

**From:** [REDACTED]  
**To:** [Cleve Hill Solar Park](#)  
**Subject:** Additional submissions from CPRE Kent (ref 20022146)  
**Date:** 01 August 2019 16:45:22  
**Attachments:** [REDACTED]

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Dear Paige,

Thank you very much for confirmation of my earlier email.

I now attach our additional submissions for Deadline 3.

These comprise:

- A written statement from Richard Knox-Johnston concerning the Open Floor Hearing of 22<sup>nd</sup> July
- A further statement on biodiversity
- A written statement on aviation glare
- A statement on a recent SoS decision on an energy recovery facility, supported by a copy of the SoS's letter
- A statement on Climate Change and Carbon Sequestration, supported by a partial transcript of evidence given by the Chairman of Natural England to the Environmental Audit Committee on 23<sup>rd</sup> July. In view of the importance of this evidence, we repeat here our request to the Inspectors (included at the end of our attached statement) that Environment Agency and Natural England be invited to provide evidence on this subject.

Kind regards

Hilary

**Dr Hilary Newport**  
Director  
The Kent Branch of CPRE



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**From:** Cleve Hill Solar Park <CleveHillSolarPark@planninginspectorate.gov.uk>  
**Sent:** 01 August 2019 14:59  
**To:** Hilary Newport <hilary.newport@cprekent.org.uk>; Cleve Hill Solar Park <CleveHillSolarPark@planninginspectorate.gov.uk>  
**Subject:** RE: Written representations from CPRE Kent

Dear Hilary,

Thank you for submitting this to the Planning Inspectorate.

I can confirm safe receipt of the request. This will be published as soon as practicable once the deadline has passed.

Kind Regards,

Paige

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**From:** Hilary Newport [REDACTED]  
**Sent:** 01 August 2019 14:55  
**To:** Cleve Hill Solar Park <[CleveHillSolarPark@planninginspectorate.gov.uk](mailto:CleveHillSolarPark@planninginspectorate.gov.uk)>  
**Subject:** RE: Written representations from CPRE Kent

Dear Hefin

We will be making further submissions for Deadline 3 later today, but meanwhile we write to formally request that additional ISHs are scheduled covering (1) climate change and (2) the availability of alternative brownfield sites.

We also wish to record our support for GREAT's request for an ISH on the Setting of Heritage assets. We also endorse the Faversham Society's request for ISHs on the concerns over the Battery Energy Storage System and an additional hearing on Need, in the light of the recent publication of the National Grid Future Energy Scenarios report for 2019 (FES 2019).

Kind regards,

Hilary

**Dr Hilary Newport**  
Director  
The Kent Branch of CPRE



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**From:** Cleve Hill Solar Park <[CleveHillSolarPark@planninginspectorate.gov.uk](mailto:CleveHillSolarPark@planninginspectorate.gov.uk)>

**Sent:** 25 June 2019 16:31

**To:** Hilary Newport <[REDACTED]>

**Subject:** RE: Written representations from CPRE Kent

Dear Hilary,

Thank you for your deadline 2 submissions. These will be published once the deadline has passed.

Kind regards,

Hefin

Hefin Jones

Rheolwr Achos / Case Manager

Cynllunio Seilwaith Cenedlaethol / National Infrastructure Planning

Yr Arolygiaeth Gynllunio / The Planning Inspectorate, Temple Quay House,  
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Wê / Web: <https://infrastructure.planninginspectorate.gov.uk> (Cynllunio  
Seilwaith Cenedlaethol/National Infrastructure Planning)

Wê / Web: [www.gov.uk/government/organisations/planning-inspectorate](http://www.gov.uk/government/organisations/planning-inspectorate)  
(Gwaith achos ac apeliadau/Casework and appeals)

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**From:** Hilary Newport <[REDACTED]>

**Sent:** 25 June 2019 16:20

**To:** Cleve Hill Solar Park <[CleveHillSolarPark@planninginspectorate.gov.uk](mailto:CleveHillSolarPark@planninginspectorate.gov.uk)>

**Subject:** Written representations from CPRE Kent

Dear Cleve Hill Solar team,

Please find attached three Written Representations from CPRE Kent (ref 20022146) covering:

- Ecology and Biodiversity
- Flooding
- Hydrology.

