

simon, jonathon

From: Palmer, Leanne <LEANNE.PALMER@planninginspectorate.gov.uk>
Sent: 06 December 2021 14:01
To: Alister Hume; planningappeals
Subject: FW: Planning Inspectorate APP/A2280/W/21/3280915: Land at East Hill, ME7 3JL
Attachments: 211B - Case Officer - - 01 Dec 2021.pdf; AA.pdf

Dear Alister / Jonathon

Please see the email below from Natural England for your information.

Please can the Council put a copy on the web site and add it to the core document list.

Kind regards

Leanne Palmer
Major Casework
The Planning Inspectorate
Room 3/J, Kite Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN

<https://www.gov.uk/government/organisations/planning-inspectorate>

Twitter: [@PINSgov](https://twitter.com/PINSgov)

Email: leanne.palmer@planninginspectorate.gov.uk

Telephone: 0303 444 5471 (limited access)

From: Scott-Heagerty, Tom <Thomas.Scott-Heagerty@naturalengland.org.uk>
Sent: 03 December 2021 13:50
To: Palmer, Leanne <LEANNE.PALMER@planninginspectorate.gov.uk>
Subject: Planning Inspectorate APP/A2280/W/21/3280915: Land at East Hill, ME7 3JL

Our ref: 376489

Your ref: APP/A2280/W/21/3280915

Dear Leanne Palmer,

I hope this email finds you well.

Thank you for seeking our views concerning the appeal APP/A2280/W/21/3280915. Our response to your questions is as follows:

1. Natural England can confirm that the European Site(s) and qualifying features identified are comprehensive, correct and provide adequate information to undertake a screening assessment.
2. We are satisfied that the proposed financial contribution to mitigate the effect on the SPA is sufficient to avoid an adverse impact to the integrity of the European Site and relevant features.
3. There are no other relevant comments we wish to make.

Should you have any further questions, please contact Natural England again.

Kind regards,

Tom Scott-Heagerty
Lead Adviser - Sustainable Development
Sussex and Kent Area Team

Natural England
Guildbourne House
Worthing
BN11 1LD

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Pronouns: he/him - [why have I put this?](#)

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From: LEANNE.PALMER@planninginspectorate.gov.uk <LEANNE.PALMER@planninginspectorate.gov.uk>

Sent: 01 December 2021 15:36

To: SM-NE-Consultations (NE) <consultations@naturalengland.org.uk>

Subject: Planning Inspectorate APP/A2280/W/21/3280915: Land at East Hill, ME7 3JL

The Planning Inspectorate (England)
Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN

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DPC:76616c646f72



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The Planning Inspectorate

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Natural England

Your Ref:

Our Ref: APP/A2280/W/21/3280915

01 December 2021

Dear Sir/Madam,

Town and Country Planning Act 1990

Appeal by F D Attwood & Partners c/o Hume Planning Consultancy Ltd.

Site Address: Land at East Hill, Chatham, Kent, ME7 3JL

Re: Outline application (with all matters reserved except access) for the erection of up to 800 dwellings with primary school, supporting retail space of up to 150 square metres and local GP surgery, with associated road link between North Dane Way and Pear Tree Lane and other road infrastructure, open space and landscaping at Land at East Hill, Chatham, Kent.

Regulation 63 (3) of the Habitats Regulations 2017 requires that the competent authority must for the purposes of the assessment consult the appropriate nature conservation body and have regard to any representations made by that body within such reasonable time as the authority specifies. Having had regard to the characteristics of the proposed development the Inspector considers that an appropriate assessment is necessary. It is noted that Natural England have previously been consulted in respect of planning application MC/19/0765, with some matters being resolved, although the Inspector notes the email from Natural England dated 25 July 2019 requiring further information in respect of possible impacts from the development on designated European Sites.

