

**Lower Thames Crossing
6.3 Environmental Statement
Appendices
Appendix 6.17 – Cultural Heritage
Legislation and Policy**

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Lower Thames Crossing

6.3 Environmental Statement Appendices Appendix 6.17 – Cultural Heritage Legislation and Policy

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1 Cultural Heritage legislation and policy framework

1.1 Legislation and Policy

1.1.1 The Cultural Heritage assessment has been undertaken in accordance with relevant legislation, together with national, regional and local plans and policies.

Legislation

1.1.2 Relevant legislation that has been considered in the environmental assessment is presented in Table 1.1. The Planning Statement (Application Document 7.2) provides an assessment of the Project’s strategic alignment and conformity with the National Policy Statement for National Networks (NPSNN).

1.1.3 A number of the sources of legislation referred to throughout the ES, including this chapter, derive from the law of the European Union (EU). It is noted that the impact of European legislation may need to be revised following the UK’s exit from the EU but much EU-derived domestic legislation continues to have effect in domestic law. Relevant legislation is included in Table 1.1.

Table 1.1 Legislative requirements

Scale	Description of Legislation
National	<p>Environment Act 2021</p> <p>The Environment Act has two main functions:</p> <ol style="list-style-type: none"> 1. To give a legal framework for environmental governance in the UK. 2. To bring in measures for improvement of the environment in relation to waste, resource efficiency, air quality, water, nature and biodiversity, and conservation. <p>The majority of the Act does not make any immediate changes for organisations other than regulators.</p> <p>The Environment Act does not currently present specific legislative requirements relevant to cultural heritage. Further requirements may be implemented through secondary legislation to be made under this Act in the future, and the Project will respond as required.</p>
National	<p>Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regulations)</p> <p>Regulation 5(2)(d) of the EIA Regulations states that the EIA must identify, describe and assess the direct and indirect significant effects of the Project on material assets, cultural heritage and the landscape. Paragraph 2 of Schedule 3 of the EIA Regulations confirms that particular regard must be had to the environmental sensitivity of geographical areas likely to be affected by the development, and to the absorption capacity of landscapes and sites of historic, cultural or archaeological significance. Paragraph 4 of Schedule 4 of the EIA Regulations also lists cultural heritage, including architectural and archaeological aspects, as an element that must be described in Environmental Statements.</p>
National	<p>Planning Act 2008</p> <p>The requirement for consents and notifications under the Planning (Listed Buildings and Conservation Areas) Act 1990 and the Ancient Monuments and</p>

Scale	Description of Legislation
	Archaeological Areas Act 1979 are disapplied by the Planning Act 2008 and therefore do not apply to works for which development consent is required. The requirements of these Acts would be addressed by the Development Consent Order (DCO) examination process. However, any works to be carried out during the pre-application assessment and design process would be subject to these Acts, to the extent that the works engage the requirements of these Acts.
National	<p>Ancient Monuments and Archaeological Areas Act 1979</p> <p>Provides statutory protection to any structure, building, works or areas considered to be of particular historic or archaeological interest or importance and regulates any activities which may affect such structures, buildings, works or areas. Under the 1979 Act, consent must be obtained for any work that is carried out on a scheduled monument or which would result in the demolition, destruction or damage of a scheduled monument. Under the 1979 Act, notice must also be served on relevant local authorities prior to undertaking works on land of archaeological importance.</p>
National	<p>Planning (Listed Buildings and Conservation Areas) Act 1990</p> <p>Provides special protection to buildings and areas of special architectural or historic interest. It makes provision for the listing of buildings of special architectural or historic interest, designation of Conservation Areas, and the exercise of planning functions in relation to them. It requires local planning authorities to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses (sections 16 and 66) and to pay special attention to the desirability of preserving or enhancing the character or appearance of Conservation Areas (section 72). Listed building consent is required for any demolition or alteration to the structure of a listed building or its curtilage before any works begin.</p>
National	<p>Protection of Military Remains Act 1986</p> <p>This provides protection for the wreckage of any crashed military aircraft and designated military vessels. It describes a mechanism for obtaining a licence to remove such remains.</p>

Policy

- 1.1.4 National policies are presented in Table 1.2, with the Project response to these requirements. Where there is duplication of requirements presented in the various relevant National Policy Statements, these have been combined and a single Project response to the policy issue is provided in the table.
- 1.1.5 Table 1.3 presents regional and local policies that have been considered during the development of the Project and the DCO application.
- 1.1.6 Further detail on policy compliance can be found in the Planning Statement (Application Document 7.2).

