



ECOLOGICAL ADVICE SERVICE

TO: Katherine Parkin

FROM: Jonathan Lynch

DATE: 07 June 2024

SUBJECT: 20240312 / Land At RSPB Shorne Marshes, Shorne

The following is provided by Kent County Council's Ecological Advice Service (KCC EAS) for Local Planning Authorities. It is independent, professional advice and is not a comment/position on the application from the county council. It is intended to advise the relevant planning officer(s) on the potential ecological impacts of the planning application and if sufficient/appropriate ecological information has been provided.

Any additional information, queries or comments on this advice that the applicant or other interested parties may have must be directed in every instance to the planning officer, who will seek input from the EAS where appropriate and necessary.

SUMMARY – NO FURTHER INFORMATION REQUIRED

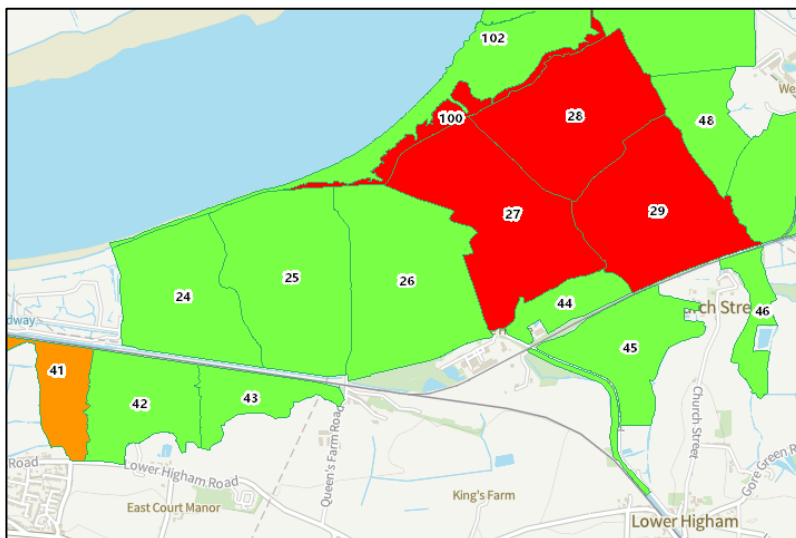
We have reviewed the information submitted by the applicant and advise that **sufficient ecological information has been provided**. The site of the proposed development is covered by two statutory designations and supports several protected species. A suitable Construction Environmental Management Plan (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.



South Thames Estuary and Marshes SSSI with unit 26 (affected by the proposals) at the centre. MAGIC Maps, accessed June 2024.

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;

¹ The submitted KMBRC habitats map describes the area as "Semi-improved grazing marsh pasture" and "Grazing marsh pasture".

² Design and Access Statement, section 2.5.

- 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.”*

³ [The Biodiversity Gain Requirements \(Exemptions\) Regulations 2024 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uksi/2024/100/contents/part-2/chapter-1)

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.

If you have any queries regarding our comments, please do not hesitate to get in touch.

Jonathan Lynch
Biodiversity Officer

This response was submitted following consideration of the following documents:

- Construction Environmental Management Plan (Biodiversity) (RSPB, undated)
- Design and Access Statement (RSPB, undated)
- Ecological Site Assessment: Report to Inform an Assessment Under the Habitats Regulation (RSPB, undated)
- Full Habitats Map (Kent & Medway Biological Records Centre, August 2023)
- Non-European Site Receptor Ecological Site Assessment (RSPB, undated)