In order to seek your views as the appropriate nature conservation body as to the likely impact from the proposed development at Land at East Hill, Chatham, Kent the Inspector would be grateful for your comments on the following:

1. Is Natural England content that, having regard to the information and conclusions within the Habitat Regulation Assessment and Screening Matrix and Appropriate Assessment prepared by the appellant and received by PINS on 1 December 2021, that there is adequate information to undertake a screening assessment.
2. The proposed payment of £253.83 per dwelling would be secured by way of a completed Section 106 Agreement. Can Natural England confirm if it is content that this would adequately mitigate against any likely significant adverse effects on the integrity of

European Sites?

3. Any other relevant matters that you wish to make.

An inquiry is scheduled to take place on Monday 13 December 2021 and the Inspector would very much appreciate a response from Natural England well before this time noting of course that Natural England do have 28 days to comment.

Your response should be sent preferably electronically to leanne.palmer@planninginspectorate.gov.uk or by post marked for the attention of Leanne Palmer.

Yours faithfully,

Leanne Palmer

Leanne Palmer

Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through GOV.UK. The address of the search page is - <https://www.gov.uk/appeal-planning-inspectorate>

Habitat Regulation Assessment (HRA) Screening Matrix and Appropriate Assessment (AA) Statement

Application reference:	MC/19/0765
Application address:	Land at East Hill, Chatham, Kent
Application description:	Outline planning application with some matters reserved (appearance, layout, scale and landscaping) for construction of up to 800 dwellings, primary school, supporting retail space of upto 150 sq m and GP surgery with associated road link between North Dane Way and Pear Tree Lane and other road infrastructure, open space, and landscaping

Part 1 – Details of the plan or project

European site or sites potentially impacted by the planning application, plan or project	Medway Estuary & Marshes SPA and Ramsar Site
Is the planning application directly connected to the management of the site?	No

Part 2 – HRA Screening Assessment

Screening under Regulation 63(1)(a) of the Habitats Regulations and assessment of any potential significant impacts of the development on the integrity of the SPA / Ramsar Site.

The coastline of North Kent encompasses three Special Protection Areas (SPA): the Thames Estuary and Marshes SPA, the Medway Estuary and Marshes SPA, and the Swale SPA. They are classified in accordance with the European Birds Directive which requires Member States to classify sites that are important for bird species listed on Appendix 1 of the European Directive, which are rare and/or vulnerable in a European context, and also sites that form a critically important network for birds. All three sites are also listed as Wetlands of International Importance under the Ramsar Convention (Ramsar Sites). For clarity, and the purpose of this assessment 'European Sites' refers to both the SPAs and Ramsar Sites. Studies have shown marked declines in key bird species, particularly in areas that are busiest with recreational activity.

Research conducted in 2011 ('Bird Disturbance Study, North Kent 2010/11.' Footprint Ecology) found that additional dwellings were likely to result in additional recreational activity, causing disturbance to protected bird species that over-winter or breed on the SPA and Ramsar Site. The studies found that 75% of recreational visitors to the North Kent coast originate from within

6km of the SPA boundary and Ramsar Site. The impacts of recreational disturbance can be such that they affect the status and distribution of key bird species and therefore act against the stated conservation objectives of the European Sites.

Following the CJEU ruling, avoidance or mitigation measures cannot be taken into account as part of the application at this stage of the HRA, and must be considered under an Appropriate Assessment stage of the HRA in Part 3 of this document.

The 'competent authority' is required under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) to:

- (a) assess whether there would be likely significant effects (LSE) on a European Site;
- (b) if so, undertake an appropriate assessment (AA) of the implications of the project; and,
- (c) cannot grant permission if, having undertaken the AA, there could be adverse impacts on the integrity of the European Site, unless there are imperative reasons of overriding public interest

The project being assessed would result in a net increase of dwellings (up to 800 dwellings) within 6km of the North Kent SPAs and Ramsar Sites. In line with Policies S6 and BNE35 of the Medway Local Plan 2003 and Paragraphs 181 and 182 of the National Planning Policy Framework 2021, based upon the best available evidence a permanent likely significant effect on the SPAs and Ramsar Sites due to increase in recreational disturbance as a result of the new development, is likely to occur. As such, in order to avoid and mitigate for an adverse effect on the integrity of the SPAs and Ramsar Site(s), the development will need to include a package of avoidance and mitigation measures.

