

APPENDIX 1



Habitat Regulation Assessment (HRA)¹ Screening Matrix and Appropriate Assessment (AA) Statement

IMPORTANT NOTE: Undertaking the HRA process is the responsibility of the decision maker as the Competent Authority for the purpose of the Habitats Regulations¹. However, it is the responsibility of the applicant to provide the Competent Authority with the information required to complete this process.

Application reference:	19/501640/FULL
Application address:	Land north of Highstreet Road, Hernhill, ME13 9EJ
Application description:	Erection of polytunnels and water storage tanks. Demolition of redundant concrete fibre building.
Lead Planning Officer:	Andrew Spiers
HRA Date:	30/08/19

Part 1 – Details of the plan or project

European site or sites potentially impacted by planning application, plan or project (Delete as appropriate):	Medway Estuary & Marshes SPA and Ramsar Site Thames Estuary & Marshes SPA and Ramsar Site The Swale 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 – The Applicant should provide evidence to allow a judgement to be made as to whether there could be 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 (SPAs): 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 Annex 1 of the European Directive, which are rare and / or vulnerable in a European context, and also sites that form a critically

¹ All references in this document to the 'Habitats Regulations' refer to the Conservation of Habitats and Species Regulations 2017

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important network for birds on migration. 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 SPA(s) and Ramsar² Site(s). Studies have shown marked declines in key bird species, particularly in areas that are busiest with recreational activity.

The HRA submitted as part of the application identified that there was the potential for the disturbance of birds during the construction stage of the project, the site being located only a short distance outside the SPA.

Following the CJEU ruling³, 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.

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.
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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 potentially result in having an adverse effect on the integrity of The Swale Special Protection Area (SPA) and Ramsar site, and might damage or destroy the interest features for which The Swale Site of Special Scientific Interest (SSSI) has been notified.

Natural England has advised that these effects can be mitigated by the submission and implementation of an appropriate Construction Phase Mitigation Plan. The applicant has already reacted to this request and has submitted a Construction Phase Mitigation Plan, which NE acknowledged to be sound on 20th August 2019, and further clarified as such on 29th August 2019.

As such, should the scheme be approved, the Council will ensure by Condition that that the requirements within the Construction Phase Mitigation Plan shall be carried out in strict accordance with these approved details.

² As a matter of Government Policy (NPPF Paragraph 18), Ramsar Sites should be given the same protection of European Sites.

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

Having considered the proposed mitigation and avoidance measures to be provided via the construction Phase Mitigation Plan, Swale Borough Council concludes that with this mitigation, the plan or project will have no adverse effect on the integrity of the European protected site(s).

Having made this appropriate assessment of the implications of the plan or project for the site(s) in view of that site’s conservation objectives, and having consulted Natural England and fully considered any representation received (see below), the authority may now agree to the plan or project under regulation 63 of the Conservation of Habitats and Species Regulations 2017.

Natural England Officer:

³ CJEU Ruling Case C-323/17