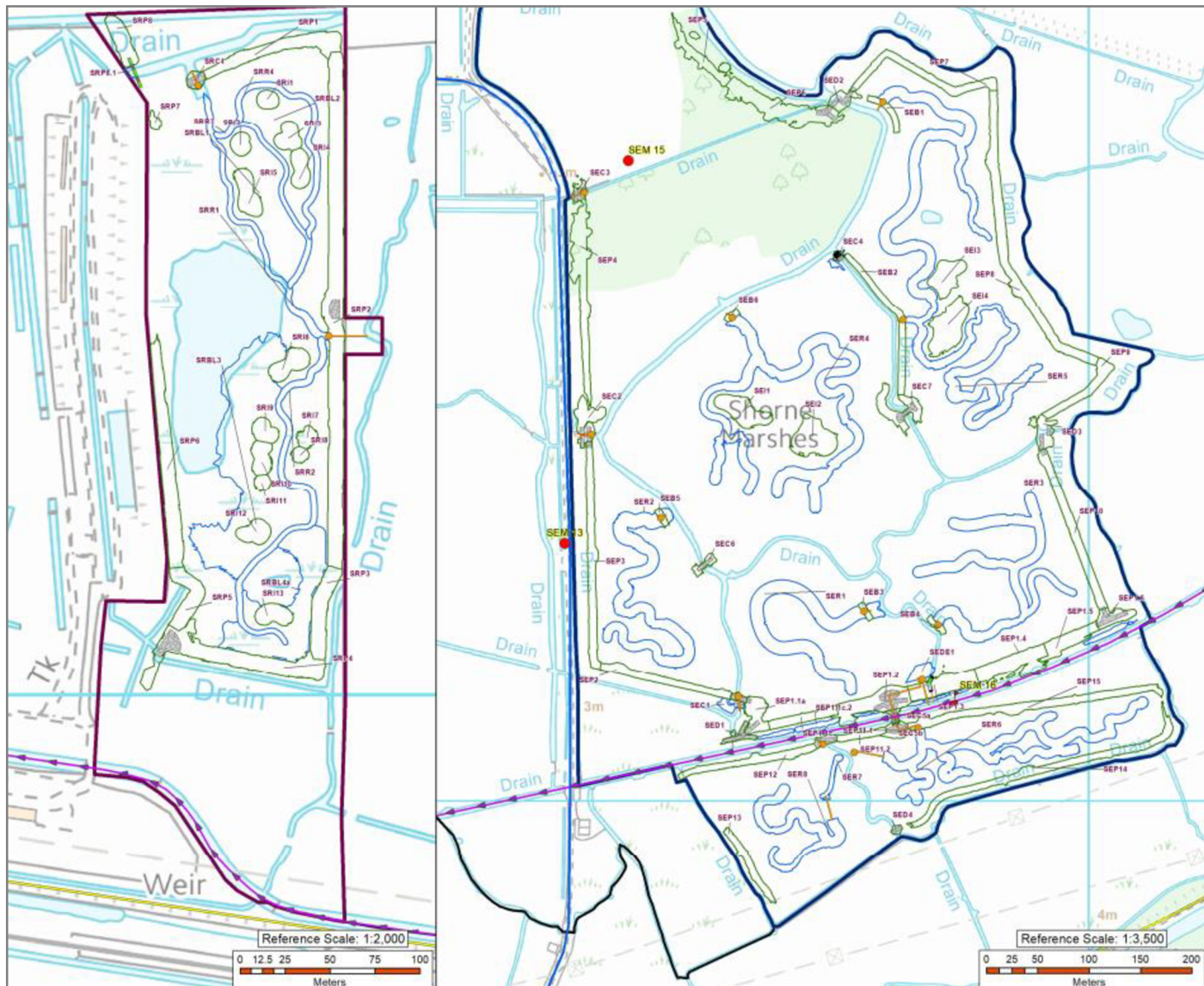
- Surface pools dry out, depriving wader chicks of food and habitat for other species;
- Existing hydrological systems are inefficient and do not provide the volume of water required to maintain wet features throughout spring and summer, which is predicted to worsen due to climate change.

To enhance the habitats for birds and other wetland wildlife water needs to be retained into late spring and early summer. Currently, existing bunds that surround the site (created during a previous phase of habitat

restoration interventions) help to keep water on site, but more features are needed to ensure water is retained for long enough and at a level appropriate to sustain breeding and feeding habitat.

