

The Planning Inspectorate
Temple Quay House
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Bristol
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BS1 6PN

Our ref: KT/2016/121730/01
Your ref: EN020017
Registration ID: 10032057
Date: 8 September 2016

Dear Sir/Madam

Application for the Richborough Connection Project comprising the installation of a 400kV electricity connection (overhead line) between Richborough and Canterbury, Kent.

Please find enclosed our response to the Examining Authority's second written questions.

If you have any questions please contact me using the details below.

Yours sincerely

Jo Beck – Sustainable Places Specialist
Environment Agency – Kent, South London and East Sussex Area

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Ref no.	Respondent	Question	Environment Agency response
2	Biodiversity and geological conservation		
		<i>European and other protected species</i>	
Q2.2.25	Applicant The Environment Agency	<p>The response to Q1.2.55 is noted, which confirms that where full ecological surveys have not been possible to date for water vole and otter, they would be undertaken to support Flood Risk Activity Permitting (FRAP) applications.</p> <p>Could the results of the verification surveys affect the conclusions of the ES assessment?</p> <p>Is there a risk that any further mitigation measures which might be required through the FRAP process may not be compatible with the mitigation strategy secured in the DCO?</p>	<p>It is not thought likely that the verification surveys will affect the conclusions of the ES assessment. The presence of water voles has been considered by the applicant and their preferred approach involves avoidance of risk i.e. works will not usually be carried out in high risk or water vole occupied areas. In this way, there is no need for time-consuming water vole mitigation work, which would also require a Protected Species licence from Natural England. The applicant is also prepared for the eventuality that they cannot avoid water voles.</p> <p>Although otters are known to be moving through the wider catchment, it is extremely unlikely that any traces of them will be found in the project area. Again, a low risk / avoidance approach will ensure no harm and no delay to the project.</p> <p>As long as this low risk avoidance approach is adopted at all sites, mitigation incompatible with the mitigation strategy is unlikely. If there was a need to change, then this could result in delays but not a significant change to the programme.</p>
		<i>Mitigation and enhancement</i>	
Q2.2.38	Joint Councils The Environment Agency Natural England The Kent Wildlife Trust Other Interested Parties	Provide any further comments on the Applicant's updated BMS [REP3-004], and where relevant to biodiversity matters in the updated CEMP [REP2-007].	<p>The amendments made to the updated BMS [REP3-004] appear to include details requested by us. There is, however, reference to Section 15.8 in Section 15.3.1 of the document. It is assumed that this reference should be to Section 15.6.</p> <p>We have no further comments on the updated CEMP [REP2-007].</p>
3	Broad Oak		

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		Respondents should note that if a question in this section is already answered in one of the post-hearing actions also to be submitted at Deadline 4, then a reference to that document with paragraph number(s) will suffice in response to the question(s) below.	
		<i>Impacts of the proposed development on the proposed Broad Oak reservoir</i>	
Q2.3.2	The Environment Agency Natural England	Please provide comments on the Applicant's 'Response to South East Water's report Review of Alternative RCP Routes in Area of Interaction with Proposed Reservoir Scheme – July 2016' [REP3-019, Appendix 5] indicating any areas of concern and provide comments on the Applicant's views expressed on the potential for the two proposed developments to co-exist.	We have no specific comments. The design principles for the Sarre Penn realignment and fish pass [REP3-039] submitted for deadline 3 outline our broad requirements to ensure that construction of the Richborough Connection Project is not pursued in such a way which may prevent the construction of the Broad Oak Reservoir by precluding necessary mitigation under the Water Framework Directive, Salmon and Freshwater Fisheries Act 1975, Water Resources Act 1991 (as amended) and the Eels Regulations 2009. We are unable to be prescriptive about how these principles are met.
Q2.3.3	The Environment Agency Natural England	Please provide comments on the Applicant's Deadline 2 submission (the Mott MacDonald Report) [REP2-017, Appendix F] and SEW's response to the Mott Macdonald Report [REP3-036, Appendix 4.1, Appendix 1]? Indicating any areas of concern and provide comments on the Applicant's views expressed on the potential for the two proposed developments to co-exist.	We have no specific comments. The design principles for the Sarre Penn realignment and fish pass [REP3-039] submitted for deadline 3 outline our broad requirements to ensure that construction of the Richborough Connection Project is not pursued in such a way which may prevent the construction of the Broad Oak Reservoir by precluding necessary mitigation under the Water Framework Directive, Salmon and Freshwater Fisheries Act 1975, Water Resources Act 1991 (as amended) and the Eels Regulations 2009. We are unable to be prescriptive about how these principles are met.
Q2.3.6	Applicant Canterbury City Council The Environment Agency Natural England South East Water	Whilst SEW's response to Q1.7.67 [REP2-098] is caveated with reference to the taking on board of the SEW Alternatives, there is a wider point regarding the necessary approvals for agreeing a planting scheme in the proposed reservoir area. Does the Applicant agree that planting (mitigation and enhancement) associated with all of SEW's land (or some of	It is likely that the Applicant (or their contractors) will require a Flood Risk Activity Permit for planting within 8 metres of non-tidal main river or within 16 metres of tidal main river. As such we will require more details about the planting scheme for all riparian land affected by SEW's proposals (realignment, fish pass and river beyond to the point it re-joins the original course of the Sarre Penn) and information on how this planted land will be managed.

