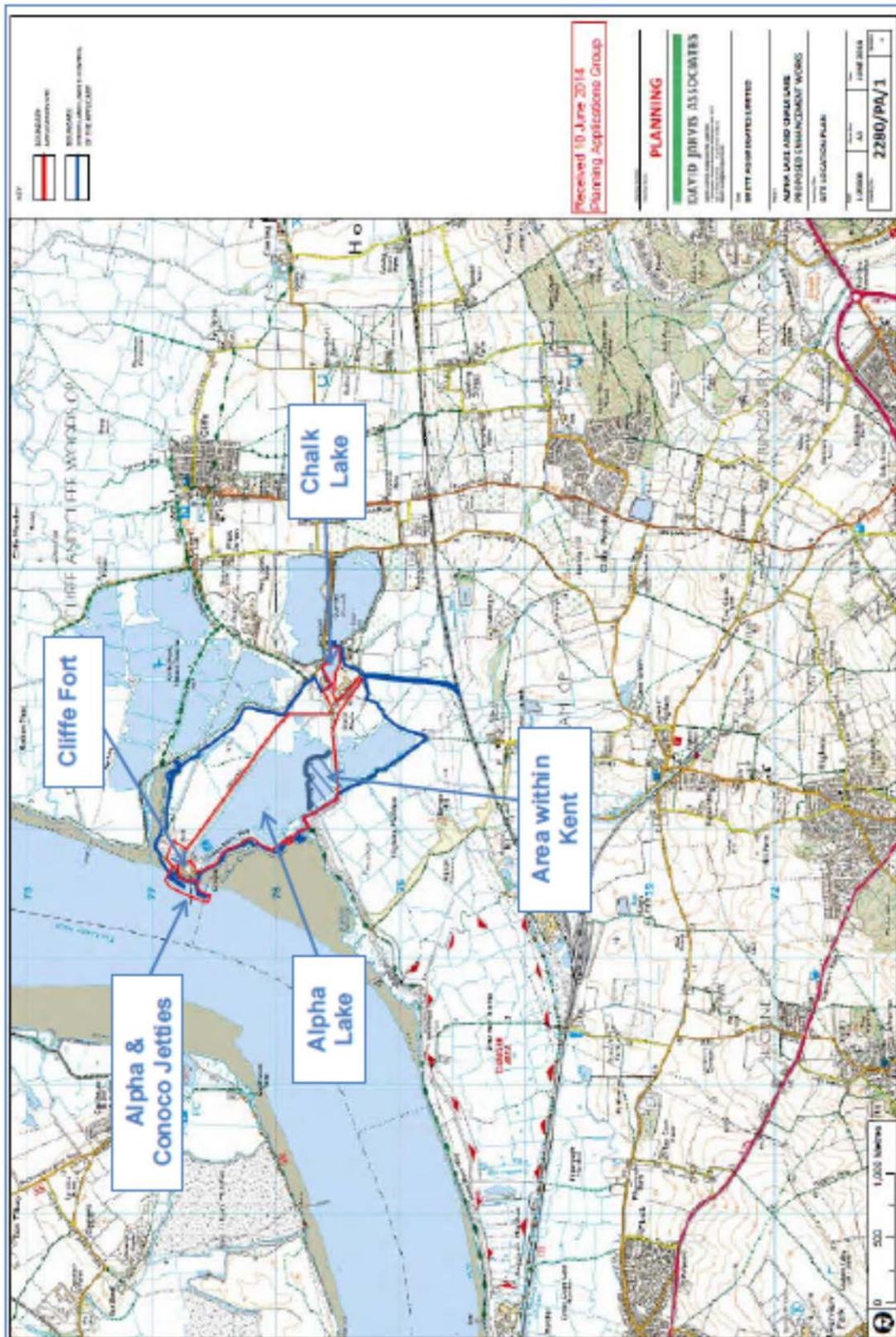




Proposed ecological and landscape enhancement of Alpha Lake and Chalk Lake, such enhancement to include re-profiling and creation of new island features. Alpha and Chalk Lake, North Sea Terminal, Salt Lane, Cliffe, Kent, ME3 7SX. KCC/GR/0217/2014 (GR/14/0615)



Site Location Plan

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## Planning History

5. Historic maps show a wharf, tramway and quarry works at Cliffe Works from the late 1890s onwards. Clay workings are shown at Alpha Lake from the 1960s onwards and Chalk Lake appears on maps from the mid-1970s onwards. Since then the works have been the subject of a number of permissions as the site has gradually evolved including a block manufacturing plant, a concrete batching plant, an aggregate processing plant and a rail terminal. Marine dredged aggregates are brought to Alpha Jetty by boat, then stockpiled at the wharves before being transported to the processing plant by conveyor. The RSPB is currently seeking permission for the importation of material recovered from river dredgings and other engineering projects and their deposition within the Cliffe Pools Nature Reserve. Documentation in support of this proposal notes that the deposition of material recovered from river dredgings has been permitted on that site since the 1960s.