The supporting Planning Statement explains that the project aims to undertake engineering works to enhance the in-field topography and to repair hydrological bunds and culverts, allowing the retention of surface water at key times of the year – the breeding and wintering seasons. Enhancing the marsh habitat will boost biodiversity and improve the site’s resilience to climate change. Through landscaping, 70ha of wetland grazing marsh will be restored by creating hydrological features, primarily including pools, scrapes and rills to help spread and retain water within the site thereby increasing feeding and breeding habitat extent and quality.

Block Plan



Principle Issues

The site is part of Shorne Marshes, a wetland nature reserve managed by the Royal Society for the Protection of Birds (RSPB). The grazing marshes are very important for breeding waders and this significance is demonstrated by its protection status as a Ramsar site and as a Site of Special Scientific Interest (SSSI).

RSPB Shorne Marshes Site Location:

site.

Paragraph 186 of the NPPF 2023 states that development on land within or outside a SSSI and which is likely to have an adverse effect on it should not normally be permitted. The only exception is where the benefits outweigh both its likely impact on the features of the site that make it of special interest and any broader impacts on the national network of SSSIs. However, development whose primary objective is to conserve or enhance biodiversity should be supported.

Paragraph 187 of the NPPF 2023 gives Ramsar sites the same protection as habitats sites. This means that projects in, or in the vicinity of, Ramsar sites, must be assessed under the Conservation of Habitats and Species Regulations 2010 (the Habitats Regulations).

Provision 63 of The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) states that:

‘A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which—

- a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and
 - b) is not directly connected with or necessary to the management of that site,
- must make an appropriate assessment of the implications of the plan or project for that site in view of that site’s conservation objectives.’

Natural England and KCC’s Biodiversity Officer have been consulted on the proposals.

KCC have stated that the submitted application documents rule out adverse effects on the SSSI as the proposals are exclusively intended to enhance the qualifying features of the SSSI. With regard to the Ramsar site, the applicant has submitted a shadow Habitats Regulations Assessment (HRA) as part of their responsibility under the Habitats Regulations. KCC states that as the applicant has reasoned that the proposals are directly connected with and necessary to the management of the site, no appropriate assessment is necessary and significant effects can be screened out.

KCC has therefore advised that the submitted documents reasonably rule out impacts to qualifying features of the SSSI and Ramsar sites (including scarce plants and breeding/overwintering birds) and highlight how the proposed works will benefit these species. They confirm that the conclusions of the shadow HRA can be adopted by the Council for the purposes of conducting a full HRA, but they advise that an appropriate assessment is not necessary.

Natural England also considers that the proposed development will not have likely significant effects on the Ramsar and has no objection. They advise that to meet the requirements of the Habitats Regulations, a likely significant effect can be ruled out for the following reasons:

- The proposed ground works will benefit the waterbird assemblage by creating suitable floodplain grazing marsh habitat year round; keeping the site wet through the winter months and in to the summer to facilitate appropriate feeding conditions.
- The wetland vascular plant assemblage within the Thames Estuary and Marshes Ramsar will thrive in wet and bare areas restored and created.
- Restoring wetland features and creating a varied habitat will provide an increase in surfaces that support the wetland invertebrate assemblage associated with the Ramsar European designation. By improving the habitat and increasing the number of invertebrates available for wader feeding, the proposal will lead to a positive impact on the waterbird assemblage and individual species within the Ramsar.

Natural England also considers the proposed development will not damage or destroy the interest features for which the SSSI site has been notified and has no objection. Following recent surveys (April 2024) of the SSSI units undertaken by Natural England, the condition of the site was deemed unfavourable due to the

current unsuitability of the floodplain grazing marsh for the designated breeding and overwintering bird features. The activity planned is recommended and supported by Natural England to achieve a favourable condition of the site.

With regards to biodiversity net gain (BNG), and the requirement under paragraphs 180 and 185 of the NPPF 2023 to provide measurable net gains for biodiversity, this is an application that falls under the *de minimis* exemption, which excludes any development that does not result in the loss or degradation of any onsite habitat. The applicant has highlighted the following: "Superficially, the cutting of new rills and scrapes could be construed as loss or degradation. However, this is not the case but an immediate enhancement – even without a green cover. They provide immediate access to soil invertebrates for species that feed on these. In fact, established rills and scrapes can become choked with vegetation."

KCC's Biodiversity Officer has accepted that no loss or degradation of any habitat will occur as a result of the proposed development and the applicant is not required to demonstrate BNG.