Are there any other plans or projects that together with the planning application being assessed could result in a likely significant effect the site when considered in-combination?

Yes. All new dwellings built within 6km of the SPA and Ramsar Site, or other developments that could lead to an increased recreational pressure, could combine to have a likely significant effect on the SPA and Ramsar Site.

Would the proposal lead to a likely significant effect on the European sites, without mitigation measures either alone or in-combination?

Yes

Part 3 – Appropriate Assessment

Appropriate Assessment under Regulation 63(1) – if there are any potential significant impacts, the Applicant must provide evidence showing avoidance and/or mitigation measures to allow an Assessment to be made. The Applicant must also provide details which demonstrate any long-term management, maintenance and funding of any solution.

The project being assessed would result in a net increase of dwellings of up to 800 dwellings within 6km of the North Kent SPAs and Ramsar Sites. In line with Policies S6 and BNE35 of

the Medway Local Plan and provisions of the National Planning Policy Framework (2021), based upon the best available evidence a permanent likely significant effect on the SPAs and Ramsar Sites due to increase in recreational disturbance as a result of the new development is likely to occur. As such, in order to avoid and mitigate for an adverse effect on the integrity of the SPAs and Ramsar Sites the development will need to include a package of avoidance and mitigation measures.

The North Kent Strategic Access Management and Monitoring Strategy (SAMMS) sets out a strategy to resolve disturbance issues to wintering birds on the North Kent Marshes, focusing on the European Protected Sites and Ramsar Sites and their internationally important bird interest features. Elements with the strategy are;

- Rangers to provide wardening and visitor engagement
- A North Kent Coast dog project to promote responsible dog ownership and encourage walking on lead in sensitive areas
- Codes of conduct developed in partnership with local groups and clubs to raise awareness of recreational disturbance in a variety of activities both on and off of the water
- Interpretation and signage
- New and/or enhanced infrastructure
- Enforcement and monitoring

The suite of strategic mitigation measures are being delivered through the Bird Wise Project, a partnership of local authorities and conservation organisations in North Kent to ensure that development considered in-combination does not have an adverse effect on the integrity of the European Sites. A per-dwelling tariff has been calculated using the total cost of delivering the mitigation measures in perpetuity and the planned number of additional dwellings expected to be built in North Kent. There is an adopted charge of £253.83 which is sought per dwelling as outlined in the Medway Guide to Developer Contributions and Obligations May 2018 v4 April 2021 p.26.

Natural England has worked with the North Kent Local Planning Authorities to support them in preparing the SAMMS and the underpinning evidence base. Natural England has agreed that the mitigation measures to ensure additional impacts from recreational disturbance to the SPAs and Ramsar Sites are ecologically sound. As such, the Applicant does not need to provide their own evidence base on these aspects and instead the Applicant has committed to provide a mitigation contribution payment to the Bird Wise scheme through a signed S106 agreement (Clause 14 of the First Schedule of the S106). This agreement when completed will secure the agreed total sum of £203,064 towards bird disturbance mitigation derived from the adopted charge of £253.83 per dwelling. This sum has been agreed with Medway Council and this tariff based approach has been consistently supported by Natural England. The contribution sum per dwelling reflects the increase in per unit dwelling cost from 1 April 2021.

When the signed S106 Agreement the proposal would put in place adequate measures to mitigate potential significant adverse effects on the identified SPA and RAMSAR sites, and would comply with Policy BNE35 of the Local Plan and paragraphs 181 and 182 of the NPPF.

Part 4 – Summary of the Appropriate Assessment - To be carried out by the Competent Authority in liaison with Natural England

Natural England Officer: