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Our ref: 446254
Your ref: TR010032



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Dear Mr Smith

**Application by National Highways for an Order Granting Development Consent for the Lower Thames Crossing
Natural England's response to Deadline 3
Natural England User Code: 20034784**

Natural England is pleased to provide our Deadline 3 response for the Lower Thames Crossing Examination within Annex A appended to this letter.

We welcome the clarity provided in relation to the topics for the September Issue Specific Hearings and the sharing of the agendas and have registered to attend these separately.

Natural England continue to build on the significant pre-submission progress secured working in collaboration with the Applicant and reflected this in our statement of common ground.

Following the Applicant's response to our Written Representation detailed within Examination document REP2-046, we are pleased to provide our response below and for ease of cross referencing have used the headings within the Applicant's response.

We confirm that progress has been made in a number of areas and to ensure clarity, we start these sections with 'Natural England welcomes the Applicant's commitment /confirmation/response'.

Where the Applicant is 'acknowledging' our advice we feel further progress will continue to be made and seek these to be firmed up.

Natural England hopes our Deadline 3 comments are helpful and we will continue to work collaboratively with the Applicant to try and resolve the matters provided below.

Yours sincerely

James Seymour
Deputy Director, Sussex and Kent Team

John Torlesse
Deputy Director, West Anglia Team

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Annex A Natural England's comments at Deadline 3.

1 Comments on the Applicant's response to our Written Representation

1.1.1 Natural England notes and welcomes the Applicant's response to the elements of our Written Representation detailed within Examination document REP2-046. We are pleased to provide our response below and for ease of cross referencing have used the headings within the Applicant's response.

1.2 Proposed Lower Thames Crossing Advisory Group

1.2.1 Natural England welcomes the Applicant's commitment to considering our suggested amendments to the Terms of Reference and for allowing cost recovery for provision of our post consent engagement and advice to the project. We look forward to receiving the Applicant's more detailed response to these matters in due course.

1.3 Securing mechanisms and compensation land

1.3.1 Natural England welcomes the confirmation from the Applicant that the management of mitigation and compensation measures will now be secured in perpetuity and acknowledge that this will be included within the next revision of the outline Landscape and Ecology Management Plan.

1.4 Internationally designated sites

Air quality impacts

1.4.1 Natural England welcomes submission of the Applicant's 'Without prejudice assessment of the air quality effects on European sites following Natural England advice' report (Examination document REP2-068). Regrettably, we have been unable to review this in detail and will aim to provide our further advice by Deadline 5.

Impacts to land functionally linked land to the Thames Estuary and Marshes Special Protection Area and Ramsar site

1.4.2 Natural England notes the Applicant's response and can advise that the comments within our Written Representation (paragraphs 4.2.1-4.2.15) remain applicable. We hope to be able to continue making progress on matters relating to functionally linked land with the Applicant.

1.5 Nationally designated sites

Shorne and Ashenbank Woods SSSI

1.5.1 Natural England welcomes the Applicant's consideration of the boundary mapping errors recently identified for the Shorne and Ashenbank Woods Site of Special Scientific Interest (SSSI) and the updated habitat loss figures. These now show 6.97 hectares of direct loss from the SSSI resulting from the project (up from 5.85 hectares previously reported). Given the increase in habitat loss from the SSSI, we consider that the plan we sought detailing the areas of habitat being created for the SSSI loss (paragraph 5.1.12 of our Written Representation) which is included within Annex C.9 of our Statement of Common Ground should also include this additional area impacted. We would also support this plan being submitted as a formal Examination Document.

- 1.5.2 Natural England notes the Applicant's referral to their position within our Statement of Common Ground for our additional advice within paragraphs 5.1.11, 5.1.3-4, 5.1.10-12 and 5.1.18-20 of our Written Representation. We feel our previous comments within our Written Representation remain applicable.
- 1.5.3 Natural England notes the Applicant's comments in relation to paragraphs 5.1.5-5.1.9 and 5.1.20 regarding the potential impacts to the SSSI from the proposed Thong Lane car park and upgraded public rights of way. We have considered the Technical Note submitted by the Applicant at Deadline 1 (Examination document reference REP1-181). Our advice provided within paragraphs 7.1.2-7.1.8 of our Deadline 2 response (Examination document REP2-090) provides several recommendations for further detail from the Applicant as to the nature and scale of any impacts to the SSSI and the mitigation measures that may be required. We look forward to receiving the Applicants response in due course.
- 1.5.4 Natural England notes the Applicant's response to our comments regarding the uncertainty around ancient woodland soil translocation following the comments within paragraphs 5.1.14 and 5.1.16 of our Written Representation. Given the concerns we have previously expressed regarding the lack of certainty on the securing mechanisms, Natural England's advice in relation to ancient woodland soils remains applicable.

