

# The Lake Lothing (Lowestoft) Third Crossing Order 201[\*]

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Lake Lothing  
**THIRD  
CROSSING**

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## **Document SCC/LLTC/EX/3: Response to Section 51 Advice**

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**Planning Act 2008**

**The Infrastructure Planning (Examination Procedure) Rules 2010**

PINS Reference Number: TR010023

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# 1 Introduction

## 1.1 Document Purpose

1.1.1 On 9 August 2018 the Secretary of State accepted an application for development consent for the Lake Lothing Third Crossing (“the Scheme”) made by Suffolk County Council (“the Applicant”).

1.1.2 In a letter of the same date the Planning Inspectorate issued advice under section 51 of the Planning Act 2008 (“s51 Advice”), alongside the Scheme’s section 55 Acceptance of Applications Checklist (“the checklist”).

1.1.3 The Examining Authority (“ExA”) was appointed on 15 October 2018 and on 6 November 2018 issued its Rule 6 letter. That letter outlined that the Applicant was requested to submit its response to the s51 Advice to Deadline 1, proposed to be 12 December 2018.

1.1.4 This document fulfils that request.

## 1.2 Response to s51 Advice

1.2.1 The Applicant’s response to the s51 advice, as it relates to specific documents, is presented in Table 1-1 below.

1.2.2 The s51 advice also stated:

*The Applicant is advised that the appointed ExA may request for the provision/ preparation of detailed technical plans and elevations for the design of the bridge, the bridge abutments and the control tower to inform the examination of design matters*

1.2.3 Paragraph 1.3.4 of the Applicant’s Design Report (document reference 7.5/PINS document reference APP-123) states:

*In preparation for the DCO application, a “reference design” has been developed. This is a design that is intended to demonstrate a feasible solution for the Scheme while recognising the need to include flexibility for further development in detailed design within the parameters of the Environmental Statement (“ES”) (document reference 6.1) and Limits of Deviation (“LoD”) provided for in the DCO.*

1.2.4 The Applicant has recently appointed a Design and Build contractor for the Scheme whose role it is to prepare ‘detailed technical plans and elevations’ as part of the detailed design process. The detailed design process will not be concluded until some time after the close of the Examination, as such the precise details of the Scheme would not be confirmed until that time.

1.2.5 Consequently, the Applicant is seeking development consent for a reference design to provide the appointed contractor sufficient flexibility to deliver the Scheme in an efficient and affordable manner, but with appropriate controls placed on future design decisions.

1.2.6 The Environmental Statement (document reference 6.1/PINS document reference APP-136) at paragraph 5.2.8 confirms that it is the reference design that has been

assessed. The subsequent paragraphs 5.2.9 and 5.2.10 alongside Table 5-2 explain how the Applicant has taken account of PINS Advice Note Nine: Rochdale Envelope (“AN9”).

1.2.7 AN9 sets out at paragraph 1.2 that:

*The ‘Rochdale Envelope’ approach is employed where the nature of the Proposed Development means that some details of the whole project have not been confirmed (for instance the precise dimensions of structures) when the application is submitted, and flexibility is sought to address uncertainty*

1.2.8 AN9 goes on to advise at paragraph 1.4 that where flexibility is sought the Applicant should ensure that this is set out in consultation material, is explained and accounted for in the Environmental Statement and that there is consistency across the application documents.

1.2.9 The Applicant can confirm that the notion of and application of the Rochdale Envelope was explained in the Preliminary Environmental Information Report (see paragraphs 1.2.22 and 6.2.2 therein (document reference 5.4, Appendix 4/PINS document reference APP-057). The Applicant can also confirm (as noted above) that the Rochdale Envelope has been fully assessed in the Environmental Statement and consistently across other relevant documents, and is appropriately secured by the draft Development Consent Order (DCO) and associated plans.

1.2.10 The Applicant recognises that where flexibility is sought in the Application it is appropriate to have mechanisms in place to ensure that subsequent refinements of the design which may have a bearing on third party interests are properly considered.

1.2.11 The Design Report at paragraphs 6.2.4 to 6.2.5 explains:

*There will also be components of the Scheme for which the design are fixed in principle, or may developed within a set of design parameters defined by the Design Guidance Manual (“DGM”). The requirements to the draft DCO secure a detailed design that must be in general accordance with the DGM.*

*To ensure that the design quality is maintained through the detailed design, the Vision for the Scheme will continue to be followed through the guidance contained in the DGM. A draft of the Design Guidance Manual can is included in the application (document reference 7.6). The Design Guidance Manual is being developed by the Applicant in consultation with Waveney District Council and Suffolk County Council. The Applicant’s intention is to continue to develop the Design Guidance Manual to reflect those discussions such that a final version will be submitted prior to the close of the Examination.*

1.2.12 As such the Applicant maintains that through Requirement 3 of the draft DCO (document reference 3.1/PINS document reference APP-005) a high quality design for the Scheme is secured. The Applicant would also refer to the Statement of Common Ground between it and Suffolk County Council and Waveney District Council (document reference SCC/LLTC/EX/5) which confirms that the host Local Planning Authorities are in agreement with the Applicant on this point.