Table 1.2 National policy framework and the Project response

Reference	Requirement	Project response
National Policy Statement for National Networks (NPS NN) (Department for Transport, 2014)		
Paragraph 5.124 (Broadly consistent with NPS EN-1 paragraph 5.8.4 and 5.8.5)	<i>'Non-designated heritage assets of archaeological interest that are demonstrably of equivalent significance to Scheduled Monuments, should be considered subject to the policies for designated heritage assets. The absence of designation for such heritage assets does not indicate lower significance.'</i>	The significance of all heritage assets has been determined in Appendix 6.1: Cultural Heritage Desk-based Assessment (Application Document 6.3) and summarised in Section 6.4 of this chapter. This has identified any archaeological assets of equivalent value to scheduled monuments.
Paragraph 5.125 (Broadly consistent with NPS EN-1 paragraph 5.8.6)	<i>'The Secretary of State should also consider the impacts on other non-designated heritage assets (as identified either through the development plan process by local authorities, including 'local listing', or through the nationally significant infrastructure project examination and decision-making process) on the basis of clear evidence that the assets have a significance that merit consideration in that process, even though those assets are of lesser value than designated heritage assets.'</i>	The significance of all heritage assets has been determined in Appendix 6.1: Desk-based Assessment (Application Document 6.3) and summarised in Section 6.4 of this chapter. This chapter identifies the non-designated heritage assets that may be impacted by the Project, and the magnitude of impacts and likely significance of effects are reported in Section 6.6 of this chapter and Appendix 6.10: Assessment Tables (Application Document 6.3).
Paragraph 5.126 (Broadly consistent with NPS EN-1 paragraph 5.8.10)	<i>'Where the development is subject to EIA the applicant should undertake an assessment of any likely significant heritage impacts of the proposed project as part of the Environmental Impact Assessment and describe these in the environmental statement.'</i>	This chapter identifies the heritage assets that may be impacted by the Project, the nature of any impacts, predicts the magnitude of impacts and the likely significance of effect, in line with the Design Manual for Roads and Bridges (DMRB) LA 104 (Highways England, 2020b) and LA 106 (Highways England, 2020a).
Paragraph 5.127 (Broadly consistent with NPS EN-1 paragraph 5.8.8 and 5.8.9)	<i>'The applicant should describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the asset's importance and no more than is sufficient to</i>	Information regarding the historic environment baseline is presented in Section 6.4 of this chapter and has been obtained from relevant sources including Historic Environment Records (HERs).

Reference	Requirement	Project response
	<p><i>understand the potential impact of the proposal on their significance. As a minimum the relevant Historic Environment Record should have been consulted and the heritage assets assessed using appropriate expertise. Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, the applicant should include an appropriate desk-based assessment and, where necessary, a field evaluation.'</i></p>	<p>The significance of all heritage assets included in the assessment is presented in Appendix 6.1: Desk-based Assessment (Application Document 6.3) and summarised in Section 6.4 of this chapter, including any contribution made by their setting.</p> <p>Written Schemes of Investigation (WSIs) for geophysical survey and archaeological trial trenching (Application Document 6.3, Appendices 6.11 and 6.12) have been agreed with heritage stakeholders and the results of evaluation are presented as appendices to the Environmental Statement (ES) (Application Document 6.3, Appendix 6.7 and Appendix 6.8). The information regarding heritage assets generated by the evaluation, including their significance, is assessed in this chapter.</p>
<p>Paragraph 5.128 (Broadly consistent with NPS EN-1 paragraph 5.8.11)</p>	<p><i>'In determining applications, the Secretary of State should seek to identify and assess the particular significance of any heritage asset that may be affected by the proposed development (including by development affecting the setting of a heritage asset), taking account of the available evidence and any necessary expertise from:</i></p> <ul style="list-style-type: none"> <i>• relevant information provided with the application and, where applicable, relevant information submitted during examination of the application;</i> <i>• any designation records;</i> <i>• the relevant Historic Environment Record(s), and</i> 	<p>A Cultural Heritage Desk-based Assessment is included as Appendix 6.1 (Application Document 6.3) to this ES, assessing the value (significance) of all heritage assets, including the contribution made by their setting. Information on heritage assets has been obtained from designation records, relevant HERs, other desk-based and archival sources, through field evaluation and informed by consultation with relevant stakeholders. This chapter assesses the potential effects of the Project in relation to the value of the heritage assets.</p>