South Thames Estuary and Marshes SSSI

- 1.5.5 Natural England welcomes the response regarding the potential impacts to breeding birds associated with the SSSI from works proposed during the spring/summer period (as detailed within paragraphs 5.2.1-5.2.9 of our Written Representation). Our advice remains that we would expect greater clarity on the impacts to those breeding bird species associated with the SSSI (in addition to and separate from the wider breeding bird impacts). Given that the Applicant in their response acknowledges that the project will result in impacts to SSSI breeding bird species, we would expect mitigation measures to be implemented to specifically address any potential impacts to the designated site.

1.6 Nationally Protected Landscapes

- 1.6.1 Natural England notes the clarity provided in relation to the discrepancies with the boundaries of the Local Landscape Character Area but consider the advice within paragraph 6.1.3 of our Written Representation remains applicable.
- 1.6.2 Natural England is pleased to confirm that the locations of the additional photomontages were agreed with us during a site visit with the Applicant's consultants on the 19 June 2019 (in reference to paragraph 6.1.5 of our Written Representation). However, the location of the various visualisations that were to be provided within the Environmental Statement were not explicitly agreed with Natural England. Our understanding (based upon the email from the Applicant on the 11 April 2019) was that for each of the agreed viewpoints baseline visualisations which were to be composited with a digital computer-rendered image of the proposals would be provided for opening and design year. However, as detailed in our Written Representations, such composited visualisations have not been provided for all the agreed viewpoint locations such as S-03, for example.
- 1.6.3 Natural England notes the Applicant's response to paragraphs 6.1.6 and 6.1.6-9 regarding the downgrading of susceptibility and resulting landscape impacts between

the 2020 and 2022 submissions. Natural England considers that further detail on the nature of the changes to the Project design which fully justifies the reduction in susceptibility and resulting impacts should still be provided by the Applicant. We note the request from the Examining Authority in Questions 12.2.6 and 12.3.2 for this information to be provided by the Applicant.

- 1.6.4 Natural England notes that Applicant's response in relation to the status of the changes proposed through the Minor Refinements Consultation; it would be helpful if the Applicant were to provide an update on the status of the Consultation and the likely timeframe for any amendments to the Environmental Statement required as a result.
- 1.6.5 Natural England notes the Applicant's response regarding their assessment of beneficial impacts for viewpoint S-12 and S-13. Our advice detailed within paragraphs 6.1.21-22 and 6.1.23-26 remain, particularly given the concerns expressed regarding the design of the proposed green bridges and the potential for overreliance on the screening potential of the planting at design year.
- 1.6.6 Natural England welcomes the confirmation that the design of the Thong Lane south and Brewers Road green bridges (in response to paragraph 6.1.27 of our Written Representation) will be modified to result in an enhanced user experience. We look forward to the Applicant submitting their enhanced design proposals and greater certainty on how this will be delivered and will provide further advice once this is available.
- 1.6.7 Natural England notes the Applicant's response regarding the impacts to the Gravesend Southern Fringe Local Landscape Character Area. We consider the comments made in paragraph 6.1.28 of our Written Representation are still appropriate.
- 1.6.8 Natural England welcomes the confirmation from the Applicant that the proposed mitigation planting would not be fully effective in replacing the mature woodland in response to paragraphs 6.1.29-30 of our Written Representation.
- 1.6.9 Natural England notes the Applicant's response detailed in paragraph 6.1.31 of our Written Representation regarding a commentary on how judgements of impacts have been reached. We note the reference from the Applicant to Appendix 7.10 of the Environmental Statement (Examination document APP-385) as providing the commentary sought.
- 1.6.10 We agree that Table 3.1 'Schedule of visual effects on Representative Viewpoints south of the River Thames during operation Visual receptor Sensitivity' of Appendix 7.10 provides a narrative in relation to the visual effects from viewpoints. However, no such commentary appears to have provided within Table 3.2 'Schedule of visual effects for visual receptors south of the River Thames during operation', which includes key recreational routes. Given this, our Written Representation advice is still applicable.

