

Date: 20 November 2023
Our ref: 448983
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 06 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

FURTHER INFORMATION REQUIRED TO DETERMINE IMPACTS ON DESIGNATED SITES

As submitted, the application could have potential significant effects on the following designated sites:

- Swanscombe Peninsula Site of Special Scientific Interest (SSSI)
- Thames Estuary and Marshes Special Protection Area (SPA) and Ramsar Site

As in our previous response (ref: 413779) Natural England requires the following further information in order to determine the significance of these impacts and the scope for mitigation:

- A detailed, evidence-based assessment of the potential for direct and indirect impacts to the above sites and full details of the avoidance and mitigation measures that will be implemented, specifically but not limited to:
 - Impacts from changes in microclimate caused by overshadowing from the proposed development on the Swanscombe Peninsula SSSI;
 - Impacts on breeding birds assemblage of SSSI;
 - Impacts from an increase in recreational pressure on the SSSI;
 - Impacts on water quality/quantity on SSSI.

Without this information, Natural England may need to object to the proposal.

Please re-consult Natural England once this information has been obtained.

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

Additional Information required

Natural England sent a response to this application in December 2022 (our ref: 413779). Having reviewed the additional information submitted in response to our advice and in support of this application, we recommend that further additional information is still required to allow a robust assessment of the potential implications of this application for statutory designated sites and the England Coast Path. In the absence of such information, Natural England may need to object to this proposal.

Swanscombe Peninsula Site of Special Scientific Interest (SSSI)

The application site borders the Swanscombe Peninsula SSSI. This site is a corridor of habitats that connects the Ebbsfleet Valley and southern shore of the River Thames, and includes bare open ground habitats with low scrub cover, as well as wetland, grazing marsh and saltmarsh habitats. The Swanscombe Peninsula SSSI is notified for its geological, vascular plant, breeding bird and invertebrate interest.

We acknowledge the 'Northfleet – Letter Response to NE Consultation' (2023) prepared by the Applicant to address our previous letter's advice regarding a greater level of evidence-based information to ensure impacts can be avoided or fully mitigated. We also welcome the measures included in the Design and Access Code (August 2023, rev. B) to promote nature recovery, biodiversity, green infrastructure and connecting people with nature.

However, there remains significant information outstanding whereby impacts have been inadequately assessed or not adequately mitigated. We note that the Applicant states they are keen to develop mitigation with Natural England at the detailed design stage (which we understand as the Reserved Matters Applications stage). We advise, however, that impacts that are likely to significantly impact a sites designated features and appropriate mitigation to prevent this must be determined at the Outline Planning Applications stage. Therefore please see our following advice:

1. Potential direct and indirect impacts to the breeding bird assemblage within the Swanscombe Peninsula SSSI

Natural England acknowledge the breeding bird survey carried out on 13th and 23rd July 2022 (Environmental Statement, Vol. 1, Annex 3) and that they concluded: (a) impacts from the Proposed Development upon breeding birds from the Swanscombe Peninsula SSSI and (b) the importance of the mudflats as foraging habitat for birds from the SSSI, were insignificant. We advise that these surveys provide an insufficient evidence-based; we recommend two surveys are conducted per month during the breeding months (typically May to August). Should the Applicant not wish to conduct these, they could assume the presence of any species for which the habitat is suitable and avoid/mitigate accordingly.

Natural England acknowledges that the Applicant has considered potential impacts upon the breeding bird assemblage of the SSSI through (i) noise and lighting during construction and operational phases, ii) recreational disturbance, and (iii) cat predation. We address the mitigation proposed for these in following sections, however we advise the SSSI breeding bird assemblage may also be impacted through habitat loss through sterilisation due to overshadowing of dense scrub habitats in the south eastern corner of the SSSI by residential blocks in Character Area 3 of the proposed development (discussed further under point 4); birds associated with this include nightingale, bullfinch and garden warbler.

We note that the Applicant proposes to conduct black redstart surveys covering the whole breeding season prior to construction; we welcome the Applicant complying with The Wildlife and Countryside Act but highlight this species is not part of the SSSI breeding bird assemblage.

We further advise that bird surveys undertaken for the London Resort Scheme in 2019 and 2020 may be considered out of date and need to be re-done; we therefore caution the use of these bird surveys by the Applicant to inform their assessment of impacts from the proposed development (page 2, Northfleet – Letter Response to NE Consultation (2023)).

