

Delegated Report

Full Planning Application

Application No:	20220575
Location:	Higham Marshes, Church Street, Higham, Rochester, Kent, ME3 7LS
Description:	Wetland habitat restoration/enhancement comprising of engineering works to enhance the in-field topography.
Applicant:	Mr Will Tofts, RSPB
Site Visit Date:	...

Submitted Documents/Plans

The applicant has submitted the following in support of the application:

Application form
Site Location Map 1
Site Location Map 1a
Bird Count
Water Vole Study
Detailed Unexploded Ordnance (UXO) Risk Assessment
The South Thames Estuary and Marshes SSSI Citation
The Thames Estuary and Marshes SPA Citation
The Thames Estuary and Marshes RAMSAR Citation
Planning Statement
Services and Line Search
Design Specification
Design and Access Statement
Higham Marshes Conservation Concern Species Inventory
Higham Marshes Breeding Birds
Kent Birds Records Summary
Kent Bat Group Bat Roost Locations Map
Kent Bat Group Higham Marshes Bat Record
Higham Marshes Abstraction License
Higham Marshes Protected Species Inventory
Higham Marshes Kent Rare & Scarce Species Inventory
Archaeology Reply (Groundworks impacts)
Construction Environmental Management Plan (Biodiversity)
Ecological Site Assessment: Report to inform an Assessment Under the Habitats Regulations
Historic Environment Record Map
Archaeology Gazetteer (received 10/10/2022)
Archaeological Watching Brief Written Scheme of Investigation (dated November 2022)
~~Archaeology Gazetteer (received 5/10/2022)~~

Relevant Planning History

There is no relevant planning history.

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.

Other Material Considerations

National Planning Policy Framework 2021

- Section 2 – Achieving sustainable development
- Section 9 – Promoting sustainable transport
- Section 12 – Achieving well-designed 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:

I have some concerns about the lack of detail related to archaeology. The Planning Statement and Design and Access Statement make the following positive statements:

Planning Statement

As explained in section 3.2.6 in 'Higham_Marshes_Design and Access Statement', the preservation of our archaeological assets is a prime design consideration. The project will protect and enhance the preservation of unscheduled features and return them to a setting more in keeping with their environment at the time of creation - surrounded by water, albeit fresh, not saline and only for part of the year.

Design and Access Statement

3.2.6. Archaeology and Unexploded Ordnance From experience on other sites where landscaping is required, the two factors of extant archaeology and the potential for unexploded ordnance to be unearthed need to be accounted for in any design and its delivery.

Archaeological features are generally easier to establish, and the features identified in the map and gazetteer (presented in the document 'Higham_Marshes_Archaeology Gazetteer') Having identified the known archaeological features and assessed the likelihood of unidentified archaeology, the presence of archaeology does not present an insurmountable obstacle in designing viable new wetland features and, conversely, with a sympathetic design i.e. creating rills and excavating scrapes to a shallow depth and avoiding identified features, the creation of the new wetland features do not present a risk to the extant archaeology. Furthermore, it is accepted that archaeological features in a wetland environment are better protected against deterioration. Overall, this project fulfils the RSPB's objective to ensure the preservation of all its archaeological assets.

These statements are positive but I would like to see a detailed survey of the historic landscape and archaeology of the site area so that it is clear what features have been identified and how any impacts from groundworks would be avoided and/or mitigated (e.g. through an archaeological watching brief).

Would you be able to find out what archaeological studies have been undertaken to support the above statements and could these survey reports be shared.

Further comments 22/09/2022 following 'Archaeology Reply':

The response from the RSPB is helpful but there remain some significant concerns.

The desk-based assessment needs to be based on up-to-date information from the Kent Historic Environment Record and the HER needs to be contacted to provide this information. The present assessment is based on data from 2005 and the online information, which is meant to be informative only and not for commercial research. As noted at the end of the RSPB document, a scheme of this potential magnitude of change and impact, should be supported by an Archaeological Desk-Based Assessment. I agree that such an assessment is produced and that the archaeological contractor requests the HER data. I would be happy to liaise directly with the RSPB to help them create the appropriate assessment.