- 1.2.13 The Applicant intends to submit an updated Design Guidance Manual to Deadline 3 but would note that the draft submitted with the application already begins to deal with the issues raised by the Examining Authority.
- 1.2.14 The Applicant notes that Statutory Undertakers, for example the Harbour Authority also benefit from rights of plan approval in their Protective Provisions (Schedule 13 of the dDCO) insofar as the Scheme interacts with their statutory undertaking.
- 1.2.15 In summary, the Applicant considers that the plans accompanying the application for development consent present an appropriate basis for the assessment and consideration of the Scheme proposals and the effects of which are presented in the Environmental Statement.
- 1.2.16 That said, the Applicant is of course willing to assist the ExA within any technical queries it may have in relation to the plans that have been submitted.

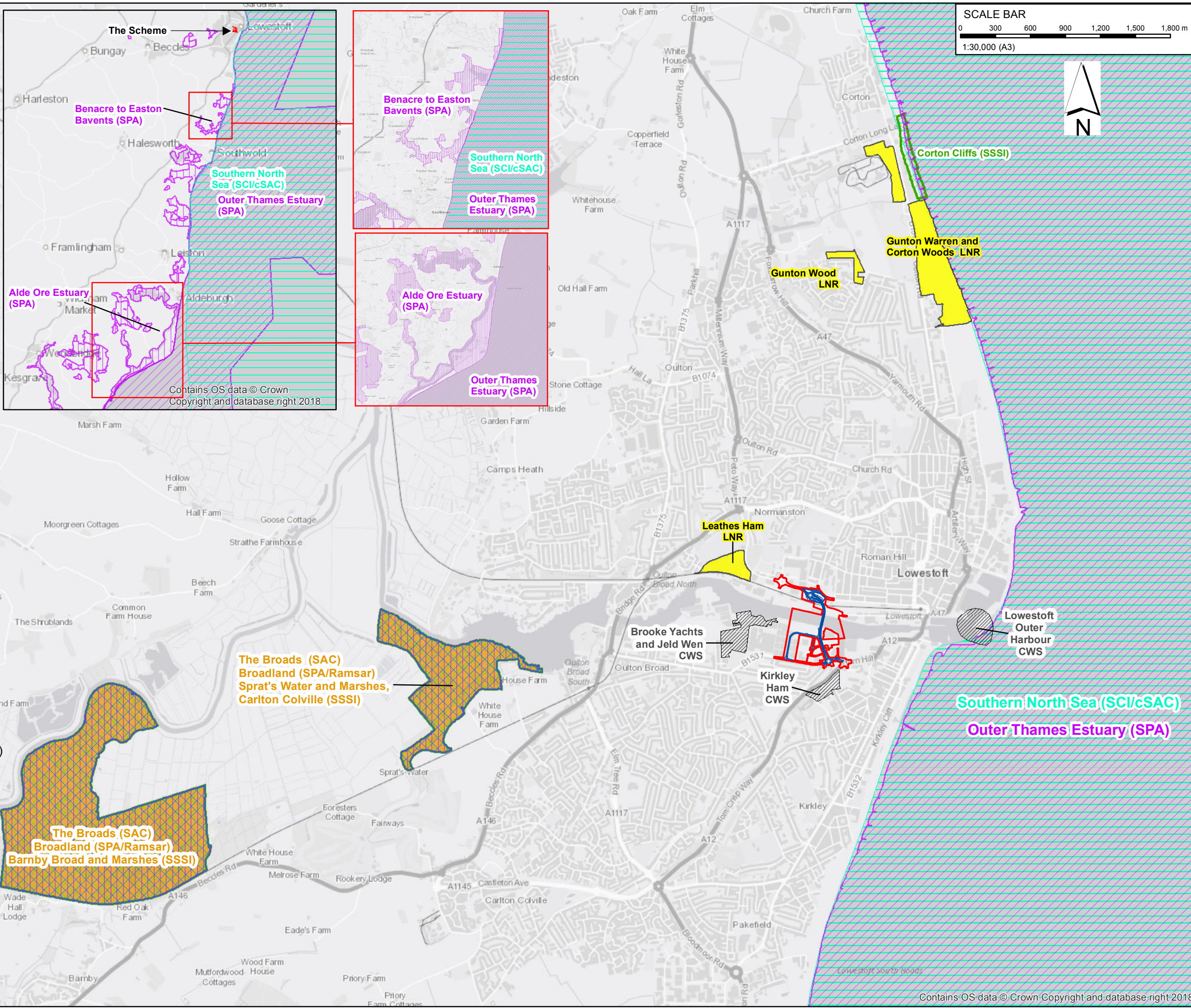


Table 1-1 – Response to s51 Advice

Application document reference	Application Document Title	S51 Advice	Response
6.1	Environmental Statement	Reference is made in Chapter 11 of the Environmental Statement (ES) to Figure 11.7, although no such plan appears to have been included with the application documents. The appointed Examining Authority (ExA) is likely to request for the plan to be provided, or otherwise seek confirmation that the references made to it in the ES are in error, early in the Pre-examination stage.	As confirmed in the Errata document (SCC/LLTC/EX/4), references to Figure 11.7 should instead make reference to Figure 1 on Page 4 of the Benthic Survey Report (Appendix 11F) to the Environmental Statement (document 6.3/ PINS document reference APP-188).
6.1 and 6.5	Environmental Statement and Habitats Regulations Assessment Report	None of the plans provided in the application documents show all of the designated nature conservation sites identified in the ES and the Habitats Regulations Assessment (HRA) Report. The appointed ExA is likely to request for a plan consolidating these sites to be provided early in the Pre-examination stage.	A Figure is appended to this submission
6.5	Habitats Regulations Assessment Report	It is noted that the HRA Report contains Screening Matrices for the European sites considered in the assessment. The appointed ExA is likely to request for Integrity Matrices for the European sites carried forward to the appropriate assessment stage to be provided early in the Pre-examination stage. This advice is reflected in the Planning Inspectorate's Advice Note Ten: Habitats Regulations Assessment:  <a href="https://infrastructure.planninginspectorate.gov.uk/legislation-and-advice/advice-notes/">https://infrastructure.planninginspectorate.gov.uk/legislation-and-advice/advice-notes/</a>	The Applicant has submitted an updated HRA Report, which addresses these points (document SCC/LTC/EX/6), submitted alongside this document.
6.5	Habitats Regulations Assessment Report	Reference is made in the HRA Report to Figure 1, although no such figure appears to have been included with the application documents. The appointed ExA is likely to request for the figure to be provided, or otherwise seek confirmation that the references made to it in the HRA Report are in error, early in the Pre-examination stage.	This figure is included in the updated HRA Report (document SCC/LTC/EX/6), submitted alongside this document.

Application document reference	Application Document Title	S51 Advice	Response
