

Dartford Borough Council

**Habitats Regulations and Residential
Sites in Dartford Borough
Guidance for Developers**

Updated for 2024

DARTFORD
BOROUGH COUNCIL

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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 M14 of the 2024 Dartford Plan. It is necessary in light of evidence which shows that 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 and again in September 2021. This update was issued in April 2024, after adoption of the Dartford Plan. It:
- Incorporates a dual zone approach, with a differential rate and threshold for developments with 6km of the Natura 2000 sites from those within the 6-10km zone. This change arises from the adoption of the Dartford Local Plan, and;
 - 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.
- 1.3 It has been produced by the Borough Council, in discussion with Natural England (NE), Birdwise Kent, Ebbsfleet Development Corporation and reflecting input from the Local Plan Examination (conducted by the Planning Inspectorate). The 2017 version of the guide was subject to consultation with landowners, developers and agencies. More recent updates, such as the incorporation of a dual zone approach, have been widely consulted upon as part of the Local Plan Main Modifications consultation and are reflected in Plan Policy M14.

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
- 2.3 The boundaries for these designations and their proximity and relationship with Dartford Borough are illustrated 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.
- 2.4 As illustrated in Appendix 2, a small section of Dartford Borough on its eastern boundary is within 6km of the boundary of the Thames Estuary and Marshes Ramsar site. A much larger section of the east of the Borough is within 10km, although all of western Dartford is outside 10km where this policy does not apply.

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 residential related planning applications, including prior notifications, reserved matters applications – for example where assessment has not been carried out at the outline planning application stage or where new evidence has become available (e.g. in the event of new/updated Natural England advice/guidance becoming available, or in light of updated legal case-law), and S73 applications to amend conditions. They also apply to permitted developments. The residential and related uses for which mitigation is required is set out in Appendix 4.

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 following reports have assessed and demonstrated the impacts of recreational disturbance on the integrity of the international sites.

4.2 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.

4.3 The findings from the study apply equally to Ramsar sites and SPAs. As Dartford Borough has a large area within 10km of the nearest protected international sites and a smaller area within 6km, the findings are relevant.

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

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

- 4.4 The Thames, Medway & Swale Estuaries – Strategic Access Management and Monitoring Strategy 2014³ 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.
- 4.5 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 is currently **£314.05** per dwelling (2023/24 tariff figure until updated). For the 6-10km larger development tariff this works out at 1/15th which is **£20.94** (2023/24 tariff figure until updated). 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 2016

- 4.6 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 of more than 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 water-birds cannot necessarily be ruled out and mitigation may be necessary. 15 dwellings was suggested as the threshold it would be equivalent to a single development within 0-6km.
 - 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

³ <https://northkent.birdwise.org.uk/wp-content/uploads/2018/02/North-Kent-SAMMS-Report-2014.pdf>

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 mitigation
In 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 lie between 6km and 10km from the boundary of the Thames Estuary and Marshes SPA and Ramsar site.

5.2 All proposed residential type developments of one unit or more (as set out in Appendix 4) which lie within 6km of the boundary of the Thames Estuary and Marshes SPA and Ramsar site; and more than 15 dwellings which lies between 6km and 10km from the boundary, will require HRA Screening and Appropriate Assessment using the screening template in Appendix 3. This applies to all types of application as set out in paragraph 3.3 above, and equivalent levels of non C3 development thresholds as set out in Appendix 4.

5.3 A map showing this zone of influence is included as Appendix 2. This shows the boundaries of the Thames Estuary and Marshes SPA and Ramsar Site, the Medway Estuary and Marshes SPA and Ramsar Site and the Swale SPA and Ramsar Site. It also shows the boundary of Dartford Borough in proximity to the international designations.

5.4 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.

- 5.5 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 Screening/ Appropriate Assessment under the Habitats Regulations. 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.
- 5.6 In Dartford Borough, there are three options for mitigating any potential impacts. These are originally derived from the Dartford Study.