- 1.6.11 Natural England notes the Applicant's response on tranquillity within the AONB (paragraph 6.1.39 of our Written Representation). We have also provided further comments in relation to the Applicant's updated assessment within our Deadline 2 response to the revised Appendix 7.11 Traffic and Noise Effects on the Kent Downs Area of Outstanding Natural Beauty (Examination document REP1-163). We consider that the comments made in both our Written Representation and Deadline 2 response are still applicable.
- 1.6.12 We welcome the Applicant's restated position in relation to the low noise road surface in response to our advice around impacts to tranquillity. However, no further commitment has been provided as to how this will be secured for the lifetime of the Project. We would welcome clarity from the Applicant on how this will be secured.
- 1.6.13 Natural England notes the Applicant's response in relation to paragraph 6.1.47 of our Written Representation in relation to the consideration of cumulative impacts. We consider that the comments made in our Written Representation still remain applicable.
- 1.6.14 Natural England notes the Applicant's response regarding the mitigation measures detailed in paragraph 6.1.50 of our Written Representation. We welcome the confirmation that only native species will be used within the Kent Downs AONB and clarity that the reference to non-native species within pages 34 and 35 of the Project Design Report: Part D General Design South of the River (Application document APP-509) is an error. We would support this being formally corrected through an errata.
- 1.6.15 We remain concerned regarding the impacts from the proposed planting to the north of Park Pale bridge and the impacts that this will have for receptors using the public right of way at Viewpoint S-03 and consider that further information is provided by the Applicant. We note the requirement for the Applicant to 'provide photomontages for Winter Year 1 and Summer Year 15 for viewpoint S-03 or explain in explicit terms why the photomontages cannot be produced' as requested with the Examining Authority's Question 12.3.5. Once this additional information has been provided, we will be pleased to provide our further advice.
- 1.6.16 Natural England welcomes the Applicant's commitment to consider our recommendations for additional mitigation measures detailed within paragraph 6.1.51 of our Written Representation. We look forward to the Applicant submitting their response in due course and will of course be pleased to provide our further advice once this is available.
- 1.6.17 Natural England notes the Applicant's position regarding the lack of clarity and certainty of delivery within the securing mechanisms and control documents (responding to paragraphs 6.1.53 and 6.1.55 of our Written Representation). As detailed in our Written Representation we have significant concerns regarding the certainty of delivery of the mitigation and compensation measures. Natural England notes the clarity sought from the Applicant within the Examining Authority's Question 11.9.7 in this respect.
- 1.6.18 Natural England notes the Applicant's response to the comments provided within paragraphs 6.1.54 and 6.1.56 of our Written Representation. We consider that our previous advice remains applicable.

- 1.6.19 Natural England welcomes the Applicant's acknowledgement of the error detailed within paragraph 6.1.58 of our Written Representation in respect of the photomontage for Viewpoint S-05a. We appreciate the commitment to provide the updated photomontage at Deadline 3 and will provide our further advice once this is available.
- 1.6.20 Natural England notes the Applicant's response in relation to our comments recommending additional photomontages at opening and design year (both summer and winter) for Viewpoints S-03, S-08 and S-11 (paragraph 6.1.59 of our Written Representation). Natural England welcomes the Applicant's consideration of our request in relation to Viewpoint S-11 and our previous advice in relation to S-03 and S-08 remains applicable.
- 1.6.21 Natural England notes the Applicant's response to the suggested further mitigation measures which may help reduce the residual impacts to the AONB detailed within paragraph 6.1.62 of our Written Representation. We apologise for the error within the fifth bullet point which, as the Applicant correctly states, should read 'Woodland to the north ~~south~~ of the High Speed 1 Rail Line ('instead of shrubs and intermittent trees') to provide long-term filtering and screening of views towards the Project and help integrate it within its landscape setting'.
- 1.6.22 Natural England notes the references from the Applicant to the submitted documents including the Design Principles in response to our suggested additional mitigation measures. Our comments in relation to the flexibility and lack of certainty within many of these principles remains. We are disappointed that the Applicant does not appear willing to consider the provision of additional mitigation measures which have the potential help reduce the significant adverse residual impacts to the Kent Downs AONB.