## Proposal

6. The proposals to enhance Alpha Lake and Chalk Lake would be achieved through the importation by boat, barge or rail of naturally occurring materials comprising clay, chalk and, sand and gravel materials derived from major tunnelling projects in the London area. These include the Thames Tideway Tunnel, Northern Extension Line, Crossrail 2, High Speed Rail 2 and other projects in London. The proposed development has been developed in close liaison with the RSPB and is intended to complement their proposals for the Cliffe Pools reserve to the north east of the site.
7. The key elements of the proposed development comprise the re-profiling of Alpha Lake in order to create extensive areas of shallows (<1m ) and for the expansion of feeding grounds for waders and wildfowl which requires the reduction of the steep slopes around much of the Lake perimeter together with increasing the number of islands. A deeper water area in the sheltered southernmost part of the lake is intended to act as a severe weather refuge. This area of the application site falls within the administrative boundary of Kent County Council. Chalk Lake would also be re-profiled and retained mainly as an open water body varying in depth between 1 and 2 metres.
8. Materials imported by barge and boat would land at the existing Alpha Jetty or Conoco Jetty, which are located just to the north of Alpha Lake. The materials would either be directly offloaded into dumper trucks and transported to the Lakes using existing tracks or temporarily stored in stockpiles adjacent to the jetty to ensure that the operation can take place in a flexible manner.
9. Cliffe Works also benefits from a rail connection that is used for the distribution of marine dredged aggregates and mineral related products manufactured at Cliffe. Materials imported by rail would also be unloaded into dumper trucks and taken direct to the lakes.
10. It is estimated that some 1.2million m<sup>3</sup> of material would be required to achieve the required lake profiles. These naturally occurring materials would be the subject of a

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material acceptance procedure developed in consultation with Environment Agency so that only suitable materials are received and used at the site.

11. Infilling and re-profiling of Alpha Lake would take place over 5 phases commencing with the creation of a causeway across the lake off which there would be a number of spurs leading to various areas to be re-profiled. Once completed the scheme would provide an area of grassland with reinstated creeks at the northern end of the site, a series of islands, gentler lake margins and an area of deep water.
12. The placement of materials in Chalk Lake would be undertaken from west to east with a small area in the western most section being restored to grassland with the remainder being re-profiled to a depth of between 1 and 2 metres. It is anticipated that Chalk Lake would be re-profiled largely using imported chalk.

#### *Hours of operation*

13. It is proposed that the unloading of barges, boats and rail wagons is not the subject of restricted operational hours and could, therefore, take place at any time. This would allow the providers of the materials to deliver as required and would also allow for tidal variations in the case of delivery by boat or barge and timetable restrictions in the case of delivery by rail. However, only materials received between the hours of 0630 and 2000 would be transported directly to the lake along the existing haul roads. Any machinery associated with operations at or on the lake would also be restricted to similar hours.

#### *Rates of infill*

14. It is estimated that typical rates of infill will average between 1,000m<sup>3</sup> and 1,500m<sup>3</sup> per day with rates peaking at between 2,000m<sup>3</sup> and 2,500m<sup>3</sup>. At these rates, the placement of material would take place over four to five years. However, owing to the uncertainty surrounding the availability of sufficient material to allow the completion of the works together with the potentially negative effects on flora and fauna of sustaining works over this short period, the applicant has requested that they be allowed to complete operations over a longer time period of 10 years.
15. The application is accompanied by an Environmental Statement which seeks to assess any adverse impacts on the following, and which includes measures to mitigate such impacts to an acceptable level:
  - Ecology
  - Landscape and visual impact
  - Noise
  - Water Environment
  - Archaeology and cultural heritage

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### **National Planning Policy Context**

