

Dartford Local Plan

Habitats Regulations and Large Sites in Dartford Borough – Guidance for Developers

Updated September 2021



Contents Page

1. Purpose.....	3
2. Sites of International Biodiversity Importance	3
3. Habitats Regulations	4
4. Evidence of Impacts.....	5
North Kent Bird Disturbance Study 2012	5
Thames, Medway & Swale Estuaries – Strategic Access Management and Monitoring Strategy 2014	5
Large Development in Dartford and Implications for European Sites along the North Kent Coast	6
5. Approach in Dartford Borough	6
Appendix 1: Boundaries of SPA and Ramsar Sites	10
Appendix 2: Zone of Influence	11
Appendix 3: Template Form for HRA Screening and Appropriate Assessment.....	12

1. Purpose

- 1.1 This guide provides information on how the Habitats Regulations will apply to applications for residential development in the relevant parts of Dartford Borough. It supports policy DP25 of the adopted Dartford Development Policies Plan 2017 and policy M15 of the Pre-Submission Dartford Local Plan 2021. It is necessary in light of evidence which shows that large residential developments have the potential to impact on sites of international biodiversity importance on the North Kent marshes, which lie outside the Borough.
- 1.2 This is a further update to the version of the guide which was originally published in July 2017 and updated in February 2021. The update provides a more succinct version of the 2017 document, allows a tariff to be paid for any scale of residential development requiring mitigation and takes account of the increase in the amount of tariff charged. It has been produced by the Borough Council and Natural England (NE) have been consulted on it as part of the Habitats Regulations Assessment of the Pre-Submission Local Plan. The 2017 version was subject to consultation with landowners, developers and agencies. The Council has not repeated this wider consultation as the approach has been simplified.

2. Sites of International Biodiversity Importance

- 2.1 Special Protection Areas (SPAs) are classified under a European Council Directive on the conservation of wild birds. They protect rare and vulnerable birds, and regularly occurring migratory species. Ramsar sites are wetlands of international importance that have been designated under the criteria of the Ramsar Convention on Wetlands for containing representative, rare or unique wetland types or for their importance in conserving biological diversity.
- 2.2 There are no sites of international biodiversity importance in Dartford Borough. However, parts of the Borough are within the zone of influence of the North Kent marshes which comprise:
- Thames Estuary and Marshes SPA and Ramsar Site
 - Medway Estuary and Marshes SPA and Ramsar Site
 - The Swale SPA and Ramsar Site

The boundaries for these and their relationship with Dartford Borough are shown in the map in Appendix 1. They are classified for their waders and waterfowl. The bird interest features for which each site has been classified varies slightly, but the three sites provide

passage, overwintering and breeding habitat to an array of species of European importance.

- 2.3 The eastern boundary of Dartford Borough is approximately 6km from the boundary of the Thames Estuary and Marshes Ramsar site.

3. Habitats Regulations

- 3.1 The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) require competent authorities¹ to determine if a plan or project may affect the protected features of a habitats site. Habitats sites include Special Protection Areas and Ramsar sites.
- 3.2 The first stage is to consider whether a plan or project is likely to have significant effects on a habitats site. This is known as Habitats Regulations Assessment (HRA) Screening. This should take into account the potential effects of the plan/project itself and in combination with other plans or projects (but not any potential mitigation measures). Where the potential for likely significant effects cannot be excluded, the competent authority must make an Appropriate Assessment of the implications of the plan or project itself and in combination with other plans or projects on the habitats site, in view of the site's conservation objectives and taking into account mitigation measures. The competent authority can only agree the plan/ project after having determined that it will not adversely affect the integrity of the habitats site (subject to imperative reasons of over-riding public interest and consideration of alternative solutions).
- 3.3 The Regulations apply to Local Plans and all types of planning applications, including prior notifications, reserved matters applications where assessment has not been carried out at the outline planning application stage or where new evidence has become available, and S73 applications to amend conditions. They also apply to permitted developments.

¹ The local planning authority responsible for determining the application, i.e. Dartford Borough Council or Ebbsfleet Development Corporation.