1.7 Natural England's work considering a potential SSSI notification in the Tilbury area

Open mosaic habitat

- 1.7.1 With reference to section 7 of the Applicant's response to our Written Representation, we re-iterate that survey data is available to enable the Project to respect the first 'avoidance' principle of the mitigation hierarchy through further measures of avoidance of especially high value habitats, and Natural England has highlighted those we are aware of in our Written Representation. We do recognise and support the role of the detailed design process to add a layer of refinement.
- 1.7.2 Natural England welcomes the confirmation that the Project will double the provision of PFA as described, to be presented in the updated Design Principles to be submitted at a later deadline.
- 1.7.3 We further welcome the Applicant's consideration of our requested changes at paragraphs 7.2.12 and 7.2.18-27 of our Written Representation. We can confirm that we have had discussions with the Applicant regarding the preparation of an 'invertebrate heat map' to highlight specific areas for avoidance, a first draft of which has been shared with us on 15 August. 2023

Breeding bird assemblages

- 1.7.4 The Applicant refers to Natural England's confidential appendix and suggests that a response may be separately available, however we are not aware of any response to

this but will be happy to review this when provided to us / the Examining Authority.

- 1.7.5 With respect to Annex C.15 of our Statement of Common Ground with the Applicant, Natural England has now reviewed this and can advise as follows. The Technical Note sets out the current Public Right of Way (PRoW) situation, results of user surveys and estimates of use and argues that there will be no significant impact. It states at paragraph 1.5.11 that there is not much additional use expected of the proposed bridleway over and above existing levels which begs the question whether the upgrade has a justified need.
- 1.7.6 The overall increase in scrub habitat is described, however there is nothing which quantifies the expected loss in area, nor a recognition of its high-density mature character and how this would look spatially, or an indication of the area proposed to be planted in mitigation. There is also no acknowledgement of the time lag to reach optimal condition, which we have advised is approximately 15 years.
- 1.7.7 Natural England is also uncertain around the confidence of the projected future use figures, which appear to be unevidenced estimates only. We are concerned that once this area is opened up, resurfaced and promoted as part of a circular loop from the convenient car park at Coalhouse Fort that a greater than anticipated level of use will arise.). We therefore recommend that the Applicant provides greater clarity on the nature of the proposed impacts and the effectiveness of the mitigation measures they are suggesting.

Saline lagoon fauna

- 1.7.8 England welcomes the Applicant's intention to review our requests for further information as described at paragraph 7.4.7 of our Written Representation. Further to those comments, we have an update as follows. The aquatic macroinvertebrate survey commissioned by Natural England unfortunately contained a grid reference error which has been identified subsequent to our Representations. The correction of this grid reference places the stenohaline species highlighted closer to Coalhouse Fort, and not within the ditch connected to Bowaters' Sluice as previously indicated. The correct grid reference for that particular sample is TQ69027662.
- 1.7.9 Whilst this correction does lessen the known value of the sluice ditch, Natural England advises that the physical conditions in this area remain suited, in principle, to support species of significance linked with saline lagoon habitats because we understand the sluice to be fixed in a partially open condition and thus free ingress of saline river water is thought to occur (conditions equivalent to the known saline lagoons at Coalhouse and Tilbury Forts). For this reason, we would support further field survey work in this location to disprove this suggestion.
- 1.7.10 Regardless, Natural England remains of the view that there is an ideal opportunity to create saline lagoon features within the wetland mitigation area west of Coalhouse Fort, and we will be happy to work with the Applicant towards this at the appropriate time. For this reason, our preference is for water to be sourced from a new valve/tidal exchange structure within the seawall to ensure the water supply is more strongly saline than might otherwise be the case.

Vascular plants

- 1.7.11 Natural England welcomes the Applicant's consideration of our suggested changes to the outline Landscape and Environmental Management Plan (oLEMP) and the

Code of Construction Practice as set out within our Written Representation at paragraph 7.5.13.