Reference	Requirement	Project response
	<p><i>similar sources of information;</i></p> <ul style="list-style-type: none"> <i>representations made by interested parties during the examination; and</i> <p><i>expert advice, where appropriate, and when the need to understand the significance of the heritage asset demands it.'</i></p>	
<p>Paragraph 5.129 (Broadly consistent with NPS EN-1 paragraph 5.8.12)</p>	<p><i>'In considering the impact of a proposed development on any heritage assets, the Secretary of State should take into account the particular nature of the significance of the heritage asset and the value that they hold for this and future generations. This understanding should be used to avoid or minimise conflict between their conservation and any aspect of the proposal.'</i></p>	<p>The significance of all heritage assets included in the assessment is presented in Appendix 6.1: Cultural Heritage Desk-based Assessment (Application Document 6.3) and summarised in Section 6.4 of this chapter. The chapter identifies the likely significance of effects of the Project, taking into account the value of heritage assets and the magnitude of impact. This assessment also considers the setting of the asset.</p>
<p>Paragraph 5.130 (Broadly consistent with NPS EN-1 paragraph 5.8.13)</p>	<p><i>'The Secretary of State should take into account the desirability of sustaining and, where appropriate, enhancing the significance of heritage assets, the contribution of their settings and the positive contribution that their conservation can make to sustainable communities – including their economic vitality. The Secretary of State should also take into account the desirability of new development making a positive contribution to the character and local distinctiveness of the historic environment. The consideration of design should include scale, height, massing, alignment, materials, use and landscaping (for example, screen planting).'</i></p>	<p>Assessment and design review have been undertaken to investigate opportunities for the Project to make a positive contribution to the character and local distinctiveness of the historic environment. This has also aimed to ensure that, as far as feasible, the design and landscaping are sympathetic to, and in keeping with, the character and local distinctiveness of the historic environment in order to minimise or remove adverse effects. This is presented in the Design Principles (Application Document 7.5) or as features presented on Figure 2.4: Environmental Masterplan (Application Document 6.2).</p>
<p>Paragraph 5.131</p>	<p><i>'When considering the impact of a proposed development on the significance of a designated</i></p>	<p>The assessment (Section 6.6 of this chapter) identifies the level of impact on designated</p>