What remains uncertain is firstly, below-ground archaeological potential (the presently unknown sites) which may be impacted by groundworks. The Archaeological Desk-Based Assessment (mentioned above) needs to include an assessment of the geoarchaeological potential of the area and an assessment of potential impacts. If the applicant has any geotechnical or ground investigation data, this should be made available to the archaeological contractor producing the desk-based assessment.

Secondly, it is uncertain how the setting of heritage assets will be impacted by the proposed landscape-scale changes. The archaeological assessment will need to include a section on the proposed change of setting of designated and un-designated heritage assets that would result from the proposed works, drawing on data sets from the Kent HER such as Historic Landscape

Characterisation. This assessment of setting would need to consider undesignated heritage assets within the site and the designated heritage assets outside the site but for which this area of landscape provides a setting. In particular this would related to Cliffe Fort and the designated Priory remains and listed buildings at Church Street. The setting impact assessment would need to follow Historic England guidance.

Depending on the extent and depth of below-ground impacts it may be necessary to then undertake field evaluation in advance of groundworks, and/or it may be the case that an archaeological watching brief on groundworks could form the approach to mitigation. A decision on this would depend on the impact assessment work.

It would be preferable if the planning decision timetable could allow for this work to be undertaken but I must apologise, of course, for my delayed response in this process.

Further comments dated 09/11/2022 following WSI:

The areas proposed for habitat restoration and enhancement have high archaeological and palaeoenvironmental potential for a range of periods of human history from the prehistoric to the present. Further to my previous comments I have discussed the proposals with the applicant and as the groundworks will have limited depth, the archaeological impact is also likely to be limited, but there remains some risk of impacts. The applicant has commissioned Written Schemes of Investigation (CAT 2022) for archaeological watching briefs across the two main areas of proposed works which have been submitted with this application. I would be happy for the watching briefs to be undertaken as set out in the two WSI submitted. The results of the archaeological watching briefs will be reported on and I recommend that to formalise the process the following condition is applied to any forthcoming consent:

The development hereby permitted shall be subject to archaeological watching briefs, to be undertaken in accordance with the approved Written Schemes of Investigation by Canterbury Archaeological Trust (1) Habitat Enhancement Project, Cooling and Cow Marsh, North of Cliffe Marshes, Hoo Peninsula, Kent (WB CM 22) and (2) Habitat Enhancement Project, Higham Marshes, North of Higham Village, Hoo Peninsula, Kent (WB HM 22).

Reason: To ensure that features of archaeological interest are properly examined and recorded.

KCC Biodiversity

Initial Comments

We advise that additional information is required prior to determination of the planning application.

The planning application is within South Thames Estuary and Marshes SSSI and the Thames Estuary and Marshes SPA and Ramsar and the submitted information has detailed that the proposed of the proposed development is to address the following issues within the site:

- 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 the spring and summer, this is getting worse through climate change;
- The lack of infrastructure to support grazing regimes which create the optimal grass sward structure that breeding waders need;
- Lack of nesting habitat for waders;

We agree with the principle of the proposed development however the submitted information has not clearly demonstrated how the works will be carried out to avoid a breach of wildlife legislation

and ensure that the habitat regulations have been fully considered.

The submitted information has primarily focused on the enhancing the site for the birds associated with the designated sites. But the SSSI and the Ramsar site have also been designated for their invertebrate and plant interest and therefore there is a need to ensure that the works to create the scrapes and ditches will not negatively impact /damage or destroy these features.

Species not associated with the designated sites are present within the site (including reptiles and water voles) and there is a need to ensure that the works will not result in a negative impact on these species.

We advise that there is a need for an Ecological Impact Assessment to be submitted as part of the current planning application. An EclA is a process of identifying, quantifying and evaluating the potential effects of development on habitats, species and ecosystems, so providing all ecological survey information alongside any necessary avoidance, mitigation and compensation proposals within one document. The EclA will enable GBC to fully assess the ecological impact of the proposed development and consider if the proposed works are appropriate.