A Construction Environmental Management Plan (CEMP) has also been submitted, which details measures to avoid adverse impacts on the designated sites and their qualifying features. Detailed mitigation and avoidance measures to be adhered to prior and during works include:

- Work will be condensed (all operational units worked on at the same time in one year) so remaining units function as undisturbed refuge areas;
- Vehicle tracking via specified haul routes and stockpiling of materials and machinery kept to minimum;
- An Ecological Clerk of Works (ECoW) will be present throughout works;
- Phased vegetation management (sward heights first reduced to 50mm, two cuts for any vegetation 200mm or over) to encourage dispersal of any fauna present;
- Works are occurring in the core nesting season (March through August inclusive) so the ECoW will be required to confirm chicks have fledged if any nests are found; if an active nest is found, a buffer zone will be established and maintained until all chicks have fledged;
- Contractors will receive toolbox talks regarding sensitive habitats and protected species;
- Construction materials will be stored so as to avoid site contamination or dust/fuel/chemical spillage/spread;
- Avalon barriers will be used to fence off particularly sensitive areas; and
- Controls will be put in place to stop further spread of highly invasive aquatic plant *Crassula* which is present on site.

Whilst great crested newts and reptiles are known to occupy the SSSI, they are not known to be present in the area affected by the proposed groundworks. They will likely colonise the affected area post-development and benefit from habitat enhancements. No impacts to roosting bats or water vole are anticipated as no works are proposed which will affect any potential roost features or existing ditches/banks with active burrows. As such, the submitted CEMP is regarded as suitable to avoid/mitigate any impacts to protected species/designated sites and it is recommended that adherence to the CEMP be conditioned with any forthcoming planning permission.

On the basis of the advice from Natural England and KCC's Biodiversity Officer, the submitted ecological information is sufficient and there will be no adverse effects on the protected sites. The proposals therefore comply with the requirements of Policy CS12 of the Core Strategy 2014 and paragraphs 180, 185, 186, 187 of the NPPF 2023 and the Habitats Regulations.

Other Material Considerations

Landscape

It must also be considered that the site is located within the Shorne and Higham Marshes Landscape Character Area. The key characteristics of this area comprise flat grazing marsh with a lack of vegetation and a network of ditches and meandering waterways dividing the marshes in an irregular pattern, leaving parcels of land of a medium scale. The proposals are unlikely to have any adverse impact on this

landscape character and would comply with the LCA guidelines for the long-term conservation of the area. The development would therefore be in line with the requirements of Policy CS12 of the Core Strategy 2014 to conserve, restore and enhance the overall landscape character and valued landscapes of the area.

Archaeology

The site lies within an area of multi-period archaeological potential with some complexity with regards the Holocene alluvial sequences and underlying pre-Holocene topography. The application has been made with an Archaeological Desk-Based Assessment (Canterbury Archaeological Trust) which usefully reports the present understanding for the wider 'site'. The assessment demonstrates that the proposals have the potential to impact surface and below-ground archaeological remains.

Mitigation for the proposals is set out in an Archaeological Watching Brief Written Scheme of Investigation (WSI). Ideally the WSI should have had a plan illustrating the location of all relevant heritage assets, but the description in the text clearly relates back to the desk-based assessment and mapping; a copy of which must be kept by the Archaeologist in the field, whilst carrying out the watching brief.

If planning permission is granted a condition should be applied that requires that the archaeological monitoring will be in accordance with the Written Scheme of Investigation for the watching brief.

The proposals therefore comply with Policy CS20 of the Core Strategy 2014 and paragraph 197 of the NPPF 2023.

Environmental Protection

The Environment Agency have reviewed the submitted documents with particular reference to the Construction Environmental Management Plan, the Ecological Site Assessment and the Design and Access Statement.

The new hydrological regime will ensure ditches do not dry out. The proposal will additionally abstract from pre-wetted ditch networks to the greater wetland. Therefore, it is essential that levels within the ditch networks are managed and monitored to prevent "dry out", and a water level management and monitoring programme should be conditioned as part of any forthcoming planning permission for the development.

In relation to flood risk, a flood risk activity permit for any hardstanding, permanent or ancillary work within 8 metres of fluvial statutory main river and within 16 metres of a tidal flood defence should be sought.

On this basis, the proposals are considered acceptable and in compliance with Policies CS18 and CS19 of the Core Strategy 2014, and paragraphs 157 and 180 of the NPPF 2023.

Conclusion

The proposal is considered to be acceptable in terms of the impact on the biodiversity in the designated sites, and on landscape, archaeology and environmental protection. The proposal would therefore comply in particular with the requirements of Policies CS12, CS19 and CS20 of the Gravesham Local Plan Core Strategy 2014 and paragraphs 157, 180, 185, 186, 187 and 197 of the NPPF 2023.

Recommendation:

Approve with conditions.

See draft Decision.

Case Officer:	Mrs Katherine Parkin	Team Leader:	Miss Faye Hobbs
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Signed:		Signed:	
Dated:	8 July 2024	Dated:	09 July 2024