4. Evidence of Impacts

North Kent Bird Disturbance Study 2012

4.1 The North Kent Bird Disturbance Study 2012² found the following:

- There have been marked declines in the numbers of birds using the Thames Estuary and Marshes, Medway Estuary and Marshes and The Swale Special Protection Areas (SPAs); these are particularly apparent on the Medway and at locations with the highest levels of access.
- Disturbance caused by the presence of people is a potential cause of the declines.
- Access levels are linked to local housing and it is not possible to rule out any likely significant effects on the integrity of the sites as a result of increased housing; a suite of mitigation measures is required to avoid potential adverse effects caused by future development.
- Development within 6km of access points to the SPAs is particularly likely to lead to increase in recreational use of the SPAs.
- Beyond 6km from access points onto the SPAs, large developments or large scale changes to housing levels will also result in increased recreational use.
- Smaller scale development beyond 6km can potentially be screened out of assessments and assumed to have no likely significant effect on the international sites.

4.2 The findings from the study apply equally to Ramsar sites and SPAs. As the eastern boundary of Dartford Borough is approximately 6km from the nearest Ramsar site, the references to large developments beyond 6km are relevant.

Thames, Medway & Swale Estuaries – Strategic Access Management and Monitoring Strategy 2014

4.3 The Thames, Medway & Swale Estuaries – Strategic Access Management and Monitoring Strategy 2014 set out a strategy to resolve disturbance issues to wintering birds on the North Kent marshes. It lists a number of elements including a dog project and wardening/ visitor engagement and provides costs for these. Assuming a certain number of dwellings within 6km of the SPA/Ramsar site boundaries, it sets out the costs per dwelling of implementing different categories of measures.

² <https://northkent.birdwise.org.uk/wp-content/uploads/2018/02/North-Kent-Bird-Disturbance-Report-2012.pdf>

- 4.4 All the authorities which are affected have adopted the North Kent Strategic Access Management and Monitoring Scheme and apply a tariff for each new dwelling proposed within 6km of the SPA/Ramsar sites to pay for the scheme. They work with developers and environmental organisations in a partnership known as Bird Wise North Kent. The tariff was originally £223.58 per dwelling but is currently £253.83 per dwelling. The amount increases each year in line with the Retail Price Index.

Large Development in Dartford and Implications for European Sites along the North Kent Coast

- 4.5 The document “Large development in Dartford and Implications for European Sites along the North Kent Coast” 2016 (the Dartford Study) found that:
- The use of the SPA/Ramsar sites by residents of new large development in Dartford is likely to be different to the use by residents living at sites closer to the coast.
 - For developments over 15 dwellings falling between 6km and 10km from the SPA/Ramsar sites, likely significant effects on the North Kent coastal SPAs as a result of disturbance to waterbirds cannot necessarily be ruled out and mitigation may be necessary.
 - Approaches to mitigation could involve one or more of the following:
 - a. A contribution to the mitigation scheme that is currently being established (i.e. a tariff for all residential development within 6km to contribute towards a strategic management and monitoring strategy), potentially contributing to particular measures relating to types of access likely from Dartford residents
 - b. Measures directly linked to the development, such as alternative greenspace provision (at or near to the new development)
 - c. Measures at the SPA/Ramsar sites, implemented separately to other mitigationIn the case of (a), the per dwelling contribution (tariff) should be scaled down proportionately to reflect the less frequent visit rates, i.e. a maximum contribution of 1/15th that of residential development within 6km.

5. Approach in Dartford Borough

- 5.1 The following residential developments within Dartford Borough do not require either HRA Screening or an Appropriate Assessment:
- All proposed residential development further than 10km from the boundary of the Thames Estuary and Marshes SPA and Ramsar site; and

- Proposed residential development of 15 dwellings or fewer which lies between 6km and 10km from the boundary of the Thames Estuary and Marshes SPA and Ramsar site.

5.2 All proposed residential development of more than 15 dwellings which lies between 6km and 10km from the boundary of the Thames Estuary and Marshes SPA and Ramsar site will require HRA Screening. This applies to all types of application as set out in paragraph 3.3 above. A map showing this zone of influence is included as Appendix 2. Following the European Court ruling in the “People over Wind” case, the screening cannot take proposed mitigation measures into account. Where the potential for likely significant effects on the SPAs and Ramsar sites cannot be ruled out, taking into account the combined impacts of other residential developments, an Appropriate Assessment will also be required. This includes consideration of proposed mitigation measures.