16. The National Planning Policy Framework (NPPF) (March 2012) identifies that there are 3 dimensions to sustainable development which create 3 overarching roles in the planning system namely economic, social and environmental. The role of the planning system is seen as contributing to the achievement of sustainable development. It states that those determining planning applications should seek to approve applications for sustainable development where possible. The NPPF requires that the planning system should contribute to and enhance the natural and local environment by amongst other matters minimising impacts on biodiversity and providing net gains in biodiversity where possible. It states that development proposals where the primary objective is to conserve or enhance biodiversity should be permitted.
17. National Planning Policy Guidance (NPPG) (March 2014) is closely linked to the NPPF. With regard to biodiversity it sets out the statutory basis for minimising the impacts on biodiversity and highlights the mechanisms for providing net gains for biodiversity where possible.

### **Development Plan Policy**

18. Kent Waste Local Plan March 1998 (Saved Policies): Policy W18 requires adequate controls over noise, dust and odours and other emissions. Policy W21 seeks the satisfactory protection of ecological interests.
19. Medway Local Plan 2003: Policies BNE2 and BNE3 (protection of residential amenity), Policy BNE6 (landscape design and the creation or enhancement of semi-natural habitats, BNE22 (environmental enhancement of areas adjacent to the River Medway), BNE35 (protection of international and national nature conservation sites).
20. Gravesham Borough Council Local Plan: Policy C7 (protection of Sites of Special Scientific interest and nature reserves) and Policy C19 (protection of features of acknowledged importance and encouragement of environmental enhancement).
21. Kent Minerals and Waste Local Plan (KMWLP) 2013-30 (Submission Document):  
  
This plan identifies and sets out the long term spatial vision for the period up to, and including the year 2030. Policy DM2 (aims to ensure that there are no unacceptable adverse impacts on sites of international, national and local importance).

### **22. Consultee Responses**

**Medway Council:** No Objection subject to the imposition of appropriate conditions

**Gravesham Borough Council:** No Objection

**Higham Parish Council:** No comments

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**English Heritage:** No objection and would be supportive of proposals to conserve and enhance Cliffe Fort.

**Environment Agency:** No objection subject to conditions requiring prior approval of infill materials and details of a new tidal inlet and sluice at the northern end of Alpha Lake.

**Kent Wildlife Trust:** No comments

**Natural England:** No objection. Whilst the proposal is not necessary for the management of the European site it is unlikely to have a significant effect on any European site, and can therefore be screened out from any requirement for further assessment.

**Network Rail:** No comments.

**Sport England:** Objects on the grounds of the loss of a local Sailing Club. If other material considerations exist which the local planning authority considers outweigh the loss the sports facility the LPA should feel empowered to make this judgement.

**Biodiversity Officer:** Is satisfied that the applicant has fully considered the impact on the designated sites. Recommends that the proposed Construction Environmental Management Plan is progressively reviewed and updated at each stage of the operations and that post construction wintering and breeding birds shall be surveyed and monitored for a minimum period of 5 years.

**Public Rights of Way:** No comments

**Landscape Officer:** Supports the method and process followed for the Landscape Visual Impact Assessment.

**Amey (Noise/Air Quality):** No objection subject to the imposition of a condition which restricts maximum daytime and night time noise levels when measured at noise sensitive receptors.

**Port of London Authority:** No objection and recommends that the applicant discusses their proposals with the PLA to ensure operations are covered within the existing River Works Licence.

**Marine Management Organisation:** No Comments

**RSPB:** No Comments

## Local Member

23. The Local Member Mr Bryan Sweetland was formally notified on 26 August 2014.

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## Publicity

24. The application was advertised by way of an advert in the local newspaper together with the posting of a notice on site.

## Letters of Representation

25. I have received two letters of representation from local residents. Their comments can be summarised as follows:
- Loss of a scarce popular sailing facility
  - There is already sufficient provision for wildlife in the area being developed by the RSPB
  - The proposal is contrary to the NPPF and development plan policy

## Discussion

26. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. The application for proposed ecological enhancements to Alpha and Chalk Lakes will need to be examined having regard to both national guidance and relevant development plan policies applying to the site together with any relevant material planning considerations arising from formal consultations and publicity. In my opinion the main determining issues in this particular case can be summarised under the following headings:
- The principle of further infilling versus the loss of a sailing facility
  - Ecology
  - Landscape and visual impact
  - Noise
  - Water environment

