

**From:** [REDACTED]  
**To:** [Cleve Hill Solar Park](#)  
**Subject:** Natural England's Deadline 4 Submission  
**Date:** 30 August 2019 22:58:27  
**Attachments:** [REDACTED]

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Dear Cleve Hill case team,

Please find attached Natural England's responses to the ExA's 2<sup>nd</sup> written questions. I hope they are helpful in progressing the Examination.

I'd also like to confirm that I will attend the ISH 6 on Environmental Matters on 11 September.

Regards,

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In an effort to reduce Natural England's carbon footprint, I will, wherever possible, avoid travelling to meetings and attend via audio, video or web conferencing.

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EN010085 Cleve Hill Solar Park

Natural England's Deadline 4 Submission

Answers to the Examining Authority's Second Written Questions

ExQ2	Question to:	Question:	Answer:
2.1.5	Natural England Kent Wildlife Trust	The Applicant has provided a schedule for the sowing and establishment of the Arable Reversion Habitat Management Area grassland at section 16 of the Deadline 3 Outline LBMP [REP3-005]. Does the Outline LBMP now include sufficient information about methods, monitoring, triggers and adaptive management to satisfy your previous concerns over this, and does the Outline LBMP now properly secure the early sowing of grass that was considered necessary to avoid an adverse effect on integrity of The Swale SPA and Ramsar site [REP3-082]?	<p>Natural England will continue to work with the Applicant and provide detailed comments on the LBMP.</p> <p>Key points regarding the AR HMA are set out here:</p> <p>Ground preparation:</p> <ul style="list-style-type: none"><li>• Sub-soiling, to alleviate compaction before seed bed preparation, should be added to section 15.3.1.</li></ul> <p>Seed mix:</p> <ul style="list-style-type: none"><li>• Table 7.1 AR HMA Grassland Mix should be amended. Saltmarsh grass is inappropriate and a more diverse mix of grasses is recommended: rye grass + other bents and fescues e.g. <i>Festuca rubra</i>.</li><li>• Whilst white clover is good for foraging brent geese, the mix could include some red clover as beneficial for pollinators.</li></ul> <p>Monitoring</p> <ul style="list-style-type: none"><li>• Wintering bird surveys between Sept and March in years 1, 2, 3, 5, 10 and 20 is appropriate.</li><li>• Paragraph 350 does not specifically state that marsh harrier surveys will be in the same years, but we consider the same timings appropriate.</li><li>• Habitat surveys to check grassland establishment are proposed in the same years. This may be appropriate for formal surveys by an ecologist, however the grazier will</li></ul>

			<p>need to respond to annual variations in conditions to adjust the grazing pressure.</p> <ul style="list-style-type: none"> <li>• Table 3 on p.25 states that the ecologist has responsibility for the water control structures, visiting at the same frequency as above. However, an annual inspection to respond to annual changes in water levels may be necessary, which need not be undertaken by an ecologist.</li> </ul> <p>Timing of grassland establishment</p> <ul style="list-style-type: none"> <li>• Paragraph 317 states that 'grassland will be established in advance of the first winter before construction is due to commence'. However, Section 16 shows that for some construction start timetables, the grassland will be sown after construction, although before the winter when birds will arrive.</li> </ul> <p>Triggers and adaptive management</p> <ul style="list-style-type: none"> <li>• Triggers should be included for wintering waterbirds as well as marsh harriers.</li> <li>• The remedial measures included on page 80 seem to be related to wintering waterbirds. However there are no remedial actions included to address the triggers identified for marsh harriers.</li> <li>• The LBMP should set out how often the HMSG should meet and how often the group should be sent monitoring reports, to enable feedback. In the first year or two, quarterly reports and feedback may be necessary to advise on remediation in a timely manner. Adaptive management is reliant on and timely and effective feedback from the HMSG, so should remain flexible.</li> </ul>
2.1.6	Natural England	The Applicant has provided more information about grazing management in the Arable Reversion Habitat Management Area and the	Confirmation at paragraph 40 of the LBMP [REP3-005] that stock proof fencing will be used to allow different grazing