2. Potential direct and indirect impacts to vascular plants associated with the SSSI.

Natural England acknowledges that the Applicant's site survey did not find any notable plant species or habitats and therefore they do not anticipate any direct impacts upon vascular plants associated with the SSSI. We welcome the inclusion of green and brown roofs to provide habitat for vascular plants associated with the SSSI to colonise (Preliminary Ecological Appraisal (PEA), 2022, para. 10.1.5).

We note that dust has been identified as a key factor to impact vascular plants of the SSSI (principally during the construction phase) and that the Applicant proposes that a Construction Environment Management Plan (CEMP) will be conditioned to mitigate these impacts. We are satisfied this is a suitable mitigation measure and advise you, as competent authority, to secure and review this before construction starts.

We however advise that an assessment is carried out with specific attention to possible direct and indirect impacts to vascular plants associated with the SSSI from impacts caused by overshadowing and changes to microclimate from the Proposed Development.

3. Potential direct and indirect impacts to invertebrate assemblage associated with the SSSI.

Natural England notes that the Applicant considers there is no potential mechanism for direct or indirect effects upon invertebrate species associated with SSSI assemblage as a result of the proposed development. As such they conclude targeted invertebrate species surveys are not required.

The Environmental Statement (ES) concludes that impacts would not be significant on invertebrate species during demolition, construction and operational phases due to the mitigation measures required to reduce impacts on the SSSI, such as a detailed CEMP and creation of further habitats on-site through brown and green roofs to replicate open mosaic habitat within the SSSI. We welcome the inclusion of green and brown roofs to provide habitat for invertebrates associated with the SSSI (Preliminary Ecological Appraisal (PEA), 2022, para. 10.1.5) and acknowledge that some level of ground disturbance is beneficial to invertebrate features of this SSSI.

We however advise that an assessment is carried out with specific attention to possible direct and indirect impacts to invertebrates associated with the SSSI from impacts caused by overshadowing and changes to microclimate from the Proposed Development.

4. Areas of the SSSI that will be subject to overshadowing, the duration and impacts that this will have for notified features and the habitats that support them.

The Design Code illustrates that residential blocks in Character Area 3 – Parkland, will consist of building heights of up to 35m, 51m and 66m. Natural England notes that overshadowing of the SSSI from the proposed development is identified for the southern corner of the SSSI next to the Lower Road, and that some of the SSSI here will be overshadowed almost permanently where there is dense scrub habitat. The Applicant says this habitat is unlikely to be sensitive to overshadowing. We advise that this is not insignificant and will have an impact upon microclimate (discussed below) and also cause loss of SSSI through sterilisation (e.g. lack of solar radiation). We further advise that although this is currently dense scrub, given the nature of the SSSI and its management, it is likely in future this will be opened up and as such overshadowing has a potential to impact more habitats/species.

There is no mention of any mitigation for this potential loss of SSSI and we strongly advise the Applicant to explore alternatives (for example, in building height, arrangement and location) to

prevent the overshadowing of the SSSI. We suggest these alternatives could also link to other benefits such as building resilience of the SSSI and protection against cat predation.

5. Changes to the microclimate within the SSSI resulting from this development with an evidence based consideration of impacts to habitats and species associated with the designated site.

Natural England acknowledges the comments made in response to this point in our previous letter in the 'Northfleet – Letter Response to NE Consultation' (2023) in relation to wind. We acknowledge that strong wind conditions for the site were recorded at baseline and not as a result of the Proposed Development. However, we highlight that microclimate is impacted by factors including but not limited to wind, such as radiation, shade, humidity and air temperature.

We strongly advise that the impacts of overshadowing of the southern corner of the SSSI upon microclimate are also considered, and that potential changes to microclimate are then used to assess impacts on the habitats and species of the SSSI.

Microclimate modelling could be a helpful tool to assess and visually show changes to air temperature, moisture, wind, radiation etc. as a result of the proposed development.

6. Clarity on whether any species associated with the Swanscombe Peninsula SSSI are present within the application site itself and the mitigation (where required) that will be implemented to ensure that the resilience of the SSSI is not impacted.

Natural England welcomes the Applicant proposal to create wildlife corridors and green spaces, as well as provide complementary habitat for notable species within the SSSI (such as brown roofs for invertebrates and birds). We note from the Design Code that residential buildings are proposed to abut the SSSI in Character Area 3 – Parkland and therefore also welcome the inclusion of a new buffer zone proposed along the boundary of the Proposed Development between the residential properties and the SSSI; this may also benefit protection against cat predation by creating more separation between residential buildings and the SSSI (Northfleet – Letter Response to NE Consultation (2023)).

7. Air quality assessment (both dust and transport generated along the affected road network) for the Swanscombe Peninsula SSSI (and any other designated sites along the affected road network).

Natural England acknowledges that Chapter 8 in ES Vol. 1 assesses the increase in vehicle emissions both during construction and operational stages and concludes impacts on local air quality will not be significant. Given the industrial nature of the existing site, it is likely air quality in the long-term will be improved for the SSSI from the Proposed Development, but we advise this needs to be evidenced through specific assessments on the SSSI's habitats and species.

We note the assessment of dust and traffic impacts to ecological receptors, including the SSSI which has 'medium sensitivity' to construction works, within Chapter 8 of the ES Vol. 1. The Applicant proposes mitigation is achieved through a Dust Management Plan (DMP) and an industry-standard CEMP. We advise this is secured and reviewed prior to construction beginning.

8. Water quality and quantity impacts from the development to habitats within the Swanscombe Peninsula SSSI.

Natural England has reviewed the Flood Risk Assessment and Surface Water Drainage Strategy (September 2023) and the proposed Sustainable Urban Drainage System (SuDS) features. We note in the Montagu Evans document (August 2023 v.1, page 23) that the Avison Young Review says, "the [Environment Agency] EA have requested a site specific flood risk model ... and consider the findings of the existing model – a very low level of flood risk to the site – are inaccurate and should not be used as the only assessment for fluvial flooding." Based on this we are unable to concur that, together with the mitigation measures in the Proposed CEMP and SuDS, impacts upon water

quality and quantity of the SSSI should not be significant. Please re-consult us once the Applicant has responded to the EA's advice on this issue and the model findings are considered reliable.

We also bring to your attention the FRA & SWDS (2023, para. 4.18), which states during exceedance events (should the proposed drainage system become blocked) any water leaving the site would be routed along the road network towards the River Ebbsfleet, River Thames and Swanscombe Marshes. We cannot assess the potential impacts of these events upon the SSSI, but advise that any potential impacts are assessed and if significant, mitigation is proposed.

9. Potential urbanisation effects (including noise, lighting, disturbance, cat predation for birds, for example) that may result from the application to the species and habitats associated with the designated site.

- Lighting

We welcome the incorporation of wildlife-sensitive lighting within the Design Code and note that a lighting management strategy has been proposed for the construction phase, however we advise that the impacts of artificial lighting directly upon features of the SSSI should be avoided. We also welcome the inclusion of a tree-line to limit visual disturbance for breeding birds (e.g. Cetti's Warbler) at Robin's Creek.

However, we advise that lighting assessments are currently limited to impacts within the proposed development site and therefore need to specifically assess impacts to the SSSI's habitats and species.

- Noise

Natural England notes from Chapter 9 of ES Vol.1 that there is a small portion of the SSSI that borders the development site (in the south-eastern corner) where noise is expected to temporarily exceed 70dB. We advise that mitigation is proposed to address this impact.

We welcome the inclusion of a Precautionary Working Method Statement (PWMS) within the CEMP, specifically the use of visual and noise barriers for overwintering birds, avoiding noisy and disturbing works outside of sensitive periods for birds of the SSSI, and use of low impact machinery to limit noise and vibration disturbance if works are undertaken in the breeding season (para. 9.2.6, PEA, 2022).

- Cat predation

The 'Northfleet – Letter Response to NE Consultation' (2023) states that the current cat predation within the area is unknown, as is the predation rates of the breeding birds within the SSSI. The Applicant reasons that because the proposed development is largely apartment-led, if the residents' owned cats, they would likely not stray outside given they have limited outdoor space (aside from balconies). We do not concur with this reasoning and advise that cat predation may pose a significant negative impact upon the breeding bird assemblage of the SSSI and therefore requires an evidence-led assessment.