### The principle of further infilling versus the loss of a sailing facility

27. Historically infilling of the Cliffe Pools has taken place on a number of occasions in the past and has formed part of a wider initiative under the management of the RSPB to improve the ecological value of the area especially for over wintering and breeding birds where the Cliffe Pools have become an important Nature Reserve. Whilst objections have been raised by Sport England along with two local residents on the grounds of the loss of a sailing facility, the applicants point to the fact that this facility is not secure as there is no long term lease and the site owners could therefore require the use to cease at any time. The local planning authority have no control over this. The applicant considers that one of the major benefits of the proposal is that it would assist in the ecological enhancement and conservation aspirations of the Special Protection Area. Furthermore, in my view the ability to transport materials which avoids the need for them to be imported by road is consistent with the principles

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of sustainable development as set out in the NPPF and would help reduce the carbon footprint by lowering vehicle emissions and help support government's aspirations in stabilising climate change. In my opinion having regard to the uncertainty over the future continuation of the existing sailing facility which has no secure long term tenure, the potential ecological benefits from the proposed development outweigh its loss.

### Ecology

28. As indicated above the proposed development will lead to the ecological enhancement of the area particularly for the over wintering and breeding bird population. An ecological impact assessment has been undertaken by the applicant which considers numerous assessments that have been carried out including new surveys of breeding birds, saline lagoon biotope and water voles and an extended phase 1 habitat survey. The report notes and concludes that with suitable mitigation measures, the residual effects of the proposed development would be significant and positive for both the internationally important birdlife of the South Thames Estuary and Marshes, and the nationally important saline habitat resource and its associated biota.
29. No objections have been received by any of the statutory nature conservation bodies including Natural England who are of the opinion that there are unlikely to be any significant adverse effects on any European site. The County Council's Biodiversity Officer supports this view who has recommended that any future permission should be subject to the imposition of conditions requiring the submission and approval of a Construction Environmental Management Plan and post construction surveys to be carried out for a minimum period of 5 years. As the Competent Authority the County Council has had to undertake an Appropriate Assessment under Regulation 61 of the Conservation of Habitat's and species Regulations 2010. (A copy of the Appropriate Assessment is appended)

### Landscape and Visual Impact

30. The proposed operations would take place over a period of 10 years during which time there would be some additional visual intrusion in the landscape to that which is created from the existing Cliffe Works importation and distribution operations, albeit this would by and large be restricted at any one time to within the separate operational phases. In the longer term both lakes would remain as significant water bodies with some additional interests provided by the islands which are proposed to be created. The removal of the sailing activities and its associated infrastructure will also generally create a more open landscape and one which would have existed when Cliffe Fort was constructed which in my opinion will improve upon its current setting.

### Noise

31. The Environmental Statement accompanying the application includes a noise assessment which, in accordance with national guidance has recommended noise limits at a number of noise sensitive locations. The assessment concludes that in the main operations would comply with national guidance with the exception of two locations, West Court Farm access road and Salt Lane Cottages which adjoin the south eastern and northern perimeter of Chalk Lake respectively. However, the levels

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at these two locations would still be below their current ambient noise levels. The importation of materials by rail at night would also be above recommended noise levels at two locations albeit the effects would be similar to those experienced in relation to the existing rail importation operations. It should be noted that there are no noise sensitive locations within the administrative boundary of Kent County Council that would be affected by the proposed development.

32. The County Council's Noise Advisor Amey has raised no objection subject to the imposition of a condition which restricts maximum daytime and night time noise levels when measured at those noise sensitive locations identified in the noise assessment consistent with those predicted.

### Water Environment

33. A hydrological, hydrogeological and flood risk assessment has been undertaken in support of the proposal. The assessment concludes that given the naturally occurring materials that would be used there would be no risk of pollution to the quality of surface and ground water. Neither would there be any increase in the risk of flooding given that the reduction in the flood storage capacities of the Lakes would be imperceptible in the context of the wider flood plain. The Environment Agency have raised no objection to the proposals subject to the imposition of conditions requiring the prior approval of infill materials and details of a new tidal inlet and sluice at the northern end of Alpha Lake.