1.8 Habitats of conservation importance

Ancient woodland

1.8.1 Natural England notes the Applicant's position in relation to our comments in relation to ancient woodland. We consider the advice provided within our Written Representation is still applicable.

Acid grassland

1.8.2 The applicant maintains that the matters raised by Natural England are best addressed through detailed design. We agree with this to a point, but we advise that the wording of the control documents should be sufficiently open so as not to constrain the methodology for creation of acid grassland habitats but allow the most ecologically optimal solution to be achieved. As currently drafted, we are not aware that the control documents make specific mention of the need to address high soil nutrient loading, and in our view, this should be a specific objective within the 'Outline Prescriptions' section of the oLEMP at paragraph 8.27.5 of the Acid Grassland section. We are happy to work with the applicant on a form of words to achieve necessary assurances.

1.9 Protected species

1.9.1 Natural England notes the Applicant's position in relation to our comments; we are continuing to review the draft bat, dormouse and water vole licence applications and will provide our updated advice to the Applicant and Examining Authority at a future deadline.

1.10 Biodiversity net gain

1.10.1 Natural England notes the Applicant's comments in relation to our Written Representation and we feel our previous comments are still applicable.

1.11 King Charles III England Coast Path

1.11.1 Natural England welcomes the clarity provided by the Applicant in relation to the King Charles III England Coast Path. Natural England is now satisfied that the Applicant has addressed our concerns and we have no further comments to make. We will work with the Applicant to ensure that this additional area of agreement is fully reflected in the next iteration of our Statement of Common Ground.

1.12 Landscape scale connectivity for people and wildlife

1.12.1 Natural England notes the Applicant's response regarding the effectiveness of the landscape scale connectivity for people and wildlife. We consider that our advice in Section 12 of our Written Representation remains applicable. The habitat severance as a result of the Lower Thames Crossing will be significantly worse than at present given the scale of the transport infrastructure, the removal of the substantial belt of woodland from the central reserve of the A2 along with much of the mitigation/compensation planting implemented for the Channel Tunnel Rail Link/High Speed 1 rail line.

- 1.12.2 As detailed within our Written Representation in relation to the green bridges, Natural England's advice remains that the Applicant should provide a much greater degree of clarity on how these necessary mitigation measures will be effective and function for people and wildlife whilst meeting the scheme objectives as detailed within Clause S1.04 of the Design Principles.
- 1.12.3 For the green bridges along the A2 corridor, as detailed within our Written Representation, well designed structures following good practice have the potential to help reduce the significant residual impacts to the Kent Downs Area of Outstanding Natural Beauty identified by the Applicant in addition to providing connectivity for wildlife. As such, Natural England's advice remains that the Project should commit to delivering green bridges which, as a minimum, meet in full the Applicant's own objectives.
- 1.13 Management and monitoring of mitigation and compensation measures
- 1.13.1 Natural England notes that the Applicant's response and reference to the submitted documents. We would reiterate our previous advice that a more holistic, indicators of success approach, based upon both habitat and species groups, as supported and fully implemented by the Applicant on other projects, should be implemented for this scheme. Given the nature and scale of the ecological and landscape impacts, a rigorous monitoring and management regime are vital to the success of the mitigation and compensation measures.
- 1.13.2 We note the clarification sought from the Applicant regarding this approach detailed within the Examining Authority's question 11.52.
- 1.14 Securing mechanisms
- 1.14.1 Natural England welcomes the commitment from the Applicant to consider revisions to the wording of the securing mechanisms recommended in our Written Representation. We look forward to receiving the Applicant's more detailed response in due course.
- 1.14.2 As noted within paragraph 14.1.2 of our Written Representation, our review and comments were not comprehensive. We would therefore recommend that the Applicant reviews all of the control documents as part of their commitment.

2 Applicant's response to Interested Party comments made on the draft DCO at Deadline 1

- 2.1 Disapplication of legislative provisions
- 2.1.1 Natural England notes the Applicant's response to our comments in relation to the disapplication of our responsibilities under the Wildlife and Countryside Act, 1981 (as amended) within Examination document REP2-077. Our advice on the disapplication of our powers remains and Natural England does not agree to the Applicant's proposal.
- 2.1.2 As detailed within Section 2.1 of our Written Representation, Natural England does not consider that the application documents currently provide sufficient certainty as to the works that are proposed which impact designated sites nor the assurances they will be fully mitigated within the suite of protective provisions.