5.3 Whilst the responsibility for carrying out HRA Screening and Appropriate Assessment lies with the competent authority, Dartford Borough Council and Ebbsfleet Development Corporation will expect developers of relevant sites (see paragraph 5.2 above) to submit information to assist them in carrying out the HRA Screening/ Appropriate Assessment. A template form for completion is included in Appendix 3. The Screening Assessment should set out the potential impacts of the proposal on the SPAs/ Ramsar sites without reference to any mitigation measures proposed to address these. If required, the Appropriate Assessment should include details of how the developer proposes to mitigate the potential impacts in line with Options 1-3 below.

5.4 In Dartford Borough, there are three options for mitigating any potential impacts. These are derived from the Dartford Study.

Option 1: Payment of a Tariff per Dwelling

5.5 Developers could pay the competent authority 1/15th of the tariff applied by Bird Wise North Kent, i.e. 1/15th of £253.83 = £16.92 per dwelling³.

5.6 Tariffs collected by the competent authority will be used for measures that are likely to have an impact on areas which attract less frequent visitors, e.g. honey pot locations. The following measures in the Thames, Medway & Swale Estuaries – Strategic Access Management and Monitoring Strategy are likely to be particularly relevant:

³ This is the figure for 2021/2022 and increases each year in line with the Retail Price Index.

- Two seasonal rangers: a proportion of ongoing costs.
- Changes to parking: some funding for relevant car parking measures.
- Interpretation Boards and Signs: potential to provide funding where these would be located in honey pot locations, most relevant mitigation to address infrequent visits from Dartford Borough residents.
- Enhancement to Riverside Country Park: contribute to costs in this honey pot location.
- Monitoring visitor activities and motivation and profile: critical workstream to understand the impacts of Dartford Borough and other residents on the sites, important that any contributions are applied to this project.

Option 2: Provision of Alternative Greenspace/ Bluespace

5.7 Developers could provide alternative greenspace/ bluespace within or close to the proposed developments. This would need to be accompanied by clear evidence demonstrating that it provides a quantity and type of space that will be visited as a suitable alternative to the SPAs/ Ramsar sites. This would be in addition to the open space and additional biodiversity requirements set out in policies CS14 and DP25 of the adopted Dartford Core Strategy 2011 and Development Policies Plan 2017, and policies M14 and M15 of the Pre-Submission Dartford Local Plan 2021.

5.8 In some cases, Green Grid links may create access for residents of new residential developments to open spaces and areas (such as country parks and marshland) which could provide alternative attractions to the SPAs/ Ramsar sites. The potential to connect into the wider Green Grid network, and potential contributions towards this, will be a key consideration.