Option 1: Payment of a Tariff per Dwelling

- 5.7 Residential developments (as outlined in Appendix 4) provided within 6 km of the Ramsar site and SPA could pay the competent authority £314.05 per dwelling (2023/24 tariff figure until updated). The figure will be increased each year in line with the Retail Price Index.
- 5.8 Developers are requested to pay the full current tariff (£314.05) for every new dwelling or non-C3 residential use (as set out in Appendix 4).
- 5.9 Developers within the 6-10km zone could pay the competent authority 1/15th of the current tariff, i.e. for 2023/24 and until updated this will be 1/15th of £314.05 = £20.94 per dwelling or non-C3 residential use. This will be chargeable to developments of more than 15 units, (or equivalent quantity of non-C3 development) in accordance with the tariffs set out in Appendix 4.
- 5.10 In all cases, payments are expected prior to commencement.
- 5.11 For sites opting to pay a tariff to mitigate impacts, this can be arranged through:
- Inclusion in a Section 106 legal agreement

- A unilateral undertaking (template version available)⁴

5.12 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:

- 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 New Suitable Alternative Natural Greenspace/ Bluespace (SANG)

5.13 As an alternative to the payment of a tariff set out in Option 1, developments could provide suitable alternative natural greenspace/ bluespace (SANG) within or close to the proposed developments. This would need to be accompanied by clear evidence demonstrating that it provides a scale, type, accessibility and quality of space that will be visited as a suitable alternative to the SPAs/ Ramsar sites.

5.14 This provision would be *in addition* to the requirements already set out in policies M14 (Green and Blue Infrastructure and Open Space Provision) and M15 (Biodiversity and Landscape) of the Adopted Dartford Local Plan to 2037; including:

- Open space provision that is already in place or required,
- Local Green Spaces that are already in place or required,
- Landscaping and public amenity land already in place or required,
- Existing designated and nationally/locally protected sites, and

⁴ Available on the DBC website

- Other biodiversity and greenspace requirements that are already in place or required (e.g. Biodiversity Net Gain, green/blue Infrastructure, protection of existing on-site biodiversity features/species).

5.15 New SANG provision under Option 2 is more likely to be a feasible and suitable option for large sites, and if an acceptable solution was formed it may reduce or negate the need for any financial contributions made as part of mitigation.

5.16 The potential for SANG to connect into and/or improve or enhance the wider Green Grid network and improve accessibility, as well as potential contributions towards this, will also be a key consideration.

5.17 The input of Natural England will be sought regarding SANG design to ensure any site is of sufficient quality, type, accessibility and scale to act as a genuine alternative destination to the international sites, including by providing: attractive and comparable recreational spaces for walkers and dog-walkers. The input of Natural England will also be sought to advise on this and to ensure that sensitivity is applied to existing local habitats.

5.18 The Applicant must also provide details which demonstrate any long term management, maintenance and funding of any solution.

Option 3: Availability of Existing Suitable Alternative Greenspace/ Bluespace

5.19 Option 3 is the current and continued availability/accessibility of demonstrably suitable, and comparable alternative greenspace/ bluespace, where clear and strong evidence shows such sites would divert potential residents/recreational visitors from visiting the internationally protected SPAs/ Ramsar sites. Alternative local sites would need to clearly be a more likely destination and clearly divert residents from visiting the SPAs/Ramsar sites by acting as a comparable alternative in terms of scale, type, accessibility and quality. In such cases, it may be that tariff contributions could be reduced as part of the overall mitigation package.

5.20 The input of Natural England will be sought to advise whether existing local sites are suitable alternatives in terms of type, scale, quality and access, and to ensure that increased access is appropriate and that sensitivity is applied to existing local habitats and species.

5.21 As is the case with Option 2, the potential to utilise the wider Green Grid network to improve access to greenspace/bluespace, as well as the scope to improve or enhance the Green Grid network, and potential contributions towards this, will be a key consideration. Links to the Green Grid 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 internationally protected SPAs/ Ramsar sites.

