



**Submission
for the
Royal Society for the Protection of Birds**

Submitted for Deadline 2

3 August 2023

Planning Act 2008 (as amended)

In the matter of:

**Application by National Highways for an Order Granting Development
Consent for the Lower Thames Crossing**

Planning Inspectorate Ref: TR010032

RSPB Registration Identification Ref: LTC – AP1738

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1. Introduction

- 1.1 Further to the RSPB's submission of our Relevant Representation (RR-0942, 24 February 2023) and Written Representation (REP1-278, 18 July 2023), we have had regard to submissions made to the Examination, in particular the Written Representations of the Natural England (REP1-262), the Woodland Trust (REP1-306), Buglife (REP1-317), Essex Wildlife Trust (REP1-227) and Kent Wildlife Trust (REP1-244). Collectively these representations, along with the RSPB's representation starkly highlight the significant potential environmental impacts of the proposal, and highlight concerns *inter alia* over assessment methodology, data interpretation, proposed design, management, monitoring and delivery of the proposed mitigation and compensatory measures. In the RSPB's opinion these weaknesses raise doubts regarding the conclusion of the Applicant in determining no adverse impacts on the integrity of the relevant protected sites (see APP-487, sections 7.5.3, 7.5.4).
- 1.2 At this point, the RSPB wishes to highlight concerns which remain, and for which we expect the Applicant to address during the Examination, including at this Deadline 2 stage. This representation provides RSPB's current position and we will review additional submissions made to the Examination relating to these issues and may make further submissions.

2. Nature conservation issues relating to the Thames Estuary and Marshes SPA and Ramsar site (the SPA/Ramsar site).

- 2.1 In our Written Representation we stated our concern about the risk of noise and visual disturbance to the intertidal habitats of the Thames estuary, including functionally linked land (FLL) as identified on Figures 1 and 2 in the Appendix A to the Habitats Regulations Assessment Screening Report and Statement to Inform Appropriate Assessment (the HRA) (APP-487). In particular we highlighted our concerns regarding the detail provided for the proposed noise and visual disturbance mitigation measures associated with construction of the North Portal, and especially the absence of technical specifications and noise modelling. These concerns remain.
- 2.2 In this regard, we have considered Natural England's Written Representation, which also refers more broadly to the adequacy of information provided by the Applicant in respect of

mitigation and compensation measures. Of note to the RSPB was the characterisation of the proposal as an “outline application” (REP1-262, Annex D, 1.1.5) with much essential detail being deferred to progression post consent. We share this interpretation, and regard that the deferral makes objective assessment of the proposal challenging for Interested Parties. In this context, we note that, in respect of impacts on any European site, any Habitats Regulations Assessment must contain full information on potential impacts and proposed mitigation. This is to ensure that any appropriate assessment is based on objective scientific information in sufficient detail to enable robust conclusions to be drawn on whether or not adverse effects on site integrity can be ruled out.

2.3 We also share Natural England’s concerns over the apparent flexible and contingent approach taken to securing mitigation and compensatory measures, as is described in their Written Representation (REP1-262, Annex D, 1.1.6 and 3.1.11 - 3.1.14). Taken generally, the weakness in commitment to mitigation and compensatory measures, together with the broad scale of the description of those measures, leads to the position where there is little confidence currently that environmental harm will be avoided. In the RSPB’s opinion greater effort in providing more detail and clarity on measures during the Examination and simplifying and strengthening the approach the Applicant proposes regarding securing those measures is needed. We endorse Natural England’s comments on this matter as expressed in Annex D of their Written Representation (REP1-262, Annex D, 3.1.20 – 3.1.24) which seeks to set out steps by whereby the Applicant can provide additional clarity and certainty on the delivery of mitigation and compensation measures. The RSPB seeks confidence that measures are feasible/deliverable, adequately secured and will be appropriately managed and monitored, with appropriate safeguards agreed as part of the application.

2.4 The RSPB raised queries and concerns over the Applicant’s proposals for habitat creation at Coalhouse Fort (REP1-278, 2.6 – 2.10). We note Natural England has similar and additional concerns and we note the helpful commentary in Annex D, section 4.2.10 of their Written Representation (REP1-262) which sets out issues to resolve. The RSPB continues to review the proposal’s mitigation and compensation measures and may provide further commentary on the Coalhouse Fort proposal at a future deadline in the light of the Applicant’s responses to Deadline 1 and 2 submissions.

3. Land at Shorne Marshes, Kent

- 3.1 The RSPB continues discussions with the Applicant regarding the temporary use of part of its landholdings at Shorne Marshes as a construction compound, identified by the Applicant as Milton compound (see APP-486, Plate 2.5).
- 3.2 We intend to meet the Applicant shortly to provide further feedback on the proposed restoration. We will provide the Examination with an update following this meeting at a future Deadline.

4. Other matters

Nationally designated sites

- 4.1 The RSPB notes Natural England's comments in section 5.2 of their Written Representation (REP1-262, Annex D) concerning the potential interaction of mitigation measures associated with impacts on the Thames Estuary and Marshes SPA/Ramsar site and the ornithological interest features of the South Thames Estuary and Marshes Site of Special Scientific Interest (SSSI). We support Natural England's request for greater consideration by the Applicant of the potential impacts of the mitigation measures on the breeding bird interest of the SSSI.
- 4.2 We also note the commentary in section 7 relating to Natural England's consideration of a potential SSSI notification in the "Tilbury Area". Section 7.3.1 refers to ongoing survey efforts undertaken by both Natural England and the Applicant. This is of great interest to RSPB, and we note the publication of Natural England's North Thames Estuary and Marshes Breeding Bird Survey (NECR472, published 2 August 2023). The RSPB has not had the opportunity to review this report, but will do so, in conjunction with other recent surveys, providing our comments at further Deadlines as appropriate.