As the works are within /adjacent to the Thames Estuary and Marshes SPA and Ramsar and if the works have not been agreed within the management plan for the SPA and Ramsar there will be a need for a shadow HRA to be submitted with the planning application.

We advise that Gravesham BC is the competent authority under the Conservation of Habitats and Species Regulations 2018 (the 'Habitat Regulations'), and should have regard to the habitat regulation assessment (HRA) process set out in regulation 61 of the Habitat Regulations in the determination of any planning application. Should a likely significant effect on a European/internationally/ designated site be identified, Gravesham BC may need to prepare an Appropriate Assessment, in addition to consideration of impacts through the EIA process. Therefore, if the proposals may result in a likely significant effect upon the designated sites, then sufficient information will need to be submitted with any planning application to allow Gravesham BC to undertake an Appropriate Assessment.

Further comments dated 14/09/2022 following Ecological Site Assessment

The planning application is within South Thames Estuary and Marshes SSSI and the Thames Estuary and Marshes SPA and Ramsar and the submitted information has detailed that the proposed of the proposed development is to address the following issues within the site:

- 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 the spring and summer, this is getting worse through climate change;
- The lack of infrastructure to support grazing regimes which create the optimal grass sward structure that breeding waders need;
- Lack of nesting habitat for waders;

We agree with the principle of the proposed development and we can understand the reasoning for the project. From the information submitted we do acknowledge that the works are likely to benefit species found within and adjacent to the site – particularly those associated with the designated sites.

A large number of documents have been submitted as part of this application and we highlight it would have been preferable if an Ecological Impact Assessment had been submitted clearly assessing the impact the proposal will have on the designated sites, species associated with the designated sites and protected/notable species. The information submitted with this application is

repetitive and very confusing for example table 6.3 in the Ecological Site Assessment Includes the following information about Grey Plover The habitat enhancements will have a direct, long-term positive impact. It is expected that this species will resume utilising the application area during winter with a confidence level of Unlikely. We presume that Grey Plovers are unlikely to utilise the site as they prefer large muddy /sandy estuaries not the type of habitat proposed to be created however it would have been preferable if the submitted information had clearly explained why it was unlikely.

We understand that NE are commenting on this application and therefore, other than stating the above, we will restrict our comments to matters not associated with designated sites.

However, we highlight that ss the works are within /adjacent to the Thames Estuary and Marshes SPA and Ramsar and if the works have not been agreed within the management plan for the SPA and Ramsar there may be a need for a shadow HRA to be submitted with the planning application. We highlight that NE will be able to provide detailed comments on this point.

We advise that Gravesham BC is the competent authority under the Conservation of Habitats and Species Regulations 2018 (the 'Habitat Regulations'), and should have regard to the habitat regulation assessment (HRA) process set out in regulation 61 of the Habitat Regulations in the determination of any planning application. Should a likely significant effect on a European/internationally/ designated site be identified, Gravesham BC may need to prepare an Appropriate Assessment.

We advise that if an HRA is required we can assist GBC on producing the documents.

Species not associated with the designated sites are present within the site (including reptiles) and there is a need to ensure that the works will not result in a negative impact on these species. A construction management plan has been submitted and it has acknowledged that reptiles are present within the site and provided a time frame for carrying out the works (vegetation management/rubble debris clearance commencing in July 2021). The dates within the report are out of date however we query if pre commencement works have already commencement within the site.

For example, we understand the main works are proposed to be carried out between September and December which includes part of the reptile hibernation period. If the vegetation/rubble clearance has not already been completed there is a risk that the works will impact reptiles. There is a need to ensure that the works are carried out following a methodology which will minimise impacts on protected/notable species within the site.

We recommend that a simple document is produced clarifying the impact the works will have on species not associated with the designated sites, clarifying what (if any) mitigation is needed and if the mitigation can be carried out within the time frame proposed for the works.

Natural England

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.

Following recent surveys of the SSSI units undertaken by Natural England, the condition of site as deemed unfavourable due to the hydrological resources on site and the quality of habitat for the breeding and over wintering wader assemblages.

The activity planned is recommended and supported to gain the favourable condition of the site.