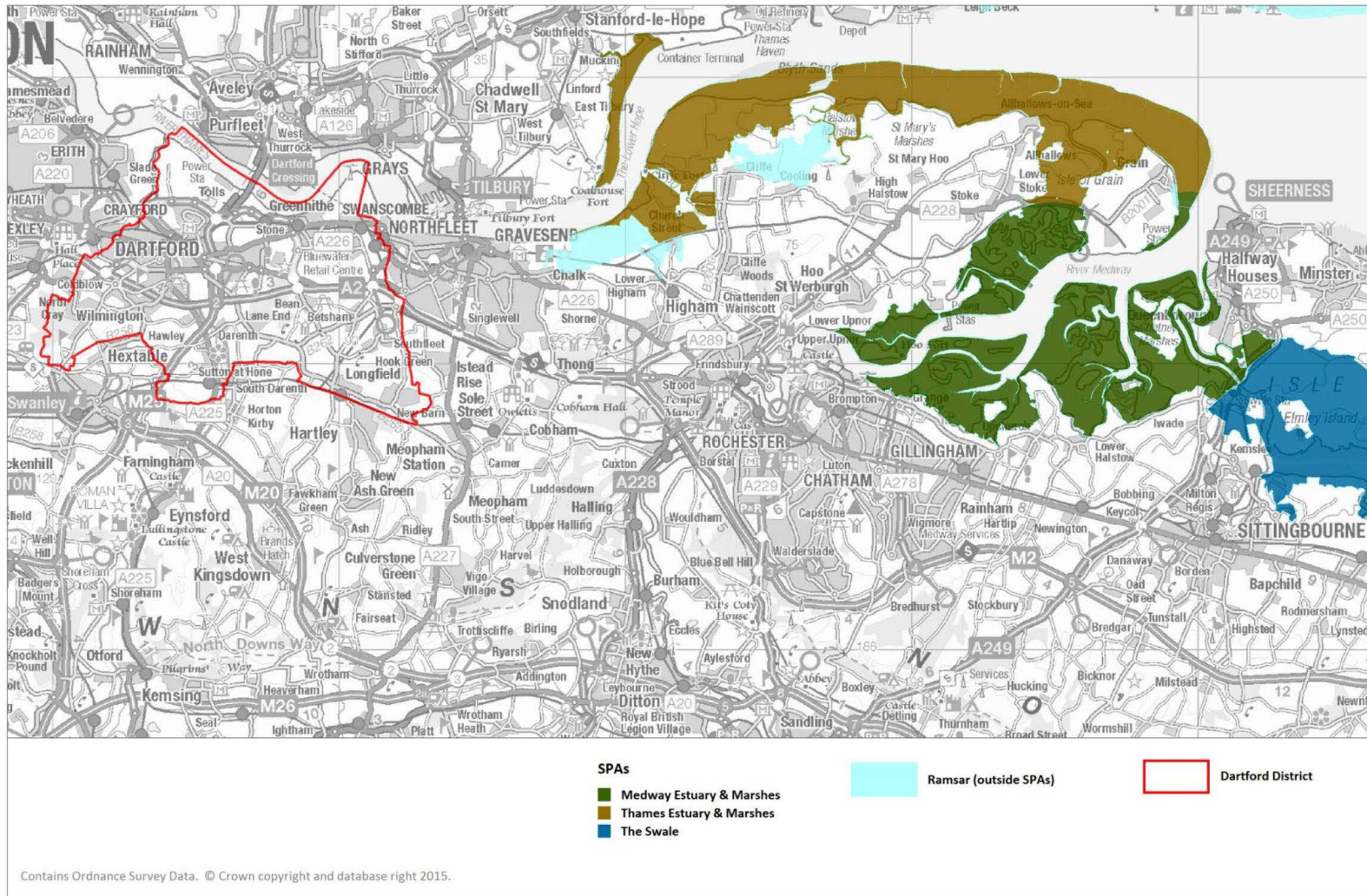
6. Overview of HRA Approach in Dartford Borough