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		<p>SEW's land associated with the reservoir) is an area where more certainty of design is desirable and should it also be subject to future approvals including NE and the EA as well as the relevant Local Authority?</p> <p>Do the Applicant and SEW consider securing a method of approval resolves the issues raised in the Jacobs response to the Mott MacDonald comment in SEW's response to the Applicant's Deadline 2 submissions [REP3-036, Appendix 4.1, ref 3.4.2.8]?</p> <p>If so, the Applicant is invited to propose suitable wording for the DCO and /or the LHES.</p> <p>The views of CCC, the EA and NE are sought.</p>	<p>Natural England's views with respect to tree planting undertaken to enhance the Blean Woods SSSI complex should also be sought.</p>
<p>Q2.3.20</p>	<p>The Environment Agency</p>	<p>The EA states that the riparian environment on the realigned Sarre Penn should be continuous with shading and that it is keen to see a connected environment [REP3-039, hearing comments summary]. Is the EA of the view that continuous shading is necessary to avoid deterioration in the Water Framework Directive status of the watercourse in the context of its existing characteristics?</p>	<p>It is important to remember that a natural riparian corridor of any watercourse is not a static, unchanging structure. Natural processes dictate that, over time (decades to centuries), the corridor should change as the river meanders, sediment moves along the river course and trees grow, die, fall into the river and decompose.</p> <p>The upper reaches of the Sarre Penn (above the secondary dam) benefit from natural active river processes (meandering, sediment transport etc.) and considerable (heavy to dappled with some breaks) shading.</p> <p>For SEW to be able to demonstrate that they have recreated the Sarre Penn in a comparable condition and so comply with the Water Framework Directive, these elements need to be replicated on the realignment and on the fish pass sections. This means that a continuous riparian corridor over most of the affected length of the Sarre Penn will be required. Shading from the canopy of adjacent trees and marginal</p>

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			vegetation to include large and over-hanging shrubs will need to feature in the design.
Q2.3.22	The Environment Agency	What times of year are the migratory trout and eels likely to be migrating [REP3-039, Sarre Penn realignment design principles, reservoir fish pass]?	<p>In the Stour catchment, some Migratory Sea Trout move throughout the year but this usually peaks from October to January, sometimes extending to the end of April. This will depend on the weather and river flows. Resident Brown trout move in and along the river throughout the year.</p> <p>Elvers (young eels) usually migrate from January to April (movement is related to lunar cycles) and Silver Eels may migrate at any time of the year.</p> <p>Resident fish, for example Bull Head (an Environment Agency Priority Species) which move throughout the year and the supporting living and non-living environment should also be considered.</p>
		<i>Environmental Impact Assessment</i>	
Q2.3.24	The Environment Agency	<p>In responding to Q1.2.23 regarding the scope of the biodiversity receptors considered in the cumulative assessment EA stated "<i>The scope of impacts and receptors have been reviewed and it appears that all of those of interest to the Environment Agency have been included individually and in the cumulative assessment.</i>"[REP2-060].</p> <p>EA also referred to ID 3.4.2 of their SoCG with the Applicant [REP2-020] (also in the updated version, [REP3-009]), which does not raise any further concerns regarding scoping out of receptors for cumulative assessment. The ExA notes that one matter is still outstanding in the earlier and updated SoCG with the Applicant [REP3-009] at ID 4.1.1 is the "<i>Cumulative effects of the Richborough development and</i></p>	<p>Environmental effects in our Deadline 3 submission [REP3-039] should refer to the required necessary mitigation to realign part of the Sarre Penn to allow the construction of Broad Oak Reservoir. As explained in REP3-039 mitigation will be required under the Water Framework Directive, Salmon and Freshwater Fisheries Act 1975, Water Resources Act 1991 (as amended) and the Eels Regulations 2009.</p>

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		<p><i>the proposed Broad Oak Reservoir on WFD status of the Sarre Penn.”</i></p> <p>In EAs Deadline 3 submission it states “As previously indicated in meetings with National Grid, the Environment Agency considers that National Grid should have assessed the environmental effects of the proposed Broad Oak Reservoir cumulatively with those of the Richborough Connection Project... Specifically, this assessment would ensure that construction of the Richborough Connection Project is not pursued in such a way which may prevent the construction of the Broad Oak Reservoir by precluding necessary mitigation under the Water Framework Directive, Salmon and Freshwater Fisheries Act 1975, Water Resources Act 1991 (as amended) and the Eels Regulations 2009.” [REP3-039].</p> <p>Can you clarify if the “environmental effects” to which EA refers in Deadline 3 submission [REP3-039] solely comprise the WFD status of the Sarre Penn as stated in the SoCG. If not, explain precisely which other potential effects (if any) and what other receptors (if any) EA consider the Applicant’s cumulative assessment in its ES should have considered and why, relating this to the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 and any relevant guidance and/ or advice.</p>	
<p>Q2.3.25</p>	<p>The Environment Agency</p>	<p>Has the environmental information submitted by both the Applicant and SEW during the</p>	<p>We understand the relationship between the two schemes, specifically where the Sarre Penn realignment will be required and do not require</p>

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		<p>course of the Examination assisted the EA in understanding the relationship between the two schemes in the proposed location of the Sarre Penn diversion? Is any further clarity required to be provided by either party to assist you in understanding the potential effects? If so what?</p>	<p>further clarification. Our interest is focused on ensuring that construction of the Richborough Connection Project is not pursued in such a way which may prevent the construction of the Broad Oak Reservoir by precluding necessary mitigation under the Water Framework Directive, Salmon and Freshwater Fisheries Act 1975, Water Resources Act 1991 (as amended) and the Eels Regulations 2009. We are unable to be prescriptive about how this is achieved as long as the design principles for the Sarre Penn realignment and fish pass [REP3-039] are met.</p>
Q2.3.34	The Environment Agency	<p>The signed SoCG appears to suggest that the EA had agreed that effects on the water environment, in relation to the WFD status of the Sarre Penn during the operational phase, could be scoped out of the EIA cumulative assessment [REP3-009, secn 4.1.1]. Is this correct? If so, when?</p>	<p>We have not agreed that the effects on the water environment, in relation to the WFD status of the Sarre Penn during the operational or construction phase, can be scoped out of the EIA cumulative assessment. As shown in our SoCGs with National Grid (latest version submitted for deadline 3 [REP3-009]) this remains a matter still to be agreed. We first raised this at a meeting with National Grid in April 2015. Any agreements about the EIA have always been made in general terms, separate to the need to assess the cumulative effects of the Richborough Connection Project on the required mitigation to allow the construction and operation of Broad Oak Reservoir. We have continued to encourage the applicant to consider these cumulative effects. This was reaffirmed in our post hearing note [REP3-039].</p>
		<i>Policy</i>	
Q2.3.36	The Environment Agency	<p>The EA has set out the reasons why the proposed Broad Oak reservoir is an important strategic supply option identified within SEW's WRMP 2014 [REP3-009]. In this context are there any exemptions to meeting the Water Framework Directive (WFD) which might apply?</p>	<p>The Water Framework Directive provides an exemption in Article 4.7 (see http://tinyurl.com/hdfjaej) for specific activities that will result in failure of the status or potential ('health') of a waterbody to improve or that may cause the health of a waterbody to deteriorate. For Article 4.7 to apply, four specific conditions relating to the River Basin Management Plan (RBMP) and need for the development must also be met.</p> <p>As it is currently possible for SEW to devise and implement a plan for Broad Oak Reservoir that does not result in either failure to achieve good health or failure to prevent deterioration in the health of the waterbody,</p>

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			<p>and as the four specific conditions of the RBMP cannot be met, Article 4.7 cannot apply.</p> <p>By extension, if any work is proposed that is likely to cause SEW to implement plans that cause failure of a waterbody to achieve good health or failure to prevent deterioration of the health of a waterbody, then it is the Environment Agency's role to require the developers to prepare a solution that does not bring either situation about.</p>
5	Draft Development Consent Order		
	<p>Respondents should note that if a question in this section is already answered in one of the post-hearing actions also to be submitted at Deadline 4, then a reference to that document with paragraph number(s) will suffice in response to the question(s) below.</p>		
		<i>Schedule 3 - Requirements</i>	
Q2.5.12	<p>Applicant The Environment Agency IDB</p>	<p>Requirement 12 - Reinstatement Schemes Notwithstanding the fact the Environment Agency (EA) has indicated enhancement measures would be agreed outside the DCO as part of the Land Drainage Consent Process; and mindful of NPS EN-1, paras 5.3.4 and 5.3.18, do parties consider there is a case for the specific reinstatement proposals for removal of temporary culverts that benefit elvers?</p> <p>The EA has suggested these as enhancement measures (response to Q1.2.64 [REP2-009]) secured in Requirement 12, or included in the CEMP or the BMS. If they are not secured in the DCO, should these be included in the Landscape and Habitat Enhancement Scheme (LHES)?</p>	<p>We have discussed reinstatement options for temporary culverts with the IDB's Engineer and agreed that, in principle, reinstatement should be pursued in every case subject to any site specific limitations.</p> <p>As the proposed enhancements (e.g. 'scalloping' ditch banks with a digger to create low level ledges rather than raising them with a digger to reinstate steep banks) are likely to entail little extra or even less work at minimal cost, it is hoped that these enhancements will be considered to be beneficial and deliverable whilst considering the financial constraints under which the applicant must operate.</p>

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		The EA is requested to provide an update on its discussions with the River Stour (Kent) IDB regarding the afore-mentioned reinstatement proposals.	
11	Water Issues		
		<i>Environmental Statement – Chapter 13 (Water environment) [APP-030]</i>	
Q2.11.1	The Environment Agency	When is new data published for Cycle 2 of the WFD assessments of the SE River Basin District likely to be available [APP-030, para 13.5.52]?	<p>The data for Cycle 2 of the WFD assessment of the SE River Basin District has been published and can be accessed from the Catchment Data Explorer at http://environment.data.gov.uk/catchment-planning/.</p> <p>In addition we have provided the applicant with the updated Water Body Improvement Plan (WIP) for the Sarre Penn and River Wantsum (dated May 2016). This will be updated again shortly and can be provided to the applicant.</p>
12	Other matters		
		<i>Construction effects</i>	
Q2.12.17	The Environment Agency, Internal Drainage Board, Kent County Council NFU	<p>You are requested to provide any comments on the plans and strategies referred to in Appendix C Plan [REP3-23] including:</p> <ul style="list-style-type: none"> • Soil and Aftercare Plan • Drainage Management Plan • Pollution Incident Control Plan • Lighting Scheme • Site Waste Management Plan • Travel Plan 	<p>We note that sections 2.3.7 and 2.3.9 refers to culvert design. We understood that there were to be no new culverts installed as part of the scheme (as agreed in section 3.2.6 of our SoCG [version 2] with National Grid dated 4 August 2016). If culverts are to be installed we would like to discuss this with the applicant as soon as possible as this will have biodiversity and flood risk implications.</p> <p>We have other comments at this stage. We will review relevant plans when consulted.</p>
		<i>Environmental Statement</i>	
Q2.12.22	The Environment Agency, Kent	Are parties content that the Applicant has provided appropriate evidence to demonstrate	We have no comments on the effects of noise and vibration, visual effects, traffic movements and congestion as these are not within our

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	County Council, Canterbury City Council, Dover District Council, Thanet District Council	where intra-project effects have been considered in its response to Q1.12.17 [REP2- 016]?	areas of concerns. We are content that the applicant has appropriately considered dust and lighting and have asked that we are able to review relevant plans once prepared (see Q2.12.17).
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