	Kent Wildlife Trust	inter-array grassland in the Deadline 3 Outline LBMP [REP3-005]. Does this allay your previous concerns over the lack of detail about this?	<p>regimes in the areas alongside the ditches and between the arrays is helpful.</p> <p>Low intensity grazing is set out in the LBMP, but choosing livestock type (sheep or cattle and specific breeds) is likely to require forward planning to identify competent graziers. This was highlighted at the HMSG meeting on 23 August 19, and should be addressed in the LBMP. Timings for putting stock on and off the different grazing areas should also be included.</p>
2.1.7	Natural England Kent Wildlife Trust	In the Deadline 3 Outline LBMP [REP3-005], the Applicant has provided more information about how the establishment and condition of the Arable Reversion Habitat Management Area and the inter-array grassland will be monitored. Do you believe there is sufficient detail about monitoring, triggers and adaptive management now, and that the outline monitoring proposals are sufficient?	See Natural England's answers to 2.1.5. More detail is required on triggers and adaptive management, and we will work with the Applicant to achieve this.
2.1.8	Natural England Kent Wildlife Trust	Overall, does your view remain that the LBMP could be an appropriate means of securing the monitoring of the Habitat Management Areas and any adaptive management necessary? Considering the Deadline 3 updated version of the Outline LBMP [REP3-005], do you believe that there is now sufficient detail in relation to the monitoring, targets and triggers for remedial action? Is there now sufficient detail about water level management across the whole site, wetland management, and on the SSSI enhancement proposals?	<p>With the provisos set out under 2.1.5, an adaptive management strategy is the best way forward under the guidance of the HMSG. The LBMP could be an appropriate means of securing this.</p> <p>There is still little detail of the water management proposed for the AR HMA. Similarly there is no detail on any enhancements planned for the SSSI; e.g. reprofiling of existing topography to enhance wet features, earth bunds on footdrains to hold back water during seasonal flooding.</p> <p>Natural England will continue to work with the Applicant to resolve these issues of detail.</p>

2.1.10	Natural England	Does the Deadline 3 SPA CNMP [REP3-008] provide the additional information that you were seeking in relation to the 55dB contour, and do you have any other comments about the Deadline 3 Outline SPA CNMP?	The Deadline 3 SPA CNMP [REP3-008] provides the information regarding the 55dB contour and wintering additional information, and you are seeking additional information in relation to the 55dB contour. Therefore, Natural England's view is that the mitigation measures set out in the SPA CNMP [REP3-008] and the Bird Protection Plan, at Appendix B of the CEMP [REP3-006] are sufficient to avoid an adverse effect on the integrity of the SPA during construction.
2.1.11	Natural England The Applicant	Natural England's Deadline 3 letter dated 31st July 2019 [REP3-082] followed up discussions at the Biodiversity Issue Specific Hearing about avoiding the use of fertiliser within 10m of the ditch system, and if this has any effect on the carrying capacity of the Arable Reversion Habitat Management Area for Brent geese. The Applicant suggested at the Hearing that non-application of fertiliser close to the ditches makes a difference of 300 goose-days. Natural England wished to receive the supporting calculations in writing: given this was set out at Table 2.17 of the Applicant's responses to Written Representations [REP3-020], is there any progress on agreement, and will it be included in the Statement of Common Ground?	The calculations set out in Table 2.17 of the Applicant's responses to Written Representations [REP3-020] are welcomed and cover the points made at the ISH. Natural England considers that the difference of 360 goose-days when taking into account the unfertilised buffer along the ditches is not significant in the context of the number of goose-days supported by the whole AR HMA. This is included in the Statement of Common Ground to be submitted by the Applicant at Deadline 4.
2.1.12	The Applicant Natural England	At Table 2.17 (refs 32 and 33) of the Applicant's responses to Written Representations [REP3-020] there is additional information about combining golden plover and lapwing days in response to questions, including one from Natural England in its Written Representation [REP2-096] and Deadline 3 submission. Could Natural England please comment on whether this resolves any	In our Written Representation, Natural England highlighted four areas of uncertainty surrounding the wader calculations: <ol style="list-style-type: none"> <li>1. That the lapwing and golden plover days can be combined so that the over provision for golden plovers can make up for the shortfall for lapwings.</li> <li>2. There is no lapwing/golden plover-days figure for pasture, so the calculation of mitigation land requirements is based on work on arable land in Norfolk.</li> </ol>