The latter paper refers to two supporting documents from external organisations, both attached separately for ease of reference. I would be most grateful for acknowledgement of receipt.

Kind regards

**Dr Hilary Newport**

Director

The Kent Branch of CPRE



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National Infrastructure Planning  
Cleve Hill Solar Park  
CPRE Kent (Reference 20022146)

### CPRE Kent additional submission on biodiversity for deadline 3

#### Hazel dormouse (*Muscardinus Avellanarius*)

Supplementary to our written representation for Deadline 2: Further information on dormice on site.

Dormice are afforded full protection under Schedule 5 of the Wildlife and Countryside Act 1981, as amended. Protection to the species is also afforded by Schedule 2 of the Conservation (Natural Habitats &c) Regulations, 1994, making the hazel dormouse a European Protected Species. These two pieces of legislation operate in unison, however, there are some minor differences in scope and wording.

Under the provisions of Section 9 of the Wildlife & Countryside Act, it is an offence to:

- Intentionally kill, injure or take a dormouse;
- Possess or control and live or dead specimen or anything derived from a dormouse (unless it can be shown to have been legally acquired);
- Intentionally or recklessly damage, destroy or obstruct access to any structure or place used for shelter or protection by a dormouse;
- Intentionally or recklessly disturb a dormouse while it is occupying a structure or place which it uses for that purpose.

Schedule 2 of the Conservation (Natural Habitats, &c) Regulations, 1994 makes it an offence to:

- Deliberately capture or kill a dormouse;
- Deliberately disturb a dormouse;
- Damage or destroy a breeding site or resting place of a dormouse;
- Keep, transport, sell or exchange, or offer for sale or exchange a live or dead dormouse or any part of a dormouse.

Dormice are a Priority Species under the UK Biodiversity Action Plan (UK BAP) and has been adopted as a Species of Principal Importance in England under section 41 of the NERC Act 2006 (section 42 in Wales).

A single hazel dormouse nest has been found on site by a fully NE licensed biologist (MRSB) with over 15 years' experience in surveying for dormice and other small mammals and reptiles. The location of this nest lies within the Local Wildlife Site area (LWS) grid ref. TR602100 163600. Any Dormice present are likely to disperse across the site taking advantage of any suitable habitat. Suitable habitat is likely to include along ditch edges,

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scrub and linked farmland/countryside to the western boundary of the site, which is likely where the dormice emigrated from initially. Dormice are a material consideration in planning and therefore, a full dormouse presence, likely absence survey should be completed (although likely presence has been established) and suitable licenses from NE sought in the event of the solar farm proceeding.

### **Marsh harrier (*Circus aeruginosus*)**

Further evidence on marsh harrier predator pressure and behaviour.

**Question 4. CHS have produced no tangible scientific evidence to date that demonstrates that a 16m buffer either side of the ditch network is adequate to sustain the marsh harrier so far. Therefore, will CHS increase their 16m buffer citing any scientific evidence used?**

### **Status and protection**

In the UK marsh harriers are a protected species under Schedule 1 of the Wildlife and Countryside Act 1981, The Nature Conservation (Scotland) Act 2004 and are listed as Amber on the UK birds of conservation concern. It is an offence to intentionally take, injure or kill a marsh harrier or to take damage or destroy its nest, eggs or young. It is also an offence to intentionally or recklessly disturb the birds close to their nest during the breeding season and this can result in a fine up to £5,000 and/or a 6 months sentence.

Internationally marsh harriers are listed on Annex 1 of the Birds Directive and CITES and Appendix II of the Conservation of Migratory Species.

The European Commission cites loss of wetlands as one of the reasons for the marsh harriers' decline and why it is protected. <sup>1</sup> With only 10-15 pairs across the whole of Europe.