The Applicant proposes the use of cat-proof fencing. We welcome the initiative to address cat predation, but we advise this could have limitations: it is visually less attractive; it is not fully effective as it is possible for cats to either climb or simply run to the end of the fencing; it can fragment habitats and inhibit movement between species. We therefore encourage the Applicant to (a) estimate cat numbers associated with the proposed new dwellings and (b) explore other mitigation measures, drawing on case studies, that will limit cat predation within the SSSI. For example the use of permanently wet ditches could be considered as a more effective measure.

10. Potential impacts to the SSSI from increased recreational disturbance impacts from residents.

Natural England acknowledges the Applicant's proposed audit to assess the residual effects of increased recreational pressure on the Swanscombe Peninsula SSSI, however we are not clear if this is intended after the development is occupied. If this is the case, we strongly advise that an

assessment of potential increased recreational pressure upon the SSSI is carried out prior to planning permission is granted so that mitigation measures can be appropriately developed.

We also strongly advise that, should impacts be shown to be significant, strategic measures are developed to manage recreational pressures on the SSSI associated with the proposed increase in residential dwellings and increased footfall from users. Such a solution should be evidence-led and based upon the findings of a recreational pressure assessment and could include the improvement of existing public rights of way or paths within the SSSI and to the Botany Marshes Nature Reserve.

We welcome the proposed inclusion of high quality greenspaces, signposts to display the sensitivity of the SSSI to human disturbance as well as an information centre/cade within the Power Park (Design Code, page 102) in order to raise residents' awareness of SSSI species and habitats. Furthermore we support connecting people with nature. However, we question if the current proposed greenspace is adequate for the proposed new populations (e.g. based current wind testing shows that the Power Park does not provide any areas suitable for sitting in the summer and only little space for standing in the windiest seasons (Montagu Evans August 2023 v.1, page 21). We refer you to our [Green Infrastructure Planning and Design Guide](#) (page 48 onwards).

11. A detailed and comprehensive consideration of the above impacts cumulatively with other developments.

Natural England acknowledges the Applicant's response in the 'Northfleet – Letter Response to NE Consultation' (2023) that: *"Cumulative impacts have been assessed within ES Volume 1, Chapter 14: Ecology and Biodiversity. Due to the potential London Resort development, the cumulative impact assessment took into account the impacts that the Proposed Development and London Resort scheme would have upon the SSSI and its features. Whilst it is considered that the Proposed Development on its own would have no significant adverse effects due to the mitigation and enhancement measures (outlined in ES Volume 1, Chapter 14: Ecology and Biodiversity and noted throughout this response), the cumulative assessment concludes there would be a significant effect on the SSSI, arising from recreational pressure, which would need to be mitigated through detailed design and consultation with key stakeholders. Furthermore, the proposed mitigation and enhancement measures are in line with legislation and planning policy."*

We advise that before such mitigation measures are accepted, you, as competent authority, should decide if London Resort (due to be re-submitted) should be considered within cumulative impacts.

12. A comprehensive, evidence based avoidance and mitigation strategy for the above where impacts are likely to result to ensure that the SSSI is not adversely impacted by the proposal.

The 'Northfleet – Letter Response to NE Consultation' (2023) states that both *"Kent Wildlife Trust and Natural England will be consulted to discuss any potential further mitigation measures (as required and relevant) to be incorporated into the detailed design of the Proposed Development to mitigate adverse impacts upon the SSSI arising from recreational pressures. This may form specific on-site detailed landscaping measures or off-site financial contributions to aid management/maintenance of the SSSI, however this will be discussed and agreed."*

We welcome this intent, but advise that a comprehensive, evidence-based avoidance and mitigation strategy should be developed during this stage of the planning application. We therefore maintain our advice that this strategy is required in order to conclude that there will be no significant adverse impacts upon the Swanscombe Peninsula SSSI's habitats and species.

Habitats Regulations Assessment

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 your assessment, and the measures proposed to mitigate for any adverse effects, Natural England's advice is that your assessment is not sufficiently rigorous or robust to justify this conclusion and therefore it is not possible to ascertain that the proposal will not result in adverse effects on the integrity of the sites in question. We advise that your authority should not grant planning permission at this stage.

Thames Estuary and Marshes Special Protection Area and Ramsar site

- Functionally Linked Land (FLL)

Natural England advise that the following additional work on the assessment is required to enable it to be sufficiently rigorous and robust: full wintering bird survey for mudflats within the impact risk zones of Thames Estuary and Marshes Special Protection Area (SPA) and Ramsar Site. Natural England should be re-consulted once this additional work has been undertaken and the appropriate assessment has been revised.