6.1 The tables below show overviews of the HRA approach in each of the two zones in Dartford Borough.

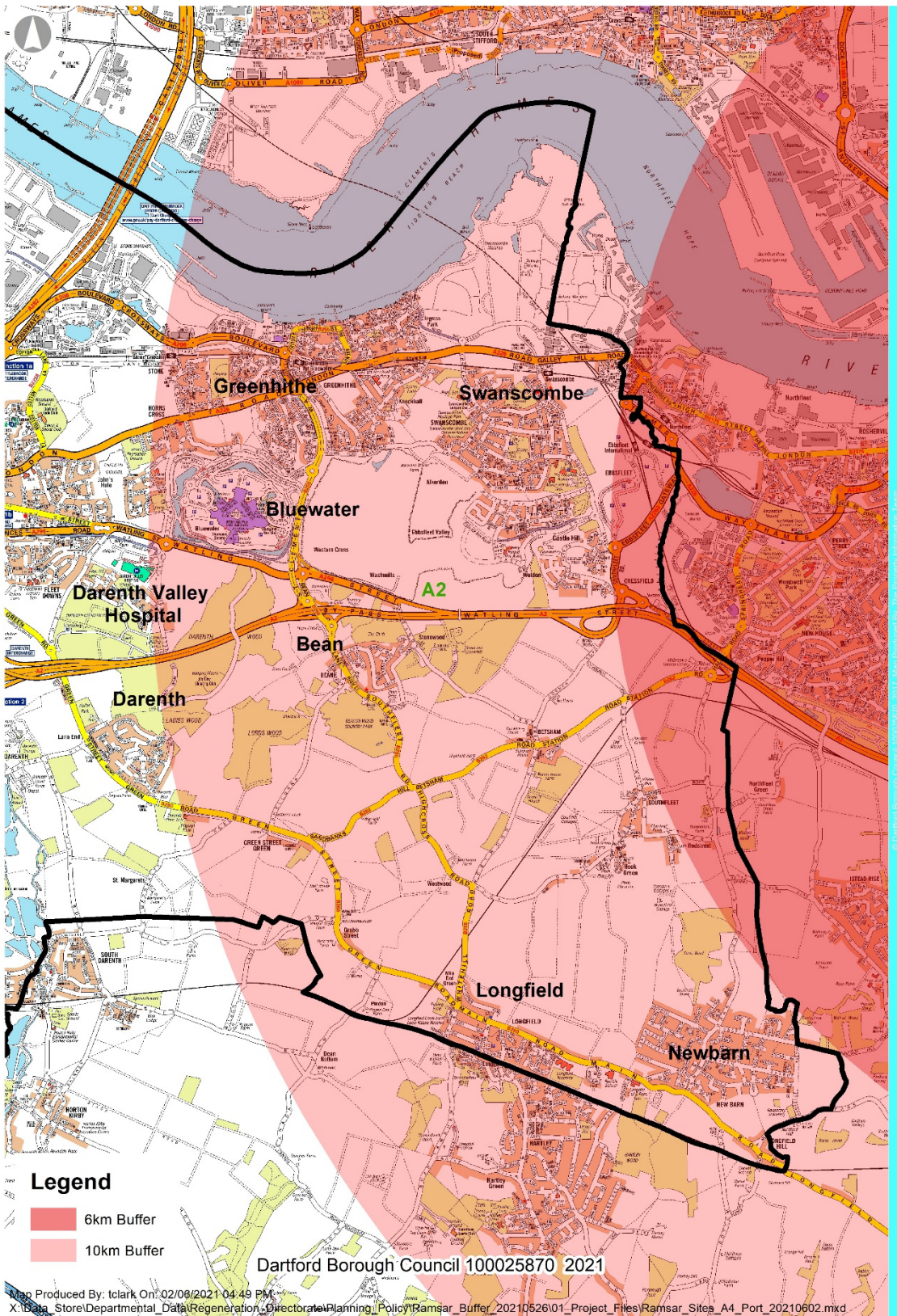
0-6km Zone of Influence
Developments 0 to 6km from the SPAs/ Ramsar sites shown in Appendix 2
Applicable Developments
<ul style="list-style-type: none"> • All residential proposals (as set out in Appendix 4) within the 0-6km Zone of Influence • It will apply to relevant residential-related outline planning 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. • Non-residential proposals aren't required to contribute (i.e. not addressed in Appendix 4).
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 • This will apply to all developments of 1 or more equivalent dwellings (as set out in Appendix 4). • 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"> 1. Payment of a tariff per dwelling (in accordance with the sums set out in Appendix 4) 2. Provision of greenspace/ bluespace of a quantity, scale, type and accessibility that will be visited as a suitable alternative to the SPAs/ Ramsar sites 3. Availability and accessibility of some suitable alternative greenspace/ bluespace with potential for the tariff to be reduced.

6-10km Zone of Influence
Developments 6 to 10km from the SPAs/ Ramsar sites shown in Appendix 2
Applicable Developments
<ul style="list-style-type: none"> • Residential proposals (as set out in Appendix D) of more than 15 dwellings within the 6-10km Zone of Influence • It will apply to relevant residential-related 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. • Non-residential proposals aren't required to contribute (i.e. not addressed in Appendix 4).
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 more than 15 dwellings within the 6km-10km Zone of Influence will require screening and 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"> 1. Payment of a tariff per dwelling, as set out in Appendix 4. 2. Provision of greenspace/ bluespace of a quantity, scale and type that will be visited as a suitable alternative to the SPAs/ Ramsar sites 3. Availability and accessibility of some suitable alternative greenspace/ bluespace with potential for the tariff to be reduced.

Appendix 1: Boundaries of SPA and Ramsar Sites in Relation to Dartford Borough



Appendix 2: Zones of Influence (0-6km and 6-10km) in Dartford Borough



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 and AA process is the responsibility of the decision maker as the Competent Authority (i.e. Dartford Borough Council or Ebbsfleet Development Corporation) for the purpose of the Habitats Regulations⁵. 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 Special Protection Area (SPA) and Ramsar Site Medway Estuary & Marshes Special Protection Area (SPA) and Ramsar Site
Is the planning application directly connected to the management of the site?	