Reference	Requirement	Project response
<p>(Broadly consistent with NPS EN-1 paragraph 5.8.14)</p>	<p><i>heritage asset, the Secretary of State should give great weight to the asset's conservation. The more important the asset, the greater the weight should be. Once lost, heritage assets cannot be replaced and their loss has a cultural, environmental, economic and social impact. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Given that heritage assets are irreplaceable, harm or loss affecting any designated heritage asset should require clear and convincing justification. Substantial harm to or loss of a grade II Listed Building or a grade II Registered Park or Garden should be exceptional. Substantial harm to or loss of designated assets of the highest significance, including World Heritage Sites, Scheduled Monuments, grade I and II* Listed Buildings, Registered Battlefields, and grade I and II* Registered Parks and Gardens should be wholly exceptional.'</i></p>	<p>heritage assets and whether there is a risk of substantial harm or total loss. The design has been developed to avoid or reduce impacts on designated heritage assets, as described in Chapter 3: Assessment of Reasonable Alternatives of the ES, through an iterative design process. While the NPSNN divides designated heritage assets into those of 'the highest significance' and those which are therefore of lesser significance (value), guidelines associated with the latest version of DMRB, groups these assets together as 'high value' regardless of their level of designation. The value of Grade II listed buildings and Registered Parks and Gardens has been assessed on a case-by-case basis, with a presumption of their being high value in DMRB terms and of equivalent value with the higher listing grades unless there is a clear reason against this. This takes a precautionary approach to avoid underrepresenting significance of effects.</p>
<p>Paragraph 5.132 (Broadly consistent with NPS EN-1 paragraph 5.8.15)</p>	<p><i>'Any harmful impact on the significance of a designated heritage asset should be weighed against the public benefit of development, recognising that the greater the harm to the significance of the heritage asset, the greater the justification that will be needed for any loss.'</i></p>	<p>The assessment (Section 6.6 of this chapter) identifies the level of impact on designated heritage assets through assessment of the magnitude of impact, determined based on the degree to which this would affect the value (significance) of heritage assets. This is expressed as either adverse or beneficial. The design has been developed to avoid or reduce impacts on designated heritage assets, as described in Chapter 3: Assessment of Reasonable Alternatives of this ES, through an iterative design process. The Need for the</p>

Reference	Requirement	Project response
		Project (Application Document 7.1) and Chapter 3 of the Planning Statement (Application Document 7.2) explains the need for the Project and the public benefits that the Project would provide to justify the harm to designated heritage assets.
Paragraph 5.133 (Broadly consistent with NPS EN-1 paragraph 5.8.15)	<p><i>‘Where the proposed development would lead to substantial harm to or total loss of significance of a designated heritage asset, the Secretary of State should refuse consent unless it can be demonstrated that the substantial harm or loss of significance is necessary in order to deliver substantial public benefits that outweigh the loss or harm, or alternatively that all of the following apply:</i></p> <ul style="list-style-type: none"> • <i>the nature of the heritage asset prevents all reasonable uses of the site; and</i> • <i>no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and</i> • <i>conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and</i> • <i>the harm or loss is outweighed by the benefit of bringing the site back into use.’</i> 	The assessment (Section 6.6 of this chapter) identifies the level of impact on designated heritage assets through assessment of the magnitude of impact, determined based on the degree to which this would adversely affect (harm) the value (significance) of heritage assets, in order to identify any total loss of value/substantial harm. The design has been developed to avoid or reduce impacts on designated heritage assets, as described in Chapter 3: Assessment of Reasonable Alternatives of this ES, through an iterative design process. The Need for the Project (Application Document 7.1) sets out the business case for the Project and Chapter 3 of the Planning Statement (Application Document 7.2) explains the substantial public benefits that the Project would provide that justify the loss or harm to designated heritage assets.
Paragraph 5.134	<p><i>‘Where the proposed development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.’</i></p>	This assessment (Section 6.6 of this chapter) identifies the level of impact on designated heritage assets and the magnitude of this impact to their value (significance). The design has been developed to avoid or reduce impacts on designated heritage assets, as

Reference	Requirement	Project response
		described in Chapter 3: Assessment of Reasonable Alternatives. The Need for the Project (Application Document 7.1) and Chapter 3 of the Planning Statement (Application Document 7.2) set out the business case and need for the Project and explain the public benefits that the Project would provide.
Paragraph 5.135 (Broadly consistent with NPS EN-1 paragraph 5.8.16)	<i>'Not all elements of a World Heritage Site or Conservation Area will necessarily contribute to its significance. The Secretary of State should treat the loss of a building (or other element) that makes a positive contribution to the site's significance either as substantial harm or less than substantial harm, as appropriate, taking into account the relative significance of the elements affected and their contribution to the significance of the Conservation Area or World Heritage Site as a whole.'</i>	The Cultural Heritage Desk-Based Assessment (Appendix 6.1, Application Document 6.3) provides descriptions and assessments of value (significance) for any Conservation Areas potentially affected by the Project. The assessment (Section 6.6 of this chapter) takes this into account in determining impact and significance of effect. There are no World Heritage Sites that could experience an impact from the Project and therefore they are not included in the assessment.
Paragraph 5.136 (Broadly consistent with NPS EN-1 paragraph 5.8.17)	<i>'Where the loss of significance of any heritage asset has been justified by the applicant based on the merits of the new development and the significance of the asset in question, the Secretary of State should consider imposing a requirement that the applicant will prevent the loss occurring until the relevant development or part of development has commenced.'</i>	The field evaluation necessary to determine the character and value of heritage assets within the Order Limits will, by its nature, have some physical impact on buried archaeological remains. However, any mitigation in the form of excavation to preserve by record, or physical impacts to built heritage, would only occur once the DCO was granted.
Paragraph 5.137	<i>'Applicants should look for opportunities for new development within conservation areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive</i>	The iterative design process and development of mitigation has considered opportunities for enhancement and preservation of positive aspects of setting, where feasible. The assessment (Section 6.6 in this chapter) takes any embedded, good practice or essential mitigation