Option 3: Availability of Suitable Alternative Greenspace/ Bluespace

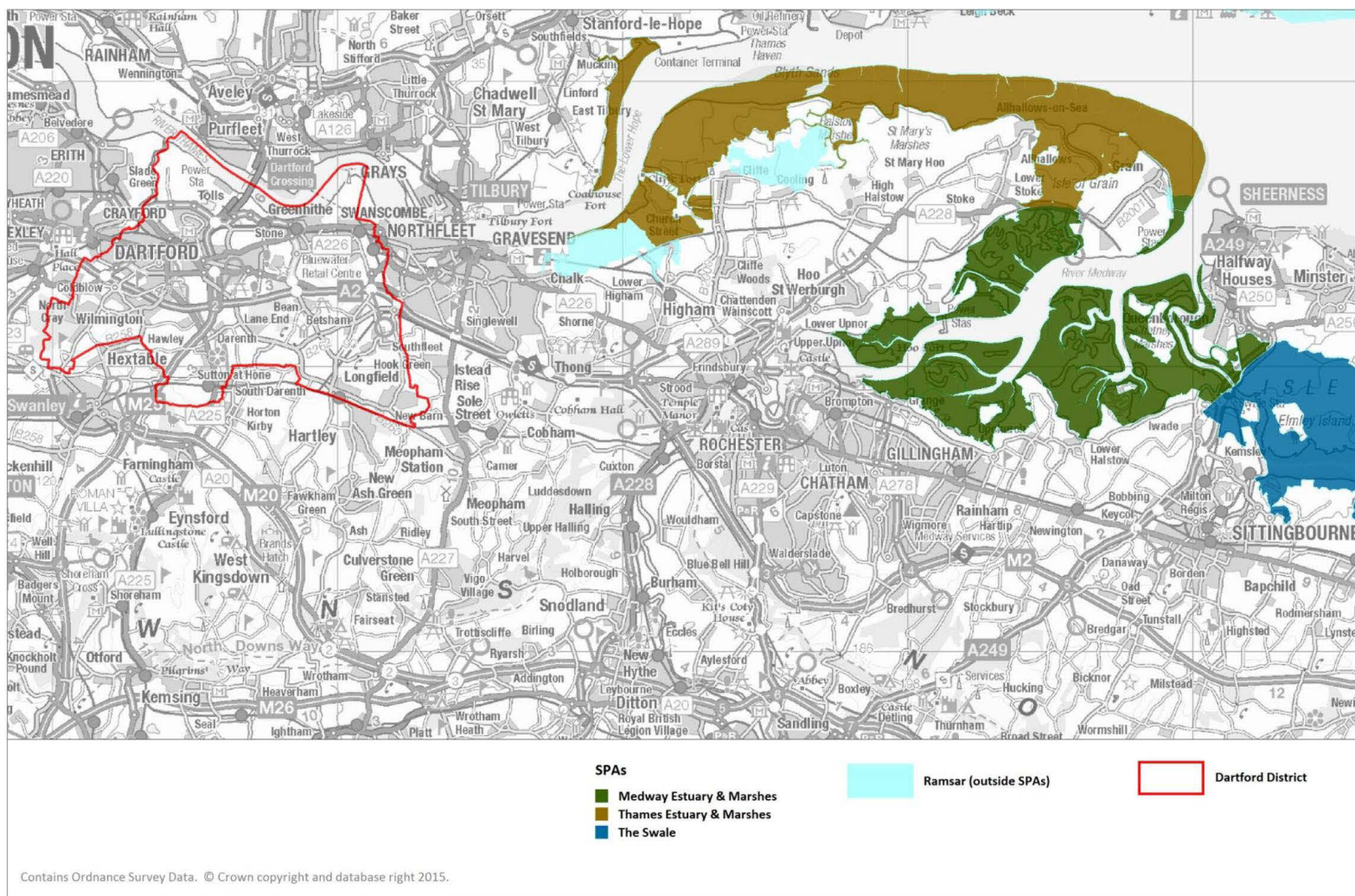
5.9 Where large developments can provide some suitable alternative greenspace/ bluespace or there is evidence that may indicate that the use of other greenspace/ bluespace away from the SPAs/ Ramsar sites is more likely, it may be that tariff contributions could be reduced further or the need for financial contributions removed.