⁵ 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.

Classification

The Thames Estuary and Marshes Special Protection Area (SPA) and Medway Estuary and Marshes Special Protection Area (SPA) are classified in accordance with the European Birds Directive. This requires Member States⁶ 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 important network for birds on migration. The sites are also listed as Wetlands of International Importance under the Ramsar Convention (Ramsar Site⁷). For clarity, and the purpose of this assessment, ‘European Sites’ refers to both the SPAs and Ramsar Sites.

Thames Estuary and Marshes SPA / Ramsar Site Qualifying Features

The Thames Estuary and Marshes SPA is used by large numbers of migratory birds. The site qualifies under Article 4.1 of the Birds Directive by regularly supporting overwintering hen harrier (*Circus cyaneus*) and pied avocet (*Recurvirostra avosetta*). It also qualifies under Article 4.2 of the Birds Directive by regularly supporting overwintering dunlin (*Calidris alpina alpina*), red knot (*Calidris canutus*), black-tailed godwit (*Limosa limosa islandica*), grey plover (*Pluvialis squatarola*), and common redshank (*Tringa totanus*), and on passage ringed plover (*Charadrius hiaticula*). There are internationally important assemblages of many of these species of waterfowl.

The Natura 2000 data reference document (<https://jncc.gov.uk/jncc-assets/SPA-N2K/UK9012021.pdf>) outlines the following general site character:

Habitat Class	% Cover
Dry grassland, Steppes	1.9
Bogs, marshes, water fringed vegetation, Fens	3.7
Shingle, Sea cliffs, Islets	0.9
Inland water bodies (Standing water, Running water)	5.6
Humid grassland, Mesophile grassland	29.1
Salt marshes, salt pastures, salt steppes	1.5
Tidal rivers, Estuaries, Mud flats, Sand flats, Lagoons (including saltwork basins)	57.3
Total Habitat Cover	100.0

An assessment of threats and pressures identified the following issues as high rank for negative impacts:

- Invasive non-native species (inside and outside)
- Outdoor sports and leisure activities, recreational activities (inside)
- Changes in biotic conditions (inside and outside)

⁶ 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.

⁷ Paragraph 181 of the National Planning Policy Framework 2021 states that Ramsar Sites should be given the same protection as European Sites.

- Changes in abiotic conditions (inside and outside)

The Thames Estuary and Marshes Ramsar site is designated as supporting one endangered plant species, and least 14 nationally scarce plants of woodland habitats and more than 20 British Red Data Book invertebrates. It supports assemblages of waterfowl of international importance and a number of bird species of international importance, i.e. ringed plover (*Charadrius hiaticula*), black-tailed godwit (*Limosa limosa islandica*), grey plover (*Pluvialis squatarola*), red knot (*Calidris canutus islandica*), dunlin (*Calidris alpina alpina*) and common redshank (*Tringa totanus totanus*).

The full citation is available at: <https://jncc.gov.uk/jncc-assets/RIS/UK11069.pdf>.

The general overview of the site is described as “A complex of brackish, floodplain grazing marsh ditches, saline lagoons and intertidal saltmarsh and mudflat. These habitats together support internationally important numbers of wintering waterfowl. The saltmarsh and grazing marsh are of international importance for their diverse assemblages of wetland plants and invertebrates.”

The citation identifies the following types of marine/coastal wetland:

Wetland Types	% Area
Tidal flats	49.6
Seasonally flooded agricultural land	38.6
Saline / brackish lakes: permanent	4.2
Saline / brackish marshes: seasonal / intermittent	3.2
Other	1.6
Salt marshes	1.3
Sand / shingle shores (including dune systems)	0.8
Freshwater lakes: permanent	0.7

The citation identifies the following factors which are considered to have a major impact on the site’s ecological character:

- Dredging (on-site and off-site)
- Erosion (on-site)
- Eutrophication (on-site and off-site)
- General disturbance from human activities (on-site)