### **Predator-prey pressure**

CHS propose an 8m buffer zone on either side of ditches to serve as mitigation to replace the 1000 ha of farmland across the site that the marsh harrier currently employs. In our opinion this is not enough when considering the vast range marsh harriers require to hunt in. Home ranges can vary according to prey abundance.

L Cardator *et al* (2009)<sup>2</sup> state; '*Male home-range size exhibited large variation between Harriers. They go on to say; 'The marsh harrier, as with other birds of prey, is a long-lived species, usually having large home-ranges and few studies have attempted to determine its foraging area requirements....from 480 to 2000 ha for three adult harriers tracked on grasslands during winter and 349 ha for breeding and 1603 ha for non-breeding harriers tracked on grasslands....home-range size in raptors mainly depends on prey availability.*

www.birdwords.co.uk states that marsh harriers require a minimum of 100 ha of marsh land to hunt over during the breeding season.

During the accompanied site visit on the 24 July, two marsh harriers were clearly observed carrying out hunting behaviour over the farmland, thus enforcing further that the farmland area is utilized by the marsh harrier and its loss is likely to have a profound negative effect. By removing this land as hunting ground and forcing the marsh harrier to hunt along what is

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<sup>1</sup>

[https://ec.europa.eu/environment/nature/conservation/wildbirds/threatened/c/circus\\_aeruginosus\\_en.htm](https://ec.europa.eu/environment/nature/conservation/wildbirds/threatened/c/circus_aeruginosus_en.htm)

<sup>2</sup>

[https://www.researchgate.net/publication/230347946\\_Ranging\\_behaviour\\_of\\_Marsh\\_Harriers\\_Circus\\_aeruginosus\\_in\\_agricultural\\_landscapes](https://www.researchgate.net/publication/230347946_Ranging_behaviour_of_Marsh_Harriers_Circus_aeruginosus_in_agricultural_landscapes)

essentially a narrow corridor for its prey, is likely to put undue pressure on prey species. The predator prey balance is likely to negatively tip against prey species and in turn will negatively affect the validity of Graveney Marshes as an area able to successfully sustain this SPA species as it does currently, thus harming the integrity of the SPA. If total hunting area is reduced the predator will place a greater strain on the prey populations acting as a 'top down' control, pushing the prey into a state of decline. Therefore, both resources, such as food and nesting areas, together with predation pressure, negatively affect the size of prey populations.

Even with careful and intensive management to encourage prey species to occupy the 16m wide strips, it's questionable that will be enough to sustain the marsh harrier over extended periods of time, in this case 40 years, especially during breeding/nesting periods when the harriers are reluctant to forage far from their nests.

### **Marsh harrier behaviour**

Raptors: a field guide for surveys and monitoring<sup>3</sup> clearly maintain that '*nests are normally found in freshwater or brackish reed beds, in other wetlands with tall emergent vegetation and few or no trees, or in tall crops adjacent to a wetland.*' This guide also states that 86 per cent of nests surveyed between 1983-90 and 1995 were in reed beds, with 13 per cent in arable crops. This shows two things, (1) that farmland is important to the marsh harrier for hunting and nesting and (2) that undisturbed reed beds are vitally important for reproduction viability. Marsh harriers are extremely sensitive to human interference and disturbance and are likely to abandon their nests, indeed this guide warns of the dangers of desertion and recommends a distance of 300 – 500 m for monitoring purposes to avoid or minimise the risk of desertion. This is yet further evidence that a 16m buffer is not anywhere near enough set aside.

[www.birdwords.co.uk](http://www.birdwords.co.uk) states that the hunting method the marsh harrier adopts is to fly at low speeds and low height from the ground, called quartering, and then dive down once prey has been identified. This hunting behaviour requires manoeuvrability room and space in order to hunt successfully and effectively. The narrow corridor on offer by CHS will not be sufficiently wide enough to offer this space for manoeuvrability especially with the high fencing and even higher panels on either side also serving to restricting the harrier's peripheral vision.

To protect the integrity of the SPA and this SPA species into the future the only viable option is for the solar farm to be refused and for the MEAS to be implemented as planned.