### **Conclusion**

34. The application site, the majority of which falls within the administrative area of Medway Council, is located within an area which is subject to international, national and locally important designations for nature conservation including the Cliffe Pools Nature Reserve which is managed by the RSPB and is recognised for its over-wintering and breeding bird populations. Historic records of the area indicate that much of this important habitat has been created from previous quarrying and infilling operations. Whilst the current proposal would result in the loss of an existing sailing facility its future, even in the absence of the current application, cannot be guaranteed given there is no long term lease for the site which would allow it to continue and in my view is therefore a material consideration that needs to be weighed against what benefits would derive from what is currently proposed. In my opinion what is proposed would result in an enhancement to the quality of the existing ecological features at the site and this along with the proposed means of transporting infill materials to the site by either boat or rail would in my view be consistent with the objectives set out in the NPPF which states that the planning system should contribute and enhance the natural environment by amongst other matters minimising impacts on biodiversity and providing net gains in biodiversity where possible.
35. I am therefore satisfied that provided the conditions recommended by consultees are imposed on any future permission there are no overriding objections to the proposed development and accordingly I would recommend that permission be granted.

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## Recommendation

36. I RECOMMEND that PERMISSION BE GRANTED SUBJECT TO conditions covering amongst other matters;

- Completion of the development within 10 years of commencement
- Submission and prior approval of a Construction Environmental Management Plan
- Submission and prior approval of a scheme of post infilling monitoring of birds, habitat and water environment for a minimum period of 5 years including any further mitigation requirements in respect of designated sites
- Details of an assessment of the condition of the tunnel connecting Chalk Lake to Buckland Lake to be submitted and approved prior to the deposition of materials in Chalk Lake
- Prior approval of type of materials to be deposited in Chalk Lake
- Prior approval of details of new tidal inlet sluice at northern end of Alpha Lake prior to the deposition of materials in Alpha Lake
- Prior approval of type of materials to be deposited in Alpha Lake
- Prior approval of a scheme for the provision of a temporary weir/bund in the vicinity of Cliffe Fort prior to the deposition of materials in Alpha Lake
- Submission of a scheme of landscaping within 12 months of the commencement of infilling
- Fill materials only be imported by either the River Thames or rail
- Plant maintenance
- Restriction of height of material stockpiles to a maximum of 3m
- Prior approval of any site offices or other buildings before being installed on site
- Removal of plant, equipment and buildings upon completion of operations
- Restriction on the hours during which materials are transported to the Lakes along existing haul roads to between 0730 and 2000 hours Mondays to Fridays and 0730 and 1400 hours on Saturdays and Sundays.
- Daytime and night time noise limits measured at noise sensitive receptors

### Informative

The applicant be requested to discuss their proposals with the PLA to ensure operations are covered within the existing River Works Licence.

Case Officer: Mike Clifton	Tel. no: 03000 413350
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Background Documents: see section heading
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## APPENDIX 1

### Appropriate Assessment

# RECORD OF APPROPRIATE ASSESSMENT (UNDER REGULATION 61 OF THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2010)

## INTRODUCTION

This is a record of the Appropriate Assessment of the Alpha and Chalk Lake project. The assessment has been undertaken by Kent County Council based on the information provided by Bioscan UK Ltd within the planning application (ref KCC/GR/0217/2014). This assessment is required under Regulation 61 of the Conservation of Habitats and Species Regulation 2010.

In accordance with The Conservation of Species and Habitats Regulations 2010 (as amended), Kent County Council as a 'competent authority' under the Regulations, has to be satisfied that the project will not cause an adverse effect to the integrity of any European designated site before it can grant permission for the works.

## DOCUMENTS REVIEWED TO INFORM THIS ASSESSMENT

This record should be read in conjunction with the following documentation and correspondence, which provides extensive background information:

- Planning application and Environmental Statement submission reference KCC/GR/0217/2014 including Appendices 2 – Ecology Assessment
- Ecological Impact Assessment (incorporating information for Habitat Regulations Assessment) June 2014 Bioscan
- Letter from Bioscan; Dated 20<sup>th</sup> October 2014; Ref DW/E1332g/MC/1601
- Natural England advice letter dated 18<sup>th</sup> December 2014

## ASSESSMENT OF LIKELY SIGNIFICANT EFFECT ON INTEREST FEATURES OF EUROPEAN DESIGNATED SITES

Natural England advised Kent County Council on 18<sup>th</sup> December 2014 that the project was unlikely to have a significant effect on the interest features for which Thames Estuary Marshes Special Protection Area and Ramsar site have been classified.

Natural England advised that as the proposal is not necessary for the management of the European site Kent County Council need to demonstrate that the requirements of Regulations 61 and 62 of the Habitat Regulations have been considered when determining the planning application.