Medway Estuary and Marshes SPA/ Ramsar Site Qualifying Features

The Medway Estuary and Marshes SPA is also important for migratory birds and additionally supports a number of breeding bird species. The site qualifies under Article 4.1 of the Birds Directive by regularly supporting breeding pied avocet (*Recurvirostra avosetta*), little tern (*Sterna albifrons*), common tern (*Sterna hirundo*), and overwintering Bewick swan (*Cygnus columbianus bewickii*) and pied avocet (*Recurvirostra avosetta*). It also qualifies under Article 4.2 of the Birds Directive by regularly supporting overwintering northern pintail (*Anas acuta*), northern shoveler (*Anas clypeata*), Eurasian teal (*Anas crecca*), Eurasian wigeon (*Anas Penelope*), ruddy turnstone (*Arenaria interpres*), dark-bellied brent goose (*Branta bernicla bernicla*), dunlin (*Calidris alpina alpina*), red knot (*Calidris canutus*), ringed plover (*Charadrius hiaticula*), oystercatcher (*Haematopus ostralegus*), black-tailed godwit (*Limosa limosa islandica*), curlew (*Numenius arquata*), grey plover (*Pluvialis squatarola*), common shelduck (*Tadorna tadorna*), greenshank (*Tringa nebularia*) and common redshank (*Tringa totanus*). There are internationally important assemblages of many of these species of waterfowl and also red throated diver (*Gavia stellate*), great crested grebe (*Podiceps cristatus*), cormorant (*Phalacrocorax carbo*), mallard (*Anas platyrhynchos*), common pochard (*Aythya farina*), lapwing (*Vanellus vanellus*) and curlew (*Numenius arquata*).

The Natura 2000 data reference document (<https://jncc.gov.uk/jncc-assets/SPA-N2K/UK9012031.pdf>) outlines the following general site character:

Habitat Class	% Cover
Bogs, marshes, water fringed vegetation, Fens	1.0
Humid grassland, Mesophile grassland	15.0
Inland water bodies (Standing water, Running water)	1.0
Salt marshes, salt pastures, salt steppes	15.0
Dry grassland, Steppes	1.0
Tidal rivers, Estuaries, Mud flats, Sand flats, Lagoons (including saltwork basins)	67.0
Total Habitat Cover	100.0

An assessment of threats and pressures identified the following issues as high rank for negative impacts:

- Changes in abiotic conditions (inside and outside)
- Changes in biotic conditions (inside and outside)
- Invasive non-native species (inside and outside)
- Outdoor sports and leisure activities, recreational activities (inside)

The Medway Estuary and Marshes Ramsar site is designated as supporting a number of species of rare plants and animals (including a number of nationally scarce plants), at least 12 British Red Data Book species of wetland invertebrates, and a significant number of non-wetland British Red Data Book species. It supports assemblages of waterfowl of international importance and a number of bird species of international importance, i.e. grey plover (*Pluvialis squatarola*), and common redshank (*Tringa totanus totanus*), dark-bellied brent goose (*Branta bernicula bernicula*), common shelduck (*Tadorna tadorna*), northern pintail (*Anas acuta*), ringed plover (*Charadrius hiaticula*), red knot (*Calidris canutus islandica*) and dunlin (*Calidris alpina alpina*). The black-tailed godwit (*Limosa limosa islandica*) has been identified subsequent to designation for possible future consideration as a bird species of international importance.

The full citation is available at: <https://jncc.gov.uk/jncc-assets/RIS/UK11040.pdf>.

The general overview of the site is described as “A complex of rain-fed, brackish, floodplain grazing marsh with ditches, and intertidal saltmarsh and mudflat. These habitats together support internationally important numbers of wintering waterfowl. Rare wetland birds breed in important numbers. The saltmarsh and grazing marsh are of international importance for their diverse assemblages of wetland plants and invertebrates.”

The citation identifies the following types of marine/coastal wetland:

Wetland Types	% Area
Tidal flats	58.3
Salt marshes	16.8
Seasonally flooded agricultural land	13.8
Other	9.3
Rivers / streams / creeks: permanent	1.2
Freshwater marshes / pools: permanent	0.4
Coastal brackish / saline lagoons	0.20
Sand / shingle shores (including dune systems)	0.02

The citation identifies the following factors which are considered to have a major impact on the site's ecological character:

- Water diversion for irrigation/domestic/industrial use (on-site and off-site)
- Dredging (on-site and off-site)
- Erosion (on-site)
- Eutrophication (on-site and off-site)
- Recreational/tourism disturbance (unspecified) (on-site)
- Transport infrastructure development (on-site and off-site)

European Site Conservation Objectives for the Thames and Medway Estuary and Marshes SPAs

The European Site Conservation Objectives for the both the Thames and Medway Estuary and Marshes Special Protection Areas are to:

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring:

- The extent and distribution of the habitats of the qualifying features
- The structure and function of the habitats of the qualifying features
- The supporting processes on which the habitats of the qualifying features rely
- The population of each of the qualifying features, and
- The distribution of the qualifying features within the site.