Reference	Requirement	Project response
	<i>contribution to or better reveal the significance of the asset should be treated favourably.'</i>	into account. Chapter 3: Assessment of Reasonable Alternatives of this ES, documents the design process, and embedded mitigation is documented in the Design Principles (Application Document 7.5) or as features presented on Figure 2.4: Environmental Masterplan (Application Document 6.2).
Paragraph 5.138	<i>'Where there is evidence of deliberate neglect of or damage to a heritage asset the Secretary of State should not take its deteriorated state into account in any decision.'</i>	No specific Project response required.
Paragraph 5.140 (Broadly consistent with NPS EN-1 paragraph 5.8.20)	<i>'Where the loss of the whole or part of a heritage asset's significance is justified, the Secretary of State should require the applicant to record and advance understanding of the asset and its significance before it is lost (wholly or in part). The extent of the requirement should be proportionate to the importance and impact. Applicants should be required to deposit copies of the reports with the relevant Historic Environment Record. They should also be required to deposit the archive generated in a local museum or other public depository willing to receive it.'</i>	Proposed mitigation measures are described in this chapter (Section 6.5) and Appendix 6.9: Outline Archaeological Mitigation Strategy (Application Document 6.3). The Applicant will adhere to the requirements for the archiving of any reports and physical material.
Paragraph 5.142 (Broadly consistent with NPS EN-1 paragraph 5.8.22)	<i>'Where there is a high probability that a development site may include as yet undiscovered heritage assets with archaeological interest, the Secretary of State should consider requirements to ensure that appropriate procedures are in place for the identification and treatment of such assets discovered during construction.'</i>	The potential for undiscovered heritage assets with archaeological interest is identified in the Cultural Heritage Desk-based Assessment (Appendix 6.1, Application Document 6.3) and through field evaluation and is assessed in this chapter (Section 6.6). Proposed mitigation measures are described in this chapter (Section 6.5) and Appendix 6.9: Outline Archaeological Mitigation Strategy (Application

Reference	Requirement	Project response
		Document 6.3) and secured through a requirement of the DCO.
Overarching National Policy Statement for Energy (NPS EN-1) (Department of Energy and Climate Change, 2011a)		
Paragraph 5.8.18	<i>'When considering applications for development affecting the setting of a designated heritage asset, the IPC should treat favourably applications that preserve those elements of the setting that make a positive contribution to, or better reveal the significance of, the asset. When considering applications that do not do this, the IPC should weigh any negative effects against the wider benefits of the application. The greater the negative impact on the significance of the designated heritage asset, the greater the benefits that will be needed to justify approval.'</i>	This assessment (Section 6.6 of this chapter) identifies any impacts that would occur due to change to the setting of a designated heritage asset that affects its value (significance). The design has been developed to avoid or reduce impacts on designated heritage assets, as described in Chapter 3: Assessment of Reasonable Alternatives. The Need for the Project (Application Document 7.1) and Chapter 3 of the Planning Statement (Application Document 7.2) set out the business case and need for the Project and explain the public benefits that the Project would provide.
National Policy Statement for Gas Supply Infrastructure and Gas and Oil Pipelines (NPS EN-4) (Department of Energy and Climate Change, 2011b)		
The policy does not include specific requirements regarding cultural heritage.		
National Policy Statement for Electricity Networks Infrastructure (NPS EN-5) (Department of Energy and Climate Change, 2011c)		
The policy does not include specific requirements regarding cultural heritage.		
National Planning Policy Framework (NPPF) (Ministry of Housing, Communities and Local Government, 2021)		
Section 16 Conserving and enhancing the historic environment	Section 16 of the NPPF sets out government policy relating to the historic environment. It includes instructions to local planning authorities to be considered when preparing local planning documents, determining applications and considering the significance of heritage assets and potential impacts they may experience through development.	The NPPF does not contain specific policies for Nationally Significant Infrastructure Projects. However, policy in relation to the assessment of heritage significance and potential impacts is comparable between the NPSNN and the NPPF.