6. Overview of HRA Approach in Dartford Borough

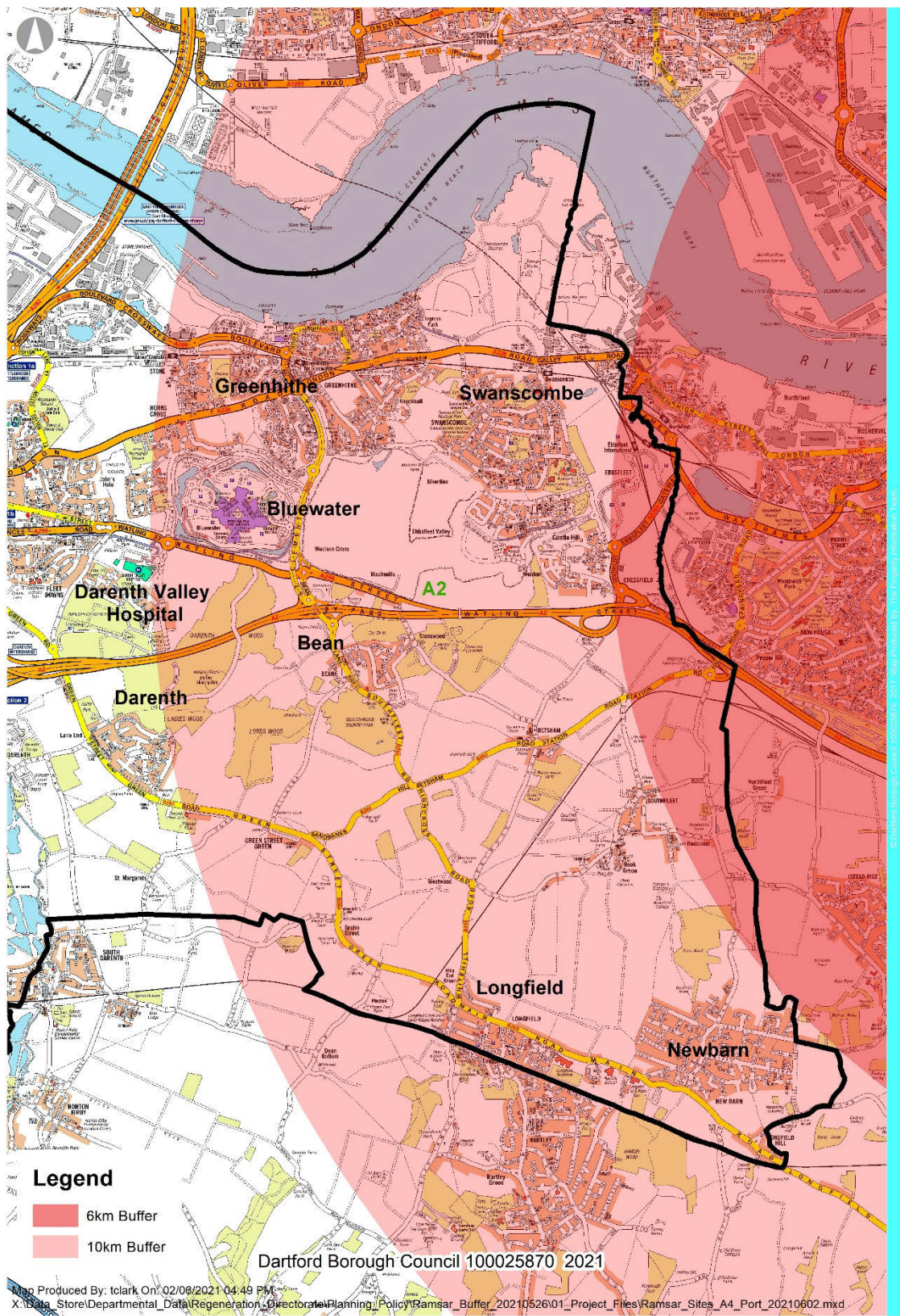
6.1 The figure below shows an overview of the HRA approach in Dartford Borough.

Zone of Influence
Developments upto 10km from the SPAs/ Ramsar sites shown in Appendix 2
Qualifying developments
<ul style="list-style-type: none"> Proposals of more than 15 dwellings within the Zone of Influence It will apply to relevant outline planning applications, full planning applications, reserved matters applications where assessment has not been carried out at outline application stage, S73 applications to amend conditions, prior notifications
HRA Screening and Appropriate Assessment
<ul style="list-style-type: none"> All qualifying developments will require HRA Screening of the individual and cumulative impacts of the development on the SPAs/ Ramsar sites Where the potential for likely significant effects on the SPAs/ Ramsar sites as a result of the development cannot be ruled out, an Appropriate Assessment will also be required All developments of 100 or more dwellings within the Zone of Influence will require an Appropriate Assessment The Appropriate Assessment will need to consider the individual and cumulative impacts of the development on the SPAs/ Ramsar sites Developers of qualifying development must submit information in the template form in Appendix 3 to assist Dartford Borough Council and Ebbsfleet Development Corporation in carrying out the HRA Screening and Appropriate Assessments.
Appropriate Assessment Mitigation Options
<ol style="list-style-type: none"> Payment of a tariff per dwelling Provision of greenspace/ bluespace of a quantity and type that will be visited as a suitable alternative to the SPAs/ Ramsar sites Availability of some suitable alternative greenspace/ bluespace with potential for the tariff to be reduced or negated

Appendix 1: Boundaries of SPA and Ramsar Sites



Appendix 2: Zone of Influence



Appendix 3: Template Form for HRA Screening and Appropriate Assessment



Habitats Regulations Assessment (HRA) 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 Regulations⁴. However, it is the responsibility of the applicant to provide the Competent Authority with the information required to complete this process as part of the planning application submission.