Studies

Studies carried out in 2011 and 2012⁸ found that there have been marked declines in the numbers of birds using the SPAs and Ramsar sites and that human disturbance is a potential cause of the declines. Additional dwellings are likely to result in increased recreational activity, causing disturbance to protected bird species that over-winter or breed on the SPAs and Ramsar sites. The studies found that 75% of recreational 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. The studies concluded that large scale residential development beyond 6km from the sites would also result in increased recreational use of the sites but smaller scale residential development could be potentially screened out as having no likely significant effect.

A further study⁹ (the Dartford Study) was carried out to consider the potential impacts of large developments in Dartford Borough on the SPAs and Ramsar sites. This found that a significant effect on the sites could not be ruled out for developments of more than 15 dwellings located within 6km and 10km of the sites. 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.

Assessment of Potential Significant Impacts

The impacts of recreational disturbance from residential developments of more than 15 dwellings 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.

⁸ Liley, D. & Fearnley, H. (2011) Bird Disturbance Study, North Kent 2010/11, Footprint Ecology; Fearnley, H. and Liley, D. (2011) North Kent Visitor Survey Results 2011, Footprint Ecology; Liley, D, Lake, S. & Fearnley, H. (2012) Phase I Bird Disturbance Report, Footprint Ecology

⁹ Liley, D. (2016) Large developments in Dartford and Implications for European Sites along the North Kent Coast, Footprint Ecology

A 6km to 10km Zone of Influence for the Thames Estuary and Marshes SPA and Ramsar site has been identified to establish which future large scale housing sites are likely to contribute to this recreational impact. The proposed development is located within this Zone of Influence.

Following a ruling by the European Court¹⁰, 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.

It is considered that the proposal would result in an effect on species which would have implications for the conservation objectives of the European sites from residential development. N.B. This text will be relevant in most cases but alternative text should be included if there is justification for screening out the proposal from the requirement for Appropriate Assessment in part 3.

It is not considered that the proposed development would result in an effect on any other species, which would have implications for the conservation objectives of the European sites, nor are there any implications which would affect the conservation objectives of the European sites for habitat types and species outside their boundaries.

<p>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?</p>	<p>To be completed by competent authority.</p>
<p>Would the proposal lead to a likely significant effect on the European sites, without mitigation measures either alone or in-combination?</p>	<p>YES/NO (if yes, continue to part 3)</p>

¹⁰ CJEU Ruling Case C-323/17

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.

In the event that the development has not been screened out under part 2 and the applicant has chosen to pay the tariff under mitigation option 1, the following text should be included. If the applicant is choosing mitigation options 2 or 3 then the applicant must provide alternative text and evidence to show that the proposed approach will meet the requirements set out above.

The project being assessed would result in a net increase of more than 15 dwellings within the 6km to 10km Zone of Influence for the Thames Estuary and Marshes SPA and Ramsar site. In line with policy DP25 of the Dartford Development Policies Plan 2017, based on the best available evidence, a permanent likely significant effect on the SPA and Ramsar site due to increased 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 SPA and Ramsar site, the development will need to include a package of avoidance and mitigation measures to reduce the frequency, duration and/ or the intensity of disturbance affecting roosting, nesting, foraging, feeding, moulting and/or loafing birds so that they are not significantly disturbed.

The 'Habitats Regulations and Large Sites in Dartford Borough – Guidance for Developers September 2021' (the Dartford Guidance) sets out the approach for large developments in Dartford Borough. The assessment below relates to the application of option 1 (payment of a tariff per dwelling) in mitigating the impacts of this project.

Strategic Access Management and Monitoring Strategy for the Thames, Medway and Swale Estuaries

The North Kent Strategic Access Management and Monitoring Strategy¹¹ (SAMMS) for the Thames, Medway and Swale Estuaries SPAs and Ramsar sites sets out measures to resolve disturbance issues to internationally important bird interest features on the European protected sites on the North Kent Marshes. For development within the identified Zone of Influence, the competent authority will use the collected tariff to help fund the following elements of the SAMMS:

- Rangers to provide wardening and visitor engagement;
- Interpretation and signage, particularly in honeypot locations; and
- Monitoring visitor activities, motivation and profile.