In our December 2022 response (ref: 41377) we stated:

Surveys undertaken for the London Resort Nationally Significant Infrastructure Project indicated that the Swanscombe Peninsula and the surrounding intertidal habitat was used by birds associated with the Thames Estuary and Marshes Special Protection Area (SPA) and Ramsar site. The environmental statement for the London Resort indicated that, given numbers of birds associated with the SPA and Ramsar site, the area was functionally linked to the SPA and Ramsar site and as such mitigation measures were required.

We further advised:

Whilst no assessment of the potential impacts to wintering birds has been provided, Natural England acknowledge that wintering bird surveys are proposed to be undertaken during the winter of 2022/23. It should be noted that two years of surveys are generally recommended to understand whether impacts are likely to result.

We note from the Northfleet Harbourside Response to Avison Young Independent Environmental Statement Review Report (August 2023) that a wintering bird survey was conducted twice across two months – on 13th December 2022 and 23rd January 2023 – during 'one' season. Natural England highlight that this is insufficient; we advise that core months for a wintering bird survey range from October to March and should typically include two surveys to be conducted (one at high tide and one at low tide) per month. However as the mudflats are completely covered during high tide, we accept only one survey per month during low tide is required for this application. Without this rigour of assessment, it is not possible to conclude with certainty that (a) the adjacent surrounding habitats are not FLL for the SPA and Ramsar sites and therefore (b) there is no adverse effect on the integrity of features of the Thames Estuary and Marshes SPA and Ramsar Site.

Natural England accept that the evidence provided so far suggests that the mudflats to the northeast and Robin's Creek to the east of the development are not highly likely to constitute FLL. And we acknowledge that the surveys provided do not appear to indicate that significant numbers of designated bird species were making use of the surveyed habitats. In addition, we recognise that the current industrial land use of the site, involving gravel pit works with associated noise and visual disturbance, may make the site less attractive for regular use, or even habituate wildlife in the area to a certain type and level of disturbance. Nevertheless, there is potential for the change from industrial to residential/recreational use to lead to significant differences in disturbance impacts, such as the introduction of dog walking, that birds making use of the site would not be, or could not become, habituated to.

We therefore advise that additional survey effort would help to provide your authority with the level of certainty required when undertaking your Habitats Regulations Assessment.

- Recreational disturbance

In addition to the potential for impacts to birds associated with the SPA and Ramsar site, the planning application relates to proposals for new dwellings within the zone of influence (6 kilometres) of the Thames Estuary and Marshes, Medway Estuary and Marshes, and The Swale Special Protection Areas (SPAs) and Wetlands of International Importance under the Ramsar Convention (Ramsar Sites).

Natural England note 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.

Swanscombe Marine Conservation Zone (MCZ)

Natural England acknowledge that the Applicant has provided clarity regarding the potential for impacts on the nearby Swanscombe MCZ. Given the 1.2km distance between the development site and the MCZ, the separation of the Swanscombe Peninsula SSSI in between, the fact that the development is downstream from the MCZ, as well as the proposed mitigation to appropriately manage run-off quality and quantity into the River Thames, we are satisfied that there is not likely to be any significant impacts.

England Coast Path

In the Applicant's 'Northfleet – Letter Response to NE Consultation' (2023), it is stated that "the routing of the Coastal Path will remain unaffected by the Proposed Development" (p.15). However, Natural England note that the East Sussex National Trail officer comments (05 October 2023) state that the "proposed development would have a significant impact on the (England Coast Path) and (would) necessitate a diversion of the National trail". As such, it is currently unclear as to which exact route is being proposed.

As previously advised, the Applicant should discuss any required route alteration of the National Trail with the Public Rights of Way department at Kent County Council and Natural England in order to agree an approach. The principle for the Coast Path is to keep the trail as close to the coast and estuary as possible and this should be followed with any proposed realignment.

Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 281 (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.

Further general advice on the 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.

Should the Applicant wish to discuss the further information required and scope for mitigation with Natural England, we would be happy to provide advice through our [Discretionary Advice Service](#).

Please consult us again once the information requested above, has been provided.

Yours sincerely,

Hannah Lee
Sustainable Development, Sussex and Kent Area Team - 14