		<p>of the uncertainties regarding lapwing and golden plover, as set out?          Can the Applicant please submit to the Examination the communication with Dr Gillings that confirms he considers it appropriate to combine the lapwing and golden-plover days?</p>	<p>3. Will intensive management for geese hinder lapwings and golden plovers from getting at soil invertebrates?          4. The Gillings <i>et al</i> (2007) study found that lapwings and golden plovers were concentrated in a few fields, therefore if they averaged over the whole area, the bird days would be much lower.</p> <p>Subject to confirmation from Dr Gillings, the first uncertainty is resolved, in that the bird-days for lapwings and golden plovers can be combined. This would result in around 33ha of mitigation land being required for the combined wader populations.</p> <p>The second uncertainty cannot be entirely resolved as there is no experimental data for the number of wader days supported by brent goose pasture.</p> <p>The Applicant's responses to Written Representations [REP3-020] (refs 32 and 33) demonstrate that lapwings and golden plovers will use pasture with a short, dense sward. Therefore, intensive management for geese will not necessarily hinder foraging lapwings and golden plovers. However, the references cited indicate that old pastures are preferred over new. Therefore, foraging waders in old pastures may be exploiting a wider range of invertebrate prey than will be available in the AR HMA (where earthworms are likely to be the main prey item). Use of ivermectin-free manure will be important in improving the invertebrate biomass of the AR HMA.</p> <p>The final uncertainty listed above is reduced by the fact that lapwings and golden plovers were recorded during pre-application surveys using the fields that will make up the AR HMA.</p>
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2.1.17	Natural England	<p>At paragraph 3.2.6 of its Written Representation [REP2-096], Natural England raised concern that the Outline Breeding Bird Protection Plan stated that construction in the areas near the Swale SPA will be avoided “<i>where practicable</i>” during the bird breeding season and that “<i>This may not be fully achievable</i>”. After further discussions, Natural England acknowledged that the Applicant's intention around ‘<i>where practicable</i>’ was to avoid restricting construction activities that do not exceed the threshold. Now that the Deadline 3 Outline Breeding Bird Protection Plan [REP3-006] has been provided, is Natural England content that the revised wording provides greater clarity and certainty?</p>	<p>Natural England is now content that the updated Breeding Bird Protection Plan [REP3-006] is clear regarding mitigation measures, and that these measures are sufficient to avoid an adverse impact on breeding birds.</p>
2.1.18	Natural England	<p>In its Relevant Representation [RR-826], Natural England sought the addition of measures to the LBMP to promote more extensive reedbed development. The Deadline 3 Outline LBMP [REP3-005] includes measures for the creation of reedbeds at 13.6.1. Is Natural England content with these proposals?</p>	<p>Natural England is content with the proposals to create reedbed between the AR HMA and the solar array, as set out in the Deadline 3 Outline LBMP [REP3-005].</p>

2.4.17	Natural England	<p>At the Biodiversity Issue Specific Hearing, the ExA asked Natural England whether it believed that draft Requirement 13 in the dDCO was necessary, given the existence of the statutory protection and licensing schemes for European protected species, or whether it was considered duplication. As a follow-up question, the ExA asked that, if Natural England considered such a Requirement to be necessary, whether it should be extended to species protected under domestic legislation. Natural England offered to take these questions away and to respond at Deadline 3. This does not seem to form part of Natural England's Deadline 3 response, so could an opinion be provided please?</p>	<p>Apologies for this omission in Natural England's Deadline 3 submission.</p> <p>Whilst draft Requirement 13 in the dDCO could be seen as duplication, Natural England's view is that it is helpful to include it. Given this position, the Requirement should be extended to species protected under domestic legislation, for consistency.</p>
2.8.17	Natural England	<p>Please can the Applicant provide an update regarding the progress of the proposed England Coast Path?</p>	<p>The England Coast Path (ECP) proposals for Whitstable to Iwade stretch, which includes the application site, were submitted to the Secretary of State in June 2017. A subsequent Court of Justice of the European Union (the CJEU) ruling in the case of People Over Wind and Sweetman vs Coillte Teoranta (ref: C 323/17) affected how Natural England should assess the impact of proposals on European sites, and led to the need to produce a Habitats Regulation Assessment for the stretch. This has meant that progress has slowed and a decision on this stretch has not yet been made.</p>