### **Use of bird scarers during bird count days**

The below was copied from CPRE Kent's written representation for deadline 2.

'Page 43. 115. lists '*removal of bird scaring*' as mitigation. 119. states that the current landowner does not adopt any bird scaring activities. Therefore, how can it be 'removed' for mitigation if it does not exist in the first place?

The report also refers to section 9.8. When referring back to table 9.8 (Page 17) lapwing count, it was noted that bird scarers were in use when four of the seasonal bird counts took place, namely 2008/09, 2009/10, 2010/11, 2011/12, the same for the counts of golden plover and for brent geese. The use of bird scarers at the time are likely to have had a

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<sup>3</sup> <http://raptormonitoring.org/wp-content/uploads/2015/05/Raptors-2014-Marsh-Harrier.pdf>

negative effect on the count. Therefore, how can these years be taken into consideration when the desired effect of bird scarers is to displace birds? This calls into question the validity and accuracy of the peak mean count for these three species of bird and in turn the robustness of the number of bird days and subsequent mitigation. In a nutshell, the bird count for these three bird species could be grossly understated especially as CHS wish to use the same mitigation area for all three species even though the proposed mitigated area *'falls short of the requirement for lapwing...'*

For instance; the peak mean count for brent geese including the seasons with bird scarers is 468 birds, the peak mean count without the seasons with bird scarers, namely 2012/13, 2013/14, 2014/15, 2015/16, 2016/17 is 645.'

CPRE Kent has nothing more to add other than it seems that the absolute bare minimum (if even accurate) for bird numbers has been met by CHS. This does not fit with the Government's plans for a net gain and/or even a 10% improvement on biodiversity. Improvement means better than before, currently we are looking at a net loss for biodiversity.

DEFRA has published an Environment Bill summer policy Statement: July 2019 which sets out how it intends to take forward its biodiversity net gain proposals in a new Environment Bill that was announced in this year's spring statement.

The intention is that a mandatory 10 per cent gain will be introduced, which it is thought will strike the right balance between ambition in achieving environmental outcomes and deliverability and costs for developers<sup>4</sup>.

### **Bird Deaths on solar farms**

Whilst the research around bird fatalities caused by solar farms is sketchy at best, there is some research indicating that solar farms do indeed have a significant part to play in bird deaths. Whether by causing a lake effect, glint and glare or affecting prey species such as aquatic insects, more research is needed. However, a publication written by Sammy Roth (2017)<sup>5</sup> attempts to take a closer look at this issue.

Entitled: How many birds are killed by solar farms? It looks at various solar farm data mainly on desert terrain. As the CHS farm project is intended for land extremely close and adjacent to a marine environment, birds will be expecting to land on water. If indeed they mistake the vast area of solar panels to be a water body than it is highly likely they will attempt to land and subsequently crash onto the panels. This may happen during the day but equally at night if the moon is reflecting off the panels. To date CHS has not produced any tangible evidence at all that these collisions will not occur and all though current evidence is limited it is indicative that birds crashing into solar panels is a substantial risk factor and has occurred on desert located panels. Logically, this would strongly suggest that any panels beside a large water body such as the sea with marine birds flying in and out and over the marshes could potentially increase the likelihood of collisions further.

CPRE Kent's biologist did attempt to address an unscientific comment made by CHS at the Issue Specific Hearing on Biodiversity, (but was missed by the inspector), which was, that

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<sup>4</sup> <https://www.gov.uk/government/publications/draft-environment-principles-and-governance-bill-2018/environment-bill-summer-policy-statement-july-2019>

<sup>5</sup> <https://eu.desertsun.com/story/tech/science/energy/2016/08/17/how-many-birds-killed-solar-farms/88868372/>



the lack of evidence/research around bird collisions on solar panels somehow equates to CHS finding the risk of collision to be insignificant. CPRE Kent would like to emphasise that lack of evidence/research means we don't know what the risk of collision could be, and this lack of research should not be interpreted as insignificant. However, indications of written evidence so far are, that it is more likely to be significant, not insignificant as CHS claim.