The suite of strategic mitigation measures are being delivered through the Bird Wise North Kent¹², a partnership of local authorities and conservation organisations, to ensure that development, considered in-combination, does not have an adverse effect on the integrity of the European sites. Dartford Borough Council is not a formal member of this partnership, given its location further away from the European sites. However, the Council recognises the value of the strategic mitigation measures set out in the SAMMS which are being delivered by Bird Wise North Kent in a coordinated way. The SAMMS includes a per dwelling tariff

¹¹ Liley, D. & Underhill-Day, J. (2013) Thames, Medway and Swale Estuaries – Strategic Access Management and Monitoring Strategy, Footprint Ecology

¹² Full details available at: <https://northkent.birdwise.org.uk/>

calculation 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. Option 1 of the Dartford Guidance enables developers to pay the competent authority 1/15th of the annual tariff applied by Bird Wise North Kent, i.e. currently 1/15th of £253.83 = £16.92 per dwelling. This scaled down tariff is justified in the Dartford Study to proportionately reflect the less frequent visit rates of those who live in dwellings in the Zone of Influence compared with development within 6km of the European sites.

Natural England has worked with the North Kent competent authorities to support them in preparing the SAMMS and the underpinning evidence base. Natural England has also agreed the approach set out in the Dartford Guidance. Natural England agree that the mitigation measures to ensure additional impacts from recreational disturbance to the SPAs and Ramsar sites set out in both the SAMMS and the Dartford Guidance are ecologically sound. As such, the applicant does not need to provide their own evidence base on these aspects. Evidence must be submitted showing that a mitigation contribution payment has either:

- Been made to the Borough Council to fund the relevant SAMMS measures through a Unilateral Undertaking; or
- Will be made through a section 106 agreement where Heads of Terms have been agreed and the agreement will be signed prior to any planning permission being granted.

The website of the project is: <https://northkent.birdwise.org.uk/>

It is considered by virtue of the existing funding secured since 2015 and the appointment of a Bird Wise Project Manager (carrying out duties since 201) that this has demonstrated the efficacy of the project in mitigating the identified effects. This is evidenced by the management plan and work on the project, information on which can be found on the 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

Competent authority to complete this section. Include the following text if the applicant is using mitigation option 1 (payment of a tariff per dwelling) and this will be used to fund the Bird Wise projects in the Strategic Access Management and Monitoring Strategy above. If alternative mitigation is proposed then different justification text should be set out instead.

Having considered the proposed mitigation and avoidance measures to be provided in perpetuity through the secured contribution to the access and monitoring measures, Dartford Borough Council concludes that, with mitigation, the project will have no adverse effect on the integrity of the Thames Estuary and Marshes SPA and Ramsar site.

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

Summary of Natural England Comments:	To be added following consultation by the competent authority.
Signed	Development Management Manager Dartford Borough Council

Appendix 4: SAMMS Tariffs (2023/24)

Type	Classes	Tariff 0-6km Full rate in 0-6km zone	Tariff 6-10km 1/15 th rate in 6-10km zone (£20.94 is 1/15 of £314.05) (Chargeable to developments of more than 15 units)
A – Dwellings	C3	£314.05 per dwelling	£20.94 per dwelling (Chargeable to developments of more than 15 dwellings)
B - Holiday Accommodation & Hotels	C1	£314.05 per holiday home and £314.05 per 5 hotel bedrooms	£20.94 per holiday home (Chargeable to developments of more than 15 units) and £20.94 per 5 hotel bedrooms (Chargeable to developments of 75 bedrooms and above)
C - Camp/Caravan Sites	Sui Generis	£314.05 per pitch/unit with a pro rata reduction for periods of enforced closure	£20.94 per pitch/unit with a pro rata reduction for periods of enforced closure (Chargeable to developments of more than 15 pitches/units)
D - Student Accommodation	C2/C3/C4/Sui Generis	If Sui Generis £314.05 per 5 student bedrooms, otherwise see rows A, E and F as applicable	If Sui Generis £20.94 per 5 student bedrooms, otherwise see rows A, E and F as applicable (Chargeable to developments of 75 student bedrooms and above)
E - Residential Institutions	C2	£314.05 per unit and otherwise on a case-by-case basis	£20.94 per unit and otherwise on a case-by-case basis (Chargeable to developments of more than 15 units)
F - Houses in Multiple Occupation	C4/Sui Generis	£314.05 per net increase in bedrooms	£20.94 per net increase in bedrooms (Chargeable to developments of more than 15 bedrooms)
G - Gypsy & Traveller and Travelling Show-person's Accommodation	Sui Generis	£314.05 per pitch	£20.94 per pitch (Chargeable to developments of more than 15 pitches/units)
H - Other Mobile & Temporary Dwellings	Sui Generis	£314.05 per dwelling with a pro rata reduction for periods of enforced closure	£20.94 per dwelling with a pro rata reduction for periods of enforced closure (Chargeable to developments of more than 15 units)