Table 1.3 Regional and local policies for Cultural Heritage

Reference	Requirement
Essex Transport Strategy: The Local Transport Plan for Essex (Essex County Council, 2011)	Policy 9 includes requirements on the council to protect the historic environment through maintaining the integrity of the built environment and historic landscapes and to minimise noise and visual impact.
Mayor's Transport Strategy (Greater London Authority, 2018)	Policy 8 includes a commitment to maximise opportunities to protect, promote and enhance London's built heritage and sites of cultural importance that are affected by transport development.
The London Plan (Greater London Authority, 2021)	Cultural heritage is addressed by HC 1: Heritage Conservation and Growth
Gravesham Local Plan Core Strategy (2011-2028) (Gravesham Borough Council, 2014)	Section 5.16 of the plan sets out the Council's approach to heritage and the historic environment with policy detailed by CS20: Heritage and the Historic Environment.
Gravesham Local Plan First Review (Gravesham Borough Council, 1994)	Three saved policies from the Gravesham Local Plan First Review, adopted in 1994, relate to cultural heritage and are considered in determining planning applications: TC2 for listed buildings; TC3 for Conservation Areas; and TC7 concerning other archaeology sites.
Thurrock Core Strategy and Policies for Management of Development (Thurrock Council, 2015)	The policies for Thurrock concerning cultural heritage are Core Strategic Environment Policy CSTP24 Heritage Assets and the Historic Environment, and Policy for Management of Development PMD4 Historic Environment.
Havering Core Strategy and Development Control Policies (London Borough of Havering, 2008a)	Cultural heritage is managed by core policy CP18 and development control policies DC67-71. It is supported by the Heritage Supplementary Planning Document (adopted 2011).
Brentwood Replacement Local Plan (Brentwood Borough Council, 2005)	Relevant saved policies from the Replacement Local Plan are C9 Ancient Landscapes and Historic Parks and Gardens, C14 Development Affecting Conservation Areas, C15 Demolition, Alterations or Extensions, C16 Development within the Vicinity of a Listed Building and C18 Ancient Monuments and Archaeological Sites.
Medway Local Plan (Medway Council, 2003)	Relevant saved policies from the local plan are BNE18 Setting of Listed Buildings, BNE20 Scheduled Ancient Monuments and BNE21 Archaeological Sites.
Dartford Development Policies Plan (Dartford Borough Council, 2017)	Cultural heritage is addressed by Policy DP12: Dartford's Historic Environment Strategy and Policy DP13: Designated Heritage Assets.
Maidstone Borough Local Plan (Maidstone Borough Council, 2017)	Cultural heritage is addressed by Policy SP18 Historic Environment and Policy DM4 Development affecting designated and non-designated heritage assets.
Tonbridge and Malling Borough Council Local Development Framework Core Strategy (Tonbridge and Malling Borough Council, 2007)	Cultural heritage is addressed in Core Strategy Policy CP1, CP24, CP25.

Reference	Requirement
Managing Development and the Environment Development Plan Document, part of the Local Development Framework for Tonbridge and Malling (Tonbridge and Malling Borough Council 2010)	Cultural heritage is addressed in Policy SQ1, SQ2 and SQ3.

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