The table below sets out the qualifying features of the European and considers the likely significant effect resulting from the Alpha and Chalk lake project.

Name of Site	Legal Status	Qualifying Features
Thames Estuary Marshes	Ramsar <i>Ramsar sites are not designated under European Law but are protected under international agreement (Ramsar Convention) which provides for the conservation and good use of wetlands, and are treated in the UK in the same way as European designated sites with regards to the Appropriate Assessment.</i>	<ul style="list-style-type: none"><li>• <b>Ramsar criterion 5</b> Assemblages of international importance:  Species with peak counts in winter: 45118 waterfowl (5 year peak mean 1998/99-2002/2003)</li><li>• <b>Ramsar criterion 6</b> species/populations occurring at</li></ul>

		<p>levels of international importance.</p> <p>Qualifying Species/populations (as identified at designation):</p> <p>Species with peak counts in spring/autumn: Ringed Plover/Black-tailed Godwit</p> <p>Species with peak counts in winter: Grey Plover, Red Knot, Dunlin, Common Redshank</p>
<p>Thames Estuary Marshes</p>	<p>Special Protection Area</p>	<p>Supporting populations of international importance</p> <ul style="list-style-type: none"> <li>• Under Article 4.1 of the Directive (79/409/EEC) by supporting populations of European importance of the following species listed on Annex I of the Directive:</li> </ul> <p>Over winter;</p> <p>Avocet <i>Recurvirostra avosetta</i>, 276 individuals representing at least 21.7% of the wintering population in Great Britain (5 year peak mean 1991/2 - 1995/6)</p> <p>Hen Harrier <i>Circus cyaneus</i>, 7 individuals representing at least 0.9% of the wintering population in Great Britain (5 year mean 93/4-97/8)</p> <ul style="list-style-type: none"> <li>• Under Article 4.2 of the Directive (79/409/EEC) by supporting populations of European importance of the following migratory species:</li> </ul> <p>On passage;</p> <p>Ringed Plover <i>Charadrius hiaticula</i>, 559 individuals representing at least 1.1% of the Europe/Northern Africa - wintering population (5 year peak mean 1991/2 - 1995/6)</p> <p>Over winter;</p> <p>Ringed Plover <i>Charadrius hiaticula</i>,</p>

		<p>541 individuals representing at least 1.1% of the wintering Europe/Northern Africa - wintering population (5 year peak mean 1991/2 - 1995/6)</p> <ul style="list-style-type: none"> <li>• Under Article 4.2 of the Directive (79/409/EEC) by regularly supporting at least 20,000 waterfowl</li> </ul> <p>Over winter, the area regularly supports 33,433 individual waterfowl (5 year peak mean 1991/2 - 1995/6) including: Redshank <i>Tringa totanus</i>, Black-tailed Godwit <i>Limosa limosa islandica</i>, Dunlin <i>Calidris alpina alpina</i>, Lapwing <i>Vanellus vanellus</i>, Grey Plover <i>Pluvialis squatarola</i>, Shoveler <i>Anas clypeata</i>, Pintail <i>Anas acuta</i>, Gadwall <i>Anas strepera</i>, Shelduck <i>Tadorna tadorna</i>, White-fronted Goose <i>Anser albifrons albifrons</i>, Little Grebe <i>Tachybaptus ruficollis</i>, Ringed Plover <i>Charadrius hiaticula</i>, Avocet <i>Recurvirostra avosetta</i>, Whimbrel <i>Numenius phaeopus</i>.</p>
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Natural England and the KCC Biodiversity Officer have been formally consulted on the planning application and have provided detailed comments having regard to the sites designation status and having regard to the requirements of Regulation 61 of the Conservation of Habitats and Species Regulations 2010.

Natural England are now satisfied that there will not be a likely significant effect on European designated sites provided the proposals proceeding in strict accordance with the documents submitted in support of the planning application, which include integral avoidance measures, and conditions are included to secure the following:

- A monitoring scheme – where the results are reviewed frequently to identify and rectify any problems as soon as possible.
- Construction Environmental Management Plan

## **CONCLUSION**

Kent County Council concludes, that this project alone or in-combination will not have an adverse effect on the integrity of the Thames Estuary Marshes Special Protection Area and Ramsar site provided the works are carried out as set out in the application and the mitigation measures outlined above are attached as conditions to any planning application granted.