Application reference:	
Application address:	
Application description:	
Lead Planning Officer:	
HRA Screening Date:	

Part 1 – Details of the plan or project

European site or sites potentially impacted by planning application, plan or project (Delete as appropriate):	Thames Estuary & Marshes SPA and Ramsar Site Medway Estuary & Marshes SPA and Ramsar Site The Swale SPA and Ramsar Site
Is the planning application directly connected to the management of the site?	

⁴ All references in this document to the 'Habitats Regulations' refer to the Conservation of Habitats and Species Regulations 2017

Part 2 – HRA Screening Assessment

Screening under Regulation 63(1)(a) of the Habitats Regulations. Undertaken by the Competent Authority.

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 in Annex 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 wintering birds on migration⁵. 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 sites⁶. None of the European Sites are located in the Borough of Dartford.

Studies have shown marked declines in key bird species within the European sites, but have not found sufficient evidence to enable an adequate assessment of the cause of these declines⁷. Research has found that there are observed behaviour changes in bird species and disturbance caused by people carrying out recreational activities such as dog walking⁸. Those areas that are busiest with recreational activity have seen the most marked declines in bird numbers. Therefore, the impacts of recreational disturbance can be such that they affect the status and distribution of key bird species and undermine the achievement of the stated conservation objectives of the European sites.

The 2012 study considered available evidence and the impact of visitors to the European sites with regard to distance and amount of development. Overall, it concluded that additional planned dwellings are likely to result in additional recreational activity, with the potential to cause disturbance to protected bird species that over-winter or breed on the SPAs and Ramsar sites. Therefore, new development would result in a negative impact on the integrity of the European sites. The study delineated a zone of influence to include the vast majority of visitors who are likely to access the European sites. It found that 75% of visitors to the North Kent coast originate from within 6km of the SPA and Ramsar site boundaries. These areas are almost wholly outside the Dartford Borough area.

A further study 'Large Site Options and developments in Dartford and Implications for European Sites along the North Kent Coast' (2016) drew on analysis of previous studies on the origin of visitors to the European sites and planned development within the zone of influence. This indicated that the substantial majority of visitors to the European sites travel less than 10km. The study concluded that beyond 6km and up to 10km, large developments or large scale changes to housing levels may result in some increase in recreational use that

⁵ Whilst the UK is no longer an EU member state, the EU Directive is transposed into UK law through the Habitats Regulations and still applies.

⁶ As a matter of Government Policy (NPPF Paragraph 176), Ramsar Sites should be given the same protection of European Sites.

⁷ Liley, D. & Fearnley, H. (2011). Bird Disturbance Study, North Kent 2010/11. Footprint Ecology

⁸ Liley, D., Lake, S. & Fearnley, H. (2012). Phase I – Bird Disturbance Report. Footprint Ecology/GGKM/NE

would have potential to further harm the integrity of the European Sites. As such, large residential development falling within 6-10km of the European sites could have a potentially significant effect on their integrity.

The 'Habitats Regulations and Large Sites in Dartford Borough – Guidance for Developers September 2021' (the Dartford document) sets out the approach for large developments in Dartford. It recognises that any development above 15 dwellings within 10km of the Thames Estuary and Marshes SPA and Ramsar site should be treated as triggering a likely significant effect on them. The Dartford document requires developments in excess of 100 dwellings within the 6km-10km zone to be subject to full appropriate assessment and to include a package of avoidance and mitigation measures to address likely significant effects on the SPA and Ramsar site due to an increase in recreational disturbance.

Developer to outline the potential impacts of the proposal here (not including 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?

Applications for developments in excess of 100 dwellings within the 6km-10km zone are subject to full appropriate assessment in line with the Dartford document. These are likely to have a significant effect on the SPAs and Ramsar sites due to increase in recreational disturbance. Therefore, these need to include a package of avoidance and mitigation measures to address these effects.

Developer to include information on other smaller developments here (if relevant)

Would the proposal lead to a likely significant effect on the European sites, without mitigation measures either alone or in-combination? YES / NO (if yes, continue to part 3)

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 applicant should refer to the studies referred to in the Screening Assessment above and the document ‘Habitats Regulations and Large Sites in Dartford Borough – Guidance for Developers September 2021’ available on the Dartford Council website

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

Developer to provide relevant information from the planning application documents here, including proposed mitigation measures in accordance with options 1-3

Summary of Natural England Comments:

To be added following consultation by the competent authority.