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

European sites - Thames Estuary and Marshes Special Protection Area and Thames Estuary and Marshes Ramsar

Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on the Thames Estuary and Marshes Special Protection Area and 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 likely significant effect can be ruled out. The following may provide a suitable justification for that decision:

- The proposed ground works will benefit the breeding wader assemblage by enabling more water to be kept on site into the summer months to facilitate wader chick feeding conditions.
- The botanical species recorded during a site visit (October 2022), along with the wetland vascular plant assemblage within the Thames Estuary and Marshes Ramsar will thrive in wet areas created by the project. Adding 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 proposals will lead to a positive impact on the breeding wader assemblages and individual species within the SPA and 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 of the SSSI units undertaken by Natural England, the condition of the site was deemed unfavourable due to the hydrological resources on site and the quality of the floodplain meadow grazing marsh for the breeding and over wintering wader assemblages.
- The activity planned is recommended and supported by Natural England as it will help achieve the 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.

Higham Parish Council

No response received.

Neighbouring properties

The application has been advertised on site. The consultation period expired on 8 July 2022.

No neighbour representations have been received.

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

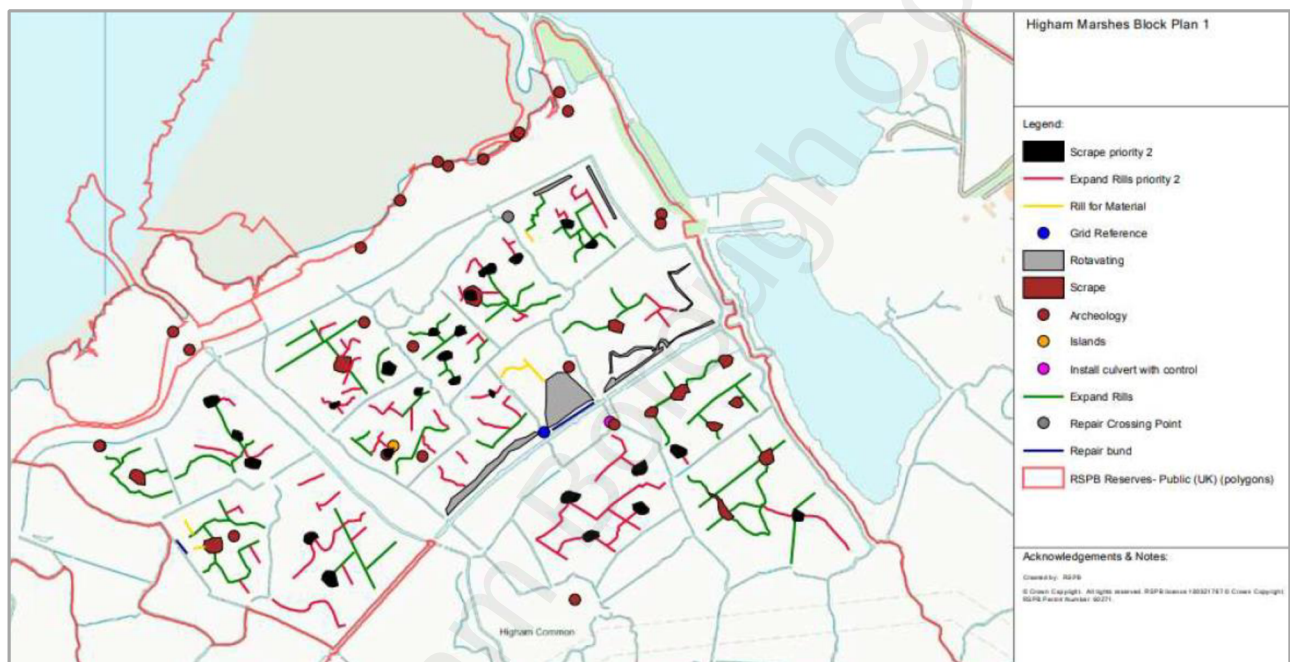
Analysis

Proposal

This application seeks permission for wetland habitat restoration/enhancement comprising of engineering works to enhance the in-field topography.

