

Matter 6: Strategy for Ebbsfleet and Swanscombe**Policy E6 – North of London Road Area, Swanscombe**

1. Swanscombe Peninsula is a strategic, complex, previously-developed and environmentally despoiled post-industrial site. It has been identified as an important opportunity in successive national and sub-regional policy initiatives since 1995¹ and continues to be recognised as a site which can make an important contribution to regeneration in north Kent.
2. The site is affected by complex environmental management regimes for which long-term solutions are needed. The site is also subject to a SSSI designation which relates to what is, effectively, a transient ecological interest which, unless managed to prevent succession, will naturally evolve at risk of the loss of scientific interest. The objectives of environmental improvement and ecological preservation are both describable, but conflict directly: protection of the ecological interests means that environmental interventions cannot be achieved; environmental interventions will necessitate habitat loss and disturbance to flora and fauna (albeit capable of mitigation or compensation). There is an inevitable need for compromise and coordination of objectives.
3. Both the environmental and ecological solutions require significant funding if they are to be achieved. The current value of land (through commercial rental streams) cannot financially support the existing environmental management regime and would be insufficient to fund significant environmental improvements; no ecological management takes place (neither has it for the last decade) and no future management or funding agreements are in place (nor have they been offered or advanced by Natural England). The prospects for any meaningful ecological management or addressing the long-term environmental conditions of the site therefore rely upon public funding or upon being able to secure enabling development (which the London Resort proposals offer).
4. Our responses to the Inspector's questions as relate to Policy E6 are framed by this context.

Q98. Is policy E6 sufficiently clear as to the forms of development would be acceptable?

5. Policy E6 has constrained the potential of Swanscombe Peninsula by reducing the extent of the allocation to accord with the SSSI boundary. Our response to Q.100 addresses that issue specifically.
6. The policy does not prescribe acceptable uses, but equally does not prevent or preclude specific uses from being brought forward. The Council has therefore ensured that the policy provides a flexible basis for new proposals to be brought forward.
7. The southern portion of Swanscombe Peninsula has demonstrated recent change, with previously industrial sites at Little Swanscombe and the former Croxton and Garry whiting works now being developed for new homes. The continuation of residential-led redevelopment on sites to the north of London Road would offer a consistent approach to regeneration (including in relation to previous planning applications for regeneration of Swanscombe

¹ Our Matter 3 Statement sets out the key policy initiatives.

Peninsula). Regeneration through employment uses would also be appropriate, recognising the strong market for logistics and data uses. In that context, we do not consider a need for Policy E6 to prescribe acceptable uses, given that regeneration may incorporate a number of possible uses.

8. We are concerned, however, that Policy E6 fails to provide sufficient support for the scale of change necessary at Swanscombe to address environmental and ecological issues. There are real challenges² in addressing the environmental and ecological conditions of the site and providing funded long-term solutions to address them. Absent a positive policy framework which recognises those challenges and accepts that some planning balance will be required between competing objectives, it is difficult to understand how regeneration will be promoted and how any such future proposals can be judged positively against such a constrained policy framework. The development management process, and in particular the provisions of paragraph 11 of the Framework, means that positive development plan policies are critical to delivering sustainable development, including addressing conflicts between competing objectives (which in the case of Swanscombe Peninsula, means recognising that some physical works will be required within the SSSI if environmental objectives are to be achieved).
9. A positive policy framework would recognise the complexity of the site, and acknowledge that regeneration will rely upon balancing a number of factors to secure an overall beneficial outcome.

Q99. Criterion 2 indicates that buffers will be created in between developments and the Site of Special Scientific Interest (SSSI). What type of buffers are envisaged?

10. It is not appropriate to predefine buffers to be created between development and the SSSI. Industrial operations which were underway before notification of the SSSI continue to operate under Natural England's SSSI consenting process, and occupation of additional parcels of land within the SSSI (but not in use at the time of notification) have been granted consent for industrial use³. It is evident that there is no moratorium on using land within the SSSI (subject to Natural England's consent being secured). Paragraph 11 of the Framework provides a basis for considering the potential harm to designated land (as defined under footnote 7 to paragraph 11) and for benefits to be weighed against that harm. That approach has been extensively tested in the courts and demonstrates that development proposals should be judged upon their merits and their impacts. It is not appropriate for the Council to prejudge that process, or Natural England's advice or opinion as to whether and what buffer might be relevant to any specific proposal.

100. Is the policy area extent justified having regard to the location of the SSSI?

11. The extent of Policy E6, as indicated on Diagram 13, assumes that the boundary of the SSSI is permanent and that no regeneration within its boundaries is appropriate. We disagree.

² As described in our response to Matter 3, but not repeated here.

³ Land north of Tiltman Avenue has recently been granted consent for industrial use despite being within the SSSI boundary and not occupied at the time of the Notification.

12. It is appropriate to recognise the SSSI as a nationally important designation and constraint, but the objectives for regeneration at Swanscombe, including the long-term management of environmental and ecological considerations includes land well beyond the provisions of Policy E6. The Peninsula as a whole should be identified within Policy E6, with constraints and opportunities overlain to provide context to that opportunity.
13. The closing remarks made by Natural England's Chair, Mr Tony Juniper, at the meeting which confirmed the Swanscombe Peninsula SSSI notification are entirely pertinent to this issue: "Just to be very clear, what we have done today is to record a scientific perspective regarding the importance of this particular area of England and, of course, the subsequent management of the site is something that will embrace social and economic dimensions in the light of that scientific judgment that has been determined here this afternoon. During the course of that, of course, there will be legitimate economic interests and there will be social aspirations alongside the conservation objectives for this area of land and those choices and decisions and those management plans that will come in the future we very much look forward at Natural England to working with all of the different parties and interests in making this site of special scientific interest the greatest possible success, not only for wildlife, but also for the country and the people who live in the vicinity."⁴
14. It is clear that Natural England themselves recognise that environmental and social-economic considerations stand to be considered along ecological issue when determining how SSSI can best be managed in the long-term. The extent of Policy E6 should embrace that broader perspective, as is facilitated under paragraph 11 of the Framework and planning legislation, and as recognised at paragraphs 174 and 180 of the Framework.

101. Are any Main Modifications required for soundness having regard to the confirmation of Swanscombe Peninsula SSSI?

15. Main Modifications are required, in our view. These should:
- Broaden the spatial extent of Policy E6 to include the remainder of Swanscombe Peninsula (consistent with long-term national policy objectives and previous Dartford Local Plan policy).
 - Amend the wording of Policy E6 and supporting text to recognising the conflicting objectives of environmental and ecological enhancement; recognise that regeneration can be compatible with the SSSI designation; and establish that proposals which enable environmental and/or ecological improvements at Swanscombe will be encouraged and will be determined on their merits, as provided for by the Framework.

⁴ Transcript of the shorthand notes of the Natural England Board Meeting, Site of Special Scientific Interest Confirmation of Notification, Swanscombe Peninsula, held 10 November 2021, available on request from Natural England or which can be made available via submission to the Programme Officer.