2.1.3 In addition, the Applicant's proposed disapplication of our Wildlife and Countryside Act responsibilities means that any impacts to a new Site of Special Scientific Interest would not have been considered/mitigated for at the DCO consenting stage.

2.1.4 Given these concerns, Natural England's advice remains that our duty in relation to SSSIs would be better served through the Section 281 of the Wildlife and Countryside Act route.

2.2 Securing mechanisms

2.2.1 Natural England notes the Applicant's response within paragraphs 3.11-3.1.24 of our Written Representations in relation to the securing mechanisms within the draft Development Consent Order. We consider our previous comments remain appropriate.

3 Comments on the Applicant's amended/additional documents submitted at Deadline 2

3.1 Environmental Statement Addendum (Examination document REP2-040)

3.2 Applicant's Without prejudice assessment of the air quality effects on European sites following Natural England advice (Examination document REP2-068)

3.2.1 As mentioned above, Natural England welcomes submission of the Applicant's 'Without prejudice assessment of the air quality effects on European sites following Natural England advice' report (Examination document REP2-068). Regrettably, we have been unable to review this in detail and will aim to provide our further advice by Deadline 5.

3.3 Enhanced Cross Sections (Examination document REP2-069 and 071)

3.3.1 Natural England welcomes the submission of the enhanced cross sections provided by the Applicant. We would be grateful if the Applicant could include details of the year which the vegetation growth shown is based upon so that we can cross reference them with them with the visualisations provided within the landscape chapter which we hope will help us progress matters.

3.4 Supplementary Walking, Cycling and Horse Riding (WCH) Maps (Volume A) (Examination document REP2-072)

3.4.1 Natural England welcomes the clarity provided within the supplementary maps but remain concerned regarding the nature and scale of any impacts and mitigation measures that may be required from the route and surface upgrades which we detailed more fully in our Written Representation (Examination document REP1-262) and our Deadline 2 submission (Examination document REP2-090). We look forward to receiving further information and clarity previously requested from the Applicant.

3.5 Updated Environmental Management Plans

- 3.5.1 Natural England notes the amended plans to show the locations of the proposed retaining walls. It is unclear from the amended plans whether these are considered within the submitted Landscape and Visual Impact Assessment (Chapter 7 of the Environmental Statement) as they do not appear to be shown within the visualisations. We would therefore welcome clarity from the Applicant in this regard.

4 Comments on other Interested Parties responses to the Written Representation

- 4.1.1 Natural England has reviewed the comments on our Written Representation provided by Holland Land and Property on behalf of Mr. Mott (Examination document REP2-096). Specifically, we note that the response details:

'We therefore question any reference to PFA (whether by the Applicant or NE/other stakeholders) as having any significant future contribution in respect of our client's land. Put simply, other than that required to remain in situ under the Environment Agency's Environmental Permit, the great majority of PFA has been and will have been extracted prior to the construction of the Project.'

- 4.1.2 We acknowledge that the Applicant intends to make commitments (and has done via ongoing discussions with Natural England) around increasing the amount of PFA available for habitat creation purposes. Natural England advises that security of the required volume (from whichever source) is a necessary pre-requisite to ensure that habitat creation objectives can be realised in practice.

5 Updated Statements of Common Ground

- 5.1.1 We can confirm that there has been no update to our Statement of Common Ground which was submitted at Deadline 2. Natural England will continue to work with the Applicant and, where appropriate, we will agree and submit an updated document at a future Deadline.

6 Updates Principal Areas of Disagreement

- 6.1.1 Natural England considers that our agreed, updated Statement of Common Ground continues to represent all current areas of agreement and disagreement so do not currently feel it is appropriate for us to submit a Principal Areas of Disagreement document.

7 Comments on any information requested by the Examining Authority and received by Deadline 2

- 7.1.1 Natural England has no comments, further to those above, on documents submitted at Deadline 2.

8 Any further information requested by the Examining Authority under Rule 17 of the EPR

- 8.1.1 Natural England has no further information to submit, nor comments further to those provided above.