The supporting Planning Statement explains that the engineering works will enhance the in-field topography and repair hydrological bunds and culverts. This will allow the retention of surface water, being the foremost element of a wetland habitat restoration/enhancement, at the key times of the year – the breeding and wintering seasons – to benefit breeding waders. The works will include rills and scrapes, which are shallow excavations that will provide increased topographical variation including 'islands' or shallow features that will remain above the peak surface water level to provide safe roosting and nesting locations. The rill system will mainly be made through the use of a tractor mounter soil spreader and rotavator, which allow for targeted management without causing damage to other parts of the site, whilst also being able to work quickly and effectively.

Proposed Block Plan:



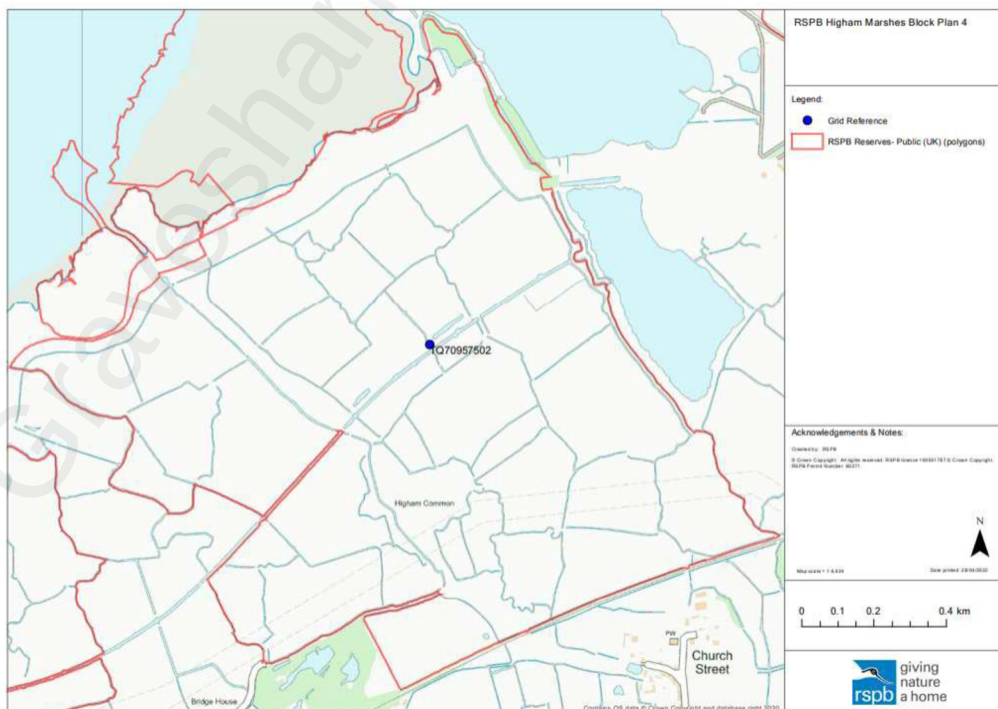
The images below show an example of similar habitat transformation at Great Bells Farm Nature Reserve on the Isle of Sheppy:



Principle Issues

The site is part of Higham Marshes, an area of mainly grassland. The land is used for the conservation of various species of conservation concern, with active habitat management carried out by the Royal Society for the Protection of Birds (RSPB) to ensure the habitats are in the right and best condition for them to thrive.

Higham Marshes Location:





The main issue to consider in the determination of this application is the impact of the proposed engineering works on this site within the South Thames Estuary and Marshes Site of Special Scientific Interest (SSSI) and the Thames Estuary and Marshes Special Protection Areas (SPA) and Ramsar, and the biodiversity within these designated sites.

Biodiversity

Paragraph 180 of the NPPF 2021 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.

Provision 63 of The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 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.’

Paragraph 181 of the NPPF 2021 gives Ramsar sites the same protection as European sites (i.e. SPAs and SACs). This means that projects in, or in the vicinity of, Ramsar sites, as well as European sites, must be assessed under the Conservation of Habitats and Species Regulations 2010 (the Habitats Regulations). However, Provision 63 of the Habitats Regulations states that if a plan or project is ‘directly connected with or necessary to the management of that site’ then no

further assessment is necessary.