3.1	Draft Development Consent Order	The appointed ExA is likely to request for the Applicant to provide a validated Word version of the Draft DCO, free from errors and omissions, early in the Pre-examination stage.	The Applicant notes that this has not been requested in the Rule 6 letter. A fully correct version of the DCO will be submitted at Deadline 3. For clarity, the Applicant confirms that the current 'Error' noted in the DCO should read '(1)'.
5.1 and 5.2	Consultation Report	<p>In respect of section 42(1)(a) prescribed persons, it appears on the basis of the information provided by the Applicant that the potentially relevant persons identified in Box 6 of the Checklist were not consulted at the Pre-application stage.</p> <p>Unless there is a good reason in each case why the Applicant considers that these persons are not relevant to the Proposed Development, the Applicant is advised to include these persons, or their appropriate successors, in its s56 notification exercise or to otherwise proactively draw their attention to the Relevant Representation period. The Applicant is advised to ensure that an up to date and inclusive database is available for its future notifications in the course of the examination, and beyond.</p>	<p>Box 6 of the Checklist noted the following omissions in the Applicant's statutory consultation.</p> <ul style="list-style-type: none"> <li>• Energy Assets Networks Limited</li> <li>• Energy Assets Power Networks Limited</li> <li>• Fulcrum Electricity Assets Limited</li> <li>• Leep Electricity Networks Limited (although it is noted that the Applicant consulted Peel Electricity Networks Limited)</li> <li>• Murphy Power Distribution Limited</li> <li>• Vattenfall Networks Limited</li> <li>• Cambridgeshire and Peterborough Combined Authority</li> </ul> <p>The Applicant can confirm that all of the above parties were notified of the Acceptance of the application under s56(2)(a) of the Planning Act 2008.</p>

## Figure 1 – Designated Ecological Sites



SCALE BAR  
0 300 600 900 1,200 1,500 1,800 m  
1:30,000 (A3)



- KEY**
- The Scheme (illustrative)
  - Order Limits
  - Site of Special Scientific Interest (SSSI)
  - Special Protection Areas
  - Outer Thames Estuary (SPA)
  - Ramsar
  - County Wildlife Site (CWS)
  - SCI/Candidate Special Area of Conservation (cSAC)
  - Special Areas of Conservation
  - Local Nature Reserve (LNR)

The Outer Thames Estuary SPA Proposed Extension area was included within the ES and HRA Report, although the areas of the proposed extension has now been incorporated by DEFRA with the SPA. The extension area is not shown on this plan as it is outside of the extent of this figure, and therefore due to their distance from the Scheme its inclusion within the full SPA does not materially affect the assessment that is presented. Corton Cliffs SSSI is designated for its geological interest and therefore has not been considered within the ecological assessment.

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REVISION	DRAWN	CHECKED	APPROVED	DATE



**PROJECT TITLE**  
Lake Lothing  
**THIRD CROSSING**

**DRAWING TITLE**  
Designated Ecological Sites  
SCC/LLTC/EX/2 – Figure 1

**DRAWING STATUS**  
For Examination

DRAWN	CHECKED	APPROVED	AUTHORISED	SUITABILITY
IW	HR	HR	JB	S4

SCALE @ A3 SIZE	DATE	REVISION
1:30,000	13/11/2018	P00

DRAWING NUMBER			
Project	Originator	Volume	
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Location	Type	Role	Number

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