Policy CS12 of the Core Strategy 2014 states that sites designated for their biodiversity value will be protected, with the highest level of protection given to internationally designated SPAs, Special Areas of Conservation and Ramsar sites, followed by nationally designated SSSIs, all of which the application site falls within. Opportunities to enhance, restore, re-create and maintain habitats will be sought, in particular within Biodiversity Opportunity Areas, which is a further designation applicable to this site.

Natural England and KCC's Biodiversity Officer have been consulted on the proposals, including on the further ecology details that have been submitted. The submitted details include information for a Habitat Regulations Assessment, the assessment of the potential for any likely significant effects of the project on European and Ramsar sites, together with how any potential negative impacts will be avoided or mitigated, and where the project is directly connected with or necessary to the management of the site.

The submitted details summarise the designated species and habitats that:

1. Will not be impacted negatively by the delivery of the project as they have not been recorded in the application area for a minimum of three years;
2. Are likely to be impacted positively in the long-term over the post-enhancement operational period;
3. Will never be impacted positively or negatively as they are not found in a Lowland Wet Grassland habitat.

The reports conclude that the project has been designed in a way that no likely significant negative effect will occur to The South Thames Estuary and Marshes SSSI and other ecological receptors of conservation concern across the application area. Furthermore, the designated interest of South Thames Estuary and Marshes SSSI will benefit from the delivery of this project with long term significant positive effects that will enhance the conservation value of The South Thames Estuary and Marshes SSSI and Higham Marshes for other ecological receptors of conservation concern.

Following recent Natural England surveys of the SSSI, the condition of the site was deemed unfavourable due to the hydrological resources on site and the quality of the floodplain meadow grazing marsh for the breeding and over-wintering wader assemblages. Natural England is satisfied that the activity planned is necessary for the conservation management of the site.

With regards to the SPA and Ramsar sites, Natural England also considers that the proposed development will not have likely significant effects on the basis of the following considerations:

- The proposed ground works will benefit the breeding wader assemblage by enabling more water to be kept on site into the summer months to facilitate wader chick feeding conditions.
- The botanical species recorded during a site visit (October 2022), along with the wetland vascular plant assemblage within the Thames Estuary and Marshes Ramsar, will thrive in wet areas created by the project. Adding 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 proposals will lead to a positive impact on the breeding wader assemblages and individual species within the SPA and Ramsar.

KCC's Biodiversity Officer agrees with the principle of the proposed development and understands the reasons for it. It is also acknowledged that the works are likely to benefit species found within and adjacent to the site.

A Construction Management Plan has also been submitted, which provides a timeframe for carrying out the works. This should be adhered to.

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 proposal is 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 proposal 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 also lies within an Archaeological Notification Area. The areas proposed for habitat restoration and enhancement have high archaeological and palaeoenvironmental potential for a range of periods of human history from the prehistoric to the present. There were initial concerns about the lack of detailed surveys of the historic landscape and archaeology of the area but following further information including Written Schemes of Investigation (WSI) for archaeological watching briefs across the two main areas of proposed works, provided the watching briefs are undertaken as set out in the two WSI submitted, the submitted information is considered satisfactory and would not have a significant archaeological impact. The proposal therefore complies with Policy CS20 of the Core Strategy 2014 and paragraph 197 of the NPPF 2021.

Conclusion

The proposal is considered to be acceptable in terms of the impact on the biodiversity in and around the designated sites, and on landscape and archaeology. The proposal would therefore comply in particular with the requirements of Policies CS12 and CS20 of the Gravesham Local Plan Core Strategy 2014 and paragraphs 174, 179, 180, 181 and 197 of the NPPF 2021.

Recommendation:

Approve with conditions.

See draft Decision.

Case Officer: Katherine Parkin	Team Leader: Miss Faye Hobbs
Signed: 	Signed: 
Dated: 30/11/